

TERMINATION OF ASSISTANCE

For termination of assistance under this part after June 30, 2022, see Termination Date note below.

Editorial Notes

REFERENCES IN TEXT

The Small Business Act, referred to in subsec. (a), is Pub. L. 85-536, § 2 (1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

Section 2342(d) of this title, referred to in subsec. (a), was redesignated section 2342(c) of this title by Pub. L. 99-272, title XIII, §13006(a)(2), Apr. 7, 1986, 100 Stat. 304.

Section 1912 of this title, referred to in subsec. (c), was repealed by Pub. L. 93-618, title VI, §602(e), Jan. 3, 1975, 88 Stat. 2072. Section 1912(d) of this title authorized appropriations to the Secretary of Commerce to carry out functions under part II of subchapter III of chapter 7 of this title in connection with furnishing adjustment assistance to firms. See section 2341 et seq. of this title for successor provisions.

CODIFICATION

Section reflects the July 1, 2021, reversion to provisions in effect on Jan. 1, 2014. See Effective and Termination Dates note below.

AMENDMENTS

2007—Subsec. (b). Pub. L. 110-89 inserted “and \$4,000,000 for the 3-month period beginning on October 1, 2007,” after “2007.”

2004—Subsec. (b). Pub. L. 108-429 deemed amendment by Pub. L. 107-210, §111(b), never to have been enacted. See 2002 Amendment note below.

2002—Subsec. (b). Pub. L. 107-210, §131, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “There are hereby authorized to be appropriated to the Secretary for the period beginning October 1, 1998, and ending September 30, 2001, such sums as may be necessary to carry out his functions under this part in connection with furnishing adjustment assistance to firms (including, but not limited to, the payment of principal, interest, and reasonable costs incident to default on loans guaranteed by the Secretary under the authority of this part), which sums are authorized to be appropriated to remain available until expended.”

Pub. L. 107-210, §111(b), substituted “October 1, 2001, and ending September 30, 2007,” for “October 1, 1998, and ending September 30, 2001”. Pub. L. 108-429, title II, §2004(a)(3), provided that the amendment by Pub. L. 107-210, §111(b), shall be deemed never to have been enacted.

1999—Subsec. (b). Pub. L. 106-113 substituted “September 30, 2001” for “June 30, 1999”.

1998—Subsec. (b). Pub. L. 105-277 substituted “for the period beginning October 1, 1998, and ending June 30, 1999” for “for fiscal years 1993, 1994, 1995, 1996, 1997, and 1998”.

1993—Subsec. (b). Pub. L. 103-66 substituted “1993, 1994, 1995, 1996, 1997, and 1998” for “1988, 1989, 1990, 1991, 1992, and 1993”.

1988—Subsec. (b). Pub. L. 100-418 substituted “1988, 1989, 1990, 1991, 1992, and 1993” for “1986, 1987, 1988, 1989, 1990, and 1991”.

1986—Subsec. (b). Pub. L. 99-272 inserted “for fiscal years 1986, 1987, 1988, 1989, 1990, and 1991” after “Secretary”, struck out “from time to time” after “as may be necessary”, and struck out “Direct loans and commitments to guarantee loans may be made under this part during any fiscal year only to such extent and in such amounts as are provided in advance in appropriations Acts.” after “available until expended.”

1981—Subsec. (b). Pub. L. 97-35 inserted provisions relating to payment of principal, interest, and reasonable

costs, incident to defaults on guaranteed loans and provisions relating to direct loans and commitments to guarantee loans.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-89 effective Oct. 1, 2007, see section 1(e) of Pub. L. 110-89, set out as a note under section 2317 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under this part or part 2 of this subchapter on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as a note preceding section 2271 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective as of July 1, 1999, see section 1000(a)(5) [title VII, §702(e)] of Pub. L. 106-113, set out as a note under section 2317 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Parts 2 and 3 of this subchapter applicable as if the amendment of this section by Pub. L. 99-272 had taken effect Dec. 18, 1985, see section 13009(c) of Pub. L. 99-272, set out as a note under section 2291 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, except as otherwise provided with respect to applications for adjustment assistance, see section 2529 of Pub. L. 97-35, set out as a note under section 2343 of this title.

TERMINATION DATE

Except as otherwise provided, technical assistance and grants may not be provided under this part after June 30, 2022, see section 285 of Pub. L. 93-618, as modified by section 406(a)(7) of Pub. L. 114-27, set out as notes preceding section 2271 of this title.

APPLICATION OF SUBSECTION (b)

Subsection (b) of this section to be applied and administered by substituting “the 1-year period beginning on July 1, 2021” for “each of fiscal years 2003 through 2007, and \$4,000,000 for the 3-month period beginning on October 1, 2007”, see section 406(a)(5) of Pub. L. 114-27, set out in an Effective and Termination Dates of 2015 Revival note preceding section 2271 of this title.

§ 2347. Administration of financial assistance

(a) Powers of Secretary

In making and administering guarantees and loans under section 2344 of this title, the Secretary may—

(1) require security for any such guarantee or loan, and enforce, waive, or subordinate such security;

(2) assign or sell at public or private sale, or otherwise dispose of, upon such terms and conditions and for such consideration as he shall determine to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with such guarantees or loans, and collect, compromise, and obtain deficiency judgments with respect to all obligations assigned to or held by him in connection with such guarantees or loans until such time as such obligations may be referred to the Attorney General for suit or collection;

(3) renovate, improve, modernize, complete, insure, rent, sell, or otherwise deal with, upon such terms and conditions and for such consideration as he shall determine to be reasonable, any real or personal property conveyed to or otherwise acquired by him in connection with such guarantees or loans;

(4) acquire, hold, transfer, release, or convey any real or personal property or any interest therein whenever deemed necessary or appropriate, and execute all legal documents for such purposes; and

(5) exercise all such other powers and take all such other acts as may be necessary or incidental to the carrying out of functions pursuant to section 2344 of this title.

(b) Recordation of mortgages

Any mortgage acquired as security under subsection (a) shall be recorded under applicable State law.

(c) Availability of receipts for financing functions

All repayments of loans, payments of interest, and other receipts arising out of transactions entered into by the Secretary pursuant to this part, shall be available for financing functions performed under this part, including administrative expenses in connection with such functions.

(d) Privileged or confidential information

To the extent the Secretary deems it appropriate, and consistent with the provisions of section 552(b)(4) and section 552b(c)(4) of title 5, that portion of any record, material or data received by the Secretary in connection with any application for financial assistance under this part which contains trade secrets or commercial or financial information regarding the operation or competitive position of any business shall be deemed to be privileged or confidential within the meaning of those provisions.

(e) Capital assets secured by first lien; exceptions

Direct loans made, or loans guaranteed, under this part for the acquisition or development of real property or other capital assets shall ordinarily be secured by a first lien on the assets to be financed and shall be fully amortized. To the extent that the Secretary finds that exceptions to these standards are necessary to achieve the objectives of this part, he shall develop appropriate criteria for the protection of the interests of the United States.

(Pub. L. 93-618, title II, § 257, Jan. 3, 1975, 88 Stat. 2033; Pub. L. 97-35, title XXV, § 2525, Aug. 13, 1981, 95 Stat. 892.)

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Editorial Notes

CODIFICATION

Section reflects the July 1, 2021, reversion to provisions in effect on Jan. 1, 2014. See Effective and Termination Dates note below.

AMENDMENTS

1981—Subsecs. (d), (e). Pub. L. 97-35 added subsecs. (d) and (e).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, except as otherwise provided with respect to applications for adjustment assistance, see section 2529 of Pub. L. 97-35, set out as a note under section 2343 of this title.

TERMINATION DATE

Except as otherwise provided, technical assistance and grants may not be provided under this part after June 30, 2022, see section 285 of Pub. L. 93-618, as modified by section 406(a)(7) of Pub. L. 114-27, set out as notes preceding section 2271 of this title.

DEPOSIT OF RECEIPTS FROM TRANSACTIONS UNDER THIS PART INTO ECONOMIC DEVELOPMENT REVOLVING FUND

Pub. L. 100-202, § 101(a) [title I, § 106], Dec. 22, 1987, 101 Stat. 1329, 1329-7, provided that: “Notwithstanding any other provision of law, including section 257(c) of the Trade Act of 1974, as amended [19 U.S.C. 2347(c)], and section 203 of the Public Works and Economic Development Act of 1965, as amended [42 U.S.C. 3143], principal and interest repayments from loans, proceeds from the sale of loan assets or collateral, and other receipts arising out of transactions entered into pursuant to title II, chapter 3 of the Trade Act of 1974 [19 U.S.C. 2341 et seq.] shall be deposited into the economic development revolving fund established under section 203 of the Public Works and Economic Development Act of 1965 beginning October 1, 1987: *Provided*, That payments of obligations in connection with loans guaranteed under the authority of the Trade Act of 1974 [19 U.S.C. 2101 et seq.] or the Public Works and Economic Development Act of 1965 [42 U.S.C. 3121 et seq.], and any related expenses, shall be made from funds available in the economic development revolving fund: *Provided further*, That deposits to the economic development revolving fund of amounts appropriated for, or received in connection with, activities authorized under the Trade Act of 1974, made prior to October 1, 1987, shall be deemed valid deposits.”

§ 2348. Protective provisions

(a) Recordkeeping

Each recipient of adjustment assistance under this part shall keep records which fully disclose the amount and disposition by such recipient of the proceeds, if any, of such adjustment assistance, and which will facilitate an effective audit. The recipient shall also keep such other records as the Secretary may prescribe.

(b) Audit and examination

The Secretary and the Comptroller General of the United States shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient pertaining to adjustment assistance under this part.

(c) Certifications

No adjustment assistance under this part shall be extended to any firm unless the owners, partners, or officers certify to the Secretary—

(1) the names of any attorneys, agents, and other persons engaged by or on behalf of the firm for the purpose of expediting applications for such adjustment assistance; and

(2) the fees paid or to be paid to any such person.

(d) Conflicts of interest

No financial assistance shall be provided to any firm under this part unless the owners, part-