culture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with manufacturers and others engaged in the handling of anti-hog-cholera serum and hog-cholera virus only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in such serum and virus. Such persons are in section 854 of this title referred to as “handlers.” The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful.


§ 853. Terms and conditions of marketing agreements

Marketing agreements entered into pursuant to section 852 of this title shall contain such one or more of the following terms and conditions and no others as the Secretary finds, upon the basis of the hearing provided for in section 852 of this title, will tend to effectuate the policy declared in section 851 of this title:

(a) One or more of the terms and conditions specified in subsection (7) of section 608c of this title.

(b) Terms and conditions requiring each manufacturer to have in inventory in his own possession on April 1 of each year a reserve supply of completed serum equivalent to not less than 40 per centum of his previous year’s sales of all serum, except that any marketing agreement may provide that upon written application by a manufacturer filed before September 1 of the preceding year, the Secretary may fix another date between January 1 and May 1 on which such manufacturer shall have such inventory if the Secretary finds that such actions will tend to effectuate the purposes of section 851 of this title. The Secretary may impose such terms and conditions upon granting any such application as he finds necessary to effectuate the purposes of section 851 of this title. Serum used in computing the required reserve supply for different manufacturers shall not again be used in computing the required reserve supply of any other manufacturer.


REFERENCES IN TEXT

Section 851 of this title, referred to in clause (b), was in the original “this Act”, meaning act Aug. 24, 1935. For complete classification of act Aug. 24, 1935, to the Code, see Tables.

AMENDMENTS

1958—Cl. (b). Pub. L. 85–574 substituted “in inventory in his own possession on April 1” for “available on May 1”, inserted exception provision for changing minimum inventory date under certain terms and conditions, and inserted prohibition against reusing serum in computation of required reserve supply for different manufacturers.

§ 854. Order regulating handlers; issuance and terms

Whenever all the handlers of not less than 75 per centum of the volume of anti-hog-cholera serum and hog-cholera virus which is handled in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce, have signed a marketing agreement entered into with the Secretary of Agriculture pursuant to section 852 of this title, the Secretary of Agriculture shall issue an order which shall regulate only such handling in the same manner as, and contain only such terms and conditions as are contained in such marketing agreement, and shall from time to time amend such order in conformance with amendments to such marketing agreement. Such order shall terminate upon termination of such marketing agreement as provided in such marketing agreement.


§ 855. Applicability of other laws

Subject to the policy declared in section 851 of this title, the provisions of subsections (6) to (9) of section 608a and of subsections (14) and (15) of section 608c of this title, are made applicable in connection with orders issued pursuant to section 854 of this title, and the provisions of section 608d of this title are made applicable in connection with marketing agreements entered into pursuant to section 852 of this title and orders issued pursuant to section 854 of this title. The provisions of subsections (a), (b)(2), (c), (f), (h), and (i) of section 610 of this title, are made applicable in connection with the administration of this chapter.


CHAPTER 31—RURAL ELECTRIFICATION AND TELEPHONE SERVICE

SUBCHAPTER I—RURAL ELECTRIFICATION

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§ 901

This chapter may be cited as the “Rural Electrification Act of 1936”.


AMENDMENTS

1994—Pub. L. 103–354 added section catchline and text and struck out former text which read as follows:

“...There is hereby created and established an agency of the United States to be known as the ‘Rural Electrification Administration’, all of the powers of which shall be exercised by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of ten years, and who shall receive a salary of $10,000 per year. This chapter may be cited as the ‘Rural Electrification Act of 1936’.”


SHORT TITLE OF 1993 AMENDMENT


SHORT TITLE OF 1992 AMENDMENT


SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–624, title XXIII, § 2351(a), Nov. 28, 1990, 104 Stat. 4038, provided that: “This subtitle [subtitle F (§§2351–2368) of title XXIII of Pub. L. 101–624, enacting sections 918 and 925 to 938 of this title, amending sections 923, 932, 935, 936, 939, 945, 946, 948, and 2006 of this title, and enacting provisions set out as notes under this section and section 946 of this title] may be cited as the ‘Rural Electrification Loan Reorganization Act of 1990’.”
as the ‘Rural Telecommunications Improvements Act of 1990.’”

**Short Title of 1976 Amendment**

Pub. L. 94–570, §1, Oct. 20, 1976, 90 Stat. 2701, provided:

‘‘That this Act [amending sections 931 and 935 of this title and enacting provisions set out as a note under section 935 of this title] may be cited as the ‘Rural Electrification Administration Technical Amendments Act of 1976.’”

**Regulations**

Pub. L. 103–129, §6, Nov. 1, 1993, 107 Stat. 1367, provided that:

‘‘Except as provided in section 2(b) of the Rural Electrification Act of 1936 [7 U.S.C. 902(b)] and section 370 of the Consolidated Farm and Rural Development Act of 1990 [Pub. L. 101–624], as amended by sections 2(c)(1)(C) and 5 of this Act, not later than 45 days after the date of enactment of this Act [Nov. 1, 1993], interim final regulations shall be issued by—

‘‘(1) the Administrator of the Rural Electrification Administration to carry out the amendments made by this Act [see Short Title of 1993 Amendment note above] to programs administered by the Administrator; and

‘‘(2) the Administrator of the Rural Development Administration to carry out the amendments made by this Act to programs administered by the Administrator; and

‘‘(3) the Secretary of Agriculture to carry out the amendments made by this Act to programs administered by the Farmers Home Administration.’”

**Transfer of Functions**

Functions of all officers, agencies, and employees of Department of Agriculture transferred with certain exceptions, to Secretary of Agriculture by 1939 Reorg. Plan No. 2, §1, eff. June 4, 1939, 18 F.R. 1219, 67 Stat. 638, set out as a note under section 2201 of this title.

Rural Electrification Administration and its functions and activities transferred to Department of Agriculture to be administered therein by Administrator under general direction and supervision of Secretary of Agriculture, by 1939 Reorg. Plan No. II, set out in the Appendix to Title V, Government Organization and Employees. See also sections 401 to 404 of that plan for provisions relating to transfer of functions, records, property, personnel, and funds.

**Findings; Statement of Policy**

Pub. L. 101–624, title XXIII, §2352, Nov. 28, 1990, 104 Stat. 4038, provided that:

“(a) Findings.—The Congress finds that—

‘‘(1) making modern telecommunications technology and services available in rural areas in the United States promotes economic development and improves the quality of life in rural areas; and

‘‘(2) the efficient operation of the Rural Telephone Bank and the Rural Electrification Administration telephone loan programs is essential to the continued development of the telecommunications infrastructure in rural areas in the United States.

‘‘(b) Statement of Policy.—It is the policy of the Congress that the Rural Telephone Bank and the Rural Electrification Administration make loans that facilitate the development and enhancement of the rural telecommunications infrastructure in order to make modern telecommunications technology and services available at reasonable rates to the greatest practicable number of people in rural areas in the United States.”

§902. General Authority of Secretary of Agriculture

**(a) Loans**

The Secretary of Agriculture (referred to in this chapter as the “Secretary”) is authorized and empowered to make loans in the several States and Territories of the United States for rural electrification and for the purpose of furnishing and improving electric and telephone service in rural areas, as provided in this chapter, and for the purpose of assisting electric borrowers to implement demand side management, energy efficiency and conservation programs, and on-grid and off-grid renewable energy systems.

**(b) Investigations and Reports**

The Secretary may make, or cause to be made, studies, investigations, and reports regarding matters, including financial, technological, and regulatory matters, affecting the condition and progress of electric, telecommunications, and economic development in rural areas, and publish and disseminate information with respect to the matters.


**Codification**


**Amendments**


Subsec. (a). Pub. L. 104–127, §771(1), (2), inserted heading, substituted “‘The Secretary of Agriculture (referred to in this chapter as the ‘Secretary’) is” for “‘The Secretary of Agriculture is’, struck out “‘and the furnishing of electric energy to persons in rural areas who are not receiving central station service’” after “rural electrification”, and substituted “systems.” for “systems; to make, or cause to be made, studies, investigations, and reports concerning the condition and progress of the electrification of and the furnishing of adequate telephone service in rural areas in the several States and Territories; and to publish and disseminate information with respect thereto.’”

Subsec. (b). Pub. L. 104–127, §771(3), added subsec. (b) and struck out former subsec. (b) which read as follows: “By January 1, 1994, the Secretary shall issue interim regulations to implement the authority contained in subsection (a) of this section to make loans for the purpose of assisting electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems. If the regulations are not issued by January 1, 1994, the Secretary shall consider any demand side management, energy conservation, or renewable energy program, system, or activity that is approved by a State agency to be eligible for the loans.”

1994—Pub. L. 103–354 substituted “Secretary of Agriculture” for “Administrator” in subsec. (a) and “Secretary” for “Administrator” in two places in subsec. (b).

1993—Pub. L. 103–129 designated existing provisions as subsec. (a), substituted “electric and telephone service in rural areas, as provided in this chapter, and for the purpose of assisting electric borrowers to implement demand side management, energy conservation pro-
grams, and on-grid and off-grid renewable energy systems;” for “telephone service in rural areas, as hereinafter provided;”, and added subsec. (b).

Effective Date of 2008 Amendment

§ 903. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this chapter.

1996—Pub. L. 104–127 amended section generally, inserting section catchline and substituting current provisions for provisions relating to funds of Secretary, including provisions for loans by Secretary of the Treasury, authorization of appropriations, allotment of funds for loans in States, loans of unallotted funds, and unexpended funds and limitation on use.

1994—Pub. L. 103–354, title II, § 235(b)(3), Oct. 13, 1994, 108 Stat. 2221; Pub. L. 103–465, title III, § 342(g), Dec. 8, 1994, 108 Stat. 4954, in addition to amending subsecs. (a) and (e), provided in part as follows: “In making loans pursuant to this title IV of such act and pursuant to the Rural Electrification Act of 1936 (this chapter), the Secretary of Agriculture shall require that, to the extent practicable and the cost of which is not unreasonable, the borrower agree to use in connection with the expenditure of such funds only such unmanufactured articles, materials, and supplies, as have been mined or manufactured, as the case may be, in the United States or in any eligible country substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States or in any eligible country. For purposes of this section, an ‘eligible country’ is any country that applies with respect to the United States under the General Agreement on Tariffs and Trade, or under reciprocal access for United States products and services and United States suppliers to the markets of that
country, as determined by the United States Trade Representative.'"

[Amendment by section 342(g) of Pub. L. 103-465 to section 401 of act June 21, 1938, set out above, effective on the date on which the WTO Agreement enters into force with respect to the United States (Jan. 1, 1995), see section 344(b) of Pub. L. 103-466, set out as an Effective Date of 1994 Amendment note under section 2512 of Title 19, Customs Duties.]

[Amendment by subsec. 331(d) of Pub. L. 103-182 to section 401 of act June 21, 1938, set out above, effective on the date the North American Free Trade Agreement enters into force with respect to the United States (Jan. 1, 1994), see section 381(e) of Pub. L. 103-182, set out as an Effective Date of 1993 Amendment note under section 2511 of Title 19, Customs Duties.]

§ 904. Loans for electrical plants and transmission lines

(a) In general

The Secretary is authorized and empowered, from the sums hereinbefore authorized, to make loans for rural electrification to persons, corporations, States, Territories, and subdivisions and agencies thereof, municipalities, peoples’ utility districts and cooperative, nonprofit, or limited-dividend associations, organized under the laws of any State or Territory of the United States, for the purpose of financing the construction and operation of generating plants, electric transmission and distribution lines or systems for the furnishing and improving of electric service to persons in rural areas, including by assisting electric borrowers to implement demand side management, energy efficiency and conservation programs, and on-grid and off-grid renewable energy systems, and loans, from funds available under section 903 of this title, to cooperative associations and municipalities for the purpose of enabling said cooperative associations, and municipalities to the extent that such indebtedness was incurred with respect to electric transmission and distribution lines or systems, or portions thereof serving persons in rural areas, to discharge or refinance long-term debts owned by them to the Tennessee Valley Authority on account of loans made or credit extended under the terms of the Tennessee Valley Authority Act of 1933, as amended, referred to in subsec. (a), is act May 18, 1933, ch. 32, 48 Stat. 58, which is classified generally to chapter 12A (§§ 831 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 831 of Title 16 and Tables.

(b) Terms and conditions

Such loans shall be on such terms and conditions relating to the expenditure of the moneys loaned and the security therefor as the Secretary shall determine and may be made payable in whole or in part out of the income, except that no loan for the construction, operation, or enlargement of any generating plant shall be made unless the consent of the State authority having jurisdiction in the premises is first obtained.

(c) Direct loans

(1) Direct hardship loans

Direct hardship loans under this section shall be for the same purposes and on the same terms and conditions as hardship loans made under section 935(c)(1) of this title.

(2) Other direct loans

All other direct loans under this section shall bear interest at a rate equal to the then current cost of money to the Government of the United States for loans of similar maturity, plus ½ of 1 percent.

(d) Certification

Loans under this section shall not be made unless the Secretary finds and certifies that in his judgment the security therefor is reasonably adequate and such loan will be repaid within the time agreed.


References in Text

The Tennessee Valley Authority Act of 1933, as amended, referred to in subsec. (a), is act May 18, 1933, ch. 32, 48 Stat. 58, which is classified generally to chapter 12A (§§ 831 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 831 of Title 16 and Tables.

Amendments

2008—Pub. L. 110-246, § 6102(a), designated first, second, and third sentences as subsecs. (a), (b), and (d), respectively, and added subsec. (c).

2006—Pub. L. 110-127, in first sentence, struck out “for the furnishing of electric energy to persons in rural areas who are not receiving central station service and” after “transmission and distribution lines or systems” and substituted “section 903 of this title,” for “the provisions of sections 903(d) and 903(e) of this title but without regard to the 25 per centum limitation therein contained,” in second sentence, substituted “, except that” for “: Provided, further,” that all such loans shall be self-liquidating within a period of not to exceed thirty-five years, and shall bear interest at the rate of 2 per centum per annum; interest rates on the unmatured and unpaid balance of any loans made pursuant to this section prior to September 21, 1944, shall be adjusted to 2 per centum per annum, and the maturity date of any such loans may be readjusted to occur at a date not beyond thirty-five years from the date of such loan: And provided further, That”, and in third sentence, struck out “and section 905 of this title” before “shall not be made”.

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator”.

1993—Pub. L. 103-129 inserted “and for the furnishing and improving of electric service to persons in rural areas, including by assisting electric borrowers to implement demand side management, energy conserva-
tion programs, and on-grid and off-grid renewable energy systems’’ after ‘‘central station service’’.

1955—Act June 15, 1955, substituted ‘‘25 per centum’’ for ‘‘10 per centum’’.


1944—Act June 29, 1944, permitted certain municipalities to refinance with R.E.A. their indebtedness with T.V.A.

1944—Act Dec. 23, 1944, inserted provision authorizing loans to cooperative associations to enable them to discharge or refinance debts owed to the Tennessee Valley Authority.

Act Sept. 21, 1944, extended limit of self-liquidating period from 25 to 35 years and changing the rate of interest.

**Effective Date of 2008 Amendment**


§ 906. Funding for administrative expenses

For the purpose of administering this chapter and for the purpose of making the studies, investigations, publications, and reports herein provided for, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary.


**Amendments**

1996—Pub. L. 104–127 struck out at end ‘‘On or before February 15 of each calendar year beginning with calendar year 1976, or such other date as may be specified by the appropriate committee, the Secretary of Agriculture shall testify before the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year for the purpose of administering this chapter and for the purpose of making the studies, investigations, publications, and reports herein authorized.’’


§ 906a. Use of funds outside the United States or its territories prohibited

No funds provided under this chapter shall be used outside the United States or any of its territories.


**Codification**

Section was not enacted as part of the Rural Electrification Act of 1936 which comprises this chapter.

**Effective Date**

Section effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

§ 907. Acquisition of property pledged for loans; disposition; sale of pledged property by borrower

The Secretary is authorized and empowered to bid for and purchase at any foreclosure or other sale, or otherwise to acquire, property pledged or mortgaged to secure any loan made pursuant to this chapter; to pay the purchase price and any costs and expenses incurred in connection therewith from the sums authorized in section 903 of this title; to accept title to any property so purchased or acquired in the name of the United States of America; to operate or lease such property for such period as may be deemed necessary or advisable to protect the investment therein, but not to exceed five years after the acquisition thereof; and to sell such property so purchased or acquired, upon such terms and for such consideration as the Secretary shall determine to be reasonable.

No borrower of funds under sections 904 or 922 of this title shall, without the approval of the Secretary, sell or dispose of its property, rights, or franchises, acquired under the provisions of this chapter, until any loan obtained from the Rural Electrification Administration, including all interest and charges, shall have been repaid.


**Amendments**


§ 909. Administration on nonpolitical basis; dismissal of officers or employees for violating provision

This chapter shall be administered entirely on a nonpartisan basis, and in the appointment of officials, the selection of employees, and in the promotion of any such officials or employees, no political test or qualification shall be permitted
or given consideration, but all such appoint-ments and promotions shall be given and made on the basis of merit and efficiency. If the Sec-retery herein provided for is found by the Presi-dent of the United States to be guilty of a viola-tion of this section, he shall be removed from of-fice by the President, and any appointee or se-lection of officials or employees made by the Secretary who is found guilty of a violation of this chapter shall be removed by the Secretary.


AMENDMENTS


§ 911. Acceptance of services of Federal or State officers; application of civil service laws; expenditures for supplies and equipment

In order to carry out the provisions of this chapter the Secretary may accept and utilize such voluntary and uncompensated services of Federal, State, and local officers and employees as are available, and he may appoint and fix the compensation of attorneys, engineers, and ex-perts and he may, subject to the civil-service laws, appoint such other officers and employees as he may find necessary and prescribe their du-ties. The Secretary is authorized, from sums ap propriated pursuant to section 906 of this title, to make such expenditures (including expendi-tures for personal services; supplies and equip-ment; lawbooks and books of reference; direc-tories and periodicals; travel expenses; rental at the seat of government and elsewhere; the pur chase, operation, or maintenance of passenger-carrying vehicles; and printing and binding) as are appropriate and necessary to carry out the provisions of this chapter.


CODIFICATION

Provisions which authorized the appointment and fix-ing of compensation of attorneys, engineers, and ex-perts “without regard to the provisions of the civil service laws applicable to officers and employees of the ‘United States’” were omitted from the Code as obsolete and superseded. Such appointments are now subject to the civil service laws unless specifically excepted by those laws or by laws enacted subsequent to Executive Order 8743, Apr. 23, 1911, issued by the President pursuant to act Nov. 26, 1949, ch. 919, title I, §1, 63 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5, Government Orga-nization and Employees. As to the compensation of such personnel, sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classi-fication Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. The Classification Act of 1949 was repealed by Pub. L. 89–554, Sept. 6, 1966, 88(a), 89 Stat. 632, and reenacted as chapter 21 and subchapter III of chapter 53 of Title 5. Section 5102 of Title 5 now contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

AMENDMENTS


§ 912. Extension of time for repayment of loans

(a) In general

The Secretary is authorized and empowered to extend the time of payment of interest or prin-cipal of any loans made by the Secretary pursuant to this chapter, except that, with respect to any loan made under section 904 or 922 of this title, the payment of interest or principal shall not be extended more than five years after such payment shall have become due.

(b) Terms of deferment

(1) Subject to limitations established in appro-priations Acts, the Secretary shall permit any borrower to defer the payment of principal and interest on any insured or direct loan made under this chapter under circumstances described in this subsection, notwithstanding any limitation contained in subsection (a) of this section, except that such deferment shall not be permitted based on the determination of the Secretary of the financial hardship of the bor-rower.

(2)(A) In the case of deferments made to enable the borrower to provide financing to local busi-nesses, the deferment shall be repaid in equal instalments, without the accrual of interest, over the 60-month period beginning on the date of the deferment, and the total amount of such pay-ments shall be equal to the amount of the pay-ment deferred.

(B) In the case of deferments made to enable the borrower to provide community develop-ment assistance, technical assistance to busi-nesses, and for other community, business, or economic development projects not included under subparagraph (A), the deferment shall be repaid in equal installments, without the accrual of interest, over the 120-month period begin-ning on the date of the deferment, and the total amount of such payments shall be equal to the amount of the payment deferred.

(3)(A) A borrower may defer its debt service payments only in an amount equal to an invest-ment made by such borrower as described in paragraph (2).
§ 912a

(B) The amount of the deferral shall not exceed 50 percent of the total cost of a community or economic development project for which a deferral is provided under this subsection.

(C) The total amount of deferrals under this subsection during each of the fiscal years 1990 through 1993 shall not exceed 3 percent of the total payments due during such fiscal year from all borrowers on direct and insured loans made under this chapter and shall not exceed 5 percent of such total payments due in each subsequent fiscal year.

(D) At the time of a deferral, the borrower shall make a payment to a cushion of credit account established and maintained pursuant to section 940c of this title in an amount equal to the amount of the payment deferred. The balance of such account shall not be reduced by the borrower below the level of the unpaid balance of the payment deferred. Subject to limitations established in annual appropriations Acts, such cushion of credit amounts and any other cushion of credit and advance payments of any borrower shall be included in the interest differential calculation under section 940c(b)(2)(A) of this title.

(4) The Secretary shall undertake all reasonable efforts to permit the full amount of deferrals authorized by this subsection during each fiscal year.

(c) Deferment of payments on loans

(1) In general

The Secretary shall allow borrowers to defer payment of principal and interest on any direct loan made under this chapter to enable the borrower to make loans to residential, commercial, and industrial consumers—

(A) to conduct energy efficiency and use audits; and

(B) to install energy efficient measures or devices that reduce the demand on electric systems.

(2) Amount

The total amount of a deferral under this subsection shall not exceed the sum of the principal and interest on loans made to a customer of the borrower, as determined by the Secretary.

(3) Term

The term of a deferral under this subsection shall not exceed 60 months.


CODIFICATION


AMENDMENTS


1996—Subsec. (a). Pub. L. 104–127 substituted "... except that, with respect to any loan", for "... Provided, however, That with respect to any loan..." and struck out "...".


1990—Pub. L. 101–624 designated existing provisions as subsec. (a) and added subsec. (b).


EFFECTIVE DATE OF 2008 AMENDMENT


§ 912a. Rescheduling and refinancing of loans

In addition to the loan extension authority provided in section 912 of this title, the Secretary of Agriculture is authorized to adjust and readjust the schedules for payment of principal and interest on loans to borrowers under programs administered by the Secretary under this chapter, and to extend the maturity date of any such loan to a date not beyond forty years from the date of such loan where he determines such action is necessary because of the impairment of the economic feasibility of the system, or the loss, destruction, or damage of the property of such borrowers as a result of a major disaster.


CODIFICATION

Section was enacted as part of the Disaster Relief Act of 1970, and not as part of the Rural Electrification Act of 1936 which constitutes this chapter. Section was formerly classified to section 445(a) of Title 42, The Public Health and Welfare.

AMENDMENTS

1994—Pub. L. 103–354 substituted "Secretary under this chapter" for "Rural Electrification Administration".

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as an Effective Date of 1970 Amendment note under section 165 of Title 26, Internal Revenue Code.

§ 913. Definitions

In this chapter:

(1) Farm

The term "farm" means a farm, as defined by the Bureau of the Census.

(2) Indian tribe

The term "Indian tribe" has the meaning given the term in section 450b of title 25.
§ 917. Prohibition on restricting water and waste facility services to electric customers

(a) Prohibition

Assistance under any rural development program administered by the Secretary or any agency of the Department of Agriculture shall not be conditioned on any requirement that the recipient of the assistance accept or receive electric service from any particular utility, supplier, or cooperative.

(b) Ensuring compliance

The Secretary shall establish, by regulation, adequate safeguards to ensure that assistance under any rural development program is not subject to such a condition. The safeguards shall
include periodic certifications and audits, and appropriate measures and sanctions against any person violating, or attempting to violate subsection (a) of this section.

(c) "Rural development programs" defined

In this section, the term "rural development program" means the following:


6. Sections 905 and 940a of this title and subchapter IV of this chapter.

(d) Regulations

Not later than 60 days after April 4, 1996, the Secretary shall issue final regulations to ensure compliance with subsection (a) of this section.


REFERENCES IN TEXT

Section 375 of the Consolidated Farm and Rural Development Act, referred to in subsec. (c)(1), was classified to section 2008(b) of this title prior to repeal by Pub. L. 87–128, title III, §306(b), Nov. 28, 1961, 75 Stat. 307, as amended. Subtitle E of the Act is classified generally to subchapter V (§2009 et seq.) of chapter 9 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of this title and Tables.


The Rural Electrification Administration pursuant to the terms of outstanding loan or security instruments or otherwise, the Secretary may consult, grants, and cooperative agreements as necessary to carry out this section.

The Secretary may enter into such contracts, grants, or cooperative agreements as necessary to carry out this section.

(5) Use of consultants

Nothing in this subsection shall limit the authority of the Secretary to retain the services of consultants from funds made available to the Secretary or otherwise.


AMENDMENTS


§918. General prohibitions

(a) No consideration of borrower’s level of general funds

The Secretary and the Governor of the telephone bank shall not deny or reduce any loan or loan advance under this chapter based on a borrower’s level of general funds.

(b) Loan origination fees

The Secretary and the Governor of the telephone bank may not charge any fee or charge not expressly provided in this chapter in connection with any loan made or guaranteed under this chapter.

(c) Consultants

(1) In general

To facilitate timely action on applications by borrowers for financial assistance under this chapter and for approvals required of the Rural Electrification Administration pursuant to the terms of outstanding loan or security instruments or otherwise, the Secretary may consult with the Secretary of Agriculture, Conservation, and Trade, for technical advice and services in connection with the review of the application by the Rural Electrification Administration.

(2) Conflicts of interest

The Secretary shall establish procedures for the selection and the provision of technical services by consultants to ensure that the consultants have no financial or other conflicts of interest in the outcome of the application of the borrower.

(3) Payment of costs

The Secretary may not, without the consent of the borrower, require, as a condition of processing an application for approval, that the borrower agree to pay the costs, fees, and expenses of consultants hired to provide technical or advisory services to the Secretary.

(4) Contracts, grants, and agreements

The Secretary may enter into such contracts, grants, or cooperative agreements as necessary to carry out this section.

(5) Use of consultants

Nothing in this subsection shall limit the authority of the Secretary to retain the services of consultants from funds made available to the Secretary or otherwise.

§918a. Energy generation, transmission, and distribution facilities efficiency grants and loans in rural communities with extremely high energy costs

(a) In general

The Secretary, acting through the Rural Utilities Service, may—

(1) in coordination with State rural development initiatives, make grants and loans to persons, States, political subdivisions of States, and other entities organized under the laws of States to acquire, construct, extend, upgrade, and otherwise improve energy generation, transmission, or distribution facilities serving communities in which the average residential expenditure for home energy is at least 275 percent of the national average residential expenditure for home energy (as determined by the Energy Information Agency using the most recent data available); (2) make grants and loans to the Denali Commission established by the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277) to acquire, construct, extend, upgrade, and otherwise improve energy generation, transmission, or distribution facilities serving communities described in paragraph (1); and

(3) make grants to State entities, in existence as of November 9, 2000, to establish and support a revolving fund to provide a more cost-effective means of purchasing fuel where the fuel cannot be shipped by means of surface transportation.

(b) Authorization of appropriations

(1) In general

There are authorized to be appropriated to carry out this section $50,000,000 for fiscal year 2001 and such sums as are necessary for each subsequent fiscal year.

(2) Limitation on planning and administrative expenses

Not more than 4 percent of the amounts made available under paragraph (1) may be used for planning and administrative expenses.


REFERENCES IN TEXT


§918c. Rural and remote communities electrification grants

(a) Definitions

In this section:

(1) The term “eligible grantee” means a local government or municipality, peoples’ utility district, irrigation district, and cooperative, nonprofit, or limited-dividend association in a rural area.

(2) The term “incremental hydropower” means additional generation achieved from increased efficiency after January 1, 2005, at a hydroelectric dam that was placed in service before January 1, 2005.

(3) The term “renewable energy” means electricity generated from—

(A) a renewable energy source; or

(B) hydrogen, other than hydrogen produced from a fossil fuel, that is produced from a renewable energy source.

(4) The term “renewable energy source” means—

(A) wind; (B) ocean waves; (C) biomass; (D) solar; (E) landfill gas; (F) incremental hydropower; (G) livestock methane; or (H) geothermal energy.

(5) The term “rural area” means a city, town, or unincorporated area that has a population of not more than 10,000 inhabitants.

(b) Grants

The Secretary, in consultation with the Secretary of Agriculture and the Secretary of the Interior, may provide grants under this section to eligible grantees for the purpose of—

(1) increasing energy efficiency, siting or upgrading transmission and distribution lines serving rural areas; or

(2) providing or modernizing electric generation facilities that serve rural areas.

(c) Grant administration

(1) The Secretary shall make grants under this section based on a determination of cost-effectiveness and the most effective use of the funds
to achieve the purposes described in subsection (b) of this section.

(2) For each fiscal year, the Secretary shall allocate grant funds under this section equally between the purposes described in paragraphs (1) and (2) of subsection (b) of this section.

(3) In making grants for the purposes described in subsection (b) of this section, the Secretary shall give preference to renewable energy facilities.

(d) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $20,000,000 for each of fiscal years 2006 through 2012.


CODIFICATION

Section was enacted as part of the Public Utility Regulatory Policies Act of 1978, and not as part of the Rural Electrification Act of 1936 which comprises this chapter.

DEFINITIONS

Secretary means the Secretary of Energy, see section 202(14) of Title 16, Conservation.

SUBCHAPTER II—RURAL TELEPHONE SERVICE

§ 921. Congressional declaration of policy

It is declared to be the policy of the Congress that adequate telephone service be made generally available in rural areas through the improvement and expansion of existing telephone facilities and the construction and operation of such additional facilities as are required to assure the availability of adequate telephone service to the widest practicable number of rural users of such service.

(Oct. 28, 1949, ch. 776, §1, 63 Stat. 948.)

CODIFICATION

Section is composed of the first sentence of section 1 of Act Oct. 28, 1949. The second sentence of section 1 of that act, which provided that: “In order to effectuate this policy, the Rural Electrification Act of 1936 [this chapter] is amended as hereinafter provided”, is omitted from the Code.

Section was not enacted as part of title II of the Rural Electrification Act of 1936 which comprises subchapter II of this chapter.

§ 921a. Policy of financing of rural telephone program

It is hereby declared to be the policy of the Congress that the growing capital needs of the rural telephone systems require the establishment of a rural telephone bank which will furnish assured and viable sources of supplementary financing with the objective that said bank will become an entirely privately owned, operated, and financed corporation. The Congress further finds that many rural telephone systems require financing under the terms and conditions provided in this subchapter.

(Pub. L. 92–12, §1, May 7, 1971, 85 Stat. 29.)

CODIFICATION

The last sentence of section 1 of Pub. L. 92–12 provided that: “In order to effectuate this policy, the Rural Electrification Act of 1936, as amended (7 U.S.C. 921–924), is amended as hereinafter provided.”

Section was not enacted as part of title II of the Rural Electrification Act of 1936 which comprises this subchapter.

EFFECTIVE DATE

Section 7 of Pub. L. 92–12 provided that: “This Act [enacting sections 921a, 931, 932, and 941 to 950b of this title and amending sections 903(f) and 922 of this title] shall take effect upon enactment [May 7, 1971].”

RESERVATION OF RIGHT TO REPEAL, ALTER, OR AMEND

Pub. L. 92–12

Section 6 of Pub. L. 92–12 provided that: “The right to repeal, alter, or amend this Act [enacting sections 921a, 931, 932, and 941 to 950b of this title, amending sections 903 and 922 of this title and sections 856 and 868 of former Title 31, and enacting provisions set out as notes under sections 856 and 868 of former Title 31] is expressly reserved.”

§ 921b. Policy of expansion of markets for debentures

It is hereby declared to be the policy of the Congress that the Rural Telephone Bank should have the capability of obtaining adequate funds for its supplementary financing program at the lowest possible costs. In order to effectuate this policy, it will be necessary to expand the market for debentures to be issued by the Telephone Bank.

(Pub. L. 92–324, §1, June 30, 1972, 86 Stat. 390.)

CODIFICATION

The last sentence of section 1 of Pub. L. 92–324 provided that: “The Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), is therefore further amended as hereinafter provided.”

Section was not enacted as part of the title II of the Rural Electrification Act of 1936 which comprises this subchapter.

EFFECTIVE DATE

Section 4 of Pub. L. 92–324 provided that: “This Act [enacting this section and amending section 947 of this title] shall take effect upon enactment [June 30, 1972].”

RESERVATION OF RIGHT TO REPEAL, ALTER, OR AMEND

Pub. L. 92–324

Section 3 of Pub. L. 92–324 provided that: “The right to repeal, alter, or amend this Act [enacting this section and amending section 947 of this title] is expressly reserved.”

§ 922. Loans for rural telephone service

From such sums as are from time to time made available by the Congress to the Secretary for such purpose, pursuant to section 903 of this title, the Secretary is authorized and empowered to make loans to persons now providing or who may hereafter provide telephone service to public bodies now providing telephone service in rural areas, to public bodies now providing telephone service in rural areas and to cooperative, nonprofit, limited dividend, or mutual associations. Except as otherwise provided by this subchapter, such loans shall be made under the same terms and conditions as are provided in section 904 of this title, for the purpose of financing the improvement, expansion, construction, acquisition, and operation of telephone lines, facilities, or systems to furnish and improve telephone service in rural areas: Provided,
however. That the Secretary, in making such loans, shall give preference to persons providing telephone service in rural areas, to public bodies now providing telephone service in rural areas, and to cooperative, nonprofit, limited dividend, or mutual associations: And provided further. That for a period of one year from and after October 28, 1949, applications for loans received by the Secretary from persons who on October 28, 1949, are engaged in the operation of existing telephone service in rural areas shall be consid- ered and acted upon before action is taken upon any application received from any other person for any loan to finance the furnishing or improvement of telephone service to substantially the same subscribers. The Secretary in making such loans shall, to the extent possible, obtain assurance that the telephone service to be furn- ished or improved thereby will be made available to the widest practical number of rural users. When it is determined by the Secretary to be necessary in order to furnish or improve telephone service in rural areas, such loans may be made for the improvement, expansion, construction, acquisition, and operation of telephone lines, facilities, or systems without regard to their geographical location. The Secretary is further authorized and empowered to make loans for the purpose of refinancing outstanding indebtedness of persons furnishing telephone service in rural areas: Provided. That such re- financing shall be determined by the Secretary to be necessary in order to furnish and improve telephone service in rural areas: And provided further. That such refinancing shall constitute not more than 40 per centum of any loan made under this subchapter. Loans under this section shall not be made unless the Secretary finds and certifies that in his judgment the security therefor is reasonably adequate and such loan will be repaid within the time agreed, nor shall such loan be made in any State which now has or may hereafter have a State regulatory body having authority to regulate telephone service in rural areas. When it is determined by the Secretary to be necessary in order to furnish and improve telephone service in rural areas, such loans may be made for the improvement, expansion, construction, acquisition, and operation of telephone lines, facilities, or systems without regard to their geographical location. The Secretary is further authorized and empowered to make loans for the purpose of refinancing outstanding indebtedness of persons furnishing telephone service in rural areas: Provided. That such re- financing shall be determined by the Secretary to be necessary in order to furnish and improve telephone service in rural areas: And provided further. That such refinancing shall constitute not more than 40 per centum of any loan made under this subchapter. Loans under this section shall not be made unless the Secretary finds and certifies that in his judgment the security therefor is reasonably adequate and such loan will be repaid within the time agreed, nor shall such loan be made in any State which now has or may hereafter have a State regulatory body having authority to regulate telephone service in rural areas. When it is determined by the Secretary to be necessary in order to furnish and improve telephone service in rural areas, such loans may be made for the improvement, expansion, construction, acquisition, and operation of telephone lines, facilities, or systems without regard to their geographical location. The Secretary is further authorized and empowered to make loans for the purpose of refinancing outstanding indebtedness of persons furnishing telephone service in rural areas: Provided. That such re- financing shall be determined by the Secretary to be necessary in order to furnish and improve telephone service in rural areas: And provided further. That such refinancing shall constitute not more than 40 per centum of any loan made under this section unless the Secretary shall de- termine (and set forth his reasons therefor in writing) that no duplication of lines, facilities, or systems, providing reasonably adequate services will result therefrom.


AMENDMENTS
1971—Pub. L. 92–12 inserted “, to public bodies now providing telephone service in rural areas” after “areas” in first sentence and after “areas” in first proviso of second sentence.

EFFECTIVE DATE OF 1971 AMENDMENT
Amendment by Pub. L. 92–12 effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as an Effective Date note under section 921a of this title.

§923. State regulation of telephone service
Nothing contained in this chapter shall be construed to deprive any State commission, board, or other agency of jurisdiction, under any State law, now or hereafter effective, to regulate telephone service which is not subject to regulation by the Federal Communications Commission, under the Communications Act of 1934 (47 U.S.C. 151 et seq.), including the rates for such service.

(May 20, 1936, ch. 432, title II, §202, as added Oct. 28, 1949, ch. 776, §5, 63 Stat. 948.)

REFERENCES IN TEXT
The Communications Act of 1934, referred to in text, is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended, which is classified principally to chapter 5 (§151 et seq.) of Title 47, Telegraphs, Telephones, and Radiotelegraphs. For complete classification of this Act to the Code, see section 609 of Title 47 and Tables.

§924. Definition of telephone service and rural area
(a) As used in this subchapter, the term “telephone service” shall be deemed to mean any communication service for the transmission or reception of voice, data, sounds, signals, pictures, writing, or signs of all kinds by wire, fiber, radio, light, or other visual or electromagnetic means, and shall include all telephone lines, facilities, or systems used in the rendition of such service; but shall not be deemed to mean message telegraph service or community antenna television system services or facilities other than those intended exclusively for educational purposes, or radio broadcasting services or facilities within the meaning of section 153(a)(1) of title 47.

(b) As used in this subchapter, the term “rural area” shall be deemed to mean any area of the United States not included within the bound- aries of any incorporated or unincorporated city, village, or borough having a population in excess of 5,000 inhabitants.


REFERENCES IN TEXT
Section 153 of title 47, referred to in subsec. (a), was subsequently amended and no longer contains a subsec. (c). However, the term “broadcasting” is defined elsewhere in that section.

AMENDMENTS
1993—Subsec. (b). Pub. L. 103–129 substituted “5,000” for “one thousand five hundred”.
1990—Subsec. (a). Pub. L. 101–624 inserted “or reception” after “transmission” and “data,” after “voice,”, and substituted “by wire, fiber, radio, light, or other visual or electromagnetic means” for “through the use of electricity between the transmitting and receiving apparatus”.
1962—Subsec. (a). Pub. L. 87–862 included the transmission of sounds, signals, pictures, writing, or signs of all kinds within “telephone service”, and substituted

1See References in Text note below.
§ 925. Loan feasibility

The Secretary and the Governor of the telephone bank may not, as a condition of making a telephone loan to an applicant therefor, require the applicant to—

1. Increase the rates charged to the applicant’s customers or subscribers; or
2. Increase the applicant’s ratio of—
   a. Net income or margins before interest; or
   b. The interest requirements on all of the applicant’s outstanding and proposed loans.


AMENDMENTS
1994—Pub. L. 103–354 substituted “Secretary” for “Administrator”.

§ 926. Certain rural development investments by qualified telephone borrowers not treated as dividends or distributions

(a) In general

The Secretary and the Governor of the telephone bank shall not—

1. Treat any amount invested by any qualified telephone borrower for any purpose described in section 2204(b)(c)(2) of this title (including any investment in, or extension of credit, guarantee, or advance made to, an affiliated company of the borrower, that is used by such company for such a purpose) as a dividend or distribution of capital to the extent that, immediately after such investment, the aggregate of such investments does not exceed one half of the net worth of the borrower; or
2. Require a qualified telephone borrower to obtain the approval of the Secretary or the Governor of the telephone bank in order to make an investment described in paragraph (1).

(b) “Qualified telephone borrower” defined

As used in subsection (a) of this section, the term “qualified telephone borrower” means a person—

1. To whom a telephone loan has been made or guaranteed under this chapter; and
2. Whose net worth is at least 20 percent of the total assets of such person.


AMENDMENTS
1994—Pub. L. 103–354 substituted “Secretary” for “Administrator” in subs. (a) and (b) and “Secretary” for “Rural Electrification Administration” in subsec. (b)(2).

§ 927. General duties and prohibitions

(a) Duties

The Secretary and the Governor of the telephone bank shall—

1. Notwithstanding section 553(a)(2) of title 5, cause to be published in the Federal Register, in accordance with subsections (b) through (e) of section 553 of such title, all rules, regulations, bulletins, and other written policy standards governing the operations of the telephone loan and loan guarantee programs administered under this chapter other than those relating to agency management and personnel; and
2. In evaluating the feasibility of a telephone loan to be made to a borrower for telephone services, use—
   a. With respect to items for which the regulatory authority with jurisdiction over the provision of such services has approved the depreciation rates used by the borrower, such approved rates; and
   b. With respect to other items, the average of the depreciation rates used by borrowers of telephone loans made under this chapter;
3. Annually determine and publish the average described in paragraph (2)(B); and
4. Make loans for all purposes for which telephone loans are authorized under section 922 or 948 of this title, to the extent of qualifying applications therefor.

(b) Prohibitions

The Secretary and the Governor of the telephone bank shall not—

1. Rescind an insured telephone loan, or a Rural Telephone Bank loan, made under this chapter without the consent of the borrower, unless all of the purposes for which telephone loans have been made to the borrower under this chapter have been accomplished with funds provided under this chapter;
2. Regulate the order or sequence of advances of funds under telephone loans made under this chapter to any borrower who has received any combination of telephone loans from the Secretary, the Rural Telephone Bank, or the Federal Financing Bank; or
3. Deny a loan or advance to, or take any other adverse action against, an applicant for, or a borrower of, a telephone loan under this chapter for any reason that is not based on a rule, regulation, bulletin, or other written policy standard that has not been published pursuant to section 553 of title 5.


AMENDMENTS
1994—Pub. L. 103–354 substituted “Secretary” for “Administrator” in subsecs. (a) and (b) and “Secretary” for “Rural Electrification Administration” in subsec. (b)(2).

§ 928. Prompt processing of telephone loans

Within ten days after the end of the second and fourth calendar quarters of each year, the Secretary shall submit to the Committee on Agriculture and the Committee on Appropriations of the House of Representatives, and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate, a report—
(1) identifying each completed application for a telephone loan under section 935 of this title, a guarantee of a telephone loan under section 936 of this title, or a loan under section 948 of this title, that has not been finally acted upon within ninety days after the date the completed application is submitted; and

(2) stating the reasons for the failure to finally act upon the completed applications within such ninety-day period.


AMENDMENTS
1994—Pub. L. 103–354 substituted “Secretary” for “Administrator”.

SUBCHAPTER III—RURAL ELECTRIC AND TELEPHONE DIRECT LOAN PROGRAMS

§930. Congressional declaration of policy

It is hereby declared to be the policy of the Congress that adequate funds should be made available to rural electric and telephone systems through direct, insured and guaranteed loans at interest rates which will allow them to achieve the objectives of this chapter and that such rural electric and telephone systems should be encouraged and assisted to develop their resources and ability to achieve the financial strength needed to enable them to satisfy their credit needs from their own financial organizations and other sources at reasonable rates and terms consistent with the loan applicant’s ability to pay and achievement of this chapter’s objectives.


CODIFICATION

The last sentence of section 1 of Pub. L. 93–32 provided that: “The Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), is hereby further amended as hereinafter provided.’’ Section was not enacted as part of the Rural Electrification Act of 1936 which comprises this chapter. Effective Date

Section 12 of Pub. L. 93–32 provided that: “This Act [enacting sections 906a, 930, and 933 to 940 of this title, amending sections 903, 931, 932, 945, 946, 947, and 948 of this title, and enacting provisions set out as notes under this section] shall take effect upon enactment [May 11, 1973].’’

RESERVATION OF RIGHT TO REPEAL, ALTER, OR AMEND PUBL. L. 93–32

Section 11 of Pub. L. 93–32 provided that: “The right to repeal, alter, or amend, this Act [enacting sections 906a, 930, and 933 to 940 of this title, amending sections 903, 931, 932, 945, 946, 947, and 948 of this title, and enacting provisions set out as notes under this section] is expressly reserved.’’

§931. Rural Electrification and Telephone Revolving Fund

There is hereby established in the Treasury of the United States a fund, to be known as the Rural Electrification and Telephone Revolving Fund (hereinafter referred to as the ‘‘fund’’), consisting of:

(1) all notes, bonds, obligations, liens, mortgages, and property delivered or assigned to the Secretary pursuant to loans heretofore or hereafter made under sections 904, 905, and 922 of this title and under this subchapter, as of May 11, 1973, and all proceeds from the sales hereunder of such notes, bonds, obligations, liens, mortgages, and property, which shall be transferred to and be assets of the funds;

(2) undisbursed balances of electric and telephone loans made under sections 904, 905, and 922 of this title, which as of May 11, 1973, shall be transferred to and be assets of the fund;

(3) all collections of principal and interest received on and after July 1, 1972, on notes, bonds, judgments, or other obligations made or held under subchapters I and II of this chapter and under this subchapter, except for net collection proceeds previously appropriated for the purchase of class A stock in the Rural Telephone Bank, which shall be paid into and be assets of the fund;

(4) all appropriations for interest subsidies and losses required under this subchapter which may hereafter be made by the Congress and the unobligated balances of any funds made available for loans under the item “Rural Electrification Administration” in the Department of Agriculture and Agriculture-Environmental and Consumer Protection Appropriations Acts;

(5) moneys borrowed from the Secretary of the Treasury pursuant to section 934(a) of this title; and

(6) shares of the capital stock of the Rural Telephone Bank purchased by the United States pursuant to section 946(a) of this title and moneys received from said bank upon retirement of said shares of stock in accordance with the provisions of subchapter IV of this chapter, which said shares and moneys shall be assets of the fund.


REFERENCES IN TEXT

Section 905 of this title, referred to in pars. (1) and (2), was repealed by Pub. L. 104–127, title VII, §774(a), Apr. 4, 1996, 110 Stat. 1150. Amendments

1996—Pub. L. 104–127 struck out “(a)” before “There is hereby’’ in introductory provisions and struck out “notwithstanding section 903(a) of this title,’’ before “all collections’’ in par. (3).


1 See References in Text note below.
§ 931a. Level of loan programs under Rural Electrification and Telephone Revolving Fund

On and after October 28, 1991, no funds in this Act or any other Act shall be available to carry out loan programs under the Rural Electrification and Telephone Revolving Fund at levels other than those provided for in advance in appropriations Acts.


(c) Separate electric and telephone accounts

(1) The Secretary shall maintain two separate accounts within the fund, which shall be known as the electric account and the telephone account, respectively.

(2)(A) The Secretary shall account for the assets, liabilities, income, expenses, and equity of the fund attributable to electrification loan operations in the electric account.

(B) The Secretary shall account for the assets, liabilities, income, expenses, and equity of the fund attributable to telephone loan operations in the telephone account.

(3)(A) The assets accounted for in the electric account shall be available solely for electrification loan operations under this chapter.

(B) The assets accounted for in the telephone account shall be available solely for telephone loan operations under this chapter (other than under subchapter IV of this chapter).


References in Text

Section 905 of this title, referred to in subsecs. (a) and (b)(1), was repealed by Pub. L. 104–127, title VII, § 777(a), Apr. 4, 1996, 110 Stat. 1150.

Amendments

1996—Subsec. (b)(2). Pub. L. 104–127 struck out “pursuant to section 903(a) of this title” after “purposes”.

1 See References in Text note below.
§ 934. Authorized financial transactions; interim notes; purchase of obligations for resale; sale of notes and certificates; liens

(a) The Secretary is authorized to make and issue interim notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations of the fund and for making loans, advances and authorized expenditures out of the fund. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be agreed upon by the Secretary and the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the notes issued by the Secretary under this section. The Secretary of the Treasury is authorized and directed to purchase any notes of the Secretary issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to 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 such securities may be issued under such chapter are extended to include the purchase of notes issued by the Secretary. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States: Provided, however, That such interim notes to the Secretary of the Treasury shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(b) The Secretary of the Treasury is authorized and directed to purchase for resale obligations insured through the fund when offered by the Secretary. Such resales shall be upon such terms and conditions as the Secretary of the Treasury shall determine. Purchases and resales by the Secretary of the Treasury hereunder shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

Effective Date of 1973 Amendment

§ 935. Insured loans; interest rates and lending levels

(a) In general

The Secretary is authorized to make insured loans under this subchapter and at the interest rates hereinafter provided to the full extent of the assets available in the fund, subject only to limitations as to amounts authorized for loans and advances as may be from time to time imposed by the Congress of the United States for loans to be made in any one year, which amounts shall remain available until expended: Provided. That the Congress in the annual appropriation Act may also authorize the transfer of any excess cash in the fund for deposit into the Treasury as miscellaneous receipts: And provided further, That any such loans and advances shall not be included in the totals of the budget of the United States.
United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(b) Insured loans

Loans made under this section shall be insured by the Secretary when purchased by a lender. As used in this chapter, an insured loan is one which is made, held, and serviced by the Secretary, and sold and insured by the Secretary hereunder; such loans shall be sold and insured by the Secretary without undue delay.

(c) Insured electric loans

(1) Hardship loans

(A) In general

The Secretary shall make insured electric loans, to the extent of qualifying applications for the loans, at an interest rate of 5 percent per year to any applicant for a loan who meets each of the following requirements:

(i) The average revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the average revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service.

(ii) The average residential revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the average residential revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service.

(iii) The average per capita income of the residents receiving electric service from the applicant is less than the average per capita income of the residents of the State in which the applicant provides service, or the median household income of the households receiving electric service from the applicant is less than the median household income of the households in the State.

(B) Severe hardship loans

In addition to hardship loans that are made under subparagraph (A), the Secretary may make an insured electric loan at an interest rate of 5 percent per year to an applicant for a loan if, in the sole discretion of the Secretary, the applicant has experienced a severe hardship.

(C) Limitation

Except as provided in subparagraph (D), the Secretary may not make a loan under this paragraph to an applicant for the purpose of furnishing or improving electric service to a consumer located outside of an urbanized area that is based on the current market yield on outstanding municipal obligations; plus

(ii) Maximum rate

The interest rate described in this subparagraph on a loan to an applicant for the period that do not afford the borrower such a right.

(ii) Exception

Clause (ii) shall not apply to a loan to be made to an applicant for the purpose of
furnishing or improving electric service to consumers located in an urban area (as defined by the Bureau of the Census) if the average number of consumers per mile of line of the total electric system of the applicant exceeds 17.

(C) Loan term

(i) In general

Subject to clause (ii), the applicant for a loan under this paragraph may select the term for which an interest rate shall be determined pursuant to subparagraph (B), and, at the end of the term (and any succeeding term selected by the applicant under this subparagraph), may renew the loan for another term selected by the applicant.

(ii) Maximum term

(1) Applicant

The applicant may not select a term that ends more than 35 years after the beginning of the first term the applicant selects under clause (i).

(2) Secretary

The Secretary may require any applicant from selecting a term that would result in the total term of the loan being greater than the expected useful life of the assets being financed.

(D) Call provision

The Secretary shall offer any applicant for a loan under this paragraph the option to include in the loan agreement the right of the applicant to prepay the loan on terms consistent with similar provisions of commercial loans.

(3) Other source of credit not required in certain cases

The Secretary may not require any applicant for a loan made under this subsection who is eligible for a loan under paragraph (1) to obtain a loan from another source as a condition of approving the application for the loan or advancing any amount under the loan.

(d) Insured telephone loans

(1) Hardship loans

(A) In general

The Secretary shall make insured telephone loans, to the extent of qualifying applications for the loans, at an interest rate of 5 percent per year, to any applicant who meets each of the following requirements:

(i) The average number of subscribers per mile of line in the service area of the applicant is not more than 17.

(ii) The applicant is capable of producing net income or margins before interest of not less than 100 percent (but not more than 300 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

(iii) The Secretary has approved a telecommunications modernization plan for the State under paragraph (3) and, if the plan was developed by telephone borrowers under this subchapter, the applicant is a participant in the plan.

(iv) The average number of subscribers per mile of line in the area included in the proposed loan is not more than 17.

(B) Authority to waive tier requirement

The Secretary may waive the requirement of subparagraph (A)(ii) in any case in which the Secretary determines (and sets forth the reasons for the waiver in writing) that the requirement would prevent emergency restoration of the telephone system of the applicant or result in severe hardship to the applicant.

(C) Effect of lack of funds

On request of any applicant who is eligible for a loan under this paragraph for which funds are not available, the applicant shall be considered to have applied for a loan under subchapter IV of this chapter.

(2) Cost-of-money loans

(A) In general

The Secretary may make insured telephone loans for the acquisition, purchase, and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and customer premise equipment) related to the furnishing, improvement, or extension of rural telecommunications service, at an interest rate equal to the then current cost of money to the Government of the United States for loans of similar maturity, but not more than 7 percent per year, to any applicant for a loan who meets the following requirements:

(i) The average number of subscribers per mile of line in the service area of the applicant is not more than 15, or the applicant is capable of producing net income or margins before interest of not less than 100 percent (but not more than 500 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

(ii) The Secretary has approved a telecommunications modernization plan for the State under paragraph (3) and, if the plan was developed by telephone borrowers under this subchapter, the applicant is a participant in the plan.

(B) Concurrent loan authority

On request of any applicant for a loan under this paragraph during any fiscal year, the Secretary shall—

(i) consider the application to be for a loan under this paragraph and a loan under section 948 of this title; and

(ii) if the applicant is eligible for a loan, make a loan to the applicant under this paragraph in an amount equal to the amount that bears the same ratio to the total amount of loans for which the applicant is eligible under this paragraph and under section 948 of this title, as the amount made available for loans under this paragraph for the fiscal year bears to the total amount made available for loans under this paragraph and under section 948 of this title for the fiscal year.
(C) Effect of lack of funds

On request of any applicant who is eligible for a loan under this paragraph for which funds are not available, the applicant shall be considered to have applied for a loan guarantee under section 936 of this title.

(3) State telecommunications modernization plans

(A) Approval

If, not later than 1 year after final regulations are promulgated to carry out this paragraph, any State, either by statute or through the public utility commission of the State, develops a telecommunications modernization plan that meets the requirements of subparagraph (B), the Secretary shall approve the plan for the State. If a State does not develop a plan in accordance with the requirements of the preceding sentence, the Secretary shall approve any telecommunications modernization plan for the State that meets the requirements that is developed by a majority of the borrowers of telephone loans made under this subchapter who are located in the State.

(B) Requirements

For purposes of subparagraph (A), a telecommunications modernization plan must, at a minimum, meet the following objectives:

(i) The plan must provide for the elimination of party line service.

(ii) The plan must provide for the availability of telecommunications services for improved business, educational, and medical services.

(iii) The plan must encourage and improve computer networks and information highways for subscribers in rural areas.

(iv) The plan must provide for—

(I) subscribers in rural areas to be able to receive through telephone lines—

(aa) conference calling;

(bb) video images; and

(cc) data at a rate of at least 1,000,000 bits of information per second; and

(II) the proper routing of information to subscribers.

(v) The plan must provide for uniform deployment schedules to ensure that advanced services are deployed at the same time in rural and nonrural areas.

(vi) The plan must provide for such additional requirements for service standards as may be required by the Secretary.

(C) Finality of approval

A telecommunications modernization plan approved under subparagraph (A) may not subsequently be disapproved. Notwithstanding paragraphs (1)(A)(ii) and (2)(A)(iii),1 and section 948(b)(4)(C)2 of this title, the Secretary and the Governor of the telephone banks may make a loan to a borrower serving a State that does not have a telecommunications modernization plan approved by the Secretary if the loan is made less than 1 year after the Secretary has adopted final regulations implementing this paragraph.


AMENDMENTS


Subsec. (b). Pub. L. 103–129, §2(a)(1)(A), (B), (c)(6)(B), redesignated subsec. (c) as (b), inserted heading, and struck out former subsec. (b) which read as follows: “Insured loans made under this subchapter shall bear interest at 5 per centum per annum, except that the Administrator may make insured loans to electric or telephone borrowers at a lesser interest rate, but not less than 2 per centum per annum, if, in the Administrator’s sole discretion, the Administrator finds that the borrower—

“(1) has experienced extreme financial hardship; or

“(2) cannot, in accordance with generally accepted financial management and accounting principles and without charging rates to its customers or subscribers so high as to create a substantial disparity between such rates and the rates charged for similar service in the same or nearby areas by other suppliers, provide service consistent with the objectives of this chapter.”


Subsec. (d). Pub. L. 103–129, §2(a)(1)(A), (c), added subsec. (d) and struck out former subsec. (d) which read as follows: “The Administrator shall make a telephone loan under this subchapter to an applicant therefor who is otherwise qualified to receive such a loan at the highest interest rate (but not less than the lowest interest rate, nor higher than the highest interest rate, specified in subsection (b) of this section) at which the borrower would be capable of producing net income or margins before interest payments of at least 100 percent (but not more than 150 percent) of the interest requirements on all of the applicant’s outstanding and proposed loans.”


1981—Subsec. (b). Pub. L. 97–35 substituted provisions establishing an interest rate at 5 per centum per annum and a lower rate, but not less than 2 per cent, under the enumerated criteria, for provisions establishing standard and special rates, with special rates applicable under enumerated criteria.

1976—Subsec. (b). Pub. L. 94–570 struck out from introductory text “meets either of the following conditions” after “borrower which”; limited par. (1) to the telephone borrowers, substituting provision for an average subscriber density of three or fewer per mile at the end of the most recent calendar year ending at least six months before approval of the loan for prior provision for an average consumer or subscriber density of two or fewer per mile; substituted in par. (2) provision, limited to electric borrowers, respecting having an average consumer density of two or fewer per mile or an average adjusted plant revenue ratio of over 9.0 at end of the most recent calendar year ending at least six months before approval of the loan, determination of such ratio, and defining sum of distribution plant funds are not available, the applicant shall

1 So in original. Probably should be paragraph “(2)(A)(ii)”. 2 So in original. Probably should be section “948(b)(4)(B)”.
and general plant, gross revenue, and cost of power for prior provision for and average gross revenue per mile which is at least $300 below the average gross revenue per mile of REA-financed electric systems, in the case of electric borrowers, or at least $300 below the average gross revenue per mile of REA-financed telephone systems, in the case of telephone borrowers; and inserted in provision of par. (2) "to a telephone or electric borrower" after "make a loan".

**Effective Date of 1981 Amendment**

Section 165(d) of Pub. L. 97–35 provided that: "The amendments made by subsection (a) of this section [amending this section] shall apply to loans the applications for which are received by the Rural Electrification Administration after July 24, 1981."

**Effective Date of 1976 Amendment; Interest Rate**

Section 4 of Pub. L. 94–570 provided that: "This Act [amending this section and section 931 of this title] shall take effect upon enactment (Oct. 20, 1976) except that insured loans made pursuant to applications for such loans which would otherwise lose eligibility for special rate financing upon such enactment, received by the Rural Electrification Administration and still pending on the date of enactment of this Act (Oct. 20, 1976), shall bear interest as determined under section 306(b) of the Rural Electrification Act of 1936 before its amendment by this Act [former provisions of subsection (b) of this section]."

**Effective Date**

Section effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

§ 936a. Prepayment of loans

(a) Conditions for prepayment

Except as provided in subsection (c) of this section, a borrower of a loan made by the Federal Financing Bank and guaranteed under sec-
(b) Charges on prepayment prohibited

No sums in addition to the payment of the outstanding principal balance due on the loan may be charged as the result of such prepayment against the borrower, the fund, or the Secretary.

(e) Disqualification for prepayment on finding of adverse affect on Federal Financing Bank

(1) A borrower will not qualify for prepayment under this section if, in the opinion of the Secretary of the Treasury, to prepay in such borrower's case would adversely affect the operation of the Federal Financing Bank.

(2) Paragraph (1) shall be effective in fiscal year 1987 only for any loan the prepayment of the principal amount of which will cause the cumulative amount of net proceeds from all such prepayments made during such year to exceed $2,017,500,000.

(d) Amount of permissible prepayments; establishment of eligibility criteria

(1) The Secretary shall permit, subject to subsection (a) of this section, prepayments of principal on loans in fiscal year 1987 under this section or Public Law 99–349 in such amounts as to realize net proceeds from all such prepayments in fiscal year 1987 in an amount not less than $2,017,500,000.

(2) The Secretary shall establish—

(A) eligibility criteria to ensure that any loan prepayment activity required to be carried out under this subsection will be directed to those cooperative borrowers in greatest need of the benefits associated with prepayment, as determined by the Secretary; and

(B) such other eligibility criteria as the Secretary determines are necessary to carry out this subsection.

(e) Assignability and transferability of guarantees of loans

Any guarantee of a loan prepaid under this section shall be fully assignable under the provisions of section 936 of this title and transferable. Any guarantee of a loan prepaid under this subsection shall be fully assignable under the provisions of section 936 of this title and transferable. Such guarantee, if transferred, shall be subject solely to the approval of the Secretary of the Treasury.

(1) study—Not later than January 1, 1989, the Comptroller General of the United States shall—

(A) all benefits provided by Federal Financing Bank lending and the procedures and conditions for the prepayment of current Federal Financing Bank lending and the procedures and conditions for the prepayment of current Federal Financing Bank loans;
“(B) the benefits and costs to Federal Financing Bank borrowers of making prepayments; and
“(C) alternative conditions and procedures for prepayment of all Federal Financing Bank loans to balance Federal benefits with Federal costs; and
“(2) submit to Congress a report describing the results of such study, together with any appropriate recommendations.”

PREPAYMENT OF GUARANTEED LOANS; RESTRICTIONS
Pub. L. 100–202, § 936b. Sale or prepayment of direct or insured loans
(a) Discounted prepayment by borrowers of electric loans
(1) In general
Except as provided in paragraph (2), a direct or insured loan made under this chapter shall not be sold or prepaid at a value that is less than the outstanding principal balance on the loan.

(2) Exception
On request of the borrower, an electric loan made under this chapter, or a portion of such a loan, that was advanced before May 1, 1992, or has been advanced for not less than 2 years, shall be sold to or prepaid by the borrower at the lesser of—

(A) the outstanding principal balance on the loan; or

(B) the present value of the loan discounted from the face value at maturity at the rate established by the Secretary.

(3) Discount rate
The discount rate applicable to the prepayment under this subsection of a loan or loan advance shall be the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the remaining term of the loan.

(4) Tax exempt financing
If a borrower prepay a loan under this subsection using tax exempt financing, the discount shall be adjusted to ensure that the borrower receives a benefit that is equal to the benefit the borrower would receive if the borrower used fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Secretary may establish that are reasonable and necessary to carry out this subsection.

(5) Eligibility
(A) In general
A borrower that has prepaid an insured or direct loan shall remain eligible for assistance under this chapter in the same manner as other borrowers, except that—

(i) a borrower that has prepaid a loan, either before or after October 21, 1992, at a discount rate as provided by paragraph (3), shall not be eligible, except at the discretion of the Secretary, to apply for or receive direct or insured loans under this chapter during the 120-month period beginning on the date of the prepayment; and

(ii) a borrower that prepaid a loan before October 21, 1992, at a discount rate greater than that provided by paragraph (3), shall not be eligible—

(I) except at the discretion of the Secretary, to apply for or receive direct or insured loans described in clause (i) during the 180-month period beginning on the date of the prepayment; or

(II) to apply for or receive direct or insured loans described in clause (i) until the borrower has repaid to the Federal Government the sum of—

(aa) the amount (if any) by which the discount the borrower would have received had the discount been based on the cost of funds to the Department of the Treasury at the time of the prepayment; and

(bb) interest on the amount described in item (aa), for the period beginning on the date of the repayment and ending on the date of the repayment, at a rate equal to the average annual cost of borrowing by the Department of the Treasury.

(B) Effect on existing agreements
If a borrower and the Secretary have entered into an agreement with respect to a prepayment occurring before October 21, 1992, this paragraph shall supersede any provision in the agreement relating to the restoration of eligibility for loans under this chapter.

(C) Distribution borrowers
A distribution borrower not in default on the repayment of loans made or insured
under this chapter shall be eligible for discounted prepayment as provided in this subsection. For the purpose of determining eligibility for discounted prepayment under this subsection or eligibility for assistance under this chapter, a default by a borrower from which a distribution borrower purchases wholesale power shall not be considered a default by the distribution borrower.

(6) Definitions
As used in this subsection:

(A) Direct loan
The term “direct loan” means a loan made under section 904 of this title.

(B) Insured loan
The term “insured loan” means a loan made under section 935 of this title.

(b) Mergers of electric borrowers
Notwithstanding subsection (a) of this section, a direct or insured loan may be prepaid by an electric borrower at the lesser of the outstanding principal balance due thereon or the present value thereof discounted from the face value at maturity at the rate set by the Secretary if the borrower is an electrical organization which resulted from a merger or consolidation between a borrower and an organization which, prior to October 1, 1987, prepaid its direct or insured loans pursuant to this section. Prepayments by a borrower hereunder shall be made not later than one year after the effective date of the merger, consolidation, or other transaction. The discount rate to be set by the Secretary for direct or insured loans prepayments hereunder shall be based on the current cost of funds to the Department of the Treasury for obligations of comparable maturity to those being prepaid. If a borrower prepays using tax exempt financing, the discount shall be adjusted to make the discount equivalent to fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Secretary may establish which are reasonable and necessary to implement this provision. As used in this section, the term “direct loan” means a loan made under section 904 of this title.

§ 936c. Refinancing and prepayment of FFB loans

(a) In general
A borrower of a loan made by the Federal Financing Bank and guaranteed under section 936 of this title may, at the option of the borrower, refinance or prepay the loan or an advance on the loan, or any portion of the loan or advance.

(b) Penalty

(1) Determination of penalty
A penalty shall be assessed against a borrower that refinances or prepays a loan or loan advance, or any portion of a loan or advance, under this section. Except as provided in paragraph (2), the penalty shall be equal to the lesser of—

(A) the difference between the outstanding principal balance of the loan being refinanced and the present value of the loan discounted at a rate equal to the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the loan being refinanced or prepaid;

(B) 100 percent of the amount of interest for 1 year on the outstanding principal balance of the loan or loan advance, or any portion of the loan or advance, being refinanced, multiplied by the ratio that—

(i) the number of quarterly payment dates between the date of refinancing or prepayment and the maturity date for the loan advance; bears to

(ii) the number of quarterly payment dates between the first quarterly payment date that occurs 12 years after the end of the year in which the amount being refinanced was advanced and the maturity date of the loan advance; and

(C)(i) the present value of 100 percent of the amount of interest for 1 year on the outstanding principal balance of the loan or loan advance, or any portion of the loan or advance, being refinanced or prepaid; plus

(ii) for the interval between the date of the refinancing or prepayment and the first quarterly payment date that occurs 12 years after the end of the year in which the amount being refinanced or prepaid was advanced, the present value of the difference between—

(I) each payment scheduled for the interval on the loan amount being refinanced or prepaid; and

(II) the payment amounts that would be required during the interval on the amounts being refinanced or prepaid if the interest rate on the loan were equal to the then current cost of funds to the Department of the Treasury for obligations of
comparable maturity to the loan being refinanced or prepaid.

(2) Limitation

(A) In general

Except as provided in subparagraph (B), the penalty provided by paragraph (1)(A) shall be required for refinancing or prepayment under this section.

(B) Exception

In the case of a loan advanced under an agreement that permits the refinancing or prepayment of the loan advance based on the payment of 1 year of interest on the outstanding principal balance of the loan advance, a borrower may, in lieu of the penalty required by paragraph (1)(A), pay a penalty as provided by—

(i) paragraph (1)(B), if the loan advance has reached the 12-year maturity required under the loan agreement for the refinancing or prepayment; or

(ii) paragraph (1)(C), if the loan advance has not reached the 12-year maturity required under the loan agreement for the refinancing or prepayment.

(3) Financing of penalty

(A) In general

In the case of a refinancing under this section, a borrower may, at the option of the borrower, meet the penalty requirements of paragraph (1) by—

(i) making a payment in the amount of the required penalty at the time of the refinancing; or

(ii) increasing the outstanding principal balance of the loan advance guaranteed by the Secretary that is being refinanced under this section by the amount of the penalty.

(B) Increased principal

If a borrower meets the penalty requirements of paragraph (1) by increasing the outstanding principal balance of the loan advance that is being refinanced, the borrower shall make a payment at the time of the refinancing equal to 2.5 percent of the amount of the penalty that is added to the outstanding principal balance of the loan.

(c) Loan terms and conditions after refinancing

(1) In general

On the payment of a penalty as provided by subsection (b) of this section, the loan or loan advance, or any portion of the loan or advance, shall be refinanced at the interest rate described in paragraph (2) for a term selected by the borrower pursuant to paragraph (3), except that such rate shall not be greater than 7 percent per year, subject to subsection (d) of this section.

(3) Loan term

Subject to paragraph (4), the borrower of a loan that is refinanced under this section—

(A) shall select the term for which an interest rate shall be determined pursuant to paragraph (2); and

(B) at the end of the term (and any succeeding term selected by the borrower under this paragraph), may renew the loan for another term selected by the borrower.

(4) Maximum term

The borrower may not select a term pursuant to paragraph (3) that ends after the maturity date set for the loan before the refinancing of the loan under this section.

(5) Existing loans

In the case of the refinancing of a loan of a borrower pursuant to this section and the inclusion of a penalty in the outstanding principal balance of the refinanced loan pursuant to subsection (b)(3) of this section—

(A) the refinancing and inclusion of the penalty shall not be subject to appropriations or limited by the amount provided during a fiscal year for new loans, loan guarantees, or other credit activity;

(B) the request of the borrower for the refinancing under this section may not be denied or delayed; and

(C) the borrower may not be limited in the selection of any refinancing or prepayment option provided by this section to the borrower.

(d) Maximum rate option

(1) In general

Except as provided in paragraphs (2), (3), and (4), a borrower of a loan or loan advance, or any portion of the loan or advance, that is refinanced under this section shall have the option of ensuring that the interest rate on such loan, loan advance, or portion thereof does not exceed 7 percent per year.

(2) Limitation

A borrower may not exercise the option under paragraph (1) in the case of a loan or loan advance, or portion thereof, if the total amount of such loans for which such option would be exercised exceeds 50 percent of the outstanding principal balance of the loans made to such borrower and guaranteed under section 936 of this title.

(3) Fee

A borrower that exercises the maximum rate option under paragraph (1) shall, at the time of exercising such option, pay a fee equal to 1 percent of the outstanding principal balance of such loan or loan advance, or portion thereof, for which such option is exercised. Such fee shall be in addition to the penalties and other payments required under subsection (b) of this section.

(4) Sunset

The option provided under paragraph (1) shall not be available in the case of any loan...
or loan advance, or portion thereof, unless a written request to exercise such option is sent to the Secretary not later than 1 year after the effective date of regulations issued to carry out the Rural Electrification Loan Restructuring Act of 1993.


REFERENCES IN TEXT

AMENDMENTS
1993—Subsec. (c)(2). Pub. L. 103–129, §2(c)(10)(A), inserted before period at end “, except that such rate shall not be greater than 7 percent per year, subject to subsection (d) of this section”.


REGULATIONS
Section 1201(b) of Pub. L. 103–66 provided that: “Not later than 45 days after the date of enactment of this section [Aug. 10, 1993], the Administrator of the Rural Electrification Administration shall issue interim final regulations to carry out the amendment made by subsection (a) [enacting this section].”

§ 936d. Eligibility of distribution borrowers for loans, loan guarantees, and lien accommodations
For the purpose of determining the eligibility of a distribution borrower not in default on the repayment of a loan made or guaranteed under this chapter for a loan, loan guarantee, or lien accommodation under this subchapter, a default by a borrower from which the distribution borrower purchases wholesale power shall not:
(1) be considered a default by the distribution borrower;
(2) reduce the eligibility of the distribution borrower for assistance under this chapter; or
(3) be the cause, directly or indirectly, of imposing any requirement or restriction on the borrower as a condition of the assistance, except such requirements or restrictions as are necessary to implement a debt restructuring agreed on by the power supply borrower and the Government.


§ 936e. Administrative prohibitions applicable to certain electric borrowers
(a) In general
For the purpose of relieving borrowers of unnecessary and burdensome requirements, the Secretary, guided by the practices of private lenders with respect to similar credit risks, shall issue regulations, applicable to any electric borrower under this chapter whose net worth exceeds 110 percent of the outstanding principal balance on all loans made or guaranteed to the borrower by the Secretary, to minimize those approval rights, requirements, restrictions, and prohibitions that the Secretary otherwise may establish with respect to the operations of such a borrower.

(b) Subordination or sharing of liens
At the request of a private lender providing financing to such a borrower for a capital investment, the Secretary shall, expeditiously, either offer to share the government’s lien on the borrower’s system or offer to subordinate the government’s lien on that property financed by the private lender.

(c) Issuance of regulations
In issuing regulations implementing this section, the Secretary may establish requirements, guided by the practices of private lenders, to ensure that the security for any loan made or guaranteed under this chapter is reasonably adequate.

(d) Authority of Secretary
Nothing in this section limits the authority of the Secretary to establish terms and conditions with respect to the use by borrowers of the proceeds of loans made or guaranteed under this chapter or to take any other action specifically authorized by law.


AMENDMENTS
1994—Pub. L. 103–354 substituted “Secretary” for “Administrator” in heading of subsec. (d) and wherever appearing in text.
1993—Pub. L. 103–201 inserted “certain” before “electric” in section catchline and amended text generally. Prior to amendment, text read as follows: “The Administrator may not require prior approval of, impose any requirement, restriction, or prohibition with respect to the operations of, or deny or delay the granting of a lien accommodation to, any electric borrower under this chapter whose net worth exceeds 110 percent of the outstanding principal balance on all loans made or guaranteed to the borrower by the Administrator.”

REGULATIONS
Section 2 of Pub. L. 103–201 provided that: “The Administrator of the Rural Electrification Administration shall issue interim final regulations implementing this Act [amending this section] not later than 180 days after enactment [Dec. 17, 1993]. If the regulations are not issued within such period of time, the Administrator may not, until the Administrator issues such regulations, require prior approval of, establish any requirement, restriction, or prohibition, with respect to the operations of any electric borrower under the Rural Electrification Act of 1936 [7 U.S.C. 96 et seq.] whose net worth exceeds 110 percent of the outstanding principal balance on all loans made or guaranteed to the borrower by the Administrator.”

§ 936f. Substantially underserved trust areas
(a) Definitions
In this section:
§ 937. Loans from other credit sources

When it appears to the Secretary that the loan applicant is able to obtain a loan for part of his credit needs from a responsible cooperative or other credit source at reasonable rates and terms consistent with the loan applicant’s ability to pay and the achievement of this chapter’s objectives, he may request the loan applicant to apply for and accept such a loan concurrently with an insured loan, subject, however, to full use being made by the Secretary of the funds made available hereunder for such insured loans under this subchapter. The Secretary may not request any applicant for an electric loan under this chapter to apply for and accept a loan in an amount exceeding 30 percent of the credit needs of the applicant.

§ 938. Full faith and credit of the United States

Any contract of insurance or guarantee executed by the Secretary under this subchapter shall be an obligation supported by the full faith and credit of the United States and incontrovertible except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

§ 939. Loan terms and conditions

Loans made from or insured through the fund shall be for the same purposes and on the same
§ 940. Refinancing of rural development loans

At the request of the borrower, the Secretary is authorized and directed to refinance with loans which will be insured under this chapter at the interest rates provided in section 935 of this title any loans made for rural electric and telephone facilities under any provision of the Consolidated Farm and Rural Development Act [7 U.S.C. 1921 et seq.].

(A) Cash balance

The Secretary shall maintain a subaccount of beneficial ownership issued by the Fund as a cash balance in the cushion of credit accounts of borrowers.

(B) Credits

The amount of interest accrued on the cash balances shall be credited to the Fund as a offsetting reduction to the amount of interest paid by the Fund on its certificates of beneficial ownership.

(2) Rural economic development subaccount

(A) Maintenance of account

The Secretary shall maintain a subaccount within the Rural Electrification and Telephone Revolving Fund to which shall be credited, on a monthly basis, a sum determined by multiplying the outstanding cushion of credit payments made after October 1, 1987, by the difference (converted to a monthly basis) between the average weighted interest rate paid on outstanding certificates of beneficial ownership issued by the Fund and the 5 percent rate of interest pro-
provided to borrowers on cushion of credit payments.

(B) Grants

The Secretary is authorized, from the interest differential sums credited this subaccount and from any other funds made available thereto, to provide grants or zero interest loans to borrowers under this chapter for the purpose of promoting rural economic development and job creation projects, including funding for project feasibility studies, start-up costs, incubator projects, and other reasonable expenses for the purpose of fostering rural development.

(C) Repayments

In the case of zero interest loans, the Secretary shall establish such reasonable repayment terms as will ensure borrower participation.

(D) Proceeds

All proceeds from the repayment of such loans shall be returned to the subaccount.

(E) Number of grants

Such loans and grants shall be made during each fiscal year to the full extent of the amounts held by the rural economic development subaccount, subject only to limitations as may be from time-to-time imposed by law.


AMENDMENTS

§ 940c–1. Guarantees for bonds and notes issued for electrification or telephone purposes

(a) In general

Subject to subsection (b) of this section, the Secretary shall guarantee payments on bonds or notes issued by cooperative or other lenders organized on a not-for-profit basis if the proceeds of the bonds or notes are used to make loans for any electrification or telephone purpose eligible for assistance under this chapter, including section 904 or 922 of this title or to refinance bonds or notes issued for such purposes.

(b) Limitations

(1) Outstanding loans

A lender shall not receive a guarantee under this section for a bond or note if, at the time of the guarantee, the total principal amount of such guaranteed bonds or notes outstanding of the lender would exceed the principal amount of outstanding loans of the lender for eligible electrification or telephone purposes consistent with this chapter.

(2) Generation of electricity

The Secretary shall not guarantee payment on a bond or note issued by a lender, the proceeds of which are used for the generation of electricity.

(3) Qualifications

The Secretary may deny the request of a lender for the guarantee of a bond or note under this section if the Secretary determines that—

(A) the lender does not have appropriate expertise or experience or is otherwise not qualified to make loans for electrification or telephone purposes;

(B) the bond or note issued by the lender would not be investment grade quality without a guarantee; or

(C) the lender has not provided to the Secretary a list of loan amounts approved by the lender that the lender certifies are for eligible purposes described in subsection (a) of this section.

(4) Annual amount

The total amount of guarantees provided by the Secretary under this section during a fiscal year shall not exceed $1,000,000,000, subject to the availability of funds under subsection (e).

(c) Fees

(1) In general

A lender that receives a guarantee issued under this section on a bond or note shall pay a fee to the Secretary.

(2) Amount

(A) In general

The amount of the annual fee paid for the guarantee of a bond or note under this section shall be equal to 30 basis points of the amount of the unpaid principal of the bond or note guaranteed under this section.

(B) Prohibition

Except as otherwise provided in this subsection and subsection (e)(2), no other fees shall be assessed.

(3) Payment

(A) In general

A lender shall pay the fees required under this subsection on a semianual basis.

(B) Structured schedule

The Secretary shall, with the consent of the lender, structure the schedule for payment of the fee to ensure that sufficient funds are available to pay the subsidy costs for note or bond guarantees as provided for in subsection (e)(2).

(4) Rural economic development subaccount

Subject to subsection (e)(2) of this section, fees collected under this subsection shall be—

(A) deposited into the rural economic development subaccount maintained under section 940c(b)(2)(A) of this title, to remain available until expended; and

(B) used for the purposes described in section 940c(b)(2)(B) of this title.

(d) Guarantees

(1) In general

A guarantee issued under this section shall—

(A) be for the full amount of a bond or note, including the amount of principal, interest, and call premiums;

(B) be fully assignable and transferable; and
(C) represent the full faith and credit of the United States.

(2) Limitation

To ensure that the Secretary has the resources necessary to properly examine the proposed guarantees, the Secretary may limit the number of guarantees issued under this section to 5 per year.

(3) Department opinion

On the timely request of a lender, the General Counsel of the Department of Agriculture shall provide the Secretary with an opinion regarding the validity and authority of a guarantee issued to the lender under this section.

(e) Authorization of appropriations

(1) In general

There are authorized to be appropriated such sums as are necessary to carry out this section.

(2) Fees

To the extent that the amount of funds appropriated for a fiscal year under paragraph (1) are not sufficient to carry out this section, the Secretary may use up to 1/2 of the fees collected under subsection (c) of this section for the cost of providing guarantees of bonds and notes under this section before depositing the remainder of the fees into the rural economic development subaccount maintained under section 940c(b)(2)(A) of this title.

(f) Termination

The authority provided under this section shall terminate on September 30, 2012.

§940d. Limitations on authorization of appropriations

(a) “Adjustment percentage” defined

As used in this section, the term “adjustment percentage” means, with respect to a fiscal year, the percentage (if any) by which—

(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of title 26) for the 1-year period ending on July 31 of the immediately preceding fiscal year; exceeds

(2) the average of the Consumer Price Index (as so defined) for the 1-year period ending on July 31, 1993.

(b) Fiscal years 1994 through 1998

In the case of each of fiscal years 1994 through 1998, there are authorized to be appropriated to the Secretary such sums as may be necessary for the cost of loans in the following amounts, for the following purposes:

(1) Electric hardship loans

For loans under section 933(c)(1) of this title—

(A) for fiscal year 1994, $125,000,000; and

(B) for each of fiscal years 1995 through 1998, $125,000,000, increased by the adjustment percentage for the fiscal year.

(2) Electric municipal rate loans

For loans under section 933(c)(2) of this title—

(A) for fiscal year 1994, $600,000,000; and

(B) for each of fiscal years 1995 through 1998, $600,000,000, increased by the adjustment percentage for the fiscal year.

(3) Telephone hardship loans

For loans under section 933(d)(1) of this title—

Effective Date of 2008 Amendment


Regulations and Implementation

Pub. L. 110–234, title VI, § 6106(b), May 22, 2008, 122 Stat. 1197, and Pub. L. 110–246, § 4(a), title VI, § 6106(b), June 18, 2008, 122 Stat. 1664, 1959, provided that: “The Secretary [of Agriculture] shall continue to carry out section 313A of the Rural Electrification Act of 1936 (7 U.S.C. 940c–1) in the same manner as on the date before the date of enactment of this Act [June 18, 2008], except without regard to the limitations prescribed in subsection (b)(1) of that section, until such time as any regulations necessary to carry out the amendments made by this section [amending this section] are fully implemented.”


Pub. L. 107–171, title VI, § 6101(b), May 13, 2002, 116 Stat. 415, provided that:

“(1) REGULATIONS.—Not later than 180 days after the date of enactment of this Act [May 13, 2002], the Secretary of Agriculture shall promulgate regulations to carry out the amendments made by this section [enacting this section].

“(2) IMPLEMENTATION.—Not later than 240 days after the date of enactment of this Act [May 13, 2002], the Secretary shall implement the amendment made by this section [enacting this section].”

§940d. Limitations on authorization of appropriations

Amendments

2008—Subsec. (b)(1). Pub. L. 110–234, § 6106(a)(1)(A), substituted “for eligible electrification or telephone purposes consistent with this chapter” for “for electrification or telephone purposes that have been concurrently made with loans approved for such purposes approved under this chapter”.

Subsec. (b)(4). Pub. L. 110–234, §6106(a)(2)(A), added par. (4) and struck out former par. (4) which related to prohibition on use of amounts from reduced funding costs for interest rate reduction except for certain concurrent loans.

Subsec. (c)(2), (3). Pub. L. 110–246, §6106(a)(2), added pars. (2) and (3) and struck out former pars. (2) and (3) which provided that the amount of an annual fee paid for the guarantee would be equal to 30 basis points of the amount of the unpaid principal and directed payment of fees required under subsec. (c) on a semiannuai basis.


Effective Date of 2008 Amendment

(A) for fiscal year 1994, $125,000,000; and
(B) for each of fiscal years 1995 through 1998, $125,000,000, increased by the adjustment percentage for the fiscal year.

(4) Telephone cost-of-money loans
For loans under section 935(d)(2) of this title—
(A) for fiscal year 1994, $198,000,000; and
(B) for each of fiscal years 1995 through 1998, $198,000,000, increased by the adjustment percentage for the fiscal year.

(c) Funding levels
The Secretary shall make insured loans under this subchapter for the purposes, in the amounts, and for the periods of time specified in subsection (b) of this section, as provided in advance in appropriations Acts.

(d) Availability of funds for insured loans
Amounts made available for loans under section 935 of this title are authorized to remain available until expended.


AMENDMENTS
1993—Pub. L. 103-129 substituted “Secretary” for “Administrator”.

1994—Subsecs. (b), (c). Pub. L. 103-354 substituted “Secretary” for “Administrator”.

AMENDMENT
1999—Pub. L. 106-113 substituted “new” for “none”.

AMENDMENTS

AMENDMENT
2012—Pub. L. 112-246 substituted “Secretary” for “Administrator”.

EFFECTIVE DATE
Pub. L. 101-508, title I, §1301, Nov. 5, 1990, 104 Stat. 1388-12, provided that: “This title and the amendments made by this title [enacting this section, amending sections 511r, 1441-2, 1444, 1454, 1455b-3a, 1456c-3, 1456d, 1456e, 1456f to 1456h, 1723, 1736, 1736a, 1783, 1994, and 2822 of this title and section 139a of Title 21, Food and Drugs, enacting provisions set out as notes under sections 136o, 1421, and 14450-3a of this title, and amending provisions set out as notes under sections 1421 and 1994 of this title] shall become effective 1 day after the date of enactment of the Food, Agriculture, Conservation, and Trade Act of 1990 [Nov. 28, 1990], or December 1, 1990, whichever is earlier.”

§940f. Expansion of 911 access
(a) In general
Subject to subsection (c) and such terms and conditions as the Secretary may prescribe, the Secretary may make loans under this subchapter to entities eligible to borrow from the Rural Utilities Service, State or local governments, Indian tribes (as defined in section 450b of title 25), or other public entities for facilities and equipment to expand or improve in rural areas—

1. 911 access;

2. integrated interoperable emergency communications, including multilink networks that provide commercial or transportation information services in addition to emergency communications services;

3. homeland security communications;

4. transportation safety communications;

5. location technologies used outside an urbanized area.

(b) Loan security
Government-imposed fees related to emergency communications (including State or local 911 fees) may be considered to be security for a loan under this section.

(c) Emergency communications equipment providers
The Secretary may make a loan under this section to an emergency communications equipment provider to expand or improve 911 access or other communications or technologies described in subsection (a) if the local government that has jurisdiction over the project is not allowed to acquire the debt resulting from the loan.

(d) Authorization of appropriations
The Secretary shall use to make loans under this section any funds otherwise made available for telephone loans for each of fiscal years 2008 through 2012.


CODIFICATION
Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-246 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS
2008—Pub. L. 110-246, §6107, amended section generally, substituting provisions relating to expansion of access, loan security, emergency communications equipment providers, and authorization of appropriations, consisting of subsecs. (a) to (d), for provisions relating to expansion of access and authorization of appropriations, consisting of subsecs. (a) and (b).

EFFECTIVE DATE OF 2008 AMENDMENT

§940f. Extension of period of existing guarantee
(a) In general
Subject to the limitations in this section and the provisions of the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.], as amended, a borrower of a loan made by the Federal Financing Bank and guaranteed under this chapter may request an extension of the final maturity of the outstanding principal balance of such loan or any loan advance thereunder. If the Secretary and the Federal Financing Bank approve such
an extension, then the period of the existing guarantee shall also be considered extended.

(b) Limitations

(1) Feasibility and security

Extensions under this section shall not be made unless the Secretary first finds and certifies that, after giving effect to the extension, in his judgment the security for all loans to the borrower made or guaranteed under this chapter is reasonably adequate and that all such loans will be repaid within the time agreed.

(2) Extension of useful life or collateral

Extensions under this section shall not be granted unless the borrower first submits with its request either—

(A) evidence satisfactory to the Secretary that a Federal or State agency with jurisdiction and expertise has made an official determination, such as through a licensing proceeding, extending the useful life of a generating plant or transmission line pledged as collateral to or beyond the new final maturity date being requested by the borrower, or

(B) a certificate from an independent licensed engineer concluding, on the basis of a thorough engineering analysis satisfactory to the Secretary, that the useful life of the generating plant or transmission line pledged as collateral extends to or beyond the new final maturity date being requested by the borrower.

(3) Amount eligible for extension

Extensions under this section shall not be granted if the principal balance extended exceeds the appraised value of the generating plant or transmission line referred to in subsection paragraph (2).

(4) Period of extension

Extensions under this section shall in no case result in a final maturity greater than 55 years from the time of original disbursement and shall in no case result in a final maturity greater than the useful life of the plant.

(5) Number of extensions

Extensions under this section shall not be granted more than once per loan advance.

(c) Fees

(1) In general

A borrower that receives an extension under this section shall pay a fee to the Secretary which shall be credited to the Rural Electrification and Telecommunications Loans Program account. Such fees shall remain available without fiscal year limitation to pay the modification costs for extensions.

(2) Amount

The amount of the fee paid shall be equal to the modification cost, calculated in accordance with section 502 of the Federal Credit Reform Act of 1990 [2 U.S.C. 661a], as amended, of such extension.

(3) Payment

The borrower shall pay the fee required under this section at the time the existing guarantee is extended by making a payment in the amount of the required fee.


References in Text


§ 940g. Electric loans for renewable energy

(a) Definition of renewable energy source

In this section, the term “renewable energy source” means an energy conversion system fueled from a solar, wind, hydropower, biomass, or geothermal source of energy.

(b) Loans

In addition to any other funds or authorities otherwise made available under this chapter, the Secretary may make electric loans under this subchapter for electric generation from renewable energy resources for resale to rural and nonrural residents.

(c) Rate

The rate of a loan under this section shall be equal to the average tax-exempt municipal bond rate of similar maturities.


Consignation


§ 940h. Bonding requirements

The Secretary shall review the bonding requirements for all programs administered by the Rural Utilities Service under this chapter to ensure that bonds are not required if—

(1) the interests of the Secretary are adequately protected by product warranties; or

(2) the costs or conditions associated with a bond exceed the benefit of the bond.


Consignation


Enactment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the
Subchapter IV—Rural Telephone Bank

§ 941. Telephone Bank

(a) Establishment

There is hereby established a body corporate to be known as the Rural Telephone Bank (hereinafter called the telephone bank).

(b) General purposes

The general purposes of the telephone bank shall be to obtain an adequate supply of supplemental funds to the extent feasible from non-Federal sources, to utilize said funds in the making of loans under section 948 of this title, and to conduct its operations to the extent practicable on a self-sustaining basis.

(c) Status; payments in lieu of property taxes

The telephone bank shall be deemed to be an instrumentality of the United States, and shall, for the purposes of jurisdiction and venue, be deemed a citizen and resident of the District of Columbia. The telephone bank is authorized to make payments to State, territorial, and local governments in lieu of property taxes upon real property and tangible personal property which was subject to State, territorial, and local taxation before acquisition by the telephone bank. Such payment may be in the amounts, at the times, and upon such terms as the telephone bank deems appropriate but the telephone bank shall be guided by the policy of making payments not in excess of the taxes which would have been payable upon such property in the condition in which it was acquired.


Effective Date

Section effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as a note under section 921a of this title.

§ 942. General powers

To carry out the specific powers herein authorized, the telephone bank shall have power to (a) adopt, alter, and use a corporate seal; (b) sue and be sued in its corporate name; (c) make contracts, leases, and cooperative agreements, or enter into other transactions as may be necessary in the conduct of its business, and on such terms as it may deem appropriate; (d) acquire, in any lawful manner, hold, maintain, use, and dispose of property: Provided, That the telephone bank may only acquire property needed in the conduct of its banking operations or pledged or mortgaged to secure loans made hereunder or in temporary operation or maintenance thereof: Provided further, That any such pledged or mortgaged property so acquired shall be disposed of as promptly as is consistent with prudent liquidation practices, but in no event later than five years after such acquisition; (e) accept gifts or donations of services or of property in aid of any of the purposes herein authorized; (f) appoint such officers, attorneys, agents, and employees, vest them with such powers and duties, fix and pay such compensation to them for their services as the telephone bank may determine; (g) determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid; (h) execute, in accordance with its bylaws, all instruments necessary or appropriate in the exercise of any of its powers; (i) collect or compromise all obligations assigned to or held by it and all legal or equitable rights accruing to it in connection with the payment of such obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and (j) exercise all such other powers as shall be necessary or incidental to carrying out its functions under this subchapter.


Effective Date

Section effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as a note under section 921a of this title.

§ 943. Special provisions governing telephone bank as a Federal agency until conversion of ownership, control, and operation

Until the ownership, control, and operation of the telephone bank is converted as provided in section 950(a) of this title and not thereafter—

(a) Supervision and direction of Secretary of Agriculture; free postage and priority of debts restrictions

the telephone bank shall be an agency of the United States and shall be subject to the supervision and direction of the Secretary of Agriculture (hereinafter called the Secretary): Provided, however, That the telephone bank shall at no time be entitled to transmission of its mail free of postage, nor shall it have the priority of the United States in the payment of debts out of bankrupt, insolvent, and decedents’ estates;

(b) Use of facilities and services of employees of Secretary of Agriculture

in order to perform its responsibilities under this subchapter, the telephone bank may partially or jointly utilize the facilities and the services of employees of the Secretary, without cost to the telephone bank;

(c) Wholly owned Government corporation

the telephone bank shall be subject to the provisions of chapter 91 of title 31, in the same manner and to the same extent as if it were included in the definition of “wholly owned Government corporation” as set forth in section 9101 of title 31;

(d) Appointment and compensation of personnel

the telephone bank may without regard to the civil service classification laws appoint and fix the compensation of such officers and employees of the telephone bank as it may deem necessary;

1 So in original. The word “and” probably should appear after “civil service”.
§ 944. Governor of telephone bank; functions, powers, and duties

Subject to the provisions of section 950 of this title, the Secretary shall designate an official of the Department of Agriculture who shall serve as the chief executive officer of the telephone bank (herein called the Governor of the telephone bank). Except as to matters specifically reserved to the Telephone Bank Board in this subchapter, the Governor of the telephone bank shall exercise and perform all functions, powers, and duties of the telephone bank.

(e) Tort claims and litigation

§ 944a. Publication of rural telephone bank policies and regulations

Notwithstanding the exemption contained in section 553(a)(2) of title 5, the Governor of the telephone bank shall cause to be published in the Federal Register, in accordance with section 553 of title 5, all rules, regulations, bulletins, and other written policy standards governing the operation of the telephone bank’s programs relating to public property, loans, grants, benefits, or contracts. After September 30, 1988, the telephone bank may not deny a loan or advance to, or take any other adverse action against, any applicant or borrower for any reason which is based upon a rule, regulation, bulletin, or other written policy standard which has not been published pursuant to such section.

Codification

Section was enacted as part of the Agricultural Reconciliation Act of 1987 and as part of the Omnibus Budget Reconciliation Act of 1987, and not as part of the Rural Electrification Act of 1936 which comprises this chapter.

§ 945. Board of directors

(a) In general

The management of the telephone bank, within the limitations prescribed by law, shall be vested in a board of directors (in this subchapter referred to as the “Telephone Bank Board”).

(b) Membership

The Telephone Bank Board shall consist of thirteen individuals, as follows:

(1) Presidential appointees

The President shall appoint seven individuals to serve on the Telephone Bank Board who shall serve at the pleasure of the President—

(A) five of whom shall be officers or employees of the Department of Agriculture and not officers or employees of the Secretary; and

(B) two of whom shall be from the general public and not officers or employees of the Federal Government.

(2) Cooperative members

The cooperative-type entities, and organizations controlled by such entities, that hold class B or class C stock shall elect three individuals to serve on the Telephone Bank Board for a term of two years, by a plurality vote of the stockholders voting in the election.

(3) Commercial members

The commercial-type entities, and the organizations controlled by such entities, that hold class B or class C stock shall elect three individuals to serve on the Telephone Bank Board for a term of two years, by a plurality vote of the stockholders voting in the election.

(c) Elections

(1) Validity

An election under paragraph (2) or (3) of subsection (b) of this section shall not be considered valid unless a majority of the stockholders eligible to vote in the election have voted in the election.

(2) Balloting

Balloting in an election under paragraph (2) or (3) of subsection (b) of this section shall be conducted by mail pursuant to the procedures authorized in the bylaws of the telephone bank.

(3) No cumulative voting

Cumulative voting shall not be permitted in any election under paragraph (2) or (3) of subsection (b) of this section.

(d) Compensation

(1) In general

Except as provided in paragraph (2), each member of the Telephone Bank Board shall re-
accept $100 per day for each day or part thereof, not to exceed fifty days per year, spent in the performance of their official duties, and shall be reimbursed for travel and other expenses in such manner and subject to such limitations as the Telephone Bank Board may prescribe.

(3) Exceptions

The five members of the Telephone Bank Board appointed under subsection (b)(1)(A) of this section shall not receive compensation by reason of their service on the Telephone Bank Board.

(e) Succession

A member of the Telephone Bank Board may serve after the expiration of the term of office of such member until the successor for such member has taken office.

(f) Chairperson

The members of the Telephone Bank Board shall elect one of such members to be the Chairperson of the Board, in accordance with the bylaws of the telephone bank. The Chairperson shall preside at all meetings of the Board and may vote on a matter before the Board unless the vote would result in a tie vote on the matter.

(g) Bylaws

The Telephone Bank Board shall prescribe bylaws, not inconsistent with law, regulating the manner in which the telephone bank’s business shall be conducted, its directors and officers elected, its stock issued, held, and disposed of, its property transferred, its bylaws amended, and the powers and privileges granted to it by law exercised and enjoyed.

(h) Meetings

The Telephone Bank Board shall meet at such times and places as it may fix and determine, but shall hold at least four regularly scheduled meetings a year, and special meetings may be held on call in the manner specified in the bylaws of the telephone bank.

(i) Annual report

The Telephone Bank Board shall make an annual report to the Secretary for transmittal to the Congress on the administration of this subchapter and any other matters relating to the effectuation of the policies of this subchapter, including recommendations for legislation.

(j) Open meetings

For purposes of section 552b of title 5, the Telephone Bank Board shall be treated as an agency within the meaning of subsection (a)(1) of such section.

Subsecs. (a) to (f). Pub. L. 101–624, §2363(a), struck out subsecs. (a) to (f) and inserted new subsecs. (a) to (f): in subsec. (a) struck out provisions relating to size of board, in subsec. (b) substituted provisions relating to size of board and to appointment and election of all board members for provisions naming Administrator of Rural Electrification Administration and Governor of Farm Credit Administration to board, and authorizing presidential appointment of 5 other members, in subsec. (c) substituted provisions relating to election of 6 cooperative and commercial members for provisions authorizing presidential appointment of initial 6 cooperative and commercial members, in subsec. (d) substituted provisions relating to compensation for provisions relating to regular election of 6 cooperative and commercial members, and in subsec. (f) substituted provisions relating to chairperson for provisions relating to service after expiration of term, compensation and expenses.

Subsecs. (g) to (j). Pub. L. 101–624, §2363(b)(1), inserted headings. Subsec. (j). Pub. L. 101–624, §2363(c), added subsec. (j), 1973—Subsec. (e). Pub. L. 93–32 substituted provisions directing that the cooperative-type entities and organizations holding class B and class C stock, voting as a separate class, elect three directors to represent their class by a majority of the stockholders voting in such class and that the commercial-type entities and organizations holding class B and class C stock, voting as a separate class, elect three directors to represent their class by a majority of the stockholders voting in such class, for provisions that three directors be elected from among the directors, managers, and employees of cooperative-type entities and organizations controlled by such entities holding class B or class C stock and that three directors be elected from among the directors, managers, and employees of commercial-type entities and organizations controlled by such entities holding class B or class C stock, and inserted provisions prohibiting cumulative voting.

Effective Date of 1973 Amendment


Effective Date

Section effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as a note under section 921a of this title.

Termination of Reporting Requirements

For termination, effective May 15, 2000, of provisions in subsec. (i) of this section relating to transmittal of annual report to Congress, see section 3003 of Pub. L. 104–64, as amended, set out as a note under section 3133 of Title 31, Money and Finance, and page 45 of House Document No. 103–7.

§ 946. Capitalization

(a) Federal and borrower subscriptions; Federal limitation; report to President, transmittal to Congress; net collection proceeds

The telephone bank’s capital shall consist of capital subscribed by the United States, by borrowers from the telephone bank, by corporations and public bodies eligible to become borrowers from the telephone bank, and by organizations controlled by such borrowers, corporations, and public bodies. Beginning with the fiscal year 1971 and for each fiscal year thereafter but not later than fiscal year 1991, the United States shall furnish capital for the purchase of class A stock and there are hereby authorized to be appropriated such amounts, not to exceed...
§ 946

$30,000,000 annually, for such purchase until such class A stock shall equal $600,000,000. Provided, That on or before July 1, 1975, the Secretary shall make a report to the President for transmittal to the Congress on the status of capitalization of the telephone bank by the United States with appropriate recommendations. As used in this section and section 931 of this title, the term “net collection proceeds” shall be deemed to mean payments from and after July 1, 1969, of principal and interest on loans here-tofore or hereafter made under section 922 of this title, less an amount representing interest payable to the Secretary of the Treasury on loans to the Secretary for telephone purposes.

(b) Stock classification; voting stock; one vote rule

The capital stock of the telephone bank shall consist of three classes, class A, class B, and class C, the rights, powers, privileges, and preferences of the separate classes to be as specified, not inconsistent with law, in the bylaws of the telephone bank. Class B and class C stock shall be voting stock, but no holder of said stock shall be entitled to more than one vote, nor shall class B and class C stockholders, regardless of their number, which are owned or controlled by the same person, group of persons, firm, association, or corporation, be entitled in any event to more than one vote.

(c) Class A stock; issuance to Secretary of Agriculture and redemption; cumulative return

Class A stock shall be issued only to the Secretary on behalf of the United States in exchange for capital furnished to the telephone bank pursuant to subsection (a) of this section, and such class A stock shall be redeemed and retired by the telephone bank as soon as practicable after September 30, 1995, but not to the extent that the Telephone Bank Board determines that such retirement will impair the operations of the telephone bank: Provided, That the minimum amount of class A stock that shall be retired each year after said date shall equal the amount of class B stock sold by the telephone bank during such year. Class A stock shall be entitled to a return, payable from income, at the rate of 2 per centum per annum on the amounts of said class A stock actually paid into the telephone bank. Such return shall be cumulative and shall be payable annually into miscellaneous receipts of the Treasury.

(d) Class B stock; borrowers as holders; dividend prohibition; patronage refunds

Class B stock shall be held only by recipients of loans under section 948 of this title. Borrowers receiving loan funds pursuant to section 948(a)(1) or (2) of this title shall be required to invest in class B stock 5 per centum of the amount of loan funds so provided, by paying an amount equal to 5 per centum of the amount of each loan advance, at the time of such advance. No dividends shall be payable on class B stock. All holders of class B stock shall be entitled to patronage refunds in class B stock under terms and conditions to be specified in the bylaws of the telephone bank.

(e) Class C stock; borrowers as purchasers; dividends

Class C stock shall be available for purchase and shall be held only by borrowers, or by corporations and public bodies eligible to borrow under section 948 of this title, or by organizations controlled by such borrowers, corporations and public bodies, and shall be entitled to dividends in the manner specified in the bylaws of the telephone bank. Such dividends shall be payable only from income and, until all class A stock is retired, shall not exceed the current average rate payable on its telephone debentures.

(f) Special fund equivalents

If a firm, association, corporation, or public body is not authorized under the laws of the jurisdiction in which it is organized to acquire stock of the telephone bank, the telephone bank shall, in lieu thereof, permit such organization to pay into a special fund of the telephone bank a sum equivalent to the amount of stock to be purchased. Each reference in this subchapter to capital stock, or to class B or class C stock, shall include also the special fund equivalents of such stock, and to the extent permitted under the laws of the jurisdiction in which such organization is organized, a holder of special fund equivalents of class B, or class C stock, shall have the same rights and status as a holder of class B or class C stock, respectively. The rights and obligations of the telephone bank in respect of such special fund equivalent shall be identical to its rights and obligations in respect of class B or class C stock, respectively.

(g) Patronage refunds from remaining earnings after provision for operating expenses, reserves for losses, payments in lieu of taxes, and returns on class A and C stock

After payment of all operating expenses of the telephone bank, including interest on its telephone debentures, setting aside appropriate funds for the reserve for loan losses, and making payments in lieu of taxes, and returns on class A stock as provided in subsection (c) of this section, and on class C stock, the Telephone Bank Board shall annually set aside the remaining earnings of the telephone bank for patronage refunds in accordance with the bylaws of the telephone bank. The telephone bank may not establish any reserve other than the reserve referred to in this subsection and in subsection (h) of this section.

(h) Reserve for losses due to interest rate fluctuations

There is hereby established in the telephone bank a reserve for losses due to interest rate fluctuations. Within 30 days after December 22, 1987, the Governor of the telephone bank shall transfer to the reserve for losses due to interest rate fluctuations all amounts in the reserve for contingencies as of December 22, 1987. All amounts so transferred shall not be transferred, directly or indirectly, to the reserve for contingencies. Amounts in the reserve for interest rate fluctuations may be expended only to cover operating losses of the telephone bank (other than losses attributable to loan defaults) and only after taking into consideration any recommendations made by the General Accounting Of-
fice under section 1413(b) of the Omnibus Budget Reconciliation Act of 1987.

(i) Investment of RTB Equity Fund

The Governor of the telephone bank may invest in obligations of the United States the amounts in the account in the Treasury of the United States numbered 12X839 (known as the “RTB Equity Fund”).


REFERENCES IN TEXT

Section 1413(b) of the Omnibus Budget Reconciliation Act of 1987, referred to in subsec. (h), is section 1413(b) of Pub. L. 100–203, title I, Dec. 22, 1987, 101 Stat. 1330–26, which is not classified to the Code, and which mandated a study by the General Accounting Office of the operations of the telephone bank and directed that GAO report recommendations to Congress within 180 days of Dec. 22, 1987.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127 struck out “pursuant to section 969(a) of this title” after “telephone purposes” in last sentence.

1994—Pub. L. 103–354 substituted “Secretary” for “Administrator” in last sentence of subsec. (a) and “Secretary” for “Administrator of the Rural Electrification Administration” in subsec. (c).


1990—Subsec. (d). Pub. L. 101–624, § 2364, inserted before period at end of second sentence “, by paying an amount equal to 5 per centum of the amount of each loan advance, at the time of such advance”.

1987—Subsec. (g). Pub. L. 100–203, § 1413(c), substituted “the reserve for loan losses” for “reserves for losses”, and inserted at end “The telephone bank may not establish any reserve other than the reserves referred to in this subsection and in subsection (h) of this section.”

1981—Subsec (a). Pub. L. 97–98, § 1607(1), inserted “but not later than fiscal year 1991” after “thereafter,” and substituted “$600,000” for “$300,000”.

1973—Subsec. (a). Pub. L. 93–92 struck out “from net collection proceeds in the rural telephone account created under subchapter III of this chapter” after “appropriated.”

CHANGE OF NAME


Title 7—Agriculture

Subchapter H—Telephone Bank

Part 23—Rural Telephone Bank

Subpart 1—General

§ 947. Borrowing power; telephone debentures; issuance; interest rates; terms and conditions; ratio to paid-in capital and retained earnings; investments in debentures; debentures as security; purchase and sale of debentures by the Secretary of the Treasury; treatment as public debt transactions of the United States; exclusion of transactions from budget totals

(a) The telephone bank is authorized to obtain funds through the public or private sale of its bonds, debentures, notes, and other evidences of indebtedness (herein collectively called telephone debentures). Telephone debentures shall be issued at such times, bear interest at such rates, and contain such other terms and conditions as the Telephone Bank Board shall determine: Provided, however, That the amount of the telephone debentures which may be outstanding at any one time pursuant to this section shall not exceed twenty times the paid-in capital and retained earnings of the telephone bank. Telephone debentures shall not be exempt, either as to principal or interest, from any taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State or local taxing authority. Telephone debentures shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be subject to the authority and control of the United States or any officer or officers thereof.

(b) The Telephone Bank is also authorized to issue telephone debentures to the Secretary of the Treasury, and the Secretary of the Treasury may in his discretion purchase any such debentures, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any secu-
§ 948. Lending power

(a) Loans for prescribed purposes; requisite conditions

The Governor of the telephone bank shall make loans on behalf of the telephone bank, to the extent that there are qualifying applications therefor, subject only to limitations as to amounts authorized for loans and advances as may be imposed by law enacted by the Congress of the United States for loans to be made in any one year, and in conformance with policies approved by the Telephone Bank Board, to corporations and public bodies which have received a loan or loan commitment pursuant to section 922 of this title, or which have been certified by the Secretary to be eligible for such a loan or loan commitment, (1) for the same purposes and under the same limitations for which loans may be made under section 922 of this title, (2) for the acquisition, purchase, and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and customer premise equipment) related to the furnishing, improvement, or extension of rural telecommunications service, and (3) for the purchase of class B stock required to be purchased under section 946(d) of this title but not for the purchase of class C stock, subject, as to the purposes set forth in (2) hereof, to the following provisos: That in the case of any such loan for the acquisition of telephone lines, facilities, or systems, the acquisition shall be approved by the Secretary, the location and character thereof shall be such as to improve the efficiency, effectiveness, or financial stability of the telephone system of the borrower, and in respect of exchange facilities for local services, the size of each acquisition shall not be greater than the borrower's existing system at the time it receives its first loan from the telephone bank, taking into account the number of subscribers served, miles of line, and plant investment. Loans and advances made under this section shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(b) Terms and conditions of loans; restrictions on loans

Loans under this section shall be on such terms and conditions as the Governor of the telephone bank shall determine, subject, however, to the following restrictions:

(1) Amortization period

All loans made under this section shall be fully amortized over a period not to exceed fifty years.

(2) Preference in loans; election of loans for telephone system with certain subscriber density per mile

Funds to be loaned under this chapter to any borrower shall be loaned under this section in preference to section 922 of this title if the borrower is eligible for such a loan and funds are available therefor. Notwithstanding the foregoing or any other provision of law, all
loans made pursuant to this chapter for facilities for telephone systems with an average subscriber density of three or fewer per mile shall be made under section 922 of this title; but this provision shall not preclude the making of such loans from the telephone bank at the election of the borrower.

(3) Interest rate

(A) Loans under this section shall bear interest at the “cost of money rate”. The cost of money rate is defined as the average cost of moneys to the telephone bank as determined by the Governor, but not less than 5 per centum per annum.

(B) On and after December 22, 1987, advances made on or after December 22, 1987, under loan commitments made on or after October 1, 1987, shall bear interest at the rate determined under subparagraph (C), but in no event at a rate that is less than 5 percent per annum.

(C) The rate determined under this subparagraph shall be—

(i) for the period beginning on the date the advance is made and ending at the close of the fiscal year in which the advance is made, the average yield (on the date of the advance) on outstanding marketable obligations of the United States having a final maturity comparable to the final maturity of the advance; and

(ii) after the fiscal year in which the advance is made, the cost of money rate for such fiscal year, as determined under subparagraph (D).

(D) Within 30 days after the end of each fiscal year, the Governor shall determine to the nearest 0.01 percent the cost of money rate for the fiscal years in which the amounts advanced by the telephone bank during the fiscal year, as specified in section 946(c) of this title, to holders of class A stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

(E) For purposes of subparagraph (D)(II), the cost of money rate for the fiscal years in which each advance was made shall be as set forth in the following table:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>5.85 percent</td>
</tr>
<tr>
<td>1976</td>
<td>5.33 percent</td>
</tr>
<tr>
<td>1977</td>
<td>5.00 percent</td>
</tr>
<tr>
<td>1978</td>
<td>5.87 percent</td>
</tr>
<tr>
<td>1979</td>
<td>5.93 percent</td>
</tr>
<tr>
<td>1980</td>
<td>8.10 percent</td>
</tr>
<tr>
<td>1981</td>
<td>9.46 percent</td>
</tr>
<tr>
<td>1982</td>
<td>8.39 percent</td>
</tr>
<tr>
<td>1983</td>
<td>6.99 percent</td>
</tr>
<tr>
<td>1984</td>
<td>6.55 percent</td>
</tr>
<tr>
<td>1985</td>
<td>5.00 percent</td>
</tr>
<tr>
<td>1986</td>
<td>5.00 percent</td>
</tr>
<tr>
<td>1987</td>
<td>5.00 percent</td>
</tr>
</tbody>
</table>

For purposes of this paragraph, the term “fiscal year” means the 12-month period ending on September 30 of the designated year.
§ 948

Applicable to the advance.

If the telephone bank, pursuant to section 947(b) of this title, issues telephone debentures or other obligations of the telephone bank, the telephone bank shall, in addition to the unadvanced portion of the loan in lieu of the rate which (but for this clause) would apply to the unadvanced portion under this paragraph, if any borrower makes an election under this clause with respect to a loan, the Governor shall adjust the interest rate which applies to the unadvanced portion of the loan accordingly.

(ii)(I) If the telephone bank, pursuant to section 947(b) of this title, issues telephone debentures on any date to refinance telephone debentures or other obligations of the telephone bank, the telephone bank shall, in addition to any interest rate reduction required by any other provision of this paragraph, for the period applicable to the advance, reduce the interest rate charged on each advance made under this section during the fiscal year in which the refinanced debentures or other obligations were originally issued by the amount applicable to the advance.

(II) For purposes of subclause (I), the term “the period applicable to the advance” means the period beginning on the issue date described in subclause (I) and ending on the earlier of the date the advance matures or is completely prepaid.

(iii) For purposes of subclause (I), the term “the amount applicable to the advance” means an amount which fully reflects that percentage of the funds saved by the telephone bank as a result of the refinancing which is equal to the percentage representation of the advance in all advances described in subclause (I).

(IV) Within 60 days after any issue date described in subclause (I), the Governor shall amend the loan documentation for each advance described in subclause (I), as necessary, to reflect any interest rate reduction applicable to the advance by reason of this clause, and shall notify each affected borrower of the reduction.

(G) Within 30 days after the publication of any determination made under subparagraph (D), any affected borrower may obtain review of the determination, or any other equitable relief as may be determined appropriate, by the United States court of appeals for the judicial circuit in which the borrower does business by filing a written petition requesting the court to set aside or modify such determination. On receipt of such a petition, the clerk of the court shall transmit a copy of the petition to the Governor. On receipt of a copy of such a petition from the clerk of the court, the Governor shall file with the court the record on which the determination is based. The court shall have jurisdiction to affirm, set aside, or modify the determination.

(H) Within 5 days after determining the cost of money rate for a fiscal year, the Governor shall—

(i) cause the determination to be published in the Federal Register in accordance with section 552 of title 5; and

(ii) furnish a copy of the determination to the Comptroller General of the United States.

(I) The telephone bank shall not sell or otherwise dispose of any loan made under this section, except as provided in this paragraph.

(4) Required qualifications of applicants

The Governor of the telephone bank may make a loan under this section only to an applicant for the loan who meets the following requirements:

(A) The average number of subscribers per mile of line in the service area of the applicant is not more than 15, or the applicant is capable of producing net income or margins before interest of not less than 150 percent (but not more than 500 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

(B) The Secretary has approved, under section 935(d)(3) of this title, a telecommunications modernization plan for the State in which the applicant is located and the plan was developed by telephone borrowers under subchapter III of this chapter, the applicant is a participant in the plan.

(5) Certificate of convenience and necessity required from State regulatory agency or statement of telephone bank’s Governor of nonduplication of lines, facilities, or systems

No loan shall be made in any State which now has or may hereafter have a State regulatory body having authority to regulate telephone service and to require certificates of convenience and necessity to the applicant unless such certificate from such agency is first obtained. In a State in which there is no such agency or regulatory body legally authorized to issue such certificates to the applicant, no loan shall be made under this section unless the Governor of the telephone bank shall determine (and set forth his reasons therefor in writing) that no duplication of lines, facilities, or systems, providing reasonably adequate services will result therefrom.

(6) Definitions: telephone service; telephone lines, facilities, or systems

As used in this section, the term telephone service shall have the meaning prescribed for this term in section 924(a) of this title, and the term telephone lines, facilities, or systems shall mean lines, facilities, or systems used in the rendition of such telephone service.

(7) Sale or disposal of property, rights, or franchises prior to repayment of loan

No borrower of funds under this section shall, without approval of the Governor of the telephone bank under rules established by the Telephone Bank Board, sell or dispose of its property, rights, or franchises, acquired under the provisions of this chapter, until any loan obtained from the telephone bank, including all interest and charges, shall have been repaid.

(8) Prepayment without penalty

(A) A borrower with a loan from the Rural Telephone Bank may prepay such loan (or any
part thereof) by paying the face amount thereof without being required to pay the prepayment penalty set forth in the note covering such loan, except for any prepayment penalty provided for in a loan agreement entered into before November 1, 1993.

(B) If a borrower prepays part or all of a loan made under this section, then, notwithstanding section 947(b) of this title, the Governor of the telephone bank shall—

(i) use the full amount of the prepayment to repay obligations of the telephone bank issued pursuant to section 947(b) of this title before October 1, 1991, to the extent any such obligations are outstanding; and

(ii) in repaying the obligations, first repay the advances bearing the greatest rate of interest.

(9) Applications considered under this section and section 935(d)(2)

On request of any applicant for a loan under this section during any fiscal year, the Governor of the telephone bank shall—

(A) consider the application to be for a loan under this section and a loan under section 935(d)(2) of this title; and

(B) if the applicant is eligible for a loan, make a loan to the applicant under this section in an amount equal to the amount that bears the same ratio to the total amount of loans for which the applicant is eligible under this section and under section 935(d)(2) of this title, as the amount made available for loans under this section for the fiscal year bears to the total amount made available for loans under this section and under section 935(d)(2) of this title for the fiscal year.

(10) Applications considered under section 935(d)(2)

On request of any applicant who is eligible for a loan under this section for which funds are not available, the applicant shall be considered to have applied for a loan under section 935(d)(2) of this title.

(c) Payment schedule; adjustment; loan period

The Governor of the telephone bank is authorized under rules established by the Telephone Bank Board to adjust, on an amortized basis, the schedule of payments of interest or principal of loans made under this section upon his determination that with such readjustment there is reasonable assurance of repayment: Provided, however, That no adjustment shall extend the period of such loans beyond fifty years.

(d) Borrowers to determine amortization period for rural telephone bank loans

(1) Except as provided in paragraph (2), the term of any loan made under this subchapter shall be determined by the borrower at the time the application for the loan is submitted.

(2) The term of any loan made under this subchapter shall not exceed the maximum term for which a loan may be made under section 904 of this title.

(e) Interest on loans and advances

Loans and advances made under this section on or after November 5, 1990, shall bear interest at a rate determined under this section, taking into account all assets and liabilities of the telephone bank. This subsection shall not apply to loans obligated before November 1, 1993. Funds are not authorized to be appropriated to carry out this subsection until the funds are appropriated in advance to carry out this subsection.


AMENDMENTS

1995—Subsec. (b)(3)(I), (J). Pub. L. 104–66 redesignated subpar. (J) as (I) and struck out former subpar. (I) which read as follows: ‘‘The Comptroller General shall, on an expedited basis, each determination a copy of which is received from the Governor and, within 15 days after the date of such receipt, furnish Congress a report on the accuracy of the determination.’’


1993—Subsec. (a)(2). Pub. L. 103–129, § 2(a)(2)(A), substituted ‘‘acquisition, purchase, and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and customer premise equipment) related to the furnishing, improvement, or extension of rural telecommunications service’’ for ‘‘purposes of financing, or refinancing, the construction, improvement, expansion, acquisition, and operation of telephone lines, facilities, or systems, in order to improve the efficiency, effectiveness, or financial stability of borrowers financed under section 922 of this title and this section’’.

Subsec. (b)(4). Pub. L. 103–129, § 2(a)(2)(B)(i), added par. (4) and struck out former par. (4) which related to adequacy of security and capacity for repayment of loans made under this section.

Subsec. (b)(6)(A). Pub. L. 103–129, § 2(a)(2)(B)(ii), designated existing provisions as subpar. (A), substituted ‘‘except for any prepayment penalty provided for in a loan agreement entered into before November 1, 1993’’ for ‘‘if such prepayment is not made later than September 30, 1988’’, and added subpar. (B).


1990—Subsec. (a). Pub. L. 101–624, § 2365, substituted ‘‘shall make loans on behalf of the telephone bank, to the extent that there are qualifying applications therefore, subject only to limitations as to amounts authorized for loans and advances as may be imposed by law enacted by the Congress of the United States for loans to be made in any one year, and for ‘‘is authorized on behalf of the telephone bank to make loans.’’

Subsec. (b)(3)(B). Pub. L. 101–624, § 2367(b)(1), substituted ‘‘the date of enactment of this subchapter’’ for ‘‘the date of enactment of this paragraph’’ in the original text before ‘‘advances’’, which was translated as ‘‘December 22, 1987’’, requiring no change in text.

Subsec. (b)(3)(D)(ii). Pub. L. 101–624, § 2367(b)(2), inserted ‘‘For purposes of the calculation under this subparagraph, such rate shall be zero’’.

Subsec. (b)(5)(E). Pub. L. 101–624, § 2367(b)(3), substituted ‘‘paragraph’’ for ‘‘subparagraph’’ after ‘‘of this’’.


1987—Subsec. (b)(3), (4). Pub. L. 100–203, § 1141(c), designated existing provisions as subpar. (A) and added subpars. (B) to (J).
§ 949. Telephone bank receipts; availability for obligations and expenditures

Any receipts from the activities of the telephone bank shall be available for all obligations and expenditures of the telephone bank.


Effective Date

Section effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as a note under section 921a of this title.

§ 950. Conversion of ownership, control, and operation of telephone bank

(a) Transfer of powers and authority from Secretary of Agriculture to Telephone Bank Board; cessation of Presidential appointees as Board members and reduction in number of Board members; status of telephone bank

Whenever fifty-one per centum of the maximum amount of class A stock issued to the United States and outstanding at any time after September 30, 1985, has been fully redeemed and retired pursuant to section 946(c) of this title—

(1) the powers and authority of the Governor of the telephone bank granted to the Secretary by this subchapter shall vest in the Telephone Bank Board, and may be exercised and performed through the Governor of the telephone bank to be selected by the Telephone Bank Board, and through such other employees as the Telephone Bank Board shall designate;

(2) the five members of the Telephone Bank Board designated by the President pursuant to section 945(b)(1)(A) of this title shall cease to be members, and the number of Board members shall be accordingly reduced to eight unless other provision is thereafter made in the bylaws of the telephone bank;

(3) the telephone bank shall cease to be an agency of the United States, but shall continue in existence in perpetuity as an instrumentality of the United States and as a banking corporation with all of the powers and limitations conferred or imposed by this subchapter except such as shall have lapsed pursuant to the provisions of this subchapter.

(b) Restrictions of section 948(a)(2) of this title inapplicable to loans upon redemption and retirement of class A stock

When all class A stock has been fully redeemed and retired, loans made by the telephone bank shall not continue to be subject to the restrictions prescribed in the provisos to section 948(a)(2) of this title.

(c) Congressional review

Congress reserves the right to review the continued operations of the telephone bank after all class A stock has been fully redeemed and retired.

§ 950a. Liquidation or dissolution of telephone bank

In the case of liquidation or dissolution of the telephone bank, after the payment or retirement, as the case may be, first, of all liabilities; second, of all class A stock at par; third, of all class B stock at par; fourth, of all class C stock stock issued and outstanding before the effective date of liquidation or dissolution of the telephone bank shall be paid to the holders of class A and class B stock issued and outstanding before the effective date of such liquidation or dissolution, pro rata.

(May 20, 1936, ch. 432, title IV, § 411, as added Pub. L. 92-12, § 2, May 7, 1971, 85 Stat. 37.)

Effective Date

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

§ 950b. Borrower net worth

Except as provided in subsection (b)(2) of section 948 of this title, notwithstanding any other provision of law, a loan shall not be made under section 922 of this title to any borrower which during the immediately preceding year had a net worth in excess of 20 per centum of its assets unless the Secretary finds that the borrower cannot obtain such a loan from the telephone bank or from other reliable sources at reasonable rates of interest and terms and conditions.


Amendments

1996—Par. (7). Pub. L. 104-127 struck out par. (7) which read as follows: “administer a Rural Business Incubator Fund (as established under section 950aa-1 of this title) that shall provide technical assistance, advice, loans, or capital to business incubator programs or for the creation or operation of small business incubators in rural areas.”

1994—Pub. L. 103-354 struck out “of REA Administrator” at end of section catchline and substituted “Secretary” for “Administrator” in introductory provisions and par. (3).

1991—Pars. (6) to (8). Pub. L. 102-237 inserted “and” at end of par. (6), redesignated par. (8) as (7), and struck out former par. (7) which read as follows: “review the advice and recommendations of the Rural Educational Opportunities Board as established under section 601(f); and”.

Effective Date of 1991 Amendment


SUBCHAPTER V—RURAL ECONOMIC DEVELOPMENT

§ 950aa. Additional powers and duties

The Secretary shall—

(1) provide advice and guidance to electric borrowers under this chapter concerning the effective and prudent use by such borrowers of the investment authority under section 940b of this title to promote rural development;

(2) provide technical advice, troubleshooting, and guidance concerning the operation of programs or systems that receive assistance under this chapter;

(3) establish and administer various pilot projects through electric and telephone borrowers that the Secretary determines are useful or necessary, and recommend specific rural development projects for rural areas;

(4) act as an information clearinghouse and conduit to provide information to electric and telephone borrowers under this chapter concerning useful and effective rural development efforts that such borrowers may wish to apply in their areas of operation and concerning State, regional, or local plans for long-term rural economic development;

(5) provide information to electric and telephone borrowers under this chapter concerning the eligibility of such borrowers to apply for financial assistance, loans, or grants from other Federal agencies and non-Federal sources to enable such borrowers to expand their rural development efforts; and

(6) promote local partnerships and other coordination between borrowers under this chapter and community organizations, States, counties, or other entities, to improve rural development.


Amendments

1996—Par. (7). Pub. L. 104-127 struck out par. (7) which read as follows: “administer a Rural Business Incubator Fund (as established under section 950aa-1 of this title) that shall provide technical assistance, advice, loans, or capital to business incubator programs or for the creation or operation of small business incubators in rural areas.”

1994—Pub. L. 103-354 struck out “of REA Administrator” at end of section catchline and substituted “Secretary” for “Administrator” in introductory provisions and par. (3).

1991—Pars. (6) to (8). Pub. L. 102-237 inserted “and” at end of par. (6), redesignated par. (8) as (7), and struck out former par. (7) which read as follows: “review the advice and recommendations of the Rural Educational Opportunities Board as established under section 601(f); and”.

Effective Date of 1991 Amendment


§ 950bb

SUBCHAPTER VI—RURAL BROADBAND ACCESS

§ 950bb. Access to broadband telecommunications services in rural areas

(a) Purpose
The purpose of this section is to provide loans and loan guarantees to provide funds for the costs of the construction, improvement, and acquisition of facilities and equipment for broadband service in rural areas.

(b) Definitions
In this section:

(1) Broadband service
The term “broadband service” means any technology identified by the Secretary as having the capacity to transmit data to enable a subscriber to the service to originate and receive high-quality voice, data, graphics, and video.

(2) Incumbent service provider
The term “incumbent service provider”, with respect to an application submitted under this section, means an entity that, as of the date of submission of the application, is providing broadband service to not less than 5 percent of the households in the service territory proposed in the application.

(3) Rural area
(A) In general
The term “rural area” means any area other than—

(i) an area described in clause (i) or (ii) of section 1991(a)(13)(A) of this title; and

(ii) a city, town, or incorporated area that has a population of greater than 20,000 inhabitants.

(B) Urban area growth
The Secretary may, by regulation only, consider an area described in section 1991(a)(13)(F)(i)(I) of this title to not be a rural area for purposes of this section.

(c) Loans and loan guarantees
(1) In general
The Secretary shall make or guarantee loans to eligible entities described in subsection (d) to provide funds for the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in rural areas.

(2) Priority
In making or guaranteeing loans under paragraph (1), the Secretary shall give the highest priority to applicants that offer to provide broadband service to the greatest proportion of households that, prior to the provision of the broadband service, had no incumbent service provider.

(d) Eligibility
(1) Eligible entities
(A) In general
To be eligible to obtain a loan or loan guarantee under this section, an entity shall—

(i) demonstrate the ability to furnish, improve, or extend a broadband service to a rural area;

(ii) submit to the Secretary a loan application at such time, in such manner, and containing such information as the Secretary may require; and

(iii) agree to complete buildout of the broadband service described in the loan application by not later than 3 years after the initial date on which proceeds from the loan made or guaranteed under this section are made available.

(B) Limitation
An eligible entity that provides telecommunications or broadband service to at least 20 percent of the households in the United States may not receive an amount of funds under this section for a fiscal year in excess of 15 percent of the funds authorized and appropriated under subsection (k) for the fiscal year.

(2) Eligible projects
(A) In general
Except as provided in subparagraphs (B) and (C), the proceeds of a loan made or guaranteed under this section may be used to carry out a project in a proposed service territory only if, as of the date on which the application for the loan or loan guarantee is submitted—

(i) not less than 25 percent of the households in the proposed service territory is offered broadband service by not more than 1 incumbent service provider; and

(ii) broadband service is not provided in any part of the proposed service territory by 3 or more incumbent service providers.

(B) Exception to 25 percent requirement
Subparagraph (A)(i) shall not apply to the proposed service territory of a project if a loan or loan guarantee has been made under this section to the applicant to provide broadband service in the proposed service territory.

(C) Exception to 3 or more incumbent service provider requirement
(i) In general
Except as provided in clause (ii), subparagraph (A)(ii) shall not apply to an incumbent service provider that is upgrading broadband service to the existing territory of the incumbent service provider.

(ii) Exception
Clause (i) shall not apply if the applicant is eligible for funding under another subchapter of this chapter.

(3) Equity and market survey requirements
(A) In general
The Secretary may require an entity to provide a cost share in an amount not to exceed 10 percent of the amount of the loan or loan guarantee requested in the application of the entity, unless the Secretary determines that a higher percentage is required for financial feasibility.
(B) Market survey
   (i) In general
   The Secretary may require an entity that proposes to have a subscriber projection of more than 20 percent of the broadband service market in a rural area to submit to the Secretary a market survey.
   (ii) Less than 20 percent
   The Secretary may not require an entity that proposes to have a subscriber projection of less than 20 percent of the broadband service market in a rural area to submit to the Secretary a market survey.

(4) State and local governments and Indian tribes
   Subject to paragraph (1), a State or local government (including any agency, subdivision, or instrumentality thereof (including consortia thereof)) and an Indian tribe shall be eligible for a loan or loan guarantee under this section to provide broadband services to a rural area.

(5) Notice requirement
   The Secretary shall publish a notice of each application for a loan or loan guarantee under this section describing the application, including—
   (A) the identity of the applicant;
   (B) each area proposed to be served by the applicant; and
   (C) the estimated number of households without terrestrial-based broadband service in those areas.

(6) Paperwork reduction
   The Secretary shall take steps to reduce, to the maximum extent practicable, the cost and paperwork associated with applying for a loan or loan guarantee under this section by first-time applicants (particularly first-time applicants who are small and start-up broadband service providers), including by providing for a new application that maintains the ability of the Secretary to make an analysis of the risk associated with the loan involved.

(7) Preapplication process
   The Secretary shall establish a process under which a prospective applicant may seek a determination of area eligibility prior to preparing a loan application under this section.

(e) Broadband service
   (1) In general
   The Secretary shall, from time to time advances in technology warrant, review and recommend modifications of rate-of-data transmission criteria for purposes of the identification of broadband service technologies under subsection (b)(1).
   (2) Prohibition
   The Secretary shall not establish requirements for bandwidth or speed that have the effect of precluding the use of evolving technologies appropriate for rural areas.

(f) Technological neutrality
   For purposes of determining whether to make a loan or loan guarantee for a project under this section, the Secretary shall use criteria that are technologically neutral.

(g) Terms and conditions for loans and loan guarantees
   (1) In general
   Notwithstanding any other provision of law, a loan or loan guarantee under this section shall—
   (A) bear interest at an annual rate of, as determined by the Secretary—
      (i) in the case of a direct loan, a rate equivalent to—
         (I) the cost of borrowing to the Department of the Treasury for obligations of comparable maturity; or
         (II) 4 percent; and
      (ii) in the case of a guaranteed loan, the current applicable market rate for a loan of comparable maturity; and
   (B) have a term of such length, not exceeding 35 years, as the borrower may request, if the Secretary determines that the loan is adequately secured.

   (2) Term
   In determining the term of a loan or loan guarantee, the Secretary shall consider whether the recipient is or would be serving an area that is not receiving broadband services.

   (3) Recurring revenue
   The Secretary shall consider the existing recurring revenues of the entity at the time of application in determining an adequate level of credit support.

   (h) Adequacy of security
   (1) In general
   The Secretary shall ensure that the type and amount of, and method of security used to secure, any loan or loan guarantee under this section is commensurate to the risk involved with the loan or loan guarantee, particularly in any case in which the loan or loan guarantee is issued to a financially strong and stable entity, as determined by the Secretary.

   (2) Determination of amount and method of security
   In determining the amount of, and method of security used to secure, a loan or loan guarantee under this section, the Secretary shall consider reducing the security in a rural area that does not have broadband service.

   (i) Use of loan proceeds to refinance loans for deployment of broadband service
   Notwithstanding any other provision of this chapter, the proceeds of any loan made or guaranteed by the Secretary under this chapter may be used by the recipient of the loan for the purpose of refinancing an outstanding obligation of the recipient on another telecommunications loan made under this chapter if the use of the proceeds for that purpose will support the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in rural areas.

(j) Reports
   Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act...
of 2008, and annually thereafter, the Administrator shall submit to Congress a report that describes the extent of participation in the loan and loan guarantee program under this section for the preceding fiscal year, including a description of—

1. the number of loans applied for and provided under this section;
2. the communities proposed to be served in each loan application submitted for the fiscal year;
3. the period of time required to approve each loan application under this section;
4. any outreach activities carried out by the Secretary to encourage entities in rural areas without broadband service to submit applications under this section;
5. the method by which the Secretary determines that a service enables a subscriber to originate and receive high-quality voice, data, graphics, and video for purposes of subsection (b)(1); and
6. each broadband service, including the type and speed of broadband service, for which assistance was sought, and each broadband service for which assistance was provided, under this section.

(k) Funding

(1) Authorization of appropriations

There is authorized to be appropriated to the Secretary to encourage entities in rural areas without broadband service to submit applications under this section;

(2) Allocation of funds

There shall be established a national reserve for loans and loan guarantees to eligible entities in States under this section; and

(A) allocate amounts in the reserve to each State for each fiscal year for loans and loan guarantees to eligible entities in the State.

(B) Amount

The amount of an allocation made to a State for a fiscal year under subparagraph (A) shall bear the same ratio to the amount of allocations made for all States for the fiscal year as—

(i) the number of communities with a population of 2,500 inhabitants or less in the State, bears to

(ii) the number of communities with a population of 2,500 inhabitants or less in all States.

(C) Unobligated amounts

Any amounts in the reserve established for a State for a fiscal year under subparagraph (B) that are not obligated by April 1 of the fiscal year shall be available to the Secretary to make loans and loan guarantees under this section to eligible entities in any State, as determined by the Secretary.

(i) Termination of authority

No loan or loan guarantee may be made under this section after September 30, 2012.


REFERENCES IN TEXT

The date of enactment of the Food, Conservation, and Energy Act of 2008, referred to in subsec. (j), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

CODIFICATION


AMENDMENTS

2008—Pub. L. 110–246, §6110(a), amended section generally, substituting provisions authorizing loans and loan guarantees for the costs of construction, improvement, and acquisition of facilities and equipment for broadband service in rural areas and terminating such authority on Sept. 30, 2012, for provisions authorizing similar loans and loan guarantees and terminating such authority on Sept. 30, 2007.

2004—Subsec. (b)(2). Pub. L. 108–199 amended heading and text of subsec. (b)(2) generally. Prior to amendment, text read as follows: ‘‘The term ‘eligible rural community’ means any incorporated or unincorporated place that—

(A) has not more than 20,000 inhabitants, based on the most recent available population statistics of the Bureau of the Census; and

(B) is not located in an area designated as a standard metropolitan statistical area.’’

EFFECTIVE DATE OF 2008 AMENDMENT


(1) an application submitted under section 601 of the Rural Electrification Act of 1936 (7 U.S.C. 950bb) (as it existed before the amendment made by subsection (a)] that—

(A) was pending on the date that is 45 days prior to the date of enactment of this Act (June 18, 2008); and

(B) is pending on the date of enactment of this Act (June 18, 2008); or

(2) a petition for reconsideration of a decision on an application described in paragraph (1).’’

§950bb

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(continued)

...
§ 950bb–1. National Center for Rural Telecommunications Assessment

(a) Designation of Center

The Secretary shall designate an entity to serve as the National Center for Rural Telecommunications Assessment (referred to in this section as the “Center”).

(b) Criteria

In designating the Center under subsection (a), the Secretary shall take into consideration the following criteria:

(1) The Center shall be an entity that demonstrates to the Secretary—

(A) a focus on rural policy research; and

(B) a minimum of 5 years of experience relating to rural telecommunications research and assessment.

(2) The Center shall be capable of assessing broadband services in rural areas.

(3) The Center shall have significant experience involving other rural economic development centers and organizations with respect to the assessment of rural policies and the formulation of policy solutions at the Federal, State, and local levels.

(c) Board of directors

The Center shall be managed by a board of directors, which shall be responsible for the duties of the Center described in subsection (d).

(d) Duties

The Center shall—

(1) assess the effectiveness of programs carried out under this subchapter in increasing broadband penetration and purchase in rural areas, especially in rural communities identified by the Secretary as having no broadband service before the provision of a loan or loan guarantee under this subchapter;

(2) work with existing rural development centers selected by the Center to identify policies and initiatives at the Federal, State, and local levels that have increased broadband penetration and purchase in rural areas and provide recommendations to Federal, State, and local policymakers on effective strategies to bring affordable broadband services to residents of rural areas, particularly residents located outside of the municipal boundaries of a rural city or town; and

(3) develop and publish reports describing the activities carried out by the Center under this section.

(e) Reporting requirements

Not later than December 1 of each applicable fiscal year, the board of directors of the Center shall submit to Congress and the Secretary a report describing the activities carried out by the Center during the preceding fiscal year and the results of any research conducted by the Center during that fiscal year, including—

(1) an assessment of each program carried out under this subchapter; and

(2) an assessment of the effects of the policy initiatives identified under subsection (d)(2).

(f) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $1,000,000 for each of fiscal years 2008 through 2012.


CHAPTER 31A—TELEMEDICINE AND DISTANCE LEARNING SERVICES IN RURAL AREAS

Sec. 950aaa. Purpose.

950aaa–1. Definitions.

950aaa–2. Telemedicine and distance learning services in rural areas.

950aaa–3. Administration.

950aaa–4. Regulations.


TERMINATION OF CHAPTER

For termination of chapter by section 1(b) of Pub. L. 102–551, see note set out under section 950aaa of this title.

§ 950aaa. Purpose

The purpose of this chapter is to encourage and improve telemedicine services and distance learning services in rural areas through the use of telecommunications, computer networks, and related advanced technologies by students, teachers, medical professionals, and rural residents.