

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

### § 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 the 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), 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 this paragraph shall not apply if the loan advance, or any portion of the advance, is prepaid by the borrower.

###### (2) Interest rate

The interest rate on a loan refinanced under this section shall be determined to be equal to the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to 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).

###### (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)—

(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).

**(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.

(May 20, 1936, ch. 432, title III, §306C, as added Pub. L. 103-66, title I, §1201(a), Aug. 10, 1993, 107 Stat. 327; amended Pub. L. 103-129, §2(c)(10), Nov.

1, 1993, 107 Stat. 1365; Pub. L. 103-354, title II, §235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

**Editorial Notes**

REFERENCES IN TEXT

The Rural Electrification Loan Restructuring Act of 1993, referred to in subsec. (d)(4), is Pub. L. 103-129, Nov. 1, 1993, 107 Stat. 1356. Section 6 of Pub. L. 103-129 relates to the issuance of regulations to carry out amendments made by the Act and is set out as a note under section 901 of this title. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 901 of this title and Tables.

AMENDMENTS

1994—Subsecs. (b)(3)(A)(ii), (d)(4). Pub. L. 103-354 substituted “Secretary” for “Administrator”.

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”.

Subsec. (d). Pub. L. 103-129, §2(c)(10)(B), added subsec. (d).

**Statutory Notes and Related Subsidiaries**

REGULATIONS

Pub. L. 103-66, title I, §1201(b), Aug. 10, 1993, 107 Stat. 330, 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].”

PILOT PROGRAM FOR FUNDS TO REFINANCE DEBT

Pub. L. 115-31, div. A, title VII, §749, May 5, 2017, 131 Stat. 177, authorized the Secretary of Agriculture to conduct a pilot program that authorized not more than \$600,000,000 in funds from rural electrification loans made by the Federal Financing Bank that were guaranteed under section 306 of the Rural Electrification Act of 1936 (7 U.S.C. 936) to be used for refinancing debt pursuant to this section, with the authority for the pilot program to remain in effect through Sept. 30, 2019.

**§ 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.

(May 20, 1936, ch. 432, title III, §306D, as added Pub. L. 103-129, §2(c)(7), Nov. 1, 1993, 107 Stat. 1364.)