

## Public Law 92-69

## AN ACT

August 6, 1971  
[H. R. 4762]

To amend section 5055 of title 38, United States Code, in order to extend the authority of the Administrator of Veterans Affairs to establish and carry out a program of exchange of medical information.

Veterans.  
Medical information exchange,  
extension.  
80 Stat. 1375.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 5055 of title 38, United States Code, is amended by deleting in the first sentence of subsection (c) (1) "of the first four fiscal years following the fiscal year in which this subchapter is enacted" and inserting in lieu thereof the following: "fiscal year 1968 through 1971, and such sums as may be necessary for each fiscal year 1972 through 1975,".

Approved August 6, 1971.

## Public Law 92-70

## AN ACT

August 9, 1971  
[H. R. 8432]

To authorize emergency loan guarantees to major business enterprises.

Emergency Loan  
Guarantee Act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SHORT TITLE

SECTION 1. This Act may be cited as the "Emergency Loan Guarantee Act".

## ESTABLISHMENT OF THE BOARD

Membership.

SEC. 2. There is created an Emergency Loan Guarantee Board (referred to in this Act as the "Board") composed of the Secretary of the Treasury, as Chairman, the Chairman of the Board of Governors of the Federal Reserve System, and the Chairman of the Securities and Exchange Commission. Decisions of the Board shall be made by majority vote.

## AUTHORITY

SEC. 3. The Board, on such terms and conditions as it deems appropriate, may guarantee, or make commitments to guarantee, lenders against loss of principal or interest on loans that meet the requirements of this Act.

## LIMITATIONS AND CONDITIONS

SEC. 4. (a) A guarantee of a loan may be made under this Act only if—

(1) the Board finds that (A) the loan is needed to enable the borrower to continue to furnish goods or services and failure to meet this need would adversely and seriously affect the economy of or employment in the Nation or any region thereof, (B) credit is not otherwise available to the borrower under reasonable terms or conditions, and (C) the prospective earning power of the borrower, together with the character and value of the security pledged, furnish reasonable assurance that it will be able to repay the loan within the time fixed, and afford reasonable protection to the United States; and

(2) the lender certifies that it would not make the loan without such guarantee.

(b) Loans guaranteed under this Act shall be payable in not more than five years, but may be renewable for not more than an additional three years.

(c) (1) Loans guaranteed under this Act shall bear interest payable to the lending institutions at rates determined by the Board taking into account the reduction in risk afforded by the loan guarantee and rates charged by lending institutions on otherwise comparable loans.

Interest rates,  
determination.

(2) The Board shall prescribe and collect a guarantee fee in connection with each loan guaranteed under this Act. Such fee shall reflect the Government's administrative expense in making the guarantee and the risk assumed by the Government and shall not be less than an amount which, when added to the amount of interest payable to the lender of such loan, produces a total charge appropriate for loan agreements of comparable risk and maturity if supplied by the normal capital markets.

Guarantee fee.

#### SECURITY FOR LOAN GUARANTEES

SEC. 5. In negotiating a loan guarantee under this Act, the Board shall make every effort to arrange that the payment of the principal of and interest on any plan guaranteed shall be secured by sufficient property of the enterprise to collateralize fully the amount of the loan guarantee.

#### REQUIREMENTS APPLICABLE TO LOAN GUARANTEES

SEC. 6. (a) A guarantee agreement made under this Act with respect to an enterprise shall require that while there is any principal or interest remaining unpaid on a guaranteed loan to that enterprise the enterprise may not—

Stock dividends  
or other payments,  
prohibition.

(1) declare a dividend on its common stock; or

(2) make any payment on its other indebtedness to a lender whose loan has been guaranteed under this Act.

The Board may waive either or both of the requirements set forth in this subsection, as specified in the guarantee agreement covering a loan to any particular enterprise, if it determines that such waiver is not inconsistent with the reasonable protection of the interests of the United States under the guarantee.

Waiver.

(b) If the Board determines that the inability of an enterprise to obtain credit without a guarantee under this Act is the result of a failure on the part of management to exercise reasonable business prudence in the conduct of the affairs of the enterprise, the Board shall require before guaranteeing any loan to the enterprise that the enterprise make such management changes as the Board deems necessary to give the enterprise a sound managerial base.

Managerial  
changes.

(c) A guarantee of a loan to any enterprise shall not be made under this Act unless—

Financial state-  
ment.

(1) the Board has received an audited financial statement of the enterprise; and

(2) the enterprise permits the Board to have the same access to its books and other documents as the Board would have under section 7 in the event the loan is guaranteed.

(d) No payment shall be made or become due under a guarantee entered into under this Act unless the lender has exhausted any remedies which it may have under the guarantee agreement.

(e) (1) Prior to making any guarantee under this Act, the Board shall satisfy itself that the underlying loan agreement on which the guarantee is sought contains all the affirmative and negative covenants

and other protective provisions which are usual and customary in loan agreements of a similar kind, including previous loan agreements between the lender and the borrower, and that it cannot be amended, or any provisions waived, without the Board's prior consent.

**Advances.**

(2) On each occasion when the borrower seeks an advance under the loan agreement, the guarantee authorized by this Act shall be in force as to the funds advanced only if—

(A) the lender gives the Board at least ten days' notice in writing of its intent to provide the borrower with funds pursuant to the loan agreement;

(B) the lender certifies to the Board before an advance is made that, as of the date of the notice provided for in subparagraph (A), the borrower is not in default under the loan agreement: *Provided*, That if a default has occurred the lender shall report the facts and circumstances relating thereto to the Board and the Board may expressly and in writing waive such default in any case where it determines that such waiver is not inconsistent with the reasonable protection of the interests of the United States under the guarantee; and

(C) the borrower provides the Board with a plan setting forth the expenditures for which the advance will be used and the period during which the expenditures will be made, and, upon the expiration of such periods, reports to the Board any instances in which amounts advanced have not been expended in accordance with the plan.

**Loan security,  
priority.**

(f) (1) A guarantee agreement made under this Act shall contain a requirement that as between the Board and the lender, the Board shall have a priority with respect to, and to the extent of, the lender's interest in any collateral securing the loan and any earlier outstanding loans. The Board shall take all steps necessary to assure such priority against any other persons.

**"Collateral."**

(2) As used in paragraph (1) of this subsection, the term "collateral" includes all assets pledged under loan agreements and, if appropriate in the opinion of the Board, all sums of the borrower on deposit with the lender and subject to offset under section 68 of the Bankruptcy Act.

52 Stat. 878.  
11 USC 108.

**INSPECTION OF DOCUMENTS; AUTHORITY TO DISAPPROVE CERTAIN  
TRANSACTIONS**

SEC. 7. (a) The Board is authorized to inspect and copy all accounts, books, records, memoranda, correspondence, and other documents of any enterprise which has received financial assistance under this Act concerning any matter which may bear upon (1) the ability of such enterprise to repay the loan within the time fixed therefor; (2) the interests of the United States in the property of such enterprise; and (3) the assurance that there is reasonable protection to the United States. The Board is authorized to disapprove any transaction of such enterprise involving the disposition of its assets which may affect the repayment of a loan that has been guaranteed pursuant to the provisions of this Act.

**GAO audit.**

(b) The General Accounting Office shall make a detailed audit of all accounts, books, records, and transactions of any borrower with respect to which an application for a loan guarantee is made under this Act. The General Accounting Office shall report the results of such audit to the Board and to the Congress.

**Report to Board  
and Congress.**

## MAXIMUM OBLIGATION

SEC. 8. The maximum obligation of the Board under all outstanding loans guaranteed by it shall not exceed at any time \$250,000,000.

## EMERGENCY LOAN GUARANTEE FUND

SEC. 9. (a) There is established in the Treasury an emergency loan guarantee fund to be administered by the Board. The fund shall be used for the payment of the expenses of the Board and for the purpose of fulfilling the Board's obligations under this Act. Moneys in the fund not needed for current operations may be invested in direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof.

Establishment;  
use.

(b) The Board shall prescribe and collect a guarantee fee in connection with each loan guaranteed by it under this Act. Sums realized from such fees shall be deposited in the emergency loan guarantee fund.

Guarantee fee.

(c) Payments required to be made as a consequence of any guarantee by the Board shall be made from the emergency loan guarantee fund. In the event that moneys in the fund are insufficient to make such payments, in order to discharge its responsibilities, the Board is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Board with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations.

Payments.

40 Stat. 288,  
506.  
31 USC 774.

## FEDERAL RESERVE BANKS AS FISCAL AGENTS

SEC. 10. Any Federal Reserve bank which is requested to do so shall act as fiscal agent for the Board. Each such fiscal agent shall be reimbursed by the Board for all expenses and losses incurred by it in acting as agent on behalf of the Board.

## PROTECTION OF GOVERNMENT'S INTEREST

SEC. 11. (a) The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency thereof as a result of the issuance of guarantees under this Act. Any sums recovered pursuant to this section shall be paid into the emergency loan guarantee fund.

Attorney General,  
enforcement au-  
thority.

(b) The Board shall be entitled to recover from the borrower, or any other person liable therefor, the amount of any payments made pursuant to any guarantee agreement entered into under this Act, and upon making any such payment, the Board shall be subrogated to all the rights of the recipient thereof.

Recovery rights.

## REPORTS

Reports to  
Congress; rec-  
ommendations.

SEC. 12. The Board shall submit to the Congress annually a full report of its operations under this Act. In addition, the Board shall submit to the Congress a special report not later than June 30, 1973, which shall include a full report of the Board's operations together with its recommendations with respect to the need to continue the guarantee program beyond the termination date specified in section 13. If the Board recommends that the program should be continued beyond such termination date, it shall state its recommendations with respect to the appropriate board, agency, or corporation which should administer the program.

## TERMINATION

SEC. 13. The authority of the Board to enter into any guarantee or to make any commitment to guarantee under this Act terminates on December 31, 1973. Such termination does not affect the carrying out of any contract, guarantee, commitment, or other obligation entered into pursuant to this Act prior to that date, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this Act.

Approved August 9, 1971.

## Public Law 92-71

August 9, 1971  
[H. J. Res. 829]

## JOINT RESOLUTION

Making further continuing appropriations for the fiscal year 1972, and for other purposes.

Continuing  
appropriations,  
1972.  
Ante, p. 91;  
Post, p. 680.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That clause (c) of section 102 of the joint resolution of July 1, 1971 (Public Law 92-38), is hereby amended by striking out "August 6, 1971" and inserting in lieu thereof "October 15, 1971": *Provided*, That obligations may be incurred for the activities of the Federal Power Commission from July 1, 1971, in anticipation of appropriations for the fiscal year 1972, and are hereby ratified and confirmed if otherwise in accord with the applicable terms of Public Law 92-38, as amended.

Approved August 9, 1971.

## Public Law 92-72

August 9, 1971  
[H. J. Res. 833]

## JOINT RESOLUTION

Making an appropriation for the Department of Labor for the fiscal year 1972, and for other purposes.

Department of  
Labor.  
Appropriation.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1972, namely: