

CODIFICATION

Section was not enacted as part of the Small Business Act which comprises this chapter.

§ 634f. Reports

The Chief Counsel may from time to time prepare and publish such reports as he deems appropriate. Not later than one year after June 4, 1976, he shall transmit to the Congress, the President and the Administration, a full report containing his findings and specific recommendations with respect to each of the functions referred to in section 634b of this title, including specific legislative proposals and recommendations for administration or other action. Not later than 6 months after June 4, 1976, he shall prepare and transmit a preliminary report on his activities. The reports shall not be submitted to the Office of Management and Budget or to any other Federal agency or executive department for any purpose prior to transmittal to the Congress and the President.

(Pub. L. 94-305, title II, §206, June 4, 1976, 90 Stat. 670.)

CODIFICATION

Section was not enacted as part of the Small Business Act which comprises this chapter.

§ 634g. Authorization of appropriations

There are authorized to be appropriated not to exceed \$1,000,000 to carry out the provisions of sections 634a to 634g of this title. Any sums so appropriated shall remain available until expended.

(Pub. L. 94-305, title II, §207, June 4, 1976, 90 Stat. 671.)

CODIFICATION

Section was not enacted as part of the Small Business Act which comprises this chapter.

§ 635. Deposit of moneys; depositaries, custodians, and fiscal agents; contributions to employees' compensation funds

(a) All moneys of the Administration not otherwise employed may be deposited with the Treasury of the United States subject to check by authority of the Administration. The Federal Reserve banks are authorized and directed to act as depositaries, custodians, and fiscal agents for the Administration in the general performance of its powers conferred by this chapter. Any banks insured by the Federal Deposit Insurance Corporation, when designated by the Secretary of the Treasury, shall act as custodians and financial agents for the Administration. Each Federal Reserve bank, when designated by the Administrator as fiscal agent for the Administration, shall be entitled to be reimbursed for all expenses incurred as such fiscal agent.

(b) The Administrator shall contribute to the employees' compensation fund, on the basis of annual billings as determined by the Secretary of Labor, for the benefit payments made from such fund on account of employees engaged in carrying out functions financed by the revolving fund established by section 633(c) of this title. The annual billings shall also include a state-

ment of the fair portion of the cost of the administration of such fund, which shall be paid by the Administrator into the Treasury as miscellaneous receipts.

(Pub. L. 85-536, §2[6], July 18, 1958, 72 Stat. 387.)

PRIOR PROVISIONS

Prior similar provisions were contained in section 206 of act July 30, 1953, ch. 282, title II, 67 Stat. 235, which was previously classified to this section. See Codification note set out under section 631 of this title.

§ 636. Additional powers**(a) Loans to small business concerns; allowable purposes; qualified business; restrictions and limitations**

The Administration is empowered to the extent and in such amounts as provided in advance in appropriation Acts to make loans for plant acquisition, construction, conversion, or expansion, including the acquisition of land, material, supplies, equipment, and working capital, and to make loans to any qualified small business concern, including those owned by qualified Indian tribes, for purposes of this chapter. Such financings may be made either directly or in cooperation with banks or other financial institutions through agreements to participate on an immediate or deferred (guaranteed) basis. These powers shall be subject, however, to the following restrictions, limitations, and provisions:

(1) IN GENERAL.—

(A) CREDIT ELSEWHERE.—No financial assistance shall be extended pursuant to this subsection if the applicant can obtain credit elsewhere. No immediate participation may be purchased unless it is shown that a deferred participation is not available; and no direct financing may be made unless it is shown that a participation is not available.

(B) BACKGROUND CHECKS.—Prior to the approval of any loan made pursuant to this subsection, or section 503 of the Small Business Investment Act of 1958 [15 U.S.C. 697], the Administrator may verify the applicant's criminal background, or lack thereof, through the best available means, including, if possible, use of the National Crime Information Center computer system at the Federal Bureau of Investigation.

(2) LEVEL OF PARTICIPATION IN GUARANTEED LOANS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in an agreement to participate in a loan on a deferred basis under this subsection (including a loan made under the Preferred Lenders Program), such participation by the Administration shall be equal to—

(i) 75 percent of the balance of the financing outstanding at the time of disbursement of the loan, if such balance exceeds \$150,000; or

(ii) 85 percent of the balance of the financing outstanding at the time of disbursement of the loan, if such balance is less than or equal to \$150,000.

(B) REDUCED PARTICIPATION UPON REQUEST.—

(i) IN GENERAL.—The guarantee percentage specified by subparagraph (A) for any loan under this subsection may be reduced upon the request of the participating lender.

(ii) PROHIBITION.—The Administration shall not use the guarantee percentage requested by a participating lender under clause (i) as a criterion for establishing priorities in approving loan guarantee requests under this subsection.

(C) INTEREST RATE UNDER PREFERRED LENDERS PROGRAM.—

(i) IN GENERAL.—The maximum interest rate for a loan guaranteed under the Preferred Lenders Program shall not exceed the maximum interest rate, as determined by the Administration, applicable to other loans guaranteed under this subsection.

(ii) PREFERRED LENDERS PROGRAM DEFINED.—For purposes of this subparagraph, the term “Preferred Lenders Program” means any program established by the Administrator, as authorized under the proviso in section 634(b)(7) of this title, under which a written agreement between the lender and the Administration delegates to the lender—

(I) complete authority to make and close loans with a guarantee from the Administration without obtaining the prior specific approval of the Administration; and

(II) complete authority to service and liquidate such loans without obtaining the prior specific approval of the Administration for routine servicing and liquidation activities, but shall not take any actions creating an actual or apparent conflict of interest.

(D) PARTICIPATION UNDER EXPORT WORKING CAPITAL PROGRAM.—Notwithstanding subparagraph (A), in an agreement to participate in a loan on a deferred basis under the Export Working Capital Program established pursuant to paragraph (14)(A), such participation by the Administration shall not exceed 90 percent.

(3) No loan shall be made under this subsection—

(A) if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund established by this chapter would exceed \$1,500,000 (or if the gross loan amount would exceed \$2,000,000), except as provided in subparagraph (B);

(B) if the total amount outstanding and committed (on a deferred basis) solely for the purposes provided in paragraph (16) to the borrower from the business loan and investment fund established by this chapter would exceed \$1,750,000, of which not more than \$1,250,000 may be used for working capital, supplies, or financings under paragraph (14) for export purposes; and

(C) if effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate basis if the amount would exceed \$350,000.

(4) INTEREST RATES AND PREPAYMENT CHARGES.—

(A) INTEREST RATES.—Notwithstanding the provisions of the constitution of any State or the laws of any State limiting the rate or amount of interest which may be charged, taken, received, or reserved, the maximum legal rate of interest on any financing made on a deferred basis pursuant to this subsection shall not exceed a rate prescribed by the Administration, and the rate of interest for the Administration’s share of any direct or immediate participation loan shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one-eighth of 1 per centum, and an additional amount as determined by the Administration, but not to exceed 1 per centum per annum: *Provided*, That for those loans to assist any public or private organization for the handicapped or to assist any handicapped individual as provided in paragraph (10) of this subsection, the interest rate shall be 3 per centum per annum.

(B) PAYMENT OF ACCRUED INTEREST.—

(i) IN GENERAL.—Any bank or other lending institution making a claim for payment on the guaranteed portion of a loan made under this subsection shall be paid the accrued interest due on the loan from the earliest date of default to the date of payment of the claim at a rate not to exceed the rate of interest on the loan on the date of default, minus one percent.

(ii) LOANS SOLD ON SECONDARY MARKET.—If a loan described in clause (i) is sold on the secondary market, the amount of interest paid to a bank or other lending institution described in that clause from the earliest date of default to the date of payment of the claim shall be no more than the agreed upon rate, minus one percent.

(iii) APPLICABILITY.—Clauses (i) and (ii) shall not apply to loans made on or after October 1, 2000.

(C) PREPAYMENT CHARGES

(i) IN GENERAL.—A borrower who prepays any loan guaranteed under this subsection shall remit to the Administration a subsidy recoupment fee calculated in accordance with clause (ii) if—

(I) the loan is for a term of not less than 15 years;

(II) the prepayment is voluntary;

(III) the amount of prepayment in any calendar year is more than 25 percent of the outstanding balance of the loan; and

(IV) the prepayment is made within the first 3 years after disbursement of the loan proceeds.

(ii) SUBSIDY RECOUPMENT FEE.—The subsidy recoupment fee charged under clause (i) shall be—

(I) 5 percent of the amount of prepayment, if the borrower prepays during the first year after disbursement;

(II) 3 percent of the amount of prepayment, if the borrower prepays during the second year after disbursement; and

(III) 1 percent of the amount of prepayment, if the borrower prepays during the third year after disbursement.

(5) No such loans including renewals and extensions thereof may be made for a period or periods exceeding twenty-five years, except that such portion of a loan made for the purpose of acquiring real property or constructing, converting, or expanding facilities may have a maturity of twenty-five years plus such additional period as is estimated may be required to complete such construction, conversion, or expansion.

(6) All loans made under this subsection shall be of such sound value or so secured as reasonably to assure repayment: *Provided, however, That—*

(A) for loans to assist any public or private organization or to assist any handicapped individual as provided in paragraph (10) of this subsection any reasonable doubt shall be resolved in favor of the applicant;

(B) recognizing that greater risk may be associated with loans for energy measures as provided in paragraph (12) of this subsection, factors in determining “sound value” shall include, but not be limited to, quality of the product or service; technical qualifications of the applicant or his employees; sales projections; and the financial status of the business concern: *Provided further, That* such status need not be as sound as that required for general loans under this subsection; and¹

(C) Repealed. Pub. L. 97-35, title XIX, §1910, Aug. 13, 1981, 95 Stat. 778.

On that portion of the loan used to refinance existing indebtedness held by a bank or other lending institution, the Administration shall limit the amount of deferred participation to 80 per centum of the amount of the loan at the time of disbursement: *Provided further, That* any authority conferred by this subparagraph on the Administration shall be exercised solely by the Administration and shall not be delegated to other than Administration personnel.

(7) The Administration may defer payments on the principal of such loans for a grace period and use such other methods as it deems necessary and appropriate to assure the successful establishment and operation of such concern.

(8) The Administration may make loans under this subsection to small business concerns owned and controlled by disabled veterans (as defined in section 4211(3) of title 38).

(9) The Administration may provide loans under this subsection to finance residential or commercial construction or rehabilitation for sale: *Provided, however, That* such loans shall not be used primarily for the acquisition of land.

(10) The Administration may provide guaranteed loans under this subsection to assist any public or private organization for the handicapped or to assist any handicapped individual, including service-disabled veterans, in establishing, acquiring, or operating a small business concern.

(11) The Administration may provide loans under this subsection to any small business concern, or to any qualified person seeking to establish such a concern when it determines that such loan will further the policies established in section 631(c)² of this title, with particular emphasis on the preservation or establishment of small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals or owned by low-income individuals.

(12)(A) The Administration may provide loans under this subsection to assist any small business concern, including start up, to enable such concern to design architecturally or engineer, manufacture, distribute, market, install, or service energy measures: *Provided, however, That* such loan proceeds shall not be used primarily for research and development.

(b)³ The Administration may provide deferred participation loans under this subsection to finance the planning, design, or installation of pollution control facilities for the purposes set forth in section 404 of the Small Business Investment Act of 1958 [15 U.S.C. 694-1]. Notwithstanding the limitation expressed in paragraph (3) of this subsection, a loan made under this paragraph may not result in a total amount outstanding and committed to a borrower from the business loan and investment fund of more than \$1,000,000.

(13) The Administration may provide financings under this subsection to State and local development companies for the purposes of, and subject to the restrictions in, title V of the Small Business Investment Act of 1958 [15 U.S.C. 695 et seq.].

(14)(A) The Administration may provide extensions of credit, standby letters of credit, revolving lines of credit for export purposes, and other financing to enable small business concerns, including small business export trading companies and small business export management companies, to develop foreign markets. A bank or participating lending institution may establish the rate of interest on such financings as may be legal and reasonable.

(B) When considering loan or guarantee applications, the Administration shall give weight to export-related benefits, including opening new markets for United States goods and services abroad and encouraging the involvement of small businesses, including agricultural concerns, in the export market.

(C) The Administration shall aggressively market its export financing program to small businesses.

(15)(A) The Administration may guarantee loans under this subsection to qualified employee trusts with respect to a small business concern for the purpose of purchasing stock of the concern under a plan approved by the Administrator which, when carried out, results in the qualified employee trust owning at least 51 per centum of the stock of the concern.

(B) The plan requiring the Administrator's approval under subparagraph (A) shall be sub-

¹ So in original. The “; and” probably should be a period.

² See References in Text note below.

³ So in original. Probably should be “(B)”.

mitted to the Administration by the trustee of such trust with its application for the guarantee. Such plan shall include an agreement with the Administrator which is binding on such trust and on the small business concern and which provides that—

(i) not later than the date the loan guaranteed under subparagraph (A) is repaid (or as soon thereafter as is consistent with the requirements of section 401(a) of title 26), at least 51 per centum of the total stock of such concern shall be allocated to the accounts of at least 51 per centum of the employees of such concern who are entitled to share in such allocation,

(ii) there will be periodic reviews of the role in the management of such concern of employees to whose accounts stock is allocated, and

(iii) there will be adequate management to assure management expertise and continuity.

(C) In determining whether to guarantee any loan under this paragraph, the individual business experience or personal assets of employee-owners shall not be used as criteria, except inasmuch as certain employee-owners may assume managerial responsibilities, in which case business experience may be considered.

(D) For purposes of this paragraph, a corporation which is controlled by any other person shall be treated as a small business concern if such corporation would, after the plan described in subparagraph (B) is carried out, be treated as a small business concern.

(E) The Administration shall compile a separate list of applications for assistance under this paragraph, indicating which applications were accepted and which were denied, and shall report periodically to the Congress on the status of employee-owned firms assisted by the Administration.

(16) INTERNATIONAL TRADE.—

(A) IN GENERAL.—If the Administrator determines that a loan guaranteed under this subsection will allow an eligible small business concern that is engaged in or adversely affected by international trade to improve its competitive position, the Administrator may make such loan to assist such concern in—

(i) the financing of the acquisition, construction, renovation, modernization, improvement, or expansion of productive facilities or equipment to be used in the United States in the production of goods and services involved in international trade; or

(ii) the refinancing of existing indebtedness that is not structured with reasonable terms and conditions.

(B) SECURITY.—Each loan made under this paragraph shall be secured by a first lien position or first mortgage on the property or equipment financed by the loan or on other assets of the small business concern.

(C) ENGAGED IN INTERNATIONAL TRADE.—For purposes of this paragraph, a small business concern is engaged in international

trade if, as determined by the Administrator, the small business concern is in a position to expand existing export markets or develop new export markets.

(D) ADVERSELY AFFECTED BY INTERNATIONAL TRADE.—For purposes of this paragraph, a small business concern is adversely affected by international trade if, as determined by the Administrator, the small business concern—

(i) is confronting increased competition with foreign firms in the relevant market; and

(ii) is injured by such competition.

(E) FINDINGS BY CERTAIN FEDERAL AGENCIES.—For purposes of subparagraph (D)(ii) the Administrator shall accept any finding of injury by the International Trade Commission or any finding of injury by the Secretary of Commerce pursuant to chapter 3 of title II of the Trade Act of 1974 [19 U.S.C. 2341 et seq.].

(17) The Administration shall authorize lending institutions and other entities in addition to banks to make loans authorized under this subsection.

(18) GUARANTEE FEES.—

(A) IN GENERAL.—With respect to each loan guaranteed under this subsection (other than a loan that is repayable in 1 year or less), the Administration shall collect a guarantee fee, which shall be payable by the participating lender, and may be charged to the borrower, as follows:

(i) A guarantee fee not to exceed 2 percent of the deferred participation share of a total loan amount that is not more than \$150,000.

(ii) A guarantee fee not to exceed 3 percent of the deferred participation share of a total loan amount that is more than \$150,000, but not more than \$700,000.

(iii) A guarantee fee not to exceed 3.5 percent of the deferred participation share of a total loan amount that is more than \$700,000.

(iv) In addition to the fee under clause (iii), a guarantee fee equal to 0.25 percent of any portion of the deferred participation share that is more than \$1,000,000.

(B) RETENTION OF CERTAIN FEES.—Lenders participating in the programs established under this subsection may retain not more than 25 percent of a fee collected under subparagraph (A)(i).

(19)(A) In addition to the Preferred Lenders Program authorized by the proviso in section 634(b)(7) of this title, the Administration is authorized to establish a Certified Lenders Program for lenders who establish their knowledge of Administration laws and regulations concerning the guaranteed loan program and their proficiency in program requirements. The designation of a lender as a certified lender shall be suspended or revoked at any time that the Administration determines that the lender is not adhering to its rules and regulations or that the loss experience of the lender is excessive as compared to other lenders, but

such suspension or revocation shall not affect any outstanding guarantee.

(B) In order to encourage all lending institutions and other entities making loans authorized under this subsection to provide loans of \$50,000 or less in guarantees to eligible small business loan applicants, the Administration shall develop and allow participating lenders to solely utilize a uniform and simplified loan form for such loans.

(C) AUTHORITY TO LIQUIDATE LOANS.—

(i) IN GENERAL.—The Administrator may permit lenders participating in the Certified Lenders Program to liquidate loans made with a guarantee from the Administration pursuant to a liquidation plan approved by the Administrator.

(ii) AUTOMATIC APPROVAL.—If the Administrator does not approve or deny a request for approval of a liquidation plan within 10 business days of the date on which the request is made (or with respect to any routine liquidation activity under such a plan, within 5 business days) such request shall be deemed to be approved.

(20)(A) The Administration is empowered to make loans either directly or in cooperation with banks or other financial institutions through agreements to participate on an immediate or deferred (guaranteed) basis to small business concerns eligible for assistance under subsection (j)(10) of this section and section 637(a) of this title. Such assistance may be provided only if the Administration determines that—

(i) the type and amount of such assistance requested by such concern is not otherwise available on reasonable terms from other sources;

(ii) with such assistance such concern has a reasonable prospect for operating soundly and profitably within a reasonable period of time;

(iii) the proceeds of such assistance will be used within a reasonable time for plant construction, conversion, or expansion, including the acquisition of equipment, facilities, machinery, supplies, or material or to supply such concern with working capital to be used in the manufacture of articles, equipment, supplies, or material for defense or civilian production or as may be necessary to insure a well-balanced national economy; and

(iv) such assistance is of such sound value as reasonably to assure that the terms under which it is provided will not be breached by the small business concern.

(B)(i) No loan shall be made under this paragraph if the total amount outstanding and committed (by participation or otherwise) to the borrower would exceed \$750,000.

(ii) Subject to the provisions of clause (i), in agreements to participate in loans on a deferred (guaranteed) basis, participation by the Administration shall be not less than 85 per centum of the balance of the financing outstanding at the time of disbursement.

(iii) The rate of interest on financings made on a deferred (guaranteed) basis shall be legal and reasonable.

(iv) Financings made pursuant to this paragraph shall be subject to the following limitations:

(I) No immediate participation may be purchased unless it is shown that a deferred participation is not available.

(II) No direct financing may be made unless it is shown that a participation is unavailable.

(C) A direct loan or the Administration's share of an immediate participation loan made pursuant to this paragraph shall be any secured debt instrument—

(i) that is subordinated by its terms to all other borrowings of the issuer;

(ii) the rate of interest on which shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loan and adjusted to the nearest one-eighth of 1 per centum;

(iii) the term of which is not more than twenty-five years; and

(iv) the principal on which is amortized at such rate as may be deemed appropriate by the Administration, and the interest on which is payable not less often than annually.

(21)(A) The Administration may make loans on a guaranteed basis under the authority of this subsection—

(i) to a small business concern that has been (or can reasonably be expected to be) detrimentally affected by—

(I) the closure (or substantial reduction) of a Department of Defense installation; or

(II) the termination (or substantial reduction) of a Department of Defense program on which such small business was a prime contractor or subcontractor (or supplier) at any tier; or

(ii) to a qualified individual or a veteran seeking to establish (or acquire) and operate a small business concern.

(B) Recognizing that greater risk may be associated with a loan to a small business concern described in subparagraph (A)(i), any reasonable doubts concerning the firm's proposed business plan for transition to nondefense-related markets shall be resolved in favor of the loan applicant when making any determination regarding the sound value of the proposed loan in accordance with paragraph (6).

(C) Loans pursuant to this paragraph shall be authorized in such amounts as provided in advance in appropriation Acts for the purposes of loans under this paragraph.

(D) For purposes of this paragraph a qualified individual is—

(i) a member of the Armed Forces of the United States, honorably discharged from active duty involuntarily or pursuant to a program providing bonuses or other inducements to encourage voluntary separation or early retirement;

(ii) a civilian employee of the Department of Defense involuntarily separated from Federal service or retired pursuant to a program

offering inducements to encourage early retirement; or

(iii) an employee of a prime contractor, subcontractor, or supplier at any tier of a Department of Defense program whose employment is involuntarily terminated (or voluntarily terminated pursuant to a program offering inducements to encourage voluntary separation or early retirement) due to the termination (or substantial reduction) of a Department of Defense program.

(E) **JOB CREATION AND COMMUNITY BENEFIT.**—In providing assistance under this paragraph, the Administration shall develop procedures to ensure, to the maximum extent practicable, that such assistance is used for projects that—

(i) have the greatest potential for—

(I) creating new jobs for individuals whose employment is involuntarily terminated due to reductions in Federal defense expenditures; or

(II) preventing the loss of jobs by employees of small business concerns described in subparagraph (A)(i); and

(ii) have substantial potential for stimulating new economic activity in communities most affected by reductions in Federal defense expenditures.

(22) The Administration is authorized to permit participating lenders to impose and collect a reasonable penalty fee on late payments of loans guaranteed under this subsection in an amount not to exceed 5 percent of the monthly loan payment per month plus interest.

(23) **YEARLY FEE.**—

(A) **IN GENERAL.**—With respect to each loan approved under this subsection, the Administration shall assess, collect, and retain a fee, not to exceed 0.55 percent per year of the outstanding balance of the deferred participation share of the loan, in an amount established once annually by the Administration in the Administration's annual budget request to Congress, as necessary to reduce to zero the cost to the Administration of making guarantees under this subsection. As used in this paragraph, the term "cost" has the meaning given that term in section 661a of title 2.

(B) **PAYER.**—The yearly fee assessed under subparagraph (A) shall be payable by the participating lender and shall not be charged to the borrower.

(C) **LOWERING OF BORROWER FEES.**—If the Administration determines that fees paid by lenders and by small business borrowers for guarantees under this subsection may be reduced, consistent with reducing to zero the cost to the Administration of making such guarantees—

(i) the Administration shall first consider reducing fees paid by small business borrowers under clauses (i) through (iii) of paragraph (18)(A), to the maximum extent possible; and

(ii) fees paid by small business borrowers shall not be increased above the levels in effect on December 8, 2004.

(24) **NOTIFICATION REQUIREMENT.**—The Administration shall notify the Committees on

Small Business of the Senate and the House of Representatives not later than 15 days before making any significant policy or administrative change affecting the operation of the loan program under this subsection.

(25) **LIMITATION ON CONDUCTING PILOT PROJECTS.**—

(A) **IN GENERAL.**—Not more than 10 percent of the total number of loans guaranteed in any fiscal year under this subsection may be awarded as part of a pilot program which is commenced by the Administrator on or after October 1, 1996.

(B) **"PILOT PROGRAM" DEFINED.**—In this paragraph, the term 'pilot program' means any lending program initiative, project, innovation, or other activity not specifically authorized by law.

(C) **LOW DOCUMENTATION LOAN PROGRAM.**—The Administrator may carry out the low documentation loan program for loans of \$100,000 or less only through lenders with significant experience in making small business loans. Not later than 90 days after September 30, 1996, the Administrator shall promulgate regulations defining the experience necessary for participation as a lender in the low documentation loan program.

(26) **CALCULATION OF SUBSIDY RATE.**—All fees, interest, and profits received and retained by the Administration under this subsection shall be included in the calculations made by the Director of the Office of Management and Budget to offset the cost (as that term is defined in section 661a of title 2) to the Administration of purchasing and guaranteeing loans under this chapter.

(27) Repealed. Pub. L. 106-8, §3(c), Apr. 2, 1999, 113 Stat. 16.

(28) **LEASING.**—In addition to such other lease arrangements as may be authorized by the Administration, a borrower may permanently lease to one or more tenants not more than 20 percent of any property constructed with the proceeds of a loan guaranteed under this subsection, if the borrower permanently occupies and uses not less than 60 percent of the total business space in the property.

(29) **REAL ESTATE APPRAISALS.**—With respect to a loan under this subsection that is secured by commercial real property, an appraisal of such property by a State licensed or certified appraiser—

(A) shall be required by the Administration in connection with any such loan for more than \$250,000; or

(B) may be required by the Administration or the lender in connection with any such loan for \$250,000 or less, if such appraisal is necessary for appropriate evaluation of creditworthiness.

(30) **OWNERSHIP REQUIREMENTS.**—Ownership requirements to determine the eligibility of a small business concern that applies for assistance under any credit program under this chapter shall be determined without regard to any ownership interest of a spouse arising solely from the application of the community property laws of a State for purposes of determining marital interests.

(31) EXPRESS LOANS.—

(A) DEFINITIONS.—As used in this paragraph:

(i) The term “express lender” means any lender authorized by the Administration to participate in the Express Loan Program.

(ii) The term “express loan” means any loan made pursuant to this paragraph in which a lender utilizes to the maximum extent practicable its own loan analyses, procedures, and documentation.

(iii) The term “Express Loan Program” means the program for express loans established by the Administration under paragraph (25)(B), as in existence on April 5, 2004, with a guaranty rate of not more than 50 percent.

(B) RESTRICTION TO EXPRESS LENDER.—The authority to make an express loan shall be limited to those lenders deemed qualified to make such loans by the Administration. Designation as an express lender for purposes of making an express loan shall not prohibit such lender from taking any other action authorized by the Administration for that lender pursuant to this subsection.

(C) GRANDFATHERING OF EXISTING LENDERS.—Any express lender shall retain such designation unless the Administration determines that the express lender has violated the law or regulations promulgated by the Administration or modifies the requirements to be an express lender and the lender no longer satisfies those requirements.

(D) MAXIMUM LOAN AMOUNT.—The maximum loan amount under the Express Loan Program is \$350,000.

(E) OPTION TO PARTICIPATE.—Except as otherwise provided in this paragraph, the Administration shall take no regulatory, policy, or administrative action, without regard to whether such action requires notification pursuant to paragraph (24), that has the effect of requiring a lender to make an express loan pursuant to subparagraph (D).

(F) EXPRESS LOANS FOR RENEWABLE ENERGY AND ENERGY EFFICIENCY.—

(i) DEFINITIONS.—In this subparagraph—

(I) the term “biomass”—

(aa) means any organic material that is available on a renewable or recurring basis, including—

(AA) agricultural crops;

(BB) trees grown for energy production;

(CC) wood waste and wood residues;

(DD) plants (including aquatic plants and grasses);

(EE) residues;

(FF) fibers;

(GG) animal wastes and other waste materials; and

(HH) fats, oils, and greases (including recycled fats, oils, and greases); and

(bb) does not include—

(AA) paper that is commonly recycled; or

(BB) unsegregated solid waste;

(II) the term “energy efficiency project” means the installation or upgrading of equipment that results in a significant reduction in energy usage; and

(III) the term “renewable energy system” means a system of energy derived from—

(aa) a wind, solar, biomass (including biodiesel), or geothermal source; or

(bb) hydrogen derived from biomass or water using an energy source described in item (aa).

(ii) LOANS.—The Administrator may make a loan under the Express Loan Program for the purpose of—

(I) purchasing a renewable energy system; or

(II) carrying out an energy efficiency project for a small business concern.

(32)⁴ LOANS FOR ENERGY EFFICIENT TECHNOLOGIES.—

(A) DEFINITIONS.—In this paragraph—

(i) the term “cost” has the meaning given that term in section 661a of title 2;

(ii) the term “covered energy efficiency loan” means a loan—

(I) made under this subsection; and

(II) the proceeds of which are used to purchase energy efficient designs, equipment, or fixtures, or to reduce the energy consumption of the borrower by 10 percent or more; and

(iii) the term “pilot program” means the pilot program established under subparagraph (B)⁵

(B) ESTABLISHMENT.—The Administrator shall establish and carry out a pilot program under which the Administrator shall reduce the fees for covered energy efficiency loans.

(C) DURATION.—The pilot program shall terminate at the end of the second full fiscal year after the date that the Administrator establishes the pilot program.

(D) MAXIMUM PARTICIPATION.—A covered energy efficiency loan shall include the maximum participation levels by the Administrator permitted for loans made under this subsection.

(E) FEES.—

(i) IN GENERAL.—The fee on a covered energy efficiency loan shall be equal to 50 percent of the fee otherwise applicable to that loan under paragraph (18).

(ii) WAIVER.—The Administrator may waive clause (i) for a fiscal year if—

(I) for the fiscal year before that fiscal year, the annual rate of default of covered energy efficiency loans exceeds that of loans made under this subsection that are not covered energy efficiency loans;

(II) the cost to the Administration of making loans under this subsection is greater than zero and such cost is directly attributable to the cost of making covered energy efficiency loans; and

⁴ So in original. Two pars. (32) have been enacted.

⁵ So in original.

(III) no additional sources of revenue authority are available to reduce the cost of making loans under this subsection to zero.

(iii) EFFECT OF WAIVER.—If the Administrator waives the reduction of fees under clause (ii), the Administrator—

(I) shall not assess or collect fees in an amount greater than necessary to ensure that the cost of the program under this subsection is not greater than zero; and

(II) shall reinstate the fee reductions under clause (i) when the conditions in clause (ii) no longer apply.

(iv) NO INCREASE OF FEES.—The Administrator shall not increase the fees under paragraph (18) on loans made under this subsection that are not covered energy efficiency loans as a direct result of the pilot program.

(F) GAO REPORT.—

(i) IN GENERAL.—Not later than 1 year after the date that the pilot program terminates, the Comptroller General of the United States shall submit to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a report on the pilot program.

(ii) CONTENTS.—The report submitted under clause (i) shall include—

(I) the number of covered energy efficiency loans for which fees were reduced under the pilot program;

(II) a description of the energy efficiency savings with the pilot program;

(III) a description of the impact of the pilot program on the program under this subsection;

(IV) an evaluation of the efficacy and potential fraud and abuse of the pilot program; and

(V) recommendations for improving the pilot program.

(32)⁴ INCREASED VETERAN PARTICIPATION PROGRAM.—

(A) DEFINITIONS.—In this paragraph—

(i) the term “cost” has the meaning given that term in section 661a of title 2;

(ii) the term “pilot program” means the pilot program established under subparagraph (B); and

(iii) the term “veteran participation loan” means a loan made under this subsection to a small business concern owned and controlled by veterans of the Armed Forces or members of the reserve components of the Armed Forces.

(B) ESTABLISHMENT.—The Administrator shall establish and carry out a pilot program under which the Administrator shall reduce the fees for veteran participation loans.

(C) DURATION.—The pilot program shall terminate at the end of the second full fiscal year after the date that the Administrator establishes the pilot program.

(D) MAXIMUM PARTICIPATION.—A veteran participation loan shall include the maximum participation levels by the Adminis-

trator permitted for loans made under this subsection.

(E) FEES.—

(i) IN GENERAL.—The fee on a veteran participation loan shall be equal to 50 percent of the fee otherwise applicable to that loan under paragraph (18).

(ii) WAIVER.—The Administrator may waive clause (i) for a fiscal year if—

(I) for the fiscal year before that fiscal year, the annual estimated rate of default of veteran participation loans exceeds that of loans made under this subsection that are not veteran participation loans;

(II) the cost to the Administration of making loans under this subsection is greater than zero and such cost is directly attributable to the cost of making veteran participation loans; and

(III) no additional sources of revenue authority are available to reduce the cost of making loans under this subsection to zero.

(iii) EFFECT OF WAIVER.—If the Administrator waives the reduction of fees under clause (ii), the Administrator—

(I) shall not assess or collect fees in an amount greater than necessary to ensure that the cost of the program under this subsection is not greater than zero; and

(II) shall reinstate the fee reductions under clause (i) when the conditions in clause (ii) no longer apply.

(iv) NO INCREASE OF FEES.—The Administrator shall not increase the fees under paragraph (18) on loans made under this subsection that are not veteran participation loans as a direct result of the pilot program.

(F) GAO REPORT.—

(i) IN GENERAL.—Not later than 1 year after the date that the pilot program terminates, the Comptroller General of the United States shall submit to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a report on the pilot program.

(ii) CONTENTS.—The report submitted under clause (i) shall include—

(I) the number of veteran participation loans for which fees were reduced under the pilot program;

(II) a description of the impact of the pilot program on the program under this subsection;

(III) an evaluation of the efficacy and potential fraud and abuse of the pilot program; and

(IV) recommendations for improving the pilot program.

(b) Disaster loans; authorization, scope, terms and conditions, etc.

Except as to agricultural enterprises as defined in section 647(b)(1) of this title, the Administration also is empowered to the extent and in such amounts as provided in advance in appropriation Acts—

(1)(A) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred (guaranteed) basis) as the Administration may determine to be necessary or appropriate to repair, rehabilitate or replace property, real or personal, damaged or destroyed by or as a result of natural or other disasters: *Provided*, That such damage or destruction is not compensated for by insurance or otherwise: *And provided further*, That the Administration may increase the amount of the loan by up to an additional 20 per centum of the aggregate costs of such damage or destruction (whether or not compensated for by insurance or otherwise) if it determines such increase to be necessary or appropriate in order to protect the damaged or destroyed property from possible future disasters by taking mitigating measures, including, but not limited to, construction of retaining walls and sea walls, grading and contouring land, relocating utilities and modifying structures;

(B) to refinance any mortgage or other lien against a totally destroyed or substantially damaged home or business concern: *Provided*, That no loan or guarantee shall be extended unless the Administration finds that (i) the applicant is not able to obtain credit elsewhere; (ii) such property is to be repaired, rehabilitated, or replaced; (iii) the amount refinanced shall not exceed the amount of physical loss sustained; and (iv) such amounts shall be reduced to the extent such mortgage or lien is satisfied by insurance or otherwise; and

(C) during fiscal years 2000 through 2004, to establish a predisaster mitigation program to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred (guaranteed) basis), as the Administrator may determine to be necessary or appropriate, to enable small businesses to use mitigation techniques in support of a formal mitigation program established by the Federal Emergency Management Agency, except that no loan or guarantee may be extended to a small business under this subparagraph unless the Administration finds that the small business is otherwise unable to obtain credit for the purposes described in this subparagraph;

(2) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred (guaranteed) basis) as the Administration may determine to be necessary or appropriate to any small business concern, private nonprofit organization, or small agricultural cooperative located in an area affected by a disaster,⁶ (including drought), with respect to both farm-related and nonfarm-related small business concerns, if the Administration determines that the concern, the organization, or the cooperative has suffered a substantial economic injury as a re-

sult of such disaster and if such disaster constitutes—

(A) a major disaster, as determined by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or

(B) a natural disaster, as determined by the Secretary of Agriculture pursuant to section 1961 of title 7, in which case, assistance under this paragraph may be provided to farm-related and nonfarm-related small business concerns, subject to the other applicable requirements of this paragraph; or

(C) a disaster, as determined by the Administrator of the Small Business Administration; or

(D) if no disaster declaration has been issued pursuant to subparagraph (A), (B), or (C), the Governor of a State in which a disaster has occurred may certify to the Small Business Administration that small business concerns, private nonprofit organizations, or small agricultural cooperatives (1) have suffered economic injury as a result of such disaster, and (2) are in need of financial assistance which is not available on reasonable terms in the disaster stricken area. Not later than 30 days after the date of receipt of such certification by a Governor of a State, the Administration shall respond in writing to that Governor on its determination and the reasons therefor,⁷ and may then make such loans as would have been available under this paragraph if a disaster declaration had been issued.

Provided, That no loan or guarantee shall be extended pursuant to this paragraph (2) unless the Administration finds that the applicant is not able to obtain credit elsewhere.

(3)(A) In this paragraph—

(i) the term “essential employee” means an individual who is employed by a small business concern and whose managerial or technical expertise is critical to the successful day-to-day operations of that small business concern;

(ii) the term “period of military conflict” has the meaning given the term in subsection (n)(1) of this section; and

(iii) the term “substantial economic injury” means an economic harm to a business concern that results in the inability of the business concern—

(I) to meet its obligations as they mature;

(II) to pay its ordinary and necessary operating expenses; or

(III) to market, produce, or provide a product or service ordinarily marketed, produced, or provided by the business concern.

(B) The Administration may make such disaster loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) to assist a small business concern that has suffered or that is likely to suffer substantial economic injury as

⁶ So in original. The comma probably should not appear.

⁷ So in original. Probably should be “therefor.”

the result of an essential employee of such small business concern being ordered to active military duty during a period of military conflict.

(C) A small business concern described in subparagraph (B) shall be eligible to apply for assistance under this paragraph during the period beginning on the date on which the essential employee is ordered to active duty and ending on the date that is 1 year after the date on which such essential employee is discharged or released from active duty. The Administrator may, when appropriate (as determined by the Administrator), extend the ending date specified in the preceding sentence by not more than 1 year.

(D) Any loan or guarantee extended pursuant to this paragraph shall be made at the same interest rate as economic injury loans under paragraph (2).

(E) No loan may be made under this paragraph, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under this subsection would exceed \$1,500,000, unless such applicant constitutes, or have⁸ become due to changed economic circumstances, a major source of employment in its surrounding area, as determined by the Administration, in which case the Administration, in its discretion, may waive the \$1,500,000 limitation.

(F) For purposes of assistance under this paragraph, no declaration of a disaster area shall be required.

(G)(i) Notwithstanding any other provision of law, the Administrator may make a loan under this paragraph of not more than \$50,000 without collateral.

(ii) The Administrator may defer payment of principal and interest on a loan described in clause (i) during the longer of—

- (I) the 1-year period beginning on the date of the initial disbursement of the loan; and
- (II) the period during which the relevant essential employee is on active duty.

(H) The Administrator shall give priority to any application for a loan under this paragraph and shall process and make a determination regarding such applications prior to processing or making a determination on other loan applications under this subsection, on a rolling basis.

(4) COORDINATION WITH FEMA.—

(A) IN GENERAL.—Notwithstanding any other provision of law, for any disaster declared under this subsection or major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall ensure, to the maximum extent practicable, that all application periods for disaster relief under this chapter correspond with application deadlines established under the

Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), or as extended by the President.

(B) DEADLINES.—Notwithstanding any other provision of law, not later than 10 days before the closing date of an application period for a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report that includes—

- (i) the deadline for submitting applications for assistance under this chapter relating to that major disaster;
- (ii) information regarding the number of loan applications and disbursements processed by the Administrator relating to that major disaster for each day during the period beginning on the date on which that major disaster was declared and ending on the date of that report; and
- (iii) an estimate of the number of potential applicants that have not submitted an application relating to that major disaster.

(5) PUBLIC AWARENESS OF DISASTERS.—If a disaster is declared under this subsection or the Administrator declares eligibility for additional disaster assistance under paragraph (9), the Administrator shall make every effort to communicate through radio, television, print, and web-based outlets, all relevant information needed by disaster loan applicants, including—

- (A) the date of such declaration;
- (B) cities and towns within the area of such declaration;
- (C) loan application deadlines related to such disaster;
- (D) all relevant contact information for victim services available through the Administration (including links to small business development center websites);
- (E) links to relevant Federal and State disaster assistance websites, including links to websites providing information regarding assistance available from the Federal Emergency Management Agency;
- (F) information on eligibility criteria for Administration loan programs, including where such applications can be found; and
- (G) application materials that clearly state the function of the Administration as the Federal source of disaster loans for homeowners and renters.

(6) AUTHORITY FOR QUALIFIED PRIVATE CONTRACTORS.—

(A) DISASTER LOAN PROCESSING.—The Administrator may enter into an agreement with a qualified private contractor, as determined by the Administrator, to process loans under this subsection in the event of a major disaster (including any major disaster relating to which the Administrator declares

⁸ So in original. Probably should be "has".

eligibility for additional disaster assistance under paragraph (9)), under which the Administrator shall pay the contractor a fee for each loan processed.

(B) LOAN LOSS VERIFICATION SERVICES.—The Administrator may enter into an agreement with a qualified lender or loss verification professional, as determined by the Administrator, to verify losses for loans under this subsection in the event of a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), under which the Administrator shall pay the lender or verification professional a fee for each loan for which such lender or verification professional verifies losses.

(7) DISASTER ASSISTANCE EMPLOYEES.—

(A) IN GENERAL.—In carrying out this section, the Administrator may, where practicable, ensure that the number of full-time equivalent employees—

- (i) in the Office of the Disaster Assistance is not fewer than 800; and
- (ii) in the Disaster Cadre of the Administration is not fewer than 1,000.

(B) REPORT.—In carrying out this subsection, if the number of full-time employees for either the Office of Disaster Assistance or the Disaster Cadre of the Administration is below the level described in subparagraph (A) for that office, not later than 21 days after the date on which that staffing level decreased below the level described in subparagraph (A), the Administrator shall submit to the Committee on Appropriations and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Appropriations and Committee on Small Business of the House of Representatives, a report—

- (i) detailing staffing levels on that date;
- (ii) requesting, if practicable and determined appropriate by the Administrator, additional funds for additional employees; and
- (iii) containing such additional information, as determined appropriate by the Administrator.

(8) INCREASED LOAN CAPS.—

(A) AGGREGATE LOAN AMOUNTS.—Except as provided in subparagraph (B), and notwithstanding any other provision of law, the aggregate loan amount outstanding and committed to a borrower under this subsection may not exceed \$2,000,000.

(B) WAIVER AUTHORITY.—The Administrator may, at the discretion of the Administrator, increase the aggregate loan amount under subparagraph (A) for loans relating to a disaster to a level established by the Administrator, based on appropriate economic indicators for the region in which that disaster occurred.

(9) DECLARATION OF ELIGIBILITY FOR ADDITIONAL DISASTER ASSISTANCE.—

(A) IN GENERAL.—If the President declares a major disaster, the Administrator may de-

clare eligibility for additional disaster assistance in accordance with this paragraph.

(B) THRESHOLD.—A major disaster for which the Administrator declares eligibility for additional disaster assistance under this paragraph shall—

(i) have resulted in extraordinary levels of casualties or damage or disruption severely affecting the population (including mass evacuations), infrastructure, environment, economy, national morale, or government functions in an area;

(ii) be comparable to the description of a catastrophic incident in the National Response Plan of the Administration, or any successor thereto, unless there is no successor to such plan, in which case this clause shall have no force or effect; and

(iii) be of such size and scope that—

(I) the disaster assistance programs under the other paragraphs under this subsection are incapable of providing adequate and timely assistance to individuals or business concerns located within the disaster area; or

(II) a significant number of business concerns outside the disaster area have suffered disaster-related substantial economic injury as a result of the incident.

(C) ADDITIONAL ECONOMIC INJURY DISASTER LOAN ASSISTANCE.—

(i) IN GENERAL.—If the Administrator declares eligibility for additional disaster assistance under this paragraph, the Administrator may make such loans under this subparagraph (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator determines appropriate to eligible small business concerns located anywhere in the United States.

(ii) PROCESSING TIME.—

(I) IN GENERAL.—If the Administrator determines that the average processing time for applications for disaster loans under this subparagraph relating to a specific major disaster is more than 15 days, the Administrator shall give priority to the processing of such applications submitted by eligible small business concerns located inside the disaster area, until the Administrator determines that the average processing time for such applications is not more than 15 days.

(II) SUSPENSION OF APPLICATIONS FROM OUTSIDE DISASTER AREA.—If the Administrator determines that the average processing time for applications for disaster loans under this subparagraph relating to a specific major disaster is more than 30 days, the Administrator shall suspend the processing of such applications submitted by eligible small business concerns located outside the disaster area, until the Administrator determines that the average processing time for such applications is not more than 15 days.

(iii) LOAN TERMS.—A loan under this subparagraph shall be made on the same terms as a loan under paragraph (2).

(D) DEFINITIONS.—In this paragraph—

(i) the term “disaster area” means the area for which the applicable major disaster was declared;

(ii) the term “disaster-related substantial economic injury” means economic harm to a business concern that results in the inability of the business concern to—

(I) meet its obligations as it matures;

(II) meet its ordinary and necessary operating expenses; or

(III) market, produce, or provide a product or service ordinarily marketed, produced, or provided by the business concern because the business concern relies on materials from the disaster area or sells or markets in the disaster area; and

(iii) the term “eligible small business concern” means a small business concern—

(I) that has suffered disaster-related substantial economic injury as a result of the applicable major disaster; and

(II)(aa) for which not less than 25 percent of the market share of that small business concern is from business transacted in the disaster area;

(bb) for which not less than 25 percent of an input into a production process of that small business concern is from the disaster area; or

(cc) that relies on a provider located in the disaster area for a service that is not readily available elsewhere.

No loan under this subsection, including renewals and extensions thereof, may be made for a period or periods exceeding thirty years: *Provided*, That the Administrator may consent to a suspension in the payment of principal and interest charges on, and to an extension in the maturity of, the Federal share of any loan under this subsection for a period not to exceed five years, if (A) the borrower under such loan is a homeowner or a small business concern, (B) the loan was made to enable (i) such homeowner to repair or replace his home, or (ii) such concern to repair or replace plant or equipment which was damaged or destroyed as the result of a disaster meeting the requirements of clause (A) or (B) of paragraph (2) of this subsection, and (C) the Administrator determines such action is necessary to avoid severe financial hardship: *Provided further*, That the provisions of paragraph (1) of subsection (d) of this section shall not be applicable to any such loan having a maturity in excess of twenty years. Notwithstanding any other provision of law, and except as provided in subsection (d), the interest rate on the Administration's share of any loan made under subsection (b) shall not exceed the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum plus one-quarter of 1 per centum: *Provided, however*, That the interest rate for loans made under paragraphs (1) and (2) hereof shall not exceed the rate of interest which is in

effect at the time of the occurrence of the disaster. In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement. Notwithstanding any other provision of law, the interest rate on the Administration's share of any loan made pursuant to paragraph (1) of this subsection to repair or replace a primary residence and/or replace or repair damaged or destroyed personal property, less the amount of compensation by insurance or otherwise, with respect to a disaster occurring on or after July 1, 1976, and prior to October 1, 1978, shall be: 1 per centum on the amount of such loan not exceeding \$10,000, and 3 per centum on the amount of such loan over \$10,000 but not exceeding \$40,000. The interest rate on the Administration's share of the first \$250,000 of all other loans made pursuant to paragraph (1) of this subsection, with respect to a disaster occurring on or after July 1, 1976, and prior to October 1, 1978, shall be 3 per centum. All repayments of principal on the Administration's share of any loan made under the above provisions shall first be applied to reduce the principal sum of such loan which bears interest at the lower rates provided in this paragraph. The principal amount of any loan made pursuant to paragraph (1) in connection with a disaster which occurs on or after April 1, 1977, but prior to January 1, 1978, may be increased by such amount, but not more than \$2,000, as the Administration determines to be reasonable in light of the amount and nature of loss, damage, or injury sustained in order to finance the installation of insulation in the property which was lost, damaged, or injured, if the uninsured, damaged portion of the property is 10 per centum or more of the market value of the property at the time of the disaster. Not later than June 1, 1978, the Administration shall prepare and transmit to the Select Committee on Small Business of the Senate, the Committee on Small Business of the House of Representatives, and the Committees of the Senate and House of Representatives having jurisdiction over measures relating to energy conservation, a report on its activities under this paragraph, including therein an evaluation of the effect of such activities on encouraging the installation of insulation in property which is repaired or replaced after a disaster which is subject to this paragraph, and its recommendations with respect to the continuation, modification, or termination of such activities.

In the administration of the disaster loan program under paragraphs (1) and (2) of this subsection, in the case of property loss or damage or injury resulting from a major disaster as determined by the President or a disaster as determined by the Administrator which occurs on or after January 1, 1971, and prior to July 1, 1973, the Small Business Administration, to the extent such loss or damage or injury is not compensated for by insurance or otherwise—

(A) may make any loan for repair, rehabilitation, or replacement of property damaged or destroyed without regard to whether the required financial assistance is otherwise available from private sources;

(B) may, in the case of the total destruction or substantial property damage of a home or business concern, refinance any mortgage or other liens outstanding against the destroyed or damaged property if such property is to be repaired, rehabilitated, or replaced, except that (1) in the case of a business concern, the amount refinanced shall not exceed the amount of the physical loss sustained, and (2) in the case of a home, the amount of each monthly payment of principal and interest on the loan after refinancing under this clause shall not be less than the amount of each such payment made prior to such refinancing;

(C) may, in the case of a loan made under clause (A) or a mortgage or other lien refinanced under clause (B) in connection with the destruction of, or substantial damage to, property owned and used as a residence by an individual who by reason of retirement, disability, or other similar circumstances relies for support on survivor, disability, or retirement benefits under a pension, insurance, or other programs, consent to the suspension of the payments of the principal of that loan, mortgage, or lien during the lifetime of that individual and his spouse for so long as the Administration determines that making such payments would constitute a substantial hardship;

(D) shall notwithstanding the provisions of any other law and upon presentation by the applicant of proof of loss or damage or injury and a bona fide estimate of cost of repair, rehabilitation, or replacement, cancel the principal of any loan made to cover a loss or damage or injury resulting from such disaster, except that—

(i) with respect to a loan made in connection with a disaster occurring on or after January 1, 1971 but prior to January 1, 1972, the total amount so canceled shall not exceed \$2,500, and the interest on the balance of the loan shall be at a rate of 3 per centum per annum; and

(ii) with respect to a loan made in connection with a disaster occurring on or after January 1, 1972 but prior to July 1, 1973, the total amount so canceled shall not exceed \$5,000 and the interest on the balance of the loan shall be at a rate of 1 per centum per annum.

(E)⁹ A State grant made on or prior to July 1, 1979, shall not be considered compensation for the purpose of applying the provisions of section 312(a) of the Disaster Relief and Emergency Assistance Act [42 U.S.C. 5155(a)] to a disaster loan under paragraph (1) (2)¹⁰ of this subsection.

With respect to any loan referred to in clause (D) which is outstanding on August 16, 1972, the Administrator shall—

(i) make such change in the interest rate on the balance of such loan as is required under that clause effective as of August 16, 1972; and

(ii) in applying the limitation set forth in that clause with respect to the total amount

of such loan which may be canceled, consider as part of the amount so canceled any part of such loan which was previously canceled pursuant to section 231 of the Disaster Relief Act of 1970 [15 U.S.C. 636a].

Whoever wrongfully misapplies the proceeds of a loan obtained under this subsection shall be civilly liable to the Administrator in an amount equal to one-and-one half times the original principal amount of the loan.

(c) Private disaster loans

(1) Definitions

In this subsection—

(A) the term “disaster area” means any area for which the President declared a major disaster relating to which the Administrator declares eligibility for additional disaster assistance under subsection (b)(9), during the period of that major disaster declaration;

(B) the term “eligible individual” means an individual who is eligible for disaster assistance under subsection (b)(1) relating to a major disaster relating to which the Administrator declares eligibility for additional disaster assistance under subsection (b)(9);

(C) the term “eligible small business concern” means a business concern that is—

(i) a small business concern, as defined under this chapter; or

(ii) a small business concern, as defined in section 103 of the Small Business Investment Act of 1958 [15 U.S.C. 662];

(D) the term “preferred lender” means a lender participating in the Preferred Lender Program;

(E) the term “Preferred Lender Program” has the meaning given that term in subsection (a)(2)(C)(ii); and

(F) the term “qualified private lender” means any privately-owned bank or other lending institution that—

(i) is not a preferred lender; and

(ii) the Administrator determines meets the criteria established under paragraph (10).

(2) Program required

The Administrator shall carry out a program, to be known as the Private Disaster Assistance program, under which the Administration may guarantee timely payment of principal and interest, as scheduled, on any loan made to an eligible small business concern located in a disaster area and to an eligible individual.

(3) Use of loans

A loan guaranteed by the Administrator under this subsection may be used for any purpose authorized under subsection (b).

(4) Online applications

(A) Establishment

The Administrator may establish, directly or through an agreement with another entity, an online application process for loans guaranteed under this subsection.

(B) Other Federal assistance

The Administrator may coordinate with the head of any other appropriate Federal

⁹ See 1980 Amendment note below.

¹⁰ So in original. Probably should be “or (2)”.

agency so that any application submitted through an online application process established under this paragraph may be considered for any other Federal assistance program for disaster relief.

(C) Consultation

In establishing an online application process under this paragraph, the Administrator shall consult with appropriate persons from the public and private sectors, including private lenders.

(5) Maximum amounts

(A) Guarantee percentage

The Administrator may guarantee not more than 85 percent of a loan under this subsection.

(B) Loan amount

The maximum amount of a loan guaranteed under this subsection shall be \$2,000,000.

(6) Terms and conditions

A loan guaranteed under this subsection shall be made under the same terms and conditions as a loan under subsection (b).

(7) Lenders

(A) In general

A loan guaranteed under this subsection made to—

- (i) a qualified individual may be made by a preferred lender; and
- (ii) a qualified small business concern may be made by a qualified private lender or by a preferred lender that also makes loans to qualified individuals.

(B) Compliance

If the Administrator determines that a preferred lender knowingly failed to comply with the underwriting standards for loans guaranteed under this subsection or violated the terms of the standard operating procedure agreement between that preferred lender and the Administration, the Administrator shall do 1 or more of the following:

- (i) Exclude the preferred lender from participating in the program under this subsection.
- (ii) Exclude the preferred lender from participating in the Preferred Lender Program for a period of not more than 5 years.

(8) Fees

(A) In general

The Administrator may not collect a guarantee fee under this subsection.

(B) Origination fee

The Administrator may pay a qualified private lender or preferred lender an origination fee for a loan guaranteed under this subsection in an amount agreed upon in advance between the qualified private lender or preferred lender and the Administrator.

(9) Documentation

A qualified private lender or preferred lender may use its own loan documentation for a loan guaranteed by the Administrator under this subsection, to the extent authorized by the

Administrator. The ability of a lender to use its own loan documentation for a loan guaranteed under this subsection shall not be considered part of the criteria for becoming a qualified private lender under the regulations promulgated under paragraph (10).

(10) Implementation regulations

(A) In general

Not later than 1 year after the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2008, the Administrator shall issue final regulations establishing permanent criteria for qualified private lenders.

(B) Report to Congress

Not later than 6 months after the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2008, the Administrator shall submit a report on the progress of the regulations required by subparagraph (A) to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

(11) Authorization of appropriations

(A) In general

Amounts necessary to carry out this subsection shall be made available from amounts appropriated to the Administration to carry out subsection (b).

(B) Authority to reduce interest rates and other terms and conditions

Funds appropriated to the Administration to carry out this subsection,⁶ may be used by the Administrator to meet the loan terms and conditions specified in paragraph (6).

(12) Purchase of loans

The Administrator may enter into an agreement with a qualified private lender or preferred lender to purchase any loan guaranteed under this subsection.

(d) Extension or renewal of loans; purchase of participations; assumption of obligations; disaster loans; interest rates; loan amounts

(1) The Administration may further extend the maturity of or renew any loan made pursuant to this section, or any loan transferred to the Administration pursuant to Reorganization Plan Numbered 2 of 1954, or Reorganization Plan Numbered 1 of 1957, for additional periods not to exceed ten years beyond the period stated therein, if such extension or renewal will aid in the orderly liquidation of such loan.

(2) During any period in which principal and interest charges are suspended on the Federal share of any loan, as provided in subsection (b) of this section, the Administrator shall, upon the request of any person, firm, or corporation having a participation in such loan, purchase such participation, or assume the obligation of the borrower, for the balance of such period, to make principal and interest payments on the non-Federal share of such loan: *Provided*, That no such payments shall be made by the Administrator in behalf of any borrower unless

(i) the Administrator determines that such action is necessary in order to avoid a default, and (ii) the borrower agrees to make payments to the Administration in an aggregate amount equal to the amount paid in its behalf by the Administrator, in such manner and at such times (during or after the term of the loan) as the Administrator shall determine having due regard to the purposes sought to be achieved by this paragraph.

(3) With respect to a disaster occurring on or after October 1, 1978, and prior¹¹ August 13, 1981, on the Administration's share of loans made pursuant to paragraph (1) of subsection (b) of this section—

(A) if the loan proceeds are to repair or replace a primary residence and/or repair or replace damaged or destroyed personal property, the interest rate shall be 3 percent on the first \$55,000 of such loan;

(B) if the loan proceeds are to repair or replace property damaged or destroyed and if the applicant is a business concern which is unable to obtain sufficient credit elsewhere, the interest rate shall be as determined by the Administration, but not in excess of 5 percent per annum; and

(C) if the loan proceeds are to repair or replace property damaged or destroyed and if the applicant is a business concern which is able to obtain sufficient credit elsewhere, the interest rate shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one-eighth of 1 percent, and an additional amount as determined by the Administration, but not to exceed 1 percent: *Provided*, That three years after such loan is fully disbursed and every two years thereafter for the term of the loan, if the Administration determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall, upon request by the Administration, apply for and accept such a loan in sufficient amount to repay the Administration: *Provided further*, That no loan under subsection (b)(1) of this section shall be made, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under such subsection would exceed \$500,000 for each disaster, unless an applicant constitutes a major source of employment in an area suffering a disaster, in which case the Administration, in its discretion, may waive the \$500,000 limitation.

(4) Notwithstanding the provisions of any other law, the interest rate on the Federal share of any loan made under subsection (b) of this section shall be—

(A) in the case of a homeowner unable to secure credit elsewhere, the rate prescribed

by the Administration but not more than one-half the rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans plus an additional charge of not to exceed 1 per centum per annum as determined by the Administrator, and adjusted to the nearest one-eighth of 1 per centum but not to exceed 8 per centum per annum;

(B) in the case of a homeowner able to secure credit elsewhere, the rate prescribed by the Administration but not more than the rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans plus an additional charge of not to exceed 1 per centum per annum as determined by the Administrator, and adjusted to the nearest one-eighth of 1 per centum;

(C) in the case of a business concern unable to obtain credit elsewhere, not to exceed 8 per centum per annum;

(D) in the case of a business concern able to obtain credit elsewhere, the rate prescribed by the Administration but not in excess of the rate prevailing in private market for similar loans and not more than the rate prescribed by the Administration as the maximum interest rate for deferred participation (guaranteed) loans under subsection (a) of this section. Loans under this subparagraph shall be limited to a maximum term of three years.

(5) Notwithstanding the provisions of any other law, the interest rate on the Federal share of any loan made under subsection (b)(1) and (b)(2) of this section on account of a disaster commencing on or after October 1, 1982, shall be—

(A) in the case of a homeowner unable to secure credit elsewhere, the rate prescribed by the Administration but not more than one-half the rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loan plus an additional charge of not to exceed 1 per centum per annum as determined by the Administrator, and adjusted to the nearest one-eighth of 1 per centum, but not to exceed 4 per centum per annum;

(B) in the case of a homeowner able to secure credit elsewhere, the rate prescribed by the Administration but not more than the rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans plus an additional charge of not to exceed 1 per centum per annum as determined by the Administrator, and adjusted to the

¹¹ So in original. Probably should be "prior to".

nearest one-eighth of 1 per centum, but not to exceed 8 per centum per annum;

(C) in the case of a business, private non-profit organization, or other concern, including agricultural cooperatives, unable to obtain credit elsewhere, not to exceed 4 per centum per annum;

(D) in the case of a business concern able to obtain credit elsewhere, the rate prescribed by the Administration but not in excess of the lowest of (i) the rate prevailing in the private market for similar loans, (ii) the rate prescribed by the Administration as the maximum interest rate for deferred participation (guaranteed) loans under subsection (a) of this section, or (iii) 8 per centum per annum. Loans under this subparagraph shall be limited to a maximum term of three years.

(6) Notwithstanding the provisions of any other law, such loans, subject to the reductions required by subparagraphs (A) and (B) of subsection (b)(1) of this section, shall be in amounts equal to 100 per centum of loss. The interest rates for loans made under subsection (b)(1) and (2) of this section, as determined pursuant to paragraph (5), shall be the rate of interest which is in effect on the date of the disaster commenced: *Provided*, That no loan under subsection (b)(1) and (2) of this section shall be made, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred (guaranteed) basis, if the total amount outstanding and committed to the borrower under subsection (b) of this section would exceed \$500,000 for each disaster unless an applicant constitutes a major source of employment in an area suffering a disaster, in which case the Administration, in its discretion, may waive the \$500,000 limitation: *Provided further*, That the Administration, subject to the reductions required by subparagraphs (A) and (B) of subsection (b)(1) of this section, shall not reduce the amount of eligibility for any homeowner on account of loss of real estate to less than \$100,000 for each disaster nor for any homeowner or lessee on account of loss of personal property to less than \$20,000 for each disaster, such sums being in addition to any eligible refinancing: *Provided further*, That the Administration shall not require collateral for loans of \$14,000 or less (or such higher amount as the Administrator determines appropriate in the event of a major disaster) which are made under paragraph (1) of subsection (b) of this section. Employees of concerns sharing a common business premises shall be aggregated in determining "major source of employment" status for nonprofit applicants owning such premises.

With respect to any loan which is outstanding on April 18, 1984, and which was made on account of a disaster commencing on or after October 1, 1982, the Administrator shall make such change in the interest rate on the balance of such loan as is required herein effective as of April 18, 1984.

(7) The Administration shall not withhold disaster assistance pursuant to this paragraph

to nurseries who are victims of drought disasters. As used in subsection (b)(2) of this section the term "an area affected by a disaster" includes any county, or county contiguous thereto, determined to be a disaster by the President, the Secretary of Agriculture or the Administrator of the Small Business Administration.

(e) Funds for small business development centers under section 648 of this title

The Administration shall not fund any Small Business Development Center or any variation thereof, except as authorized in section 648 of this title.

(f) Additional requirements for subsection (b) loans

(1)¹² Increased deferment authorized

(A) In general

In making loans under subsection (b), the Administrator may provide, to the person receiving the loan, an option to defer repayment on the loan.

(B) Period

The period of a deferment under subparagraph (A) may not exceed 4 years.

(g) Net earnings clauses prohibited for subsection (b) loans

In making loans under subsection (b), the Administrator shall not require the borrower to pay any non-amortized amount for the first five years after repayment begins.

(h) Loans to handicapped persons and organizations for handicapped

(1) The Administration also is empowered, where other financial assistance is not available on reasonable terms, to make such loans (either directly or in cooperation with Banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate—

(A) to assist any public or private organization—

(i) which is organized under the laws of the United States or of any State, operated in the interest of handicapped individuals, the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual;

(ii) which complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; and

(iii) which, in the production of commodities and in the provision of services during any fiscal year in which it receives financial assistance under this subsection, employs handicapped individuals for not less than 75 per centum of the man-hours required for the production or provision of the commodities or services; or

(B) to assist any handicapped individual in establishing, acquiring, or operating a small business concern.

(2) The Administration's share of any loan made under this subsection shall not exceed

¹²So in original. No par. (2) has been enacted.

\$350,000, nor may any such loan be made if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund established by section 633(c)(1)(B) of this title would exceed \$350,000. In agreements to participate in loans on a deferred basis under this subsection, the Administration's participation may total 100 per centum of the balance of the loan at the time of disbursement. The Administration's share of any loan made under this subsection shall bear interest at the rate of 3 per centum per annum. The maximum term of any such loan, including extensions and renewals thereof, may not exceed fifteen years. All loans made under this subsection shall be of such sound value or so secured as reasonably to assure repayment; *Provided, however*, That any reasonable doubt shall be resolved in favor of the applicant.

(3) For purposes of this subsection, the term "handicapped individual" means a person who has a physical, mental, or emotional impairment, defect, ailment, disease, or disability of a permanent nature which in any way limits the selection of any type of employment for which the person would otherwise be qualified or qualifiable.

(i) Loans to small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals, or owned by low-income individuals

(1) The Administration also is empowered to make, participate (on an immediate basis) in, or guarantee loans, repayable in not more than fifteen years, to any small business concern, or to any qualified person seeking to establish such a concern, when it determines that such loans will further the policies established in section 631(b)² of this title, with particular emphasis on the preservation or establishment of small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals, or owned by low-income individuals; *Provided, however*, That no such loans shall be made, participated in, or guaranteed if the total of such Federal assistance to a single borrower outstanding at any one time would exceed \$100,000. The Administration may defer payments on the principal of such loans for a grace period and use such other methods as it deems necessary and appropriate to assure the successful establishment and operation of such concern. The Administration may, in its discretion, as a condition of such financial assistance, require that the borrower take steps to improve his management skills by participating in a management training program approved by the Administration; *Provided, however*, That any management training program so approved must be of sufficient scope and duration to provide reasonable opportunity for the individuals served to develop entrepreneurial and managerial self-sufficiency.

(2) The Administration shall encourage, as far as possible, the participation of the private business community in the program of assistance to such concerns, and shall seek to stimulate new private lending activities to such concerns through the use of the loan guarantees, partici-

pations in loans, and pooling arrangements authorized by this subsection.

(3) To insure an equitable distribution between urban and rural areas for loans between \$3,500 and \$100,000 made under this subsection, the Administration is authorized to use the agencies and agreements and delegations developed under title III of the Economic Opportunity Act of 1964, as amended [42 U.S.C. 2841 et seq.], as it shall determine necessary.

(4) The Administration shall provide for the continuing evaluation of programs under this subsection, including full information on the location, income characteristics, and types of businesses and individuals assisted, and on new private lending activity stimulated, and the results of such evaluation together with recommendations shall be included in the report required by section 639(a) of this title.

(5) Loans made pursuant to this subsection (including immediate participation in and guarantees of such loans) shall have such terms and conditions as the Administration shall determine, subject to the following limitations—

(A) there is reasonable assurance of repayment of the loan;

(B) the financial assistance is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs;

(C) the amount of the loan, together with other funds available, is adequate to assure completion of the project or achievement of the purposes for which the loan is made;

(D) the loan bears interest at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (ii) such additional charge, if any, toward covering other costs of the program as the Administration may determine to be consistent with its purposes; *Provided, however*, That the rate of interest charged on loans made in redevelopment areas designated under the Public Works and Economic Development Act of 1965 [42 U.S.C. 3121 et seq.] shall not exceed the rate currently applicable to new loans made under section 201 of that Act [42 U.S.C. 3141]; and

(E) fees not in excess of amounts necessary to cover administrative expenses and probable losses may be required on loan guarantees.

(6) The Administration shall take such steps as may be necessary to insure that, in any fiscal year, at least 50 per centum of the amounts loaned or guaranteed pursuant to this subsection are allotted to small business concerns located in urban areas identified by the Administration as having high concentrations of unemployed or low-income individuals or to small business concerns owned by low-income individuals. The Administration shall define the meaning of low income as it applies to owners of small business concerns eligible to be assisted under this subsection.

(7) No financial assistance shall be extended pursuant to this subsection where the Administration determines that the assistance will be used in relocating establishments from one area to another if such relocation would result in an increase in unemployment in the area of original location.

(j) Financial assistance for projects providing technical or management assistance; areas of high concentration of unemployment or low-income; preferences; manner and method of payment; accessible services; program evaluations; establishment of development program; coordination of policies

(1) The Administration shall provide financial assistance to public or private organizations to pay all or part of the cost of projects designed to provide technical or management assistance to individuals or enterprises eligible for assistance under subsection (i) of this section, paragraph (10) of this subsection; and section 637(a) of this title, with special attention to small businesses located in areas of high concentration of unemployed or low-income individuals, to small businesses eligible to receive contracts pursuant to section 637(a) of this title.

(2) Financial assistance under this subsection may be provided for projects, including, but not limited to—

(A) planning and research, including feasibility studies and market research;

(B) the identification and development of new business opportunities;

(C) the furnishing of centralized services with regard to public services and Federal Government programs including programs authorized under subsection (i) of this section; paragraph (10) of this subsection, and section 637(a) of this title;

(D) the establishment and strengthening of business service agencies, including trade associations and cooperatives; and

(E) the furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing business, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

(3) The Administration shall encourage the placement of subcontracts by businesses with small business concerns located in areas of high concentration of unemployed or low-income individuals, with small businesses owned by low-income individuals, and with small businesses eligible to receive contracts pursuant to section 637(a) of this title. The Administration may provide incentives and assistance to such businesses that will aid in the training and upgrading of potential subcontractors or other small business concerns eligible for assistance under subsections (i) and (j) of this section, and section 637(a) of this title.

(4) The Administration shall give preference to projects which promote the ownership, participation in ownership, or management of small businesses owned by low-income individuals and small businesses eligible to receive contracts pursuant to section 637(a) of this title.

(5) The financial assistance authorized for projects under this subsection includes assistance advanced by grant, agreement, or contract.

(6) The Administration is authorized to make payments under grants and contracts entered into under this subsection in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants, with necessary adjustments on account of overpayments or underpayments.

(7) To the extent feasible, services under this subsection shall be provided in a location which is easily accessible to the individuals and small business concerns served.

(8) Repealed. Pub. L. 101-574, title II, §242(2), Nov. 15, 1990, 104 Stat. 2827.

(9) The Administration shall take such steps as may be necessary and appropriate, in coordination and cooperation with the heads of other Federal departments and agencies, to insure that contracts, subcontracts, and deposits made by the Federal Government or with programs aided with Federal funds are placed in such way as to further the purposes of subsections (i) and (j) of this section and section 637(a) of this title.

(10) There is established within the Administration a small business and capital ownership development program (hereinafter referred to as the "Program") which shall provide assistance exclusively for small business concerns eligible to receive contracts pursuant to section 637(a) of this title. The program, and all other services and activities authorized under this subsection and section 637(a) of this title, shall be managed by the Associate Administrator for Minority Small Business and Capital Ownership Development under the supervision of, and responsible to, the Administrator.

(A) The Program shall—

(i) assist small business concerns participating in the Program (either through public or private organizations) to develop and maintain comprehensive business plans which set forth the Program Participant's specific business targets, objectives, and goals developed and maintained in conformity with subparagraph (D).¹³

(ii) provide for such other nonfinancial services as deemed necessary for the establishment, preservation, and growth of small business concerns participating in the Program, including but not limited to (I) loan packaging, (II) financial counseling, (III) accounting and bookkeeping assistance, (IV) marketing assistance, and (V) management assistance;

(iii) assist small business concerns participating in the Program to obtain equity and debt financing;

(iv) establish regular performance monitoring and reporting systems for small business concerns participating in the Program to assure compliance with their business plans;

(v) analyze and report the causes of success and failure of small business concerns participating in the Program; and

(vi) provide assistance necessary to help small business concerns participating in the Program to procure surety bonds, with such assistance including, but not limited to, (I) the preparation of application forms re-

¹³So in original. The period probably should be a semicolon.

quired to receive a surety bond, (II) special management and technical assistance designed to meet the specific needs of small business concerns participating in the Program and which have received or are applying to receive a surety bond, and (III) preparation of all forms necessary to receive a surety bond guarantee from the Administration pursuant to title IV, part B of the Small Business Investment Act of 1958 [15 U.S.C. 694a et seq.].

(B) Small business concerns eligible to receive contracts pursuant to section 637(a) of this title shall participate in the Program.

(C)(i) A small business concern participating in any program or activity conducted under the authority of this paragraph or eligible for the award of contracts pursuant to section 637(a) of this title on September 1, 1988, shall be permitted continued participation and eligibility in such program or activity for a period of time which is the greater of—

(I) 9 years less the number of years since the award of its first contract pursuant to section 637(a) of this title; or

(II) its original fixed program participation term (plus any extension thereof) assigned prior to November 15, 1988, plus eighteen months.

(ii) Nothing contained in this subparagraph shall be deemed to prevent the Administration from instituting a termination or graduation pursuant to subparagraph (F) or (H) for issues unrelated to the expiration of any time period limitation.

(D)(i) Promptly after certification under paragraph (11) a Program Participant shall submit a business plan (hereinafter referred to as the "plan") as described in clause (ii) of this subparagraph for review by the Business Opportunity Specialist assigned to assist such Program Participant. The plan may be a revision of a preliminary business plan submitted by the Program Participant or required by the Administration as a part of the application for certification under this section and shall be designed to result in the Program Participant eliminating the conditions or circumstances upon which the Administration determined eligibility pursuant to section 637(a)(6) of this title. Such plan, and subsequent modifications submitted under clause (iii) of this subparagraph, shall be approved by the business opportunity specialist prior to the Program Participant being eligible for award of a contract pursuant to section 637(a) of this title.

(ii) The plans submitted under this subparagraph shall include the following:

(I) An analysis of market potential, competitive environment, and other business analyses estimating the Program Participant's prospects for profitable operations during the term of program participation and after graduation.

(II) An analysis of the Program Participant's strengths and weaknesses with particular attention to correcting any financial, managerial, technical, or personnel conditions which are likely to impede the small business concern from receiving con-

tracts other than those awarded under section 637(a) of this title.

(III) Specific targets, objectives, and goals, for the business development of the Program Participant during the next and succeeding years utilizing the results of the analyses conducted pursuant to subclauses (I) and (II).

(IV) A transition management plan outlining specific steps to assure profitable business operations after graduation (to be incorporated into the Program Participant's plan during the first year of the transitional stage of Program participation).

(V) Estimates of contract awards pursuant to section 637(a) of this title and from other sources, which the Program Participant will require to meet the specific targets, objectives, and goals for the years covered by its plan. The estimates established shall be consistent with the provisions of subparagraph (I) and section 637(a) of this title.

(iii) Each Program Participant shall annually review its currently approved plan with its Business Opportunity Specialist and modify such plan as may be appropriate. Any modified plan shall be submitted to the Administration for approval. The currently approved plan shall be considered valid until such time as a modified plan is approved by the Business Opportunity Specialist. Annual reviews pertaining to years in the transitional stage of program participation shall require, as appropriate, a written verification that such Program Participant has complied with the requirements of subparagraph (I) relating to attaining business activity from sources other than contracts awarded pursuant to section 637(a) of this title.

(iv) Each Program Participant shall annually forecast its needs for contract awards under section 637(a) of this title for the next program year and the succeeding program year during the review of its business plan, conducted pursuant to clause (iii). Such forecast shall be known as the section 8(a) [15 U.S.C. 637(a)] contract support level and shall be included in the Program Participant's business plan. Such forecast shall include—

(I) the aggregate dollar value of contract support to be sought on a noncompetitive basis under section 637(a) of this title, reflecting compliance with the requirements of subparagraph (I) relating to attaining business activity from sources other than contracts awarded pursuant to section 637(a) of this title,

(II) the types of contract opportunities being sought, identified by Standard Industrial Classification (SIC) Code or otherwise,

(III) an estimate of the dollar value of contract support to be sought on a competitive basis, and

(IV) such other information as may be requested by the Business Opportunity Specialist to provide effective business development assistance to the Program Participant.

(E) A small business concern participating in the program conducted under the authority of this paragraph and eligible for the award of

contracts pursuant to section 637(a) of this title shall be denied all such assistance if such concern—

- (i) voluntarily elects not to continue participation;
- (ii) completes the period of Program participation as prescribed by paragraph (15);
- (iii) is terminated pursuant to a termination proceeding conducted in accordance with section 637(a)(9) of this title; or
- (iv) is graduated pursuant to a graduation proceeding conducted in accordance with section 637(a)(9) of this title.

(F) For purposes of this section and section 637(a) of this title, the term “terminated” and the term “termination” means the total denial or suspension of assistance under this paragraph or under section 637(a) of this title prior to the graduation of the participating small business concern or prior to the expiration of the maximum program participation term. An action for termination shall be based upon good cause, including—

- (i) the failure by such concern to maintain its eligibility for Program participation;
- (ii) the failure of the concern to engage in business practices that will promote its competitiveness within a reasonable period of time as evidenced by, among other indicators, a pattern of unjustified delinquent performance or terminations for default with respect to contracts awarded under the authority of section 637(a) of this title;
- (iii) a demonstrated pattern of failing to make required submissions or responses to the Administration in a timely manner;
- (iv) the willful violation of any rule or regulation of the Administration pertaining to material issues;
- (v) the debarment of the concern or its disadvantaged owners by any agency pursuant to subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation); or
- (vi) the conviction of the disadvantaged owner or an officer of the concern for any offense indicating a lack of business integrity including any conviction for embezzlement, theft, forgery, bribery, falsification or violation of section 645 of this title. For purposes of this clause, no termination action shall be taken with respect to a disadvantaged owner solely because of the conviction of an officer of the concern (who is other than a disadvantaged owner) unless such owner conspired with, abetted, or otherwise knowingly acquiesced in the activity or omission that was the basis of such officer’s conviction.

(G) The Director of the Division may initiate a termination proceeding by recommending such action to the Associate Administrator for Minority Small Business and Capital Ownership Development. Whenever the Associate Administrator, or a designee of such officer, determines such termination is appropriate, within 15 days after making such a determination the Program Participant shall be provided a written notice of intent to terminate, specifying the reasons for such action. No Program Participant shall be terminated from the Program pursuant to subparagraph

(F) without first being afforded an opportunity for a hearing in accordance with section 637(a)(9) of this title.

(H) For the purposes of this subsection and section 637(a) of this title the term “graduated” or “graduation” means that the Program Participant is recognized as successfully completing the program by substantially achieving the targets, objectives, and goals contained in the concern’s business plan thereby demonstrating its ability to compete in the marketplace without assistance under this section or section 637(a) of this title.

(I)(i) During the developmental stage of its participation in the Program, a Program Participant shall take all reasonable efforts within its control to attain the targets contained in its business plan for contracts awarded other than pursuant to section 637(a) of this title (hereinafter referred to as “business activity targets.”). Such efforts shall be made a part of the business plan and shall be sufficient in scope and duration to satisfy the Administration that the Program Participant will engage a reasonable marketing strategy that will maximize its potential to achieve its business activity targets.

(ii) During the transitional stage of the Program a Program Participant shall be subject to regulations regarding business activity targets that are promulgated by the Administration pursuant to clause (iii);

(iii) The regulations referred to in clause (ii) shall:

(I) establish business activity targets applicable to Program Participants during the fifth year and each succeeding year of Program Participation; such targets, for such period of time, shall reflect a reasonably consistent increase in contracts awarded other than pursuant to section 637(a) of this title, expressed as a percentage of total sales; when promulgating business activity targets the Administration may establish modified targets for Program Participants that have participated in the Program for a period of longer than four years on June 1, 1989;

(II) require a Program Participant to attain its business activity targets;

(III) provide that, before the receipt of any contract to be awarded pursuant to section 637(a) of this title, the Program Participant (if it is in the transitional stage) must certify that it has complied with the regulations promulgated pursuant to subclause (II), or that it is in compliance with such remedial measures as may have been ordered pursuant to regulations issued under subclause (V);

(IV) require the Administration to review each Program Participant’s performance regarding attainment of business activity targets during periodic reviews of such Participant’s business plan; and

(V) authorize the Administration to take appropriate remedial measures with respect to a Program Participant that has failed to attain a required business activity target for the purpose of reducing such Participant’s dependence on contracts awarded pursuant

to section 637(a) of this title; such remedial actions may include, but are not limited to assisting the Program Participant to expand the dollar volume of its competitive business activity or limiting the dollar volume of contracts awarded to the Program Participant pursuant to section 637(a) of this title; except for actions that would constitute a termination, remedial measures taken pursuant to this subclause shall not be reviewable pursuant to section 637(a)(9) of this title.

(J)(i) The Administration shall conduct an evaluation of a Program Participant's eligibility for continued participation in the program whenever it receives specific and credible information alleging that such Program Participant no longer meets the requirements for Program eligibility. Upon making a finding that a Program Participant is no longer eligible, the Administration shall initiate a termination proceeding in accordance with subparagraph (F). A Program Participant's eligibility for award of any contract under the authority of section 637(a) of this title may be suspended pursuant to subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation).

(ii)(I) Except as authorized by subclauses (II) or (III), no award shall be made pursuant to section 637(a) of this title to a concern other than a small business concern.

(II) In determining the size of a small business concern owned by a socially and economically disadvantaged Indian tribe (or a wholly owned business entity of such tribe), each firm's size shall be independently determined without regard to its affiliation with the tribe, any entity of the tribal government, or any other business enterprise owned by the tribe, unless the Administrator determines that one or more such tribally owned business concerns have obtained, or are likely to obtain, a substantial unfair competitive advantage within an industry category.

(III) Any joint venture established under the authority of section 602(b) of Public Law 100-656, the "Business Opportunity Development Reform Act of 1988", shall be eligible for award of a contract pursuant to section 637(a) of this title.

(11)(A) The Associate Administrator for Minority Small Business and Capital Ownership Development shall be responsible for coordinating and formulating policies relating to Federal assistance to small business concerns eligible for assistance under subsection (i) of this section and small business concerns eligible to receive contracts pursuant to section 637(a) of this title.

(B)(i) Except as provided in clause (iii), no individual who was determined pursuant to section 637(a) of this title to be socially and economically disadvantaged before August 15, 1989, shall be permitted to assert such disadvantage with respect to any other concern making application for certification after August 15, 1989.

(ii) Except as provided in clause (iii), any individual upon whom eligibility is based pursuant to section 637(a)(4) of this title shall be per-

mitted to assert such eligibility for only one small business concern.

(iii) A socially and economically disadvantaged Indian tribe may own more than one small business concern eligible for assistance pursuant to paragraph (10) and section 637(a) of this title if—

(I) the Indian tribe does not own another firm in the same industry which has been determined to be eligible to receive contracts under this program, and

(II) the individuals responsible for the management and daily operations of the concern do not manage more than two Program Participants.

(C) No concern, previously eligible for the award of contracts pursuant to section 637(a) of this title, shall be subsequently recertified for program participation if its prior participation in the program was concluded for any of the reasons described in paragraph (10)(E).

(D) A concern eligible for the award of contracts pursuant to this subsection shall remain eligible for such contracts if there is a transfer of ownership and control (as defined pursuant to section 637(a)(4) of this title) to individuals who are determined to be socially and economically disadvantaged pursuant to section 637(a) of this title. In the event of such a transfer, the concern, if not terminated or graduated, shall be eligible for a period of continued participation in the program not to exceed the time limitations prescribed in paragraph (15).

(E) There is established a Division of Program Certification and Eligibility (hereinafter referred to in this paragraph as the "Division") that shall be made part of the Office of Minority Small Business and Capital Ownership Development. The Division shall be headed by a Director who shall report directly to the Associate Administrator for Minority Small Business and Capital Ownership Development. The Division shall establish field offices within such regional offices of the Administration as may be necessary to perform efficiently its functions and responsibilities.

(F) Subject to the provisions of section 637(a)(9) of this title, the functions and responsibility of the Division are to—

(i) receive, review and evaluate applications for certification pursuant to paragraphs (4), (5), (6) and (7) of section 637(a) of this title;

(ii) advise each program applicant within 15 days after the receipt of an application as to whether such application is complete and suitable for evaluation and, if not, what matters must be rectified;

(iii) render recommendations on such applications to the Associate Administrator for Minority Small Business and Capital Ownership Development;

(iv) review and evaluate financial statements and other submissions from concerns participating in the program established by paragraph (10) to ascertain continued eligibility to receive subcontracts pursuant to section 637(a) of this title;

(v) make a request for the initiation of termination or graduation proceedings, as appropriate, to the Associate Administrator for Minority Small Business and Capital Ownership Development;

(vi) make recommendations to the Associate Administrator for Minority Small Business and Capital Ownership Development concerning protests from applicants that have been denied program admission;

(vii) decide protests regarding the status of a concern as a disadvantaged concern for purposes of any program or activity conducted under the authority of subsection (d) of section 637 of this title, or any other provision of Federal law that references such subsection for a definition of program eligibility; and

(viii) implement such policy directives as may be issued by the Associate Administrator for Minority Small Business and Capital Ownership Development pursuant to subparagraph (I) regarding, among other things, the geographic distribution of concerns to be admitted to the program and the industrial make-up of such concerns.

(G) An applicant shall not be denied admission into the program established by paragraph (10) due solely to a determination by the Division that specific contract opportunities are unavailable to assist in the development of such concern unless—

(i) the Government has not previously procured and is unlikely to procure the types of products or services offered by the concern; or

(ii) the purchases of such products or services by the Federal Government will not be in quantities sufficient to support the developmental needs of the applicant and other Program Participants providing the same or similar items or services.

(H) Not later than 90 days after receipt of a completed application for Program certification, the Associate Administrator for Minority Small Business and Capital Ownership Development shall certify a small business concern as a Program Participant or shall deny such application.

(I) Thirty days before the conclusion of each fiscal year, the Director of the Division shall review all concerns that have been admitted into the Program during the preceding 12-month period. The review shall ascertain the number of entrants, their geographic distribution and industrial classification. The Director shall also estimate the expected growth of the Program during the next fiscal year and the number of additional Business Opportunity Specialists, if any, that will be needed to meet the anticipated demand for the Program. The findings and conclusions of the Director shall be reported to the Associate Administrator for Minority Small Business and Capital Ownership Development by September 30 of each year. Based on such report and such additional data as may be relevant, the Associate Administrator shall, by October 31 of each year, issue policy and program directives applicable to such fiscal year that—

(i) establish priorities for the solicitation of program applications from underrepresented regions and industry categories;

(ii) assign staffing levels and allocate other program resources as necessary to meet program needs; and

(iii) establish priorities in the processing and admission of new Program Participants as

may be necessary to achieve an equitable geographic distribution of concerns and a distribution of concerns across all industry categories in proportions needed to increase significantly contract awards to small business concerns owned and controlled by socially and economically disadvantaged individuals. When considering such increase the Administration shall give due consideration to those industrial categories where Federal purchases have been substantial but where the participation rate of such concerns has been limited.

(12)(A) The Administration shall segment the Capital Ownership Development Program into two stages: a developmental stage; and a transitional stage.

(B) The developmental stage of program participation shall be designed to assist the concern in its effort to overcome its economic disadvantage by providing such assistance as may be necessary and appropriate to access its markets and to strengthen its financial and managerial skills.

(C) The transitional stage of program participation shall be designed to overcome, insofar as practicable, the remaining elements of economic disadvantage and to prepare such concern for graduation from the program.

(13) A Program Participant, if otherwise eligible, shall be qualified to receive the following assistance during the stages of program participation specified in paragraph 12:¹⁴

(A) Contract support pursuant to section 637(a) of this title.

(B) Financial assistance pursuant to subsection (a)(20) of this section.

(C) A maximum of two exemptions from the requirements of section 35(a)² of title 41, which exemptions shall apply only to contracts awarded pursuant to section 637(a) of this title and shall only be used to allow for contingent agreements by a small business concern to acquire the machinery, equipment, facilities, or labor needed to perform such contracts. No exemption shall be made pursuant to this subparagraph if the contract to which it pertains has an anticipated value in excess of \$10,000,000. This subparagraph shall cease to be effective on October 1, 1992.

(D) A maximum of five exemptions from the requirements of sections 3131 and 3133 of title 40, which exemptions shall apply only to contracts awarded pursuant to section 637(a) of this title, except that, such exemptions may be granted under this subparagraph only if—

(i) the Administration finds that such concern is unable to obtain the requisite bond or bonds from a surety and that no surety is willing to issue a bond subject to the guarantee provision of title IV of the Small Business Investment Act of 1958 (15 U.S.C. 692 et seq.);

(ii) the Administration and the agency providing the contracting opportunity have provided for the protection of persons furnishing materials or labor to the Program Participant by arranging for the direct disbursement of funds due to such persons by

¹⁴So in original. Probably should be paragraph "(12):".

the procuring agency or through any bank the deposits of which are insured by the Federal Deposit Insurance Corporation; and

(iii) the contract to which it pertains does not exceed \$3,000,000 in amount. This subparagraph shall cease to be effective on October 1, 1994.

(E) Financial assistance whereby the Administration may purchase in whole or in part, and on behalf of such concerns, skills training or upgrading for employees or potential employees of such concerns. Such assistance may be made without regard to section 647(a) of this title. Assistance may be made by direct payment to the training provider or by reimbursing the Program Participant or the Participant's employee, if such reimbursement is found to be reasonable and appropriate. For purposes of this subparagraph the term "training provider" shall mean an institution of higher education, a community or vocational college, or an institution eligible to provide skills training or upgrading under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.]. The Administration shall, in consultation with the Secretary of Labor, promulgate rules and regulations to implement this subparagraph that establish acceptable training and upgrading performance standards and provide for such monitoring or audit requirements as may be necessary to ensure the integrity of the training effort. No financial assistance shall be granted under the subparagraph unless the Administrator determines that—

(i) such concern has documented that it has first explored the use of existing cost-free or cost-subsidized training programs offered by public and private sector agencies working with programs of employment and training and economic development;

(ii) no more than five employees or potential employees of such concern are recipients of any benefits under this subparagraph at any one time;

(iii) no more than \$2,500 shall be made available for any one employee or potential employee;

(iv) the length of training or upgrading financed by this subparagraph shall be no less than one month nor more than six months;

(v) such concern has given adequate assurance it will employ the trainee or upgraded employee for at least six months after the training or upgrading financed by this subparagraph has been completed and each trainee or upgraded employee has provided a similar assurance to remain within the employ of such concern for such period; if such concern, trainee, or upgraded employee breaches this agreement, the Administration shall be entitled to and shall make diligent efforts to obtain from the violating party the repayment of all funds expended on behalf of the violating party, such repayment shall be made to the Administration together with such interest and costs of collection as may be reasonable; the violating party shall be barred from receiving any further assistance under this subparagraph;

(vi) the training to be financed may take place either at such concern's facilities or at those of the training provider; and

(vii) such concern will maintain such records as the Administration deems appropriate to ensure that the provisions of this paragraph and any other applicable law have not been violated.

(F) The transfer of technology or surplus property owned by the United States to such a concern. Activities designed to effect such transfer shall be developed in cooperation with the heads of Federal agencies and shall include the transfer by grant, license, or sale of such technology or property to such a concern. Such property may be transferred to Program Participants on a priority basis. Technology or property transferred under this subparagraph shall be used by the concern during the normal conduct of its business operation and shall not be sold or transferred to any other party (other than the Government) during such concern's term of participation in the Program and for one year thereafter.

(G) Training assistance whereby the Administration shall conduct training sessions to assist individuals and enterprises eligible to receive contracts under section 637(a) of this title in the development of business principles and strategies to enhance their ability to successfully compete for contracts in the marketplace.

(H) Joint ventures, leader-follower arrangements, and teaming agreements between the Program Participant and other Program Participants and other business concerns with respect to contracting opportunities for the research, development, full-scale engineering or production of major systems. Such activities shall be undertaken on the basis of programs developed by the agency responsible for the procurement of the major system, with the assistance of the Administration.

(I) Transitional management business planning training and technical assistance.

(J) Program Participants in the developmental stage of Program participation shall be eligible for the assistance provided by subparagraphs (A), (B), (C), (D), (E), (F), and (G).

(14) Program Participants in the transitional stage of Program participation shall be eligible for the assistance provided by subparagraphs (A), (B), (F), (G), (H), and (I) of paragraph (13).

(15) Subject to the provisions of paragraph (10)(C), a small business concern may receive developmental assistance under the Program and contracts under section 637(a) of this title for a total period of not longer than nine years, measured from the date of its certification under the authority of such section, of which—

(A) no more than four years may be spent in the developmental stage of Program Participation; and

(B) no more than five years may be spent in the transitional stage of Program Participation.

(16)(A) The Administrator shall develop and implement a process for the systematic collection of data on the operations of the Program established pursuant to paragraph (10).

(B) Not later than April 30 of each year, the Administrator shall submit a report to the Congress on the Program that shall include the following:

(i) The average personal net worth of individuals who own and control concerns that were initially certified for participation in the Program during the immediately preceding fiscal year. The Administrator shall also indicate the dollar distribution of net worths, at \$50,000 increments, of all such individuals found to be socially and economically disadvantaged. For the first report required pursuant to this paragraph the Administrator shall also provide the data specified in the preceding sentence for all eligible individuals in the Program as of November 15, 1988.

(ii) A description and estimate of the benefits and costs that have accrued to the economy and the Government in the immediately preceding fiscal year due to the operations of those business concerns that were performing contracts awarded pursuant to section 637(a) of this title.

(iii) A compilation and evaluation of those business concerns that have exited the Program during the immediately preceding three fiscal years. Such compilation and evaluation shall detail the number of concerns actively engaged in business operations, those that have ceased or substantially curtailed such operations, including the reasons for such actions, and those concerns that have been acquired by other firms or organizations owned and controlled by other than socially and economically disadvantaged individuals. For those businesses that have continued operations after they exited from the Program, the Administrator shall also separately detail the benefits and costs that have accrued to the economy during the immediately preceding fiscal year due to the operations of such concerns.

(iv) A listing of all participants in the Program during the preceding fiscal year identifying, by State and by Region, for each firm: the name of the concern, the race or ethnicity, and gender of the disadvantaged owners, the dollar value of all contracts received in the preceding year, the dollar amount of advance payments received by each concern pursuant to contracts awarded under section 637(a) of this title, and a description including (if appropriate) an estimate of the dollar value of all benefits received pursuant to paragraphs (13) and (14) and subsection (a)(20) of this section during such year.

(v) The total dollar value of contracts and options awarded during the preceding fiscal year pursuant to section 637(a) of this title and such amount expressed as a percentage of total sales of (I) all firms participating in the Program during such year; and (II) of firms in each of the nine years of program participation.

(vi) A description of such additional resources or program authorities as may be required to provide the types of services needed over the next two-year period to service the expected portfolio of firms certified pursuant to section 637(a) of this title.

(vii) The total dollar value of contracts and options awarded pursuant to section 637(a) of this title, at such dollar increments as the Administrator deems appropriate, for each four digit standard industrial classification code under which such contracts and options were classified.

(C) The first report required by subparagraph (B) shall pertain to fiscal year 1990.

(k) Functions relating to loans and financial assistance for projects providing technical or management assistance to individuals or enterprises eligible for assistance as small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals, or owned by low-income individuals

In carrying out its functions under subsections (i) and (j) of this section and section 637(a) of this title, the Administration is authorized—

(1) to utilize, with their consent, the services and facilities of Federal agencies without reimbursement, and, with the consent of any State or political subdivision of a State, accept and utilize the services and facilities of such State or subdivision without reimbursement;

(2) to accept, in the name of the Administration, and employ or dispose of in furtherance of the purposes of this chapter, any money or property, real, personal, or mixed, tangible, or intangible, received by gift, devise, bequest, or otherwise;

(3) to accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31; and

(4) to employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, except that no individual may be employed under the authority of this subsection for more than one hundred days in any fiscal year; to compensate individuals so employed at rates not in excess of the daily equivalent of the highest rate payable under section 5332 of title 5, including traveltime; and to allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5 for persons in the Government service employed intermittently, while so employed: *Provided, however*, That contracts for such employment may be renewed annually.

(l) [RESERVED]

(m) Microloan Program

(1)(A) Purposes

The purposes of the Microloan Program are—

(i) to assist women, low-income, veteran (within the meaning of such term under section 632(q) of this title), and minority entrepreneurs and business owners and other such individuals possessing the capability to operate successful business concerns;

(ii) to assist small business concerns in those areas suffering from a lack of credit due to economic downturns;

(iii) to establish a microloan program to be administered by the Small Business Administration—

(I) to make loans to eligible intermediaries to enable such intermediaries to provide small-scale loans, particularly loans in amounts averaging not more than \$10,000, to startup, newly established, or growing small business concerns for working capital or the acquisition of materials, supplies, or equipment;

(II) to make grants to eligible intermediaries that, together with non-Federal matching funds, will enable such intermediaries to provide intensive marketing, management, and technical assistance to microloan borrowers;

(III) to make grants to eligible nonprofit entities that, together with non-Federal matching funds, will enable such entities to provide intensive marketing, management, and technical assistance to assist low-income entrepreneurs and other low-income individuals obtain private sector financing for their businesses, with or without loan guarantees; and

(IV) to report to the Committees on Small Business of the Senate and the House of Representatives on the effectiveness of the microloan program and the advisability and feasibility of implementing such a program nationwide; and

(iv) to establish a welfare-to-work microloan initiative, which shall be administered by the Administration, in order to test the feasibility of supplementing the technical assistance grants provided under clauses (ii) and (iii) of subparagraph (B) to individuals who are receiving assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), or under any comparable State funded means tested program of assistance for low-income individuals, in order to adequately assist those individuals in—

(I) establishing small businesses; and

(II) eliminating their dependence on that assistance.

(B) Establishment

There is established a microloan program, under which the Administration may—

(i) make direct loans to eligible intermediaries, as provided under paragraph (3), for the purpose of making short-term, fixed interest rate microloans to startup, newly established, and growing small business concerns under paragraph (6);

(ii) in conjunction with such loans and subject to the requirements of paragraph (4), make grants to such intermediaries for the purpose of providing intensive marketing, management, and technical assistance to small business concerns that are borrowers under this subsection; and

(iii) subject to the requirements of paragraph (5), make grants to nonprofit entities for the purpose of providing marketing, management, and technical assistance to low-income individuals seeking to start or enlarge their own businesses, if such assistance includes working with the grant recipient to secure loans in amounts not to exceed \$35,000 from private sector lending institu-

tions, with or without a loan guarantee from the nonprofit entity.

(2) Eligibility for participation

An intermediary shall be eligible to receive loans and grants under subparagraphs (B)(i) and (B)(ii) of paragraph (1) if it—

(A) meets the definition in paragraph (10);² and

(B) has at least 1 year of experience making microloans to startup, newly established, or growing small business concerns and providing, as an integral part of its microloan program, intensive marketing, management, and technical assistance to its borrowers.

(3) Loans to intermediaries

(A) Intermediary applications

(i) In general

As part of its application for a loan, each intermediary shall submit a description to the Administration of—

(I) the type of businesses to be assisted;

(II) the size and range of loans to be made;

(III) the geographic area to be served and its economic, poverty, and unemployment characteristics;

(IV) the status of small business concerns in the area to be served and an analysis of their credit and technical assistance needs;

(V) any marketing, management, and technical assistance to be provided in connection with a loan made under this subsection;

(VI) the local economic credit markets, including the costs associated with obtaining credit locally;

(VII) the qualifications of the applicant to carry out the purpose of this subsection; and

(VIII) any plan to involve other technical assistance providers (such as counselors from the Service Corps of Retired Executives or small business development centers) or private sector lenders in assisting selected business concerns.

(ii) Selection of intermediaries

In selecting intermediaries to participate in the program established under this subsection, the Administration shall give priority to those applicants that provide loans in amounts averaging not more than \$10,000.

(B) Intermediary contribution

As a condition of any loan made to an intermediary under subparagraph (B)(i) of paragraph (1), the Administration shall require the intermediary to contribute not less than 15 percent of the loan amount in cash from non-Federal sources.

(C) Loan limits

Notwithstanding subsection (a)(3) of this section, no loan shall be made under this subsection if the total amount outstanding and committed to one intermediary (exclud-

ing outstanding grants) from the business loan and investment fund established by this chapter would, as a result of such loan, exceed \$750,000 in the first year of such intermediary's participation in the program, and \$3,500,000 in the remaining years of the intermediary's participation in the program.

(D)(i) In general

The Administrator shall, by regulation, require each intermediary to establish a loan loss reserve fund, and to maintain such reserve fund until all obligations owed to the Administration under this subsection are repaid.

(ii) Level of loan loss reserve fund

(I) In general

Subject to subclause (III), the Administrator shall require the loan loss reserve fund of an intermediary to be maintained at a level equal to 15 percent of the outstanding balance of the notes receivable owed to the intermediary.

(II) Review of loan loss reserve

After the initial 5 years of an intermediary's participation in the program authorized by this subsection, the Administrator shall, at the request of the intermediary, conduct a review of the annual loss rate of the intermediary. Any intermediary in operation under this subsection prior to October 1, 1994, that requests a reduction in its loan loss reserve shall be reviewed based on the most recent 5-year period preceding the request.

(III) Reduction of loan loss reserve

Subject to the requirements of clause IV,¹⁵ the Administrator may reduce the annual loan loss reserve requirement of an intermediary to reflect the actual average loan loss rate for the intermediary during the preceding 5-year period, except that in no case shall the loan loss reserve be reduced to less than 10 percent of the outstanding balance of the notes receivable owed to the intermediary.

(IV) Requirements

The Administrator may reduce the annual loan loss reserve requirement of an intermediary only if the intermediary demonstrates to the satisfaction of the Administrator that—

(aa) the average annual loss rate for the intermediary during the preceding 5-year period is less than 15 percent; and

(bb) that¹⁶ no other factors exist that may impair the ability of the intermediary to repay all obligations owed to the Administration under this subsection.

(E) Unavailability of comparable credit

An intermediary may make a loan under this subsection of more than \$20,000 to a small business concern only if such small business concern demonstrates that it is un-

able to obtain credit elsewhere at comparable interest rates and that it has good prospects for success. In no case shall an intermediary make a loan under this subsection of more than \$35,000, or have outstanding or committed to any 1 borrower more than \$35,000.

(F) Loan duration; interest rates

(i) Loan duration

Loans made by the Administration under this subsection shall be for a term of 10 years.

(ii) Applicable interest rates

Except as provided in clause (iii), loans made by the Administration under this subsection to an intermediary shall bear an interest rate equal to 1.25 percentage points below the rate determined by the Secretary of the Treasury for obligations of the United States with a period of maturity of 5 years, adjusted to the nearest one-eighth of 1 percent.

(iii) Rates applicable to certain small loans

Loans made by the Administration to an intermediary that makes loans to small business concerns and entrepreneurs averaging not more than \$7,500, shall bear an interest rate that is 2 percentage points below the rate determined by the Secretary of the Treasury for obligations of the United States with a period of maturity of 5 years, adjusted to the nearest one-eighth of 1 percent.

(iv) Rates applicable to multiple sites or offices

The interest rate prescribed in clause (ii) or (iii) shall apply to each separate loan-making site or office of 1 intermediary only if such site or office meets the requirements of that clause.

(v) Rate basis

The applicable rate of interest under this paragraph shall—

(I) be applied retroactively for the first year of an intermediary's participation in the program, based upon the actual lending practices of the intermediary as determined by the Administration prior to the end of such year; and

(II) be based in the second and subsequent years of an intermediary's participation in the program, upon the actual lending practices of the intermediary during the term of the intermediary's participation in the program.

(vii)¹⁷ Covered intermediaries

The interest rates prescribed in this subparagraph shall apply to all loans made to intermediaries under this subsection on or after October 28, 1991.

(G) Delayed payments

The Administration shall not require repayment of interest or principal of a loan made to an intermediary under this subsection during the first year of the loan.

¹⁵ So in original. Probably should be "subclause (IV)".

¹⁶ So in original. The word "that" probably should not appear.

¹⁷ So in original. Probably should be "(vi)".

(H) Fees; collateral

Except as provided in subparagraphs (B) and (D), the Administration shall not charge any fees or require collateral other than an assignment of the notes receivable of the microloans with respect to any loan made to an intermediary under this subsection.

(4) Marketing, management and technical assistance grants to intermediaries

Grants made in accordance with subparagraph (B)(ii) of paragraph (1) shall be subject to the following requirements:

(A) Grant amounts

Except as otherwise provided in subparagraph (C) and subject to subparagraph (B), each intermediary that receives a loan under subparagraph (B)(i) of paragraph (1) shall be eligible to receive a grant to provide marketing, management, and technical assistance to small business concerns that are borrowers under this subsection. Except as provided in subparagraph (C), each intermediary meeting the requirements of subparagraph (B) may receive a grant of not more than 25 percent of the total outstanding balance of loans made to it under this subsection.

(B) Contribution

As a condition of any grant made under subparagraph (A), the Administration shall require the intermediary to contribute an amount equal to 25 percent of the amount of the grant, obtained solely from non-Federal sources. In addition to cash or other direct funding, the contribution may include indirect costs or in-kind contributions paid for under non-Federal programs.

(C) Additional technical assistance grants for making certain loans**(i) In general**

Each intermediary that has a portfolio of loans made under this subsection that averages not more than \$10,000 during the period of the intermediary's participation in the program shall be eligible to receive a grant equal to 5 percent of the total outstanding balance of loans made to the intermediary under this subsection, in addition to grants made under subparagraph (A).

(ii) Purposes

A grant awarded under clause (i) may be used to provide marketing, management, and technical assistance to small business concerns that are borrowers under this subsection.

(iii) Contribution exception

The contribution requirements in subparagraph (B) do not apply to grants made under this subparagraph.

(D) Eligibility for multiple sites or offices

The eligibility for a grant described in subparagraph (A),⁶ or (C) shall be determined separately for each loan-making site or office of 1 intermediary.

(E) Assistance to certain small business concerns**(i) In general**

Each intermediary may expend an amount not to exceed 25 percent of the grant funds received under paragraph (1)(B)(ii) to provide information and technical assistance to small business concerns that are prospective borrowers under this subsection.

(ii) Technical assistance

An intermediary may expend not more than 25 percent of the funds received under paragraph (1)(B)(ii) to enter into third party contracts for the provision of technical assistance.

(F) Supplemental grant**(i) In general**

The Administration may accept any funds transferred to the Administration from other departments or agencies of the Federal Government to make grants in accordance with this subparagraph and section 202(b) of the Small Business Reauthorization Act of 1997 to participating intermediaries and technical assistance providers under paragraph (5), for use in accordance with clause (iii) to provide additional technical assistance and related services to recipients of assistance under a State program described in paragraph (1)(A)(iv) at the time they initially apply for assistance under this subparagraph.

(ii) Eligible recipients; grant amounts

In making grants under this subparagraph, the Administration may select, from among participating intermediaries and technical assistance providers described in clause (i), not more than 20 grantees in fiscal year 1998, not more than 25 grantees in fiscal year 1999, and not more than 30 grantees in fiscal year 2000, each of whom may receive a grant under this subparagraph in an amount not to exceed \$200,000 per year.

(iii) Use of grant amounts

Grants under this subparagraph—

(I) are in addition to other grants provided under this subsection and shall not require the contribution of matching amounts as a condition of eligibility; and

(II) may be used by a grantee—

(aa) to pay or reimburse a portion of child care and transportation costs of recipients of assistance described in clause (i), to the extent such costs are not otherwise paid by State block grants under the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) or under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and

(bb) for marketing, management, and technical assistance to recipients of assistance described in clause (i).

(iv) Memorandum of Understanding

Prior to accepting any transfer of funds under clause (i) from a department or

agency of the Federal Government, the Administration shall enter into a Memorandum of Understanding with the department or agency, which shall—

(I) specify the terms and conditions of the grants under this subparagraph; and

(II) provide for appropriate monitoring of expenditures by each grantee under this subparagraph and each recipient of assistance described in clause (i) who receives assistance from a grantee under this subparagraph, in order to ensure compliance with this subparagraph by those grantees and recipients of assistance.

(5) Private sector borrowing technical assistance grants

Grants made in accordance with subparagraph (B)(iii) of paragraph (1) shall be subject to the following requirements:

(A) Grant amounts

Subject to the requirements of subparagraph (B), the Administration may make not more than 55 grants annually, each in amounts not to exceed \$200,000 for the purposes specified in subparagraph (B)(iii) of paragraph (1).

(B) Contribution

As a condition of any grant made under subparagraph (A), the Administration shall require the grant recipient to contribute an amount equal to 20 percent of the amount of the grant, obtained solely from non-Federal sources. In addition to cash or other direct funding, the contribution may include indirect costs or in-kind contributions paid for under non-Federal programs.

(6) Loans to small business concerns from eligible intermediaries

(A) In general

An eligible intermediary shall make short-term, fixed rate loans to startup, newly established, and growing small business concerns from the funds made available to it under subparagraph (B)(i) of paragraph (1) for working capital and the acquisition of materials, supplies, furniture, fixtures, and equipment.

(B) Portfolio requirement

To the extent practicable, each intermediary that operates a microloan program under this subsection shall maintain a microloan portfolio with an average loan size of not more than \$15,000.

(C) Interest limit

Notwithstanding any provision of the laws of any State or the constitution of any State pertaining to the rate or amount of interest that may be charged, taken, received, or reserved on a loan, the maximum rate of interest to be charged on a microloan funded under this subsection shall not exceed the rate of interest applicable to a loan made to an intermediary by the Administration—

(i) in the case of a loan of more than \$7,500 made by the intermediary to a small business concern or entrepreneur by more than 7.75 percentage points; and

(ii) in the case of a loan of not more than \$7,500 made by the intermediary to a small business concern or entrepreneur by more than 8.5 percentage points.

(D) Review restriction

The Administration shall not review individual microloans made by intermediaries prior to approval.

(E) Establishment of child care or transportation businesses

In addition to other eligible small businesses concerns, borrowers under any program under this subsection may include individuals who will use the loan proceeds to establish for-profit or nonprofit child care establishments or businesses providing for-profit transportation services.

(7) Program funding for microloans

(A) Number of participants

Under the program authorized by this subsection, the Administration may fund, on a competitive basis, not more than 300 intermediaries.

(B) Allocation

(i) Minimum allocation

Subject to the availability of appropriations, of the total amount of new loan funds made available for award under this subsection in each fiscal year, the Administration shall make available for award in each State (including the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa) an amount equal to the sum of—

(I) the lesser of—

(aa) \$800,000; or

(bb) $\frac{1}{55}$ of the total amount of new loan funds made available for award under this subsection for that fiscal year; and

(II) any additional amount, as determined by the Administration.

(ii) Redistribution

If, at the beginning of the third quarter of a fiscal year, the Administration determines that any portion of the amount made available to carry out this subsection is unlikely to be made available under clause (i) during that fiscal year, the Administration may make that portion available for award in any one or more States (including the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa) without regard to clause (i).

(8) Equitable distribution of intermediaries

In approving microloan program applicants and providing funding to intermediaries under this subsection, the Administration shall select and provide funding to such intermediaries as will ensure appropriate availability of loans for small businesses in all industries located throughout each State, particularly those located in urban and in rural areas.

(9) Grants for management, marketing, technical assistance, and related services

(A) In general

The Administration may procure technical assistance for intermediaries participating in the Microloan Program to ensure that such intermediaries have the knowledge, skills, and understanding of microlending practices necessary to operate successful microloan programs.

(B) Assistance amount

The Administration shall transfer 7 percent of its annual appropriation for loans and loan guarantees under this subsection to the Administration's Salaries and Expense Account for the specific purpose of providing 1 or more technical assistance grants to experienced microlending organizations and national and regional nonprofit organizations that have demonstrated experience in providing training support for microenterprise development and financing.¹⁸ to achieve the purpose set forth in subparagraph (A).

(C) Welfare-to-work microloan initiative

Of amounts made available to carry out the welfare-to-work microloan initiative under paragraph (1)(A)(iv) in any fiscal year, the Administration may use not more than 5 percent to provide technical assistance, either directly or through contractors, to welfare-to-work microloan initiative grantees, to ensure that, as grantees, they have the knowledge, skills, and understanding of microlending and welfare-to-work transition, and other related issues, to operate a successful welfare-to-work microloan initiative.

(10) Report to Congress

On November 1, 1995, the Administration shall submit to the Committees on Small Business of the Senate and the House of Representatives a report, including the Administration's evaluation of the effectiveness of the first 3½ years of the microloan program and the following:

(A) the numbers and locations of the intermediaries funded to conduct microloan programs;

(B) the amounts of each loan and each grant to intermediaries;

(C) a description of the matching contributions of each intermediary;

(D) the numbers and amounts of microloans made by the intermediaries to small business concern borrowers;

(E) the repayment history of each intermediary;

(F) a description of the loan portfolio of each intermediary including the extent to which it provides microloans to small business concerns in rural areas; and

(G) any recommendations for legislative changes that would improve program operations.

(11) Definitions

For purposes of this subsection—

(A) the term “intermediary” means—

(i) a private, nonprofit entity;

(ii) a private, nonprofit community development corporation;

(iii) a consortium of private, nonprofit organizations or nonprofit community development corporations;

(iv) a quasi-governmental economic development entity (such as a planning and development district), other than a State, county, municipal government, or any agency thereof, if—

(I) no application is received from an eligible nonprofit organization; or

(II) the Administration determines that the needs of a region or geographic area are not adequately served by an existing, eligible nonprofit organization that has submitted an application; or

(v) an agency of or nonprofit entity established by a Native American Tribal Government,

that seeks to borrow or has borrowed funds from the Administration to make microloans to small business concerns under this subsection;

(B) the term “microloan” means a short-term, fixed rate loan of not more than \$35,000, made by an intermediary to a start-up, newly established, or growing small business concern;

(C) the term “rural area” means any political subdivision or unincorporated area—

(i) in a nonmetropolitan county (as defined by the Secretary of Agriculture) or its equivalent thereof; or

(ii) in a metropolitan county or its equivalent that has a resident population of less than 20,000 if the Small Business Administration has determined such political subdivision or area to be rural.

(12) Deferred participation loan pilot

In lieu of making direct loans to intermediaries as authorized in paragraph (1)(B), during fiscal years 1998 through 2000, the Administration may, on a pilot program basis, participate on a deferred basis of not less than 90 percent and not more than 100 percent on loans made to intermediaries by a for-profit or nonprofit entity or by alliances of such entities, subject to the following conditions:

(A) Number of loans

In carrying out this paragraph, the Administration shall not participate in providing financing on a deferred basis to more than 10 intermediaries in urban areas or more than 10 intermediaries in rural areas.

(B) Term of loans

The term of each loan shall be 10 years. During the first year of the loan, the intermediary shall not be required to repay any interest or principal. During the second through fifth years of the loan, the intermediary shall be required to pay interest only. During the sixth through tenth years of the loan, the intermediary shall be required to make interest payments and fully amortize the principal.

¹⁸ So in original. The period probably should not appear.

(C) Interest rate

The interest rate on each loan shall be the rate specified by paragraph (3)(F) for direct loans.

(13) Evaluation of welfare-to-work microloan initiative

On January 31, 1999, and annually thereafter, the Administration shall submit to the Committees on Small Business of the House of Representatives and the Senate a report on any monies distributed pursuant to paragraph (4)(F).

(n) Repayment deferred for active duty reservists**(1) Definitions**

In this subsection:

(A) Eligible reservist

The term “eligible reservist” means a member of a reserve component of the Armed Forces ordered to active duty during a period of military conflict.

(B) Essential employee

The term “essential employee” means an individual who is employed by a small business concern and whose managerial or technical expertise is critical to the successful day-to-day operations of that small business concern.

(C) Period of military conflict

The term “period of military conflict” means—

(i) a period of war declared by the Congress;

(ii) a period of national emergency declared by the Congress or by the President; or

(iii) a period of a contingency operation, as defined in section 101(a) of title 10.

(D) Qualified borrower

The term “qualified borrower” means—

(i) an individual who is an eligible reservist and who received a direct loan under subsection (a) or (b) of this section before being ordered to active duty; or

(ii) a small business concern that received a direct loan under subsection (a) or (b) of this section before an eligible reservist, who is an essential employee, was ordered to active duty.

(2) Deferral of direct loans**(A) In general**

The Administration shall, upon written request, defer repayment of principal and interest due on a direct loan made under subsection (a) or (b) of this section, if such loan was incurred by a qualified borrower.

(B) Period of deferral

The period of deferral for repayment under this paragraph shall begin on the date on which the eligible reservist is ordered to active duty and shall terminate on the date that is 180 days after the date such eligible reservist is discharged or released from active duty.

(C) Interest rate reduction during deferral

Notwithstanding any other provision of law, during the period of deferral described

in subparagraph (B), the Administration may, in its discretion, reduce the interest rate on any loan qualifying for a deferral under this paragraph.

(3) Deferral of loan guarantees and other financings

The Administration shall—

(A) encourage intermediaries participating in the program under subsection (m) of this section to defer repayment of a loan made with proceeds made available under that subsection, if such loan was incurred by a small business concern that is eligible to apply for assistance under subsection (b)(3) of this section; and

(B) not later than 30 days after August 17, 1999, establish guidelines to—

(i) encourage lenders and other intermediaries to defer repayment of, or provide other relief relating to, loan guarantees under subsection (a) of this section and financings under section 697a of this title that were incurred by small business concerns that are eligible to apply for assistance under subsection (b)(3) of this section, and loan guarantees provided under subsection (m) of this section if the intermediary provides relief to a small business concern under this paragraph; and

(ii) implement a program to provide for the deferral of repayment or other relief to any intermediary providing relief to a small business borrower under this paragraph.

(Pub. L. 85-536, §2[7], July 18, 1958, 72 Stat. 387; Pub. L. 85-699, title VI, §602(c), Aug. 21, 1958, 72 Stat. 698; Pub. L. 86-367, §2, Sept. 22, 1959, 73 Stat. 647; Pub. L. 87-70, title III, §305[a], June 30, 1961, 75 Stat. 167; Pub. L. 87-305, §9, Sept. 26, 1961, 75 Stat. 668; Pub. L. 88-264, §1, Feb. 5, 1964, 78 Stat. 7; Pub. L. 88-560, title III, §319, Sept. 2, 1964, 78 Stat. 794; Pub. L. 89-59, §1(a), (b), June 30, 1965, 79 Stat. 206; Pub. L. 89-409, §3(a), May 2, 1966, 80 Stat. 133; Pub. L. 89-769, §7(b), Nov. 6, 1966, 80 Stat. 1319; Pub. L. 90-104, title I, §§103, 104, Oct. 11, 1967, 81 Stat. 268; Pub. L. 90-448, title XI, §1106(a), Aug. 1, 1968, 82 Stat. 567; Pub. L. 90-495, §31, Aug. 23, 1968, 82 Stat. 835; Pub. L. 91-173, title V, §504(a), (b), Dec. 30, 1969, 83 Stat. 802; Pub. L. 91-596, §28(a), (b), Dec. 29, 1970, 84 Stat. 1618; Pub. L. 91-597, §25(a), (b), Dec. 29, 1970, 84 Stat. 1633, 1634; Pub. L. 92-385, §§1(a), 2(a), Aug. 16, 1972, 86 Stat. 554, 555; Pub. L. 92-500, §8(a), Oct. 18, 1972, 86 Stat. 898; Pub. L. 92-595, §3(b), Oct. 27, 1972, 86 Stat. 1316; Pub. L. 93-237, §§2(a), (b), 3(a), 5, 6, Jan. 2, 1974, 87 Stat. 1023, 1024; Pub. L. 93-386, §§2(a)(4), 3(2), 8, 9, 12, Aug. 23, 1974, 88 Stat. 742, 746, 748, 749; Pub. L. 94-305, title I, §§108(b), 109, 111, 112(c), (d), 114, June 4, 1976, 90 Stat. 666, 667; Pub. L. 95-89, title I, §101(d), (e), title III, §§301, 302, title IV, §§402-405, Aug. 4, 1977, 91 Stat. 553, 558-560; Pub. L. 95-315, §§2, 3, July 4, 1978, 92 Stat. 377, 378; Pub. L. 95-507, title II, §§204, 205, 231, Oct. 24, 1978, 92 Stat. 1764, 1766, 1772; Pub. L. 95-510, §104, Oct. 24, 1978, 92 Stat. 1782; Pub. L. 96-38, title I, §101(a), (b), July 25, 1979, 93 Stat. 118; Pub. L. 96-302, title I, §§119(a), (b), 122-124, title II, §203, title V, §505, July 2, 1980, 94 Stat. 840, 841, 843, 848, 852; Pub. L. 96-481, title I, §§104, 106(a), 107, 112, Oct. 21, 1980,

94 Stat. 2322, 2323; Pub. L. 97-35, title XIX, §§1902, 1910-1912, 1913(a), (c), 1914, Aug. 13, 1981, 95 Stat. 767, 778-780; Pub. L. 98-270, title III, §§301, 304, 308, 309, 311, Apr. 18, 1984, 98 Stat. 159-161; Pub. L. 98-395, §5, Aug. 21, 1984, 98 Stat. 1368; Pub. L. 99-272, title XVIII, §§18006(a)(1), (2), 18007, 18013, Apr. 7, 1986, 100 Stat. 366, 370; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-418, title VIII, §§8005, 8007(a), Aug. 23, 1988, 102 Stat. 1557, 1559; Pub. L. 100-533, title III, §302(a), Oct. 25, 1988, 102 Stat. 2693; Pub. L. 100-590, title I, §§102(a), 103, 111(c), 119(a), 120-122, Nov. 3, 1988, 102 Stat. 2992, 2995, 2999, 3000; Pub. L. 100-656, title II, §§201(a), 202, 203, 205, 206, 208, title III, §§301-303(a), title IV, §408, title V, §505(h), Nov. 15, 1988, 102 Stat. 3856, 3858, 3859, 3861, 3862, 3865-3868, 3877, 3887; Pub. L. 100-707, title I, §109(f), Nov. 23, 1988, 102 Stat. 4708; Pub. L. 101-37, §§4-6(a), 7(a), 8-10(b), June 15, 1989, 103 Stat. 70-73; Pub. L. 101-162, title V, (1), (2), Nov. 21, 1989, 103 Stat. 1024, 1025; Pub. L. 101-574, title II, §§202, 204(a), 206, 242, 245, title III, §307, Nov. 15, 1990, 104 Stat. 2818-2820, 2827, 2830; Pub. L. 102-140, title VI, §609(b), (h), Oct. 28, 1991, 105 Stat. 825, 827; Pub. L. 102-191, §4, Dec. 5, 1991, 105 Stat. 1591; Pub. L. 102-366, title I, §§104, 113(a), title II, §211, Sept. 4, 1992, 106 Stat. 988, 989, 997; Pub. L. 102-564, title III, §307(b), (c), Oct. 28, 1992, 106 Stat. 4263, 4264; Pub. L. 103-81, §§4, 5(a), 8, Aug. 13, 1993, 107 Stat. 781, 782; Pub. L. 103-403, title II, §§201, 202, 204-208(b), 209-211, title VI, §§603-605(a), Oct. 22, 1994, 108 Stat. 4180-4183, 4202, 4203; Pub. L. 104-36, §§2-4(a), 5, Oct. 12, 1995, 109 Stat. 295-297; Pub. L. 104-208, div. D, title I, §§103(a)-(d), (f), 105, 107, 111, Sept. 30, 1996, 110 Stat. 3009-726, 3009-727, 3009-731 to 3009-733; Pub. L. 105-135, title II, §§201, 202(a), 231, title VII, §706, Dec. 2, 1997, 111 Stat. 2597, 2598, 2606, 2637; Pub. L. 105-277, div. A, §101(f) [title VIII, §405(d)(10), (f)(9)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-420, 2681-430; Pub. L. 106-8, §3(a), (c), Apr. 2, 1999, 113 Stat. 13, 16; Pub. L. 106-22, §§2, 3, Apr. 27, 1999, 113 Stat. 36, 37; Pub. L. 106-24, §1(a), Apr. 27, 1999, 113 Stat. 39; Pub. L. 106-50, title IV, §§401(b), 402(a), (b), 403, 404, Aug. 17, 1999, 113 Stat. 244-246; Pub. L. 106-554, §1(a)(9) [title II, §§202-208(a), 210, title VIII, §802(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-681 to 2763A-684, 2763A-702; Pub. L. 107-100, §6(a), Dec. 21, 2001, 115 Stat. 970; Pub. L. 108-447, div. K, title I, §§101(a), 102, 103(a), 107(a), (b), Dec. 8, 2004, 118 Stat. 3442-3446; Pub. L. 109-163, div. A, title VIII, §845(a)(2), (c), Jan. 6, 2006, 119 Stat. 3390, 3391; Pub. L. 110-140, title XII, §§1201, 1202, Dec. 19, 2007, 121 Stat. 1764, 1765; Pub. L. 110-186, title II, §§201(a), 203, 204, 208, Feb. 14, 2008, 122 Stat. 627, 629, 631; Pub. L. 110-234, title XII, §§12061, 12063(a), (c)(2), 12065, 12066(a), 12068(a), (b)(2), 12070, 12074(a), 12077-12078(b)(1), (c), 12081-12083(a), May 22, 2008, 122 Stat. 1406, 1407, 1409-1411, 1414-1418; Pub. L. 110-246, §4(a), title XII, §§12061, 12063(a), (c)(2), 12065, 12066(a), 12068(a), (b)(2), 12070, 12074(a), 12077-12078(b)(1), (c), 12081-12083(a), June 18, 2008, 122 Stat. 1664, 2168, 2169, 2171-2173, 2176-2180.)

REFERENCES IN TEXT

Subsections (b) and (c) of section 631 of this title, referred to in subsections (a)(11) and (i)(1), were redesignated subsections (c) and (d), respectively, and a new subsection (b) was added by Pub. L. 100-418, title VIII, §8002, Aug. 23, 1988, 102 Stat. 1553.

The Small Business Investment Act of 1958, referred to in subsections (a)(13) and (j)(10)(A)(vi), (13)(D)(i), is Pub.

L. 85-699, Aug. 21, 1958, 72 Stat. 689, as amended. Title IV, part B of title IV, and title V of the Act are classified generally to subchapter IV-A (§692 et seq.), part B (§694a et seq.) of subchapter IV-A, and subchapter V (§695 et seq.), respectively, of chapter 14B of this title. For complete classification of this Act to the Code, see Short Title note set out under section 661 of this title and Tables.

The Trade Act of 1974, referred to in subsec. (a)(16)(E), is Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978, as amended. Chapter 3 of title II of the Act is classified generally to part 3 (§2341 et seq.) of subchapter II of chapter 12 of Title 19, Customs Duties. For complete classification of this Act to the Code, see section 2101 of Title 19 and Tables.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (b), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, formerly known as the Disaster Relief and Emergency Assistance Act, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

Section 231 of the Disaster Relief Act of 1970 [15 U.S.C. 636a], referred to in penultimate par. of subsec. (b), was repealed by Pub. L. 97-35, title XIX, §1917, Aug. 13, 1981, 95 Stat. 781.

The date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2008, referred to in subsec. (c)(10), is the date of enactment of subtitle B (§§12051-12091) of title XII of Pub. L. 110-246, which was approved June 18, 2008.

Reorganization Plan Numbered 2 of 1954, referred to in subsec. (d)(1), is set out in the Appendix to Title 5, Government Organization and Employees.

Reorganization Plan Numbered 1 of 1957, referred to in subsec. (d)(1), is set out in the Appendix to Title 5.

The Economic Opportunity Act of 1964, referred to in subsec. (i)(3), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended. Title III of the Act was classified generally to subchapter III (§2841 et seq.) of chapter 34 of Title 42, The Public Health and Welfare, prior to its repeal by Pub. L. 97-35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519. For complete classification of this Act to the Code, see Tables.

The Public Works and Economic Development Act of 1965, referred to in subsec. (i)(5)(D), is Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, as amended, which is classified generally to chapter 38 (§3121 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of Title 42 and Tables.

Section 602(b) of Public Law 100-656, the "Business Opportunity Development Reform Act of 1988", referred to in subsec. (j)(10)(J)(ii)(III), is set out as a note under section 637 of this title.

Section 35(a) of title 41, referred to in subsec. (j)(13)(C), was struck out and former section 35(b) of title 41 redesignated section 35(a) by Pub. L. 103-355, title VII, §7201(1), Oct. 13, 1994, 108 Stat. 3378.

The Workforce Investment Act of 1998, referred to in subsec. (j)(13)(E), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

The Social Security Act, referred to in subsec. (m)(1)(A)(iv), (4)(F)(iii)(II)(aa), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Paragraph (10), referred to in subsec. (m)(2)(A), was redesignated paragraph (11) by Pub. L. 102-366, title I, §113(a)(8), Sept. 4, 1992, 106 Stat. 992.

Section 202(b) of the Small Business Reauthorization Act of 1997, referred to in subsec. (m)(4)(F)(i), is section

202(b) of Pub. L. 105-135, which is set out as a note below.

The Child Care and Development Block Grant Act of 1990, referred to in subsec. (m)(4)(F)(iii)(II)(aa), is subchapter C (§§ 658A-658R) of chapter 8 of subtitle A of title VI of Pub. L. 97-35, as added by Pub. L. 101-508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388-236, as amended, which is classified generally to subchapter II-B (§ 9858 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

CODIFICATION

September 30, 1996, referred to in subsec. (a)(25)(C), was in the original "the date of enactment of this subsection" which was translated as meaning the date of enactment of Pub. L. 104-208, which enacted par. (25) of subsec. (a), to reflect the probable intent of Congress.

In subsec. (d)(3), "August 13, 1981" substituted for "the effective date of this Act", such words having been inserted in place of "to October 1, 1983" by section 1914 of Pub. L. 97-35. "This Act" probably meant the Small Business Budget Reconciliation and Loan Consolidation/Improvement Act of 1981 (title XIX of Pub. L. 97-35) rather than the Small Business Act (Pub. L. 85-536). See Effective Date of 1981 Amendment note set out under section 631 of this title.

In subsec. (j)(11)(B)(i), as enacted by the amendments made by Pub. L. 101-37, "August 15, 1989" substituted for "the effective date of this subparagraph" and "such effective date". Section 32 of Pub. L. 101-37 provided that the amendments made by Pub. L. 101-37 shall apply as if included in Pub. L. 100-656. Section 803(b)(1)(A) of Pub. L. 100-656 provided that the amendment made by section 201(a) thereof to subsec. (j)(11) shall take effect on June 1, 1989. Section 31 of Pub. L. 101-37 amended section 803(b) of Pub. L. 100-656 to make such amendments effective on August 15, 1989, in place of June 1, 1989. See 1988 and 1989 Effective Date of Amendment notes below.

"Sections 3131 and 3133 of title 40" substituted in subsec. (j)(13)(D) for "the Act entitled 'An Act requiring contracts for the construction, alteration and repair of any public building or public work of the United States to be accompanied by a performance bond protecting the United States and by an additional bond for the protection of persons furnishing material and labor for the construction, alteration, or repair of said public buildings or public works', approved August 24, 1935 (49 Stat. 793)" on authority of Pub. L. 107-217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

In subsec. (k)(3), "section 1342 of title 31" substituted for "section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))" on authority of Pub. L. 97-258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section 3109 of title 5, referred to in subsec. (k)(4), substituted for "section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a)" on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section 5703 of title 5, referred to in subsec. (k)(4), substituted for "section 5 of such Act (5 U.S.C. 73b-2)" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5.

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

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (e) of this section were contained in section 2(a) and (b) of Pub. L. 87-550, July 25, 1962, 76 Stat. 221 (formerly classified to section 637a(a) and (b) of this title) prior to repeal thereof by section 3(b) of Pub. L. 89-409.

Prior similar provisions were contained in section 207 of act July 30, 1953, ch. 282, title II, 67 Stat. 235, as amended by acts Aug. 9, 1955, ch. 628, §§ 2, 5, 69 Stat. 547; Feb. 2, 1956, ch. 29, §§ 2, 3, 70 Stat. 10; Pub. L. 85-335, Feb. 22, 1958, 72 Stat. 27, which was previously classified to this section. See Codification note set out under section 631 of this title.

AMENDMENTS

2008—Subsec. (a)(32). Pub. L. 110-186, § 208, added par. (32) relating to increased veteran participation program.

Subsec. (b). Pub. L. 110-246, § 12078(c)(2), in concluding provisions substituted "paragraphs (1) and (2)" for "paragraphs (1), (2), and (4)" and "paragraph (1) (2)" for "paragraph (1), (2), or (4)".

Pub. L. 110-246, § 12078(c)(1), substituted "the Administration" for "the, Administration" in introductory provisions.

Pub. L. 110-246, § 12068(b)(2)(B), which directed amendment of "the undesignated matter following paragraph (3)" by substituting "Notwithstanding any other provision of law, and except as provided in subsection (d), the interest rate on the Administration's share of any loan made under subsection (b)" for "Notwithstanding the provisions of any other law the interest rate on the Administration's share of any loan made under subsection (b) except as provided in subsection (c)," was executed by making the substitution for "Notwithstanding the provisions of any other law, the interest rate on the Administration's share of any loan made under subsection (b), except as provided in subsection (c)," in concluding provisions after par. (6), to reflect the probable intent of Congress and the addition of pars. (4) to (6) by Pub. L. 110-246, §§ 12063(a), 12066(a). See below.

Pub. L. 110-246, § 12068(b)(2)(A), which directed amendment of "the undesignated matter following paragraph (3)" by substituting "That the provisions of paragraph (1) of subsection (d)" for "That the provisions of paragraph (1) of subsection (c)", was executed by making the substitution in concluding provisions after par. (6), to reflect the probable intent of Congress and the addition of pars. (4) to (6) by Pub. L. 110-246, §§ 12063(a), 12066(a). See below.

Subsec. (b)(1)(A). Pub. L. 110-246, § 12078(b)(1), inserted "of the aggregate costs of such damage or destruction (whether or not compensated for by insurance or otherwise)" after "20 per centum".

Subsec. (b)(2). Pub. L. 110-246, § 12061(a)(1), in introductory provisions inserted "private nonprofit organization," after "small business concern" and "the organization," after "the concern".

Subsec. (b)(2)(A). Pub. L. 110-246, § 12063(c)(2), substituted "Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)" for "Disaster Relief and Emergency Assistance Act".

Subsec. (b)(2)(D). Pub. L. 110-246, § 12061(a)(2), inserted "private nonprofit organizations," after "small business concerns".

Subsec. (b)(3)(C). Pub. L. 110-186, § 201(a), substituted "1 year" for "90 days" and inserted at end "The Administrator may, when appropriate (as determined by the Administrator), extend the ending date specified in the preceding sentence by not more than 1 year."

Subsec. (b)(3)(E). Pub. L. 110-246, § 12077, inserted "or have become due to changed economic circumstances," after "constitutes".

Subsec. (b)(3)(G), (H). Pub. L. 110-186, §§ 203, 204, added subpars. (G) and (H).

Subsec. (b)(4), (5). Pub. L. 110-246, § 12063(a), added pars. (4) and (5).

Subsec. (b)(6). Pub. L. 110-246, § 12066(a), added par. (6).

Subsec. (b)(7). Pub. L. 110-246, § 12074(a), added par. (7).

Subsec. (b)(8). Pub. L. 110-246, § 12078(a), added par. (8).

Subsec. (b)(9). Pub. L. 110-246, § 12081, added par. (9).

Subsec. (b)(9)(C), (D). Pub. L. 110-246, § 12082, added subpars. (C) and (D).

Subsec. (c). Pub. L. 110-246, § 12083(a), added subsec. (c).

Pub. L. 110-246, §12068(a)(1), redesignated subsec. (c) as (d).

Subsec. (c)(5)(C). Pub. L. 110-246, §12061(b), inserted “, private nonprofit organization,” after “business”.

Subsec. (c)(6). Pub. L. 110-246, §12065, substituted “\$14,000 or less (or such higher amount as the Administrator determines appropriate in the event of a major disaster)” for “\$10,000 or less”.

Subsecs. (d) to (f). Pub. L. 110-246, §12068(a), redesignated subsecs. (c) and (d) as (d) and (e), respectively, and added subsec. (f).

Subsec. (g). Pub. L. 110-246, §12070, added subsec. (g). 2007—Subsec. (a)(31)(F). Pub. L. 110-140, §1201, added subpar. (F).

Subsec. (a)(32). Pub. L. 110-140, §1202, added par. (32). 2006—Subsec. (b)(2). Pub. L. 109-163, §845(a)(2)(A), in introductory provisions, inserted “(including drought), with respect to both farm-related and nonfarm-related small business concerns,” before “if the Administration”.

Subsec. (b)(2)(B). Pub. L. 109-163, §845(a)(2)(B), substituted “section 1961 of title 7, in which case, assistance under this paragraph may be provided to farm-related and nonfarm-related small business concerns, subject to the other applicable requirements of this paragraph” for “the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961)”.

Subsec. (b)(2)(D). Pub. L. 109-163, §845(c), substituted “Not later than 30 days after the date of receipt of such certification by a Governor of a State, the Administration shall respond in writing to that Governor on its determination and the reasons therefore, and may” for “Upon receipt of such certification, the Administration may”.

2004—Subsec. (a)(3)(A). Pub. L. 108-447, §103(a), substituted “\$1,500,000” for “\$1,000,000”.

Subsec. (a)(3)(B). Pub. L. 108-447, §107(b), substituted “\$1,750,000” for “\$1,250,000” and “\$1,250,000” for “\$750,000”.

Subsec. (a)(16). Pub. L. 108-447, §107(a), inserted heading and amended par. (16) generally. Prior to amendment, par. (16) provided that the Administration could guarantee loans to assist any eligible small business concern in an industry engaged in or adversely affected by international trade in the financing of the acquisition, construction, renovation, modernization, improvement or expansion of productive facilities or equipment to be used in the United States in the production of goods and services involved in international trade.

Subsec. (a)(18)(A). Pub. L. 108-447, §102(a), amended heading and text of subpar. (A) generally. Prior to amendment, text read as follows: “With respect to each loan guaranteed under this subsection (other than a loan that is repayable in 1 year or less), the Administration shall collect a guarantee fee, which shall be payable by the participating lender, and may be charged to the borrower, as follows:

“(i) A guarantee fee equal to 2 percent of the deferred participation share of a total loan amount that is not more than \$150,000.

“(ii) A guarantee fee equal to 3 percent of the deferred participation share of a total loan amount that is more than \$150,000, but not more than \$700,000.

“(iii) A guarantee fee equal to 3.5 percent of the deferred participation share of a total loan amount that is more than \$700,000.”

Subsec. (a)(18)(C). Pub. L. 108-447, §102(b), struck out heading and text of subpar. (C). Text read as follows: “With respect to loans approved during the 2-year period beginning on October 1, 2002, the guarantee fee under subparagraph (A) shall be as follows:

“(i) A guarantee fee equal to 1 percent of the deferred participation share of a total loan amount that is not more than \$150,000.

“(ii) A guarantee fee equal to 2.5 percent of the deferred participation share of a total loan amount that is more than \$150,000, but not more than \$700,000.

“(iii) A guarantee fee equal to 3.5 percent of the deferred participation share of a total loan amount that is more than \$700,000.”

Subsec. (a)(23). Pub. L. 108-447, §102(c)(1), substituted “Yearly” for “Annual” in heading.

Subsec. (a)(23)(A). Pub. L. 108-447, §102(c)(2), added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: “With respect to each loan guaranteed under this subsection, the Administration shall, in accordance with such terms and procedures as the Administration shall establish by regulation, assess and collect an annual fee in an amount equal to 0.5 percent of the outstanding balance of the deferred participation share of the loan. With respect to loans approved during the 2-year period beginning on October 1, 2002, the annual fee assessed and collected under the preceding sentence shall be in an amount equal to 0.25 percent of the outstanding balance of the deferred participation share of the loan.”

Subsec. (a)(23)(B). Pub. L. 108-447, §102(c)(3), substituted “yearly” for “annual”.

Subsec. (a)(23)(C). Pub. L. 108-447, §102(c)(4), added subpar. (C).

Subsec. (a)(31). Pub. L. 108-447, §101(a), added par. (31).

2001—Subsec. (a)(18)(C). Pub. L. 107-100, §6(a)(1), added subpar. (C).

Subsec. (a)(23)(A). Pub. L. 107-100, §6(a)(2), inserted at end “With respect to loans approved during the 2-year period beginning on October 1, 2002, the annual fee assessed and collected under the preceding sentence shall be in an amount equal to 0.25 percent of the outstanding balance of the deferred participation share of the loan.”

2000—Subsec. (a)(2)(A)(i). Pub. L. 106-554, §1(a)(9) [title II, §202(1)], substituted “\$150,000” for “\$100,000”.

Subsec. (a)(2)(A)(ii). Pub. L. 106-554, §1(a)(9) [title II, §202(2)], substituted “85 percent” for “80 percent” and “\$150,000” for “\$100,000”.

Subsec. (a)(3)(A). Pub. L. 106-554, §1(a)(9) [title II, §203], substituted “\$1,000,000 (or if the gross loan amount would exceed \$2,000,000),” for “\$750,000”.

Subsec. (a)(4). Pub. L. 106-554, §1(a)(9) [title II, §205(1)], inserted heading and struck out former heading “Interest rates and fees.—”.

Subsec. (a)(4)(B)(iii). Pub. L. 106-554, §1(a)(9) [title II, §204], added cl. (iii).

Subsec. (a)(4)(C). Pub. L. 106-554, §1(a)(9) [title II, §205(2)], added subpar. (C).

Subsec. (a)(18). Pub. L. 106-554, §1(a)(9) [title II, §206], amended heading and text of par. (18) generally, substituting present provisions for provisions which had authorized guarantee fee in an amount equal to sum of 3 percent of amount of deferred participation share of loan that was less than or equal to \$250,000, if deferred participation share of loan exceeded \$250,000, plus 3.5 percent of difference between \$500,000 or total deferred participation share of loan, whichever was less, and \$250,000, plus, if deferred participation share of loan exceeded \$500,000, 3.875 percent of difference between total deferred participation share of loan and \$500,000, and set forth provisions relating to exception for certain loans.

Subsec. (a)(28). Pub. L. 106-554, §1(a)(9) [title II, §207], added par. (28).

Subsec. (a)(29). Pub. L. 106-554, §1(a)(9) [title II, §208(a)], added par. (29).

Subsec. (a)(30). Pub. L. 106-554, §1(a)(9) [title VIII, §802(a)], added par. (30).

Subsec. (m)(1)(A)(iii)(I). Pub. L. 106-554, §1(a)(9) [title II, §210(a)(2)], substituted “\$10,000” for “\$7,500”.

Subsec. (m)(1)(B)(iii). Pub. L. 106-554, §1(a)(9) [title II, §210(a)(1)], substituted “\$35,000” for “\$25,000”.

Subsec. (m)(3)(A)(ii). Pub. L. 106-554, §1(a)(9) [title II, §210(a)(2)], substituted “\$10,000” for “\$7,500”.

Subsec. (m)(3)(E). Pub. L. 106-554, §1(a)(9) [title II, §210(a)(1), (3)], substituted “\$20,000” for “\$15,000” and “\$35,000” for “\$25,000” in two places.

Subsec. (m)(4)(C)(i). Pub. L. 106-554, §1(a)(9) [title II, §210(a)(2)], which directed the amendment of subsec. (m)(4)(C)(i)(II) by substituting “\$10,000” for “\$7,500”, was executed by making the substitution in subsec. (m)(4)(C)(i) to reflect the probable intent of Congress and the termination of the temporary amendment by

Pub. L. 103-403, §208(a)(2), (c). See 1994 Amendment note and Effective and Termination Dates of 1994 Amendment note below.

Subsec. (m)(5)(A). Pub. L. 106-554, §1(a)(9) [title II, §210(a)(4)], substituted “55 grants” for “25 grants” and “\$200,000” for “\$125,000”.

Subsec. (m)(6)(B). Pub. L. 106-554, §1(a)(9) [title II, §210(a)(5)], substituted “\$15,000” for “\$10,000”.

Subsec. (m)(7)(A). Pub. L. 106-554, §1(a)(9) [title II, §210(a)(6)], added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: “During the program authorized by this subsection, the Administration may fund, on a competitive basis, not more than 200 microloan programs.”

Subsec. (m)(11)(B). Pub. L. 106-554, §1(a)(9) [title II, §210(b)], substituted “\$35,000” for “\$25,000”.

1999—Subsec. (a)(10). Pub. L. 106-50, §401(b), inserted “guaranteed” after “provide” and “, including service-disabled veterans,” after “handicapped individual”.

Subsec. (a)(21)(A)(ii). Pub. L. 106-50, §404, inserted “or a veteran” after “qualified individual”.

Subsec. (a)(27). Pub. L. 106-8, §3(a), (c), temporarily added par. (27) relating to Year 2000 computer problem program. See Effective and Termination Dates of 1999 Amendments note below.

Subsec. (b)(1)(C). Pub. L. 106-24, §1(a), added subpar. (C).

Subsec. (b)(3). Pub. L. 106-50, §402(b), added par. (3).
Subsec. (m)(1)(A)(i). Pub. L. 106-50, §403, inserted “veteran (within the meaning of such term under section 632(q) of this title),” after “low-income,”.

Subsec. (m)(3)(D). Pub. L. 106-22, §3, struck out subpar. (D) heading and amended text generally. Prior to amendment, text read as follows: “The Administration shall, by regulation, require each intermediary to establish a loan loss reserve fund, and to maintain such reserve fund until all obligations owed to the Administration under this subsection are repaid. The Administration shall require the loan loss reserve fund to be maintained—

“(i) during the initial 5 years of the intermediary’s participation in the program under this subsection, at a level equal to not more than 15 percent of the outstanding balance of the notes receivable owed to the intermediary; and

“(ii) in each year of participation thereafter, at a level equal to not more than the greater of—

“(I) 2 times an amount reflecting the total losses of the intermediary as a result of participation in the program under this subsection, as determined by the Administrator on a case-by-case basis; or

“(II) 10 percent of the outstanding balance of the notes receivable owed to the intermediary.”

Subsec. (m)(7)(B). Pub. L. 106-22, §2(1), added subpar. (B) and struck out heading and text of former subpar. (B). Text read as follows: “During any fiscal year, a State shall not receive new loan funds from the Administration that exceed 125 percent of the State’s pro rata share of the microloan program authorization during such fiscal year, such share to be based on the population of the State, as compared to the total population of the United States. If, however, at the beginning of the fourth quarter of a fiscal year the Administration determines that a portion of appropriated microloan funds are unlikely to be awarded during that year, the Administration may make additional funds available to a State in excess of 125 percent of the pro rata share of that State.”

Subsec. (m)(8). Pub. L. 106-22, §2(2), inserted “and providing funding to intermediaries” after “program applicants” and “and provide funding to” after “shall select”.

Subsec. (n). Pub. L. 106-50, §402(a), added subsec. (n).
1998—Subsec. (j)(13)(E). Pub. L. 105-277, §101(f) [title VIII, §405(f)(9)], struck out “the Job Training Partnership Act or” before “title I of the Workforce” in introductory provisions.

Pub. L. 105-277, §101(f) [title VIII, §405(d)(10)], substituted “the Job Training Partnership Act or title I of the Workforce Investment Act of 1998” for “the Job Training Partnership Act (29 U.S.C. 1501 et seq.)”.

1997—Subsec. (a). Pub. L. 105-135, §231(1), inserted heading.

Subsec. (a)(1). Pub. L. 105-135, §231(2), inserted heading, designated existing provisions as subpar. (A) and inserted heading, and added subpar. (B).

Subsec. (a)(8). Pub. L. 105-135, §706, added par. (8).
Subsec. (m). Pub. L. 105-135, §201(c), struck out “Demonstration” and “demonstration” wherever appearing in heading and text.

Subsec. (m)(1)(A)(iv). Pub. L. 105-135, §202(a)(1), added cl. (iv).

Subsec. (m)(3)(C). Pub. L. 105-135, §201(a), substituted “\$3,500,000” for “\$2,500,000”.

Subsec. (m)(3)(D)(i), (ii). Pub. L. 105-135, §201(b), added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

“(i) in the first year of the intermediary’s participation in the demonstration program, at a level equal to not more than 15 percent of the outstanding balance of the notes receivable owed to the intermediary; and

“(ii) in each year of participation thereafter, at a level reflecting the intermediary’s total losses as a result of participation in the demonstration program, as determined by the Administration on a case-by-case basis, but in no case shall the required level exceed 15 percent of the outstanding balance of the notes receivable owed to the intermediary under the program.”

Subsec. (m)(4)(E). Pub. L. 105-135, §201(d)(1), designated existing provisions as cl. (i), inserted heading, substituted “25 percent” for “15 percent”, and added cl. (ii).

Subsec. (m)(4)(F). Pub. L. 105-135, §202(a)(2), added subpar. (F).

Subsec. (m)(5)(A). Pub. L. 105-135, §201(d)(2), struck out “in each of the 5 years of the demonstration program established under this subsection,” after “requirements of subparagraph (B),” and substituted “annually” for “for terms of up to 5 years”.

Subsec. (m)(6)(E). Pub. L. 105-135, §202(a)(3), added subpar. (E).

Subsec. (m)(9). Pub. L. 105-135, §202(a)(4)(A), substituted “Grants for management, marketing, technical assistance, and related services” for “Technical assistance for intermediaries” in heading.

Subsec. (m)(9)(C). Pub. L. 105-135, §202(a)(4)(B), added subpar. (C).

Subsec. (m)(12). Pub. L. 105-135, §201(c)(4), substituted “1998 through 2000” for “1995 through 1997”.

Subsec. (m)(13). Pub. L. 105-135, §202(a)(5), added par. (13).

1996—Subsec. (a)(2)(C)(ii)(II). Pub. L. 104-208, §103(a), amended subcl. (II) generally. Prior to amendment, subcl. (II) read as follows: “authority to service and liquidate such loans.”

Subsec. (a)(2)(D). Pub. L. 104-208, §111, added subpar. (D).

Subsec. (a)(4). Pub. L. 104-208, §103(f), inserted par. (4) heading, designated existing text as subpar. (A) and inserted heading, and added subpar. (B).

Subsec. (a)(19)(C). Pub. L. 104-208, §103(b), added subpar. (C).

Subsec. (a)(25). Pub. L. 104-208, §103(c), added par. (25).

Subsec. (a)(26). Pub. L. 104-208, §103(d), added par. (26).

Subsec. (d). Pub. L. 104-208, §107(a), struck out “(1)” before “The Administration” and struck out par. (2) which read as follows: “The Administration is authorized to hold seminars throughout the Nation to make potential applicants aware of the opportunities available under this subsection and related government energy programs, and to make grants to qualified organizations to provide training seminars for small business concerns regarding practical and easily implemented methods for design, manufacture, installation, and servicing of equipment and for providing services listed in paragraph (1) of this subsection, except that recipients of loans made pursuant to this subsection shall not subsequently be eligible for such grants.”

Subsec. (e). Pub. L. 104-208, §107(b), amended subsec. (e) generally, substituting “(e) [RESERVED]” for prior provisions of subsec. (e) which read as follows: “The

Administration also is empowered to make loans (either directly or in cooperation with banks or other lenders through agreements to participate on an immediate or deferred basis) to assist any firm to adjust to changed economic conditions resulting from increased competition from imported articles, but only if (1) an adjustment proposal of such firm has been certified by the Secretary of Commerce pursuant to the Trade Expansion Act of 1962, (2) the Secretary has referred such proposal to the Administration under that Act and the loan would provide part or all of the financial assistance necessary to carry out such proposal, and (3) the Secretary's certification is in force at the time the Administration makes the loan. With respect to loans made under this subsection the Administration shall apply the provisions of sections 314, 315, 316, 318, 319, and 320 of the Trade Expansion Act of 1962 as though such loans had been made under section 314 of that Act."

Subsec. (f). Pub. L. 104-208, §107(c), amended subsec. (f) generally, substituting "(f) [RESERVED]" for prior provisions of subsec. (f) which read as follows: "In the administration of the disaster loan program under subsection (b)(1) of this section, in the case of property loss or damage as a result of a disaster which is a 'major disaster' as defined in section 102(2) of the Disaster Relief and Emergency Assistance Act, the Small Business Administration, to the extent such loss or damage is not compensated for by insurance or otherwise, may lend to a privately owned college or university without regard to whether the required financial assistance is otherwise available from private sources, and may waive interest payments and defer principal payments on such a loan for the first three years of the term of the loan."

Subsec. (l). Pub. L. 104-208, §107(c), amended subsec. (l) generally, substituting "(l) [RESERVED]" for prior provisions of subsec. (l) which consisted of 9 pars. authorizing loans to small business concerns for solar energy and energy conservation measures.

Subsec. (m)(7)(B). Pub. L. 104-208, §105, inserted at end "If, however, at the beginning of the fourth quarter of a fiscal year the Administration determines that a portion of appropriated microloan funds are unlikely to be awarded during that year, the Administration may make additional funds available to a State in excess of 125 percent of the pro rata share of that State."

1995—Subsec. (a)(2). Pub. L. 104-36, §2, amended par. (2) generally. Prior to amendment, par. (2) related to percentage levels in loan participation agreements.

Subsec. (a)(18). Pub. L. 104-36, §3(a), amended par. (18) generally. Prior to amendment, par. (18) read as follows: "The Administration shall collect a guarantee fee equal to two percent of the amount of the deferred participation share of any loan under this subsection other than a loan repayable in one year or less. The fee shall be payable by the participating lending institution and may be charged to the borrower."

Subsec. (a)(19)(B). Pub. L. 104-36, §3(b)(1), substituted "shall develop" for "shall (i) develop" and struck out at end "; and (ii) allow such lenders to retain one-half of the fee collected pursuant to subsection (a)(18) of this section on such loans. A participating lender may not retain any fee pursuant to this paragraph if the amount committed and outstanding to the applicant would exceed \$50,000 unless the amount in excess of \$50,000 is an amount not approved under the provisions of this paragraph".

Subsec. (a)(19)(C). Pub. L. 104-36, §3(b)(2), struck out subpar. (C) which read as follows: "In order to encourage lending institutions and other entities making loans authorized under this subsection to provide loans to small business loan applicants located in rural areas, such lenders shall be permitted to retain one-half of the fee collected pursuant to paragraph (18) on loans of less than \$75,000. A participating lender may not retain any fee pursuant to this subparagraph if the amount committed and outstanding to the applicant would exceed \$75,000 unless the amount in excess of \$75,000 is an amount not approved under the provisions of this sub-

paragraph. This subparagraph shall cease to be effective on October 1, 1995."

Subsec. (a)(23). Pub. L. 104-36, §4(a), added par. (23).

Subsec. (a)(24). Pub. L. 104-36, §5, added par. (24).

1994—Subsec. (a)(2)(B)(iv). Pub. L. 103-403, §211, amended cl. (iv) generally. Prior to amendment, cl. (iv) read as follows: "not less than 85 percent of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (16)."

Subsec. (a)(3)(B). Pub. L. 103-403, §210, amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "if the total amount outstanding and committed (on a deferred basis) solely for the purposes provided in paragraph (16) to the borrower from the business loan and investment fund established by this chapter would exceed \$1,000,000, such amount to be in addition to any financing solely for working capital, supplies, or revolving lines of credit for export purposes up to a maximum of \$250,000; and".

Subsec. (a)(14)(A). Pub. L. 103-403, §209, amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "The Administration under this subsection may provide extensions and revolving lines of credit for export purposes and financing to enable small business concerns, including small business export trading companies and small business export management companies, to develop foreign markets. No such extension or revolving line of credit may be made for a period or periods exceeding 3 years. A bank or participating lending institution may establish the rate of interest on extensions and revolving lines of credit as may be legal and reasonable."

Subsec. (a)(21)(A). Pub. L. 103-403, §605(a), inserted "on a guaranteed basis" before "under the authority".

Subsec. (a)(21)(E). Pub. L. 103-403, §603, added subpar. (E).

Subsec. (m)(3)(C). Pub. L. 103-403, §206, substituted "\$2,500,000" for "\$1,250,000".

Subsec. (m)(4)(B). Pub. L. 103-403, §208(a)(1), (c), temporarily inserted "except for a grant made to an intermediary that provides not less than 50 percent of its loans to small business concerns located in or owned by one or more residents of an economically distressed area," after "under subparagraph (A),". See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (m)(4)(C)(i). Pub. L. 103-403, §208(a)(2), (c), temporarily added cl. (i) which read as follows: "In addition to grants made under subparagraph (A), each intermediary shall be eligible to receive a grant equal to 5 percent of the total outstanding balance of loans made to the intermediary under this subsection if—

"(I) the intermediary provides not less than 25 percent of its loans to small business concerns located in or owned by one or more residents of an economically distressed area; or

"(II) the intermediary has a portfolio of loans made under this subsection that averages not more than \$7,500 during the period of the intermediary's participation in the program."

See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (m)(4)(E). Pub. L. 103-403, §207, added subpar. (E).

Subsec. (m)(7). Pub. L. 103-403, §204, amended par. (7) generally, substituting present provisions for former provisions relating to program funding, which provided for: in subpar. (A), first year programs; in subpar. (B), expanded programs; and in subpar. (C), State limitations.

Subsec. (m)(8). Pub. L. 103-403, §205, amended heading and text of par. (8) generally. Prior to amendment, text read as follows: "In funding microloan programs, the Administration shall ensure that at least one-half of the programs funded under this subsection will provide microloans to small business concerns located in rural areas."

Subsec. (m)(9)(B). Pub. L. 103-403, §604, inserted "and loan guarantees" after "for loans" and "and national and regional nonprofit organizations that have demonstrated experience in providing training support for

microenterprise development and financing.” after “experienced microlending organizations”.

Subsec. (m)(11)(A)(v). Pub. L. 103-403, §202, added cl. (v).

Subsec. (m)(11)(D). Pub. L. 103-403, §208(b), (c), temporarily added subpar. (D) which read as follows: “the term ‘economically distressed area’, as used in paragraph (4), means a county or equivalent division of local government of a State in which the small business concern is located, in which, according to the most recent data available from the Bureau of the Census, Department of Commerce, not less than 40 percent of residents have an annual income that is at or below the poverty level.”. See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (m)(12). Pub. L. 103-403, §201, added par. (12).

1993—Subsec. (a)(2). Pub. L. 103-81, §5(a)(2)-(4), in concluding provisions, substituted “less than the above specified percentages” for “less than 85 percent under subparagraph (B)” and “not less than 70 percent, unless a lesser percent is required by clause (B)(ii) or upon the” for “not less than 80 percent, except upon” and inserted after third sentence “The maximum interest rate for a loan guaranteed under the Preferred Lenders Program shall not exceed the maximum interest rate, as determined by the Administration, which is made applicable to other loan guarantees under subsection (a) of this section.”

Subsec. (a)(2)(B). Pub. L. 103-81, §5(a)(1), struck out “and” at end of cl. (i), added cls. (ii) and (iii), and redesignated former cl. (ii) as (iv).

Subsec. (a)(22). Pub. L. 103-81, §4, added par. (22).

Subsec. (m)(1)(B)(iii). Pub. L. 103-81, §8(1), substituted “\$25,000” for “\$15,000”.

Subsec. (m)(5)(A). Pub. L. 103-81, §8(2), substituted “25 grants for terms of up to 5 years” for “6 grants”.

Subsec. (m)(9)(B). Pub. L. 103-81, §8(3), substituted “7 percent” for “3 percent”.

1992—Subsec. (a)(4). Pub. L. 102-366, §104, substituted “Notwithstanding the provisions of the constitution of any State or the laws of any State limiting the rate or amount of interest which may be charged, taken, received, or reserved, the maximum legal rate of interest on any financing made on a deferred basis pursuant to this subsection” for “The rate of interest on financings made on a deferred basis shall be legal and reasonable but”.

Subsec. (a)(21). Pub. L. 102-366, §211, added par. (21).

Subsec. (m)(1)(A)(i). Pub. L. 102-366, §113(a)(1)(A), amended cl. (i) generally, substituting “and business owners and other such individuals” for “, business owners, and other individuals”.

Subsec. (m)(1)(A)(iii)(I). Pub. L. 102-366, §113(a)(1)(B), inserted “, particularly loans in amounts averaging not more than \$7,500,” after “small-scale loans”.

Subsec. (m)(3)(A). Pub. L. 102-366, §113(a)(2), designated existing provisions as cl. (i) and inserted heading, redesignated cls. (i) to (viii) as subcls. (I) to (VIII), respectively, substituted “economic, poverty, and unemployment” for “economic and unemployment” in subcl. (III), amended subcl. (VIII) generally, and added cl. (ii). Prior to amendment, subcl. (VIII) read as follows: “any plan to involve private sector lenders in assisting selected small business concerns.”

Subsec. (m)(3)(F). Pub. L. 102-366, §113(a)(3), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: “Loans made by the Administration under this subsection shall be for a term of 10 years and at an interest rate equal to the rate determined by the Secretary of the Treasury for obligations of the United States with a period of maturity of 5 years, adjusted to the nearest one-eighth of 1 percent.”

Subsec. (m)(4)(A). Pub. L. 102-366, §113(a)(4)(B), added subpar. (A) and struck out former subpar. (A) which read as follows: “Except as otherwise provided in subparagraph (C) and subject to the requirements of subparagraph (B), each intermediary that receives a loan under subparagraph (B)(i) of paragraph (1) shall be eligible to receive a grant to provide marketing, management, and technical assistance to small business con-

cerns that are borrowers under this subsection. In the first and second years of an intermediary’s program participation, each intermediary meeting the requirement of subparagraph (B) may receive a grant of not more than 20 percent of the total outstanding balance of loans made to it under this subsection. In the third and subsequent years of an intermediary’s program participation, each intermediary meeting the requirements of subparagraph (B) may receive a grant of not more than 10 percent of the total outstanding balance of loans made to it under this subsection.”

Pub. L. 102-366, §113(a)(4)(A), substituted “Except as otherwise provided in subparagraph (C) and subject to” for “Subject to”.

Subsec. (m)(4)(B). Pub. L. 102-366, §113(a)(4)(C), substituted “25 percent” for “one-half”.

Subsec. (m)(4)(C), (D). Pub. L. 102-366, §113(a)(4)(D), added subpars. (C) and (D).

Subsec. (m)(5)(A). Pub. L. 102-366, §113(a)(5), substituted “6 grants” for “2 grants”.

Subsec. (m)(6)(C). Pub. L. 102-366, §113(a)(6), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “Notwithstanding any provision of the laws of any State or the constitution of any State pertaining to the rate or amount of interest that may be charged, taken, received or reserved on a loan, the maximum rate of interest to be charged on a microloan funded under this subsection shall be not more than 4 percentage points above the prime lending rate, as identified by the Administration and published in the Federal Register on a quarterly basis.”

Subsec. (m)(7)(A). Pub. L. 102-564, §307(b)(1), inserted at end: “If, at the end of fiscal year 1992, the Administration has funded less than 50 microloan programs under this subparagraph, the Administration may, in fiscal year 1993, fund a number of additional microloan programs equal to the difference between 50 and the number of microloan programs actually funded in fiscal year 1992.”

Pub. L. 102-366, §113(a)(7)(A), substituted “60 microloan programs” for “35 microloan programs”.

Subsec. (m)(7)(B). Pub. L. 102-564, §307(b)(2), substituted “In addition to any microloan programs authorized to be funded in fiscal year 1993 in accordance with subparagraph (A), in the second” for “In the second”.

Pub. L. 102-366, §113(a)(7)(B), substituted “50 additional” for “25 additional”.

Subsec. (m)(7)(C)(i). Pub. L. 102-366, §113(a)(7)(C), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: “be awarded more than 2 microloan programs in any year of the demonstration program:”.

Subsec. (m)(7)(C)(ii), (iii). Pub. L. 102-366, §113(a)(7)(D), (E), substituted “\$1,500,000” for “\$1,000,000” in cl. (ii) and “\$2,500,000” for “\$1,500,000” in cl. (iii).

Subsec. (m)(9), (10). Pub. L. 102-366, §113(a)(8), (9), added par. (9) and redesignated former par. (9) as (10). Former par. (10) redesignated (11).

Subsec. (m)(11). Pub. L. 102-564, §307(c), inserted “private,” before “nonprofit” in subpar. (A)(ii).

Pub. L. 102-366, §113(a)(8), (10), redesignated par. (10) as (11) and amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the term ‘intermediary’ means a private, nonprofit entity or a nonprofit community development corporation that seeks to borrow or has borrowed funds from the Small Business Administration to make microloans to small business concerns under this subsection;”.

1991—Subsec. (a)(18). Pub. L. 102-140, §609(b), struck out “or a loan under paragraph (13)” after “one year or less”.

Subsec. (a)(19)(B). Pub. L. 102-191 struck out “during fiscal years 1989, 1990, and 1991,” after “small business loan applicants,”.

Subsec. (m). Pub. L. 102-140, §609(h), added subsec. (m).

1990—Subsec. (a)(14)(A). Pub. L. 101-574, §202, struck out “pre-export” before “financing” and substituted “3 years” for “18 months”.

Subsec. (a)(16)(A). Pub. L. 101-574, §245, struck out at end "The lender shall agree to sell the loan in the secondary market as authorized in sections 634(f) and 634(g) of this title within 180 days of the date of disbursement."

Subsec. (a)(19)(C). Pub. L. 101-574, §307, added subpar. (C).

Subsec. (j)(3)(A). Pub. L. 101-574, §242(1), struck out subpar. (A), which was previously struck out by Pub. L. 100-656, §505(h). See 1988 Amendment note below.

Subsec. (j)(3)(B). Pub. L. 101-574, §242(1), struck out subpar. (B) which read as follows: "The General Accounting Office shall evaluate the activities taken by the Administration to achieve the purpose of this paragraph and evaluate the success of these activities in achieving the purposes of this paragraph. The General Accounting Office shall report to the Congress by January 1, 1981, and at any time thereafter at the discretion of the Comptroller General, on the findings of this evaluation and shall make recommendations on actions needed to improve the Administration's performance pursuant to this paragraph."

Subsec. (j)(8). Pub. L. 101-574, §242(2), struck out par. (8) which read as follows: "The General Accounting Office shall provide for an independent and continuing evaluation of programs under subsections (i) and (j) of this section and section 637(a) of this title, including full information on, and analysis of, the character and impact of managerial assistance provided, the location, income characteristics, and extent to which private resources and skills have been involved in these programs. Such evaluation together with any recommendations deemed advisable by the Comptroller General shall be reported to the Congress by January 1, 1981, and at any time thereafter at the discretion of the Comptroller General."

Subsec. (j)(10)(J)(ii). Pub. L. 101-574, §204(a), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "Except as provided under section 602 of the Business Opportunity Development Reform Act of 1988, no award shall be made pursuant to section 637(a) of this title to other than a small business concern."

Subsec. (j)(13)(D)(iii). Pub. L. 101-574, §206, substituted "October 1, 1994" for "October 1, 1992".

1989—Subsec. (a)(2). Pub. L. 101-162, title V, (1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration, except as provided in paragraph (6), shall be:

"(A) not less than 90 per centum of the balance of the financing outstanding at the time of disbursement if such financing does not exceed \$155,000; and

"(B) subject to the limitation in paragraph (3)—

"(i) not less than 70 per centum nor more than 85 per centum of the financing outstanding at the time of disbursement if such financing exceeds \$155,000 but is less than \$714,285,

"(ii) less than 70 per centum of the financing outstanding at the time of disbursement if such financing exceeds \$714,285;

"(iii) not less than 85 per centum of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (16) and is less than \$1,176,470; and

"(iv) less than 85 per centum of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (16) and exceeds \$1,176,470;

Provided, That the Administration shall not use the per centum of guarantee requested as a criterion to establish priorities in approving guarantee requests nor shall the Administration reduce the per centum guaranteed to less than 85 per centum pursuant to subparagraph (B) other than by a determination made on each application: *Provided, further*, That the Administration may reduce its participation below the per centums stated in this paragraph if the lender requests the reduction under the preferred lenders program or any successor thereto, but any such reduction shall not ex-

ceed five points. As used in this sentence the term 'preferred lenders program' means a program under which, pursuant to a written agreement between the lender and the Administration, the lender has been delegated (1) complete authority to make and close loans with a guarantee from the Administration without obtaining the prior specific approval of the Administration, and (2) authority to service and liquidate such loans."

Subsec. (a)(19). Pub. L. 101-162, title V, (2), amended par. (19) generally. Prior to amendment, par. (19) read as follows: "During fiscal years 1989, 1990, and 1991, in addition to the preferred lenders program authorized by the proviso in section 634(b)(7) of this title, the Administration is authorized to establish a certified loan program for lenders who establish their knowledge of Administration laws and regulations concerning the loan guarantees program and their proficiency in program requirements. In order to encourage certified lenders and preferred lenders to provide loans of \$50,000 or less in guarantees to eligible small business loan applicants, the Administration (A) shall develop and shall allow participating lenders in the certified loan program and in the preferred loan program to solely utilize a uniform and simplified loan form for such loans and (B) shall allow such lenders to retain one-half of the fee collected pursuant to subsection (a)(16) of this section on such loans: *Provided*, That a participating lender may not retain any fee pursuant to this paragraph if the amount committed and outstanding to the applicant would exceed \$50,000 unless such excess amount was not approved under the provisions of this paragraph. The designation of a lender as a certified lender shall be suspended or revoked at any time that the Administration determines that the lender is not adhering to its rules and regulations or if the Administration determines that the loss experience of the lender is excessive as compared to other lenders: *Provided further*, That any suspension or revocation of the designation shall not affect any outstanding guarantee: *And, provided further*, That the Administration may not reduce the per centum of guarantee as a criterion of eligibility for participation in this program, except as otherwise provided by law."

Subsec. (a)(20)(C)(iv). Pub. L. 101-37, §9, inserted "is" before "amortized".

Subsec. (j)(10)(A)(i). Pub. L. 101-37, §5(a), substituted "which set forth" for "which sets forth".

Subsec. (j)(10)(D)(i). Pub. L. 101-37, §5(b)(1), substituted "Business Opportunity Specialist" for "business opportunity specialist".

Subsec. (j)(10)(D)(ii)(II). Pub. L. 101-37, §5(b)(2), substituted "the small business concern" for "small business concerns".

Subsec. (j)(10)(D)(iii). Pub. L. 101-37, §5(b)(3), inserted "relating to attaining business activity from sources other than contracts awarded pursuant to section 637(a) of this title" after "subparagraph (I)".

Subsec. (j)(10)(D)(iv). Pub. L. 101-37, §5(b)(4), substituted "contract awards" for "contact awards".

Subsec. (j)(10)(D)(iv)(I). Pub. L. 101-37, §5(b)(5), inserted "relating to attaining business activity from sources other than contracts awarded pursuant to section 637(a) of this title" after "subparagraph (I)".

Subsec. (j)(10)(E)(ii). Pub. L. 101-37, §7(a)(1), substituted "completes the period of Program participation as prescribed by paragraph (15)" for "participates in the Program for a period in excess of the time limits prescribed by paragraph (15)".

Subsec. (j)(10)(F). Pub. L. 101-37, §7(a)(2), struck out subpar. (F) appearing first, which read as follows: "For the purposes of this subsection and section 637(a) of this title, the terms 'terminated' or 'termination' shall mean the total denial".

Pub. L. 101-37, §7(a)(3), in subpar. (F) appearing second, inserted first sentence and struck out former first sentence which read as follows: "For the purposes of this chapter, this subsection and section 637(a) of this title, the terms 'terminated' or 'termination' shall mean the total denial or suspension of assistance provided pursuant to this paragraph or section 637(a) of

this title prior to the graduation of the participating small business concern pursuant to subparagraph (H) or the expiration of the maximum program participation in terms prescribed by paragraph (15).”

Subsec. (j)(10)(I). Pub. L. 101-37, §10(b), designated as subpar. (I) the undesignated subpar. which followed subpar. (H).

Pub. L. 101-37, §10(a), made technical correction to directory language of Pub. L. 100-656, §303(a), see 1988 Amendment note below.

Subsec. (j)(10)(J)(i). Pub. L. 101-37, §6(a), substituted “suspended” for “suspended or terminated”.

Subsec. (j)(11)(B). Pub. L. 101-37, §4(1), added subpar. (B) and struck out former subpar. (B) which read as follows: “Except as provided in section 602(d) of the Business Opportunity Development Reform Act of 1988, any individual upon whom eligibility is based pursuant to section 637(a)(4) of this title, shall be permitted to assert such eligibility for only one small business concern. Notwithstanding the provisions of the preceding sentence, no individual who was determined pursuant to section 637(a) of this title to be socially and economically disadvantaged before June 1, 1989, shall be permitted to assert such disadvantage with respect to any other concern making application for certification after June 1, 1989.”

Subsec. (j)(11)(E). Pub. L. 101-37, §4(2), (3), substituted “Office of Minority Small Business” for “Office of the Associate Administrator for Minority Small Business” and “the Associate Administrator for Minority Small Business and Capital Ownership Development” for “such Associate Administrator”.

Subsec. (j)(11)(F)(v). Pub. L. 101-37, §4(4), substituted “to the Associate Administrator” for “with the Associate Administrator”.

Subsec. (j)(11)(F)(vi). Pub. L. 101-37, §4(5), added cl. (vi) and struck out former cl. (vi) which read as follows: “decide protests from applicants that have been denied program admission.”

Subsec. (j)(11)(F)(viii). Pub. L. 101-37, §4(6), substituted “subparagraph (I)” for “subparagraph (H)”.

Subsec. (j)(11)(G)(ii). Pub. L. 101-37, §4(7), substituted “Participants” for “participants”.

Subsec. (j)(11)(H), (I). Pub. L. 101-37, §4(9), added subpar. (H) and redesignated former subpar. (H) as (I).

Subsec. (j)(12)(A). Pub. L. 101-37, §8(a)(1), substituted “developmental” for “development”.

Subsec. (j)(12)(B). Pub. L. 101-37, §8(a)(2), inserted “in its effort” after “to assist the concern”.

Subsec. (j)(13)(E). Pub. L. 101-37, §8(b), inserted second sentence and struck out former second sentence which read as follows: “Such financial assistance may be made without regard to section 647(a) of this title, shall be made by way of reimbursement to the training provider, and shall have such adjustments as may be necessary to provide for overpayments or underpayments.”

1988—Subsec. (a)(2). Pub. L. 100-590, §103, inserted “, but any such reduction shall not exceed five points” after “any successor thereto” in second proviso.

Subsec. (a)(2)(B)(iii), (iv). Pub. L. 100-418, §8007(a)(1), added cls. (iii) and (iv).

Subsec. (a)(3). Pub. L. 100-418, §8007(a)(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “No loan under this subsection shall be made if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund established by this chapter would exceed \$500,000: *Provided*, That no such loan made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate basis shall exceed \$350,000.”

Subsec. (a)(12). Pub. L. 100-590, §111(c), designated existing provisions as subpar. (A) and added subpar. (b)[(B)].

Subsec. (a)(14). Pub. L. 100-418, §8005, amended par. (14) generally. Prior to amendment, par. (14) read as follows: “The Administration under this subsection may provide extensions and revolving lines of credit for

export purposes to enable small business concerns to develop foreign markets and for preexport financing: *Provided, however*, That no such extension or revolving line of credit may be made for a period or periods exceeding eighteen months. A bank or participating lending institution may establish the rate of interest on extensions and revolving lines of credit as may be legal and reasonable.”

Subsec. (a)(16) to (18). Pub. L. 100-418, §8007(a)(3), (4), added pars. (16) and (17) and redesignated former par. (16) as (18).

Subsec. (a)(19). Pub. L. 100-533 and Pub. L. 100-590, §102(a), made identical amendments adding par. (19).

Subsec. (a)(20). Pub. L. 100-656, §302, added par. (20).

Subsec. (b)(1)(A). Pub. L. 100-590, §§119(a), 121, substituted “natural or other disasters” for “floods, riots or civil disorders, or other catastrophes” and inserted proviso that Administration may increase loan up to additional 20 per centum to protect damaged or destroyed property from possible future disasters.

Subsec. (b)(2)(A). Pub. L. 100-707, §109(f)(1), substituted “the Disaster Relief and Emergency Assistance Act” for “the Act entitled ‘An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes’, approved September 30, 1950, as amended (42 U.S.C. 1855-1855g)”.

Subsec. (b)(E). Pub. L. 100-707, §109(f)(2), substituted “section 312(a) of the Disaster Relief and Emergency Assistance Act” for “subsection (b) of section 315 of Public Law 93-288 (42 U.S.C. 5155)”.

Subsec. (c)(5)(C). Pub. L. 100-590, §120(b), substituted “business or other concern, including agricultural cooperatives,” for “business concern”.

Subsec. (c)(6). Pub. L. 100-590, §122, substituted “refinancing: *Provided further*, That the Administration shall not require collateral for loans of \$10,000 or less which are made under paragraph (1) of subsection (b) of this section”. for “refinancing”.

Subsec. (c)(7). Pub. L. 100-590, §120(a), added par. (7).

Subsec. (f). Pub. L. 100-707, §109(f)(3), substituted “section 102(2) of the Disaster Relief and Emergency Assistance Act” for “section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a))”.

Subsec. (j)(3)(A). Pub. L. 100-656, §505(h), struck out subpar. (A) which read as follows: “An advisory committee composed of five high-level officers from five United States businesses and five representatives of minority small businesses shall be created to facilitate the achievement of the purposes of this paragraph. The members of the advisory committee shall be appointed by the President. The chairman of the advisory committee, who shall be designated by the President shall report annually to the President and to the Congress on the activities of the advisory committee.”

Subsec. (j)(10)(A)(i). Pub. L. 100-656, §205(a), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: “assist small business concerns participating in the Program to develop comprehensive business plans with specific business targets, objectives, and goals for correcting the impairment of such concern’s ability to compete, as determined for such concern pursuant to section 637(a)(6) of this title, within a fixed period of time as mutually agreed upon by the applicant and the Administrator prior to acceptance in such program: *Provided*, That not less than one year prior to the expiration of such period, and upon the request of such concern, the Administration shall review such period and may extend such period as necessary and appropriate: *Provided further*, That no determination made under this paragraph shall be considered a denial of total participation for the purposes of section 637(a)(9) of this title.”

Subsec. (j)(10)(C). Pub. L. 100-656, §205(b)(1), (2), redesignated subpar. (D) as (C) and struck out former subpar. (C) which read as follows: “No small business concern shall receive a contract pursuant to section 637(a) of this title unless—

“(i) the business plan required pursuant to paragraph (10)(A)(i) is approved by the Administration; and

- “(ii) the program is able to provide such concern with, but not limited to, such management, technical and financial services as may be necessary to achieve the targets, objectives, and goals of such business.”
- Subsec. (j)(10)(D). Pub. L. 100-656, § 205(b)(2), (3), added subpar. (D). Former subpar. (D) redesignated (C).
- Pub. L. 100-656, § 203, added subpar. (D).
- Subsec. (j)(10)(E) to (H). Pub. L. 100-656, § 208, added subpars. (E) to (H).
- Subsec. (j)(10)(I). Pub. L. 100-656, § 303(a), as amended by Pub. L. 101-37, § 10(a), added new subpar. without subpar. designation, but which probably was intended to be subpar. (I). See 1989 Amendment note above.
- Subsec. (j)(10)(J). Pub. L. 100-656, § 206, added subpar. (J).
- Subsec. (j)(11). Pub. L. 100-656, § 201(a), designated existing provisions as subpar. (A) and added subpars. (B) to (H).
- Subsec. (j)(12). Pub. L. 100-656, § 301(a), added par. (12).
- Subsec. (j)(13). Pub. L. 100-656, § 301(b), added par. (13).
- Subsec. (j)(14). Pub. L. 100-656, § 301(c), added par. (14).
- Subsec. (j)(15). Pub. L. 100-656, § 202, added par. (15).
- Subsec. (j)(16). Pub. L. 100-656, § 408, added par. (16).
- 1986—Subsec. (a)(2). Pub. L. 99-272, § 18013, in subpar. (A) substituted “\$155,000” for “\$100,000”, in subpar. (B)(i) substituted “\$155,000” for “\$100,000” and “85” for “90”, in proviso following subpar. (B) substituted “85” for “90”, and inserted a second proviso relating to reduction by the Administration of its participation below the per centum stated in this paragraph and defining “preferred lenders program”.
- Subsec. (a)(15)(B)(i). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.
- Subsec. (a)(16). Pub. L. 99-272, § 18007, added par. (16).
- Subsec. (b). Pub. L. 99-272, § 18006(a)(1), in provision preceding par. (1) substituted “Except as to agricultural enterprises as defined in section 647(b)(1) of this title, the,” for “The”, struck out par. (3) which authorized loans, each one not to exceed \$500,000, to any small business concern to effect continuation of, additions to, alterations in, or reestablishment in the same or a new location of its plant, facilities, or methods or operation caused by direct action of the Federal Government or as a consequence of Federal Government action provided that the applicant was unable to obtain credit elsewhere, and struck out par. (4) which authorized disaster loans, each one not to exceed \$100,000, to any small business concern located in an area of economic dislocation that was the result of the drastic fluctuation in the value of the currency of a country contiguous to the United States and adjustments in the regulation of its monetary system if such concern was unable to obtain credit elsewhere.
- Subsec. (c)(4). Pub. L. 99-272, § 18006(a)(2), struck out provision following subpar. (D) which provided that loans, subject to reductions under subpars. (A) and (B) of par. (1), be in amounts equal to 100 percent of loss if the applicant was a homeowner and 85 percent if the applicant was a business or otherwise, the interest rate for loans under pars. (1) and (2) be the rate of interest in effect on the date the disaster commenced, and the Administrator, in his discretion, waive the \$500,000 limitation on the total amount outstanding and committed to the borrower under this subsection if the applicant constituted a major source of employment in an area suffering a disaster.
- 1984—Subsec. (b)(2). Pub. L. 98-270, § 311(1), (3), substituted in provisions preceding subpar. (A) “small business concern or small agricultural cooperative” for “small business concern” and “the concern or the cooperative” for “the concern”.
- Subsec. (b)(2)(D). Pub. L. 98-270, § 311(2), substituted “small business concerns or small agricultural cooperatives” for “small business concerns”.
- Subsec. (b)(3). Pub. L. 98-270, § 308, inserted “continuation of,” after “in effecting” and inserted provision directing that, for purposes of this paragraph, the impact of the 1983 Payment-in-Kind Land Diversion program, or any successor Payment-in-Kind program with a similar impact on the small business community, be deemed to be a consequence of Federal Government action.
- Subsec. (b)(4). Pub. L. 98-270, § 304(2), added par. (4).
- Subsec. (c). Pub. L. 98-270, § 301, added undesignated par. following par. (6).
- Subsec. (c)(5). Pub. L. 98-270, § 301, added par. (5).
- Subsec. (c)(6). Pub. L. 98-270, § 301, added par. (6).
- Pub. L. 98-270, § 309, inserted provision directing that employees of concerns sharing common business premises be aggregated in determining “major source of employment” status for nonprofit applicants owning such premises.
- Subsec. (d)(1). Pub. L. 98-395 substituted provisions stating that the Administration shall not fund any Small Business Development Center except as authorized for former provisions which prohibited such funding only after October 1, 1980.
- 1981—Subsec. (a). Pub. L. 97-35, § 1902, substituted provisions empowering the Administration to the extent and in such amounts as provided in advance in appropriation acts, for plant acquisition, construction, conversion, or expansion, including the acquisition of land, material, supplies, equipment, and working capital, and to make loans to qualified small business concerns including those owned by qualified Indian tribes, for purposes of this chapter, and that financing may be made either directly or in cooperation with banks or other financial institutions through agreements to participate on an immediate or deferred basis for provisions empowering the Administration to make loans to enable small business concerns and such concerns wholly owned by Indian tribes to finance plant construction, conversion, or expansion, including the acquisition of land, or to finance residential or commercial construction or rehabilitation, for sale, with a proviso that such loans shall not be used primarily for the acquisition of land, or to finance the acquisition of equipment, facilities, machinery, supplies, or materials, or to supply such concerns with working capital to be used in the manufacture of articles, equipment, supplies, or materials for war, defense, or civilian production or as may be necessary to insure a well-balanced national economy, and that such loans may be made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis.
- Subsec. (a)(6)(C). Pub. L. 97-35, § 1910, repealed subpar. (C) which read as follows: “the Administration shall not decline to participate in a loan on a deferred basis under this subsection solely because such loan will be used to refinance all or any part of the existing indebtedness of a small business concern, unless the Administration determines that—
- “(i) the holder of such existing indebtedness is in a position likely to sustain a loss if such refinancing is not provided, and
- “(ii) if the Administration provides such refinancing through an agreement to participate on a deferred basis, it will be in a position likely to sustain part or all of any loss which would have otherwise been sustained by the holder of the original indebtedness: *Provided further*, That the Administration may decline to approve such refinancing if it determines that the loan will not benefit the small business concern.”
- Subsec. (a)(8). Pub. L. 97-35, § 1910, repealed par. (8) which read as follows: “(8)(A) Any loan made under the authority of this subsection by the Administration in cooperation with a bank or other lending institution through an agreement to participate on a deferred basis, may, upon the concurrence of the Administration, borrower and such bank or institution, have the term of such loan extended or such loan refinanced with an extension of its term: *Provided*, That the aggregate term of such extended or refinanced loan does not exceed the term permitted pursuant to paragraph (5): *And provided further*, That such extended loans, or refinancings shall be repaid in equal installments of principal and interest.”

“(B) An additional service fee not exceeding 1 per centum of the outstanding amount of the principal may be paid by the borrower to the lender in consideration for such lender extending the term or refinancing of such borrower’s indebtedness if such extension or refinancing results in the term of such indebtedness exceeding ten years.

“(C) The authority provided in this paragraph shall not be construed to otherwise limit the authority of the Administration to set terms and conditions of the loan.”

Subsec. (b)(1). Pub. L. 97-35, §1911, revised provisions to specifically authorize loans only to repair, rehabilitate, or replace property, real or personal, damaged or destroyed, and is not compensated for by insurance or otherwise, and to refinance any mortgage or other lien against a totally destroyed or substantially damaged home or business concern upon finding that the applicant is not able to obtain credit elsewhere, that such property is to be repaired, rehabilitated, or replaced, that the amount refinanced shall not exceed the loss, and that the amount shall be reduced to the extent such mortgage or lien is satisfied by insurance or otherwise.

Subsec. (b)(2). Pub. L. 97-35, §1911, revised provisions to continue to authorize loans to business concerns which the Administration determines to have suffered substantial economic injury as a result of a physical disaster as declared under certain pertinent triggering legislation.

Subsec. (b)(3) to (9). Pub. L. 97-35, §1913(a), designated existing provisions of par. (5) as (3) with minor changes, and struck out pars. (3), (4), and (6) to (9) relating to non-physical disaster loans.

Subsec. (c)(3). Pub. L. 97-35, §1914, substituted “effective date of this Act” for “to October 1, 1983”.

Subsec. (c)(4). Pub. L. 97-35, §1912, added par. (4).

Subsec. (g). Pub. L. 97-35, §1913(c), repealed subsec. (g) which related to loans to small business concerns for water pollution control facilities.

1980—Subsec. (a). Pub. L. 96-481, §112, inserted provisions preceding par. (1) empowering the Administration to the extent and in such amounts as are provided in appropriation acts to make or effect either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis extensions and revolving lines of credit for export purposes to enable small business concerns to develop foreign markets and for preexport financing, with proviso limiting the extension of credit or revolving line of credit to a period of eighteen months.

Subsec. (a)(8). Pub. L. 96-302, §505, added par. (8).

Subsec. (b). Pub. L. 96-302, §124, which directed that cl. (E), respecting duplication of disaster benefits, be added at end of subsec. (b), was executed by inserting cl. (E) following cl. (D) in next to last par. of subsec. (b) as the probable intent of Congress.

Subsec. (b)(4). Pub. L. 96-302, §123, substituted “other causes” for “undetermined causes” and made the small business concern ineligible for loan assistance when the concern intentionally adulterates its product in attempting to establish eligibility under the loan assistance program.

Subsec. (b)(8). Pub. L. 96-302, §122, authorized loans to assist small business concern affected by a shortage of coal or other energy-producing resource caused by a strike, boycott, or embargo, unless the strike, boycott, or embargo is directly against the small business concern.

Subsec. (c)(3). Pub. L. 96-302, §119(a), (b), added subpar. (C) and extended disaster loans to disasters occurring prior to Oct. 1, 1983, instead of Oct. 1, 1982.

Subsec. (d)(1). Pub. L. 96-302, §203, substituted provisions respecting: funding of small business development centers under section 648 of this title on and after Oct. 1, 1980; operation of such centers funded prior to Oct. 1, 1979; and prescribing \$300,000 limitation for fiscal year 1980, for such centers funded in fiscal year 1979, for provisions respecting grants for studies research, and counseling concerning the managing, financing, and op-

eration of small-business enterprises; study and research recommendation; and conditions, now covered in section 648(a) of this title.

Subsec. (j)(10). Pub. L. 96-481, §104, in opening paragraph substituted provision that the program and all other services and activities authorized under this subsection and section 637(a) of this title shall be managed by the Associate Administrator for Minority Small Business and Capital Ownership Development under the Supervision of, and responsible to the Administrator, for provision that the management of the program shall be vested in the Associate Administrator for Minority Small Business and Capital Ownership Development who shall also manage all other services and activities authorized under this subsection and section 637(a) of this title.

Subsec. (j)(10)(A)(i). Pub. L. 96-481, §106(a), substituted “targets, objectives, and goals for correcting the impairment of such concern’s ability to compete, as determined for such concern pursuant to section 637(a)(6) of this title, within a fixed period of time as mutually agreed upon by the applicant and the Administrator prior to acceptance in such program: *Provided*, That not less than one year prior to the expiration of such period, and upon the request of such concern, the Administration shall review such period and may extend such period as necessary and appropriate; *Provided further*, That no determination made under this paragraph shall be considered a denial of participation for the purposes of section 637(a)(9) of this title” for “targets, objectives and goals”.

Subsec. (j)(10)(C). Pub. L. 96-481, §107, in the conditions required to receive a contract by a small business concern, substituted provisions that the business plan be approved by the Administration and that the program be able to provide the concern with management, technical and financial services necessary to achieve the targets, objectives and goals of such business, for provision that the program be able to provide the concern with management, technical and financial services as may be necessary to promote the competitive viability of the concern within a reasonable period of time.

1979—Subsec. (b) following par. (9). Pub. L. 96-38 inserted “, except as provided in subsection (c) of this section,” after “the interest rate on the Administration’s share of any loan made under this subsection” in first unnumbered paragraph.

Subsec. (c)(3). Pub. L. 96-38 added par. (3).

1978—Subsec. (a). Pub. L. 95-507, §231, inserted provision including small-business concerns totally owned and controlled by Indian tribes within the scope of this section.

Subsec. (d). Pub. L. 95-315, §3, designated existing provisions as par. (1) and added par. (2).

Subsec. (j). Pub. L. 95-507, §204, included individuals and enterprises eligible for assistance under par. (10) of this subsection and section 637(a) of this title among those eligible for assistance under this section, provided for the establishment of the small business and capital ownership development program, and provided for the coordination of certain Federal policies under this section by the Associate Administrator for Minority Small Business and Capital Ownership Development.

Subsec. (k). Pub. L. 95-507, §205, inserted reference to section 637(a).

Subsec. (k)(4). Pub. L. 95-510 substituted “the daily equivalent of the highest rate payable under section 5332 of title 5” for “\$100 per diem”.

Subsec. (l). Pub. L. 95-315, §2, added subsec. (l).

1977—Subsec. (a). Pub. L. 95-89, §301, authorized loans to finance residential or commercial construction or rehabilitation for sale, subject to restriction that such loans be not used primarily for the acquisition of land.

Subsec. (a)(8). Pub. L. 95-89, §101(d), repealed par. (8) which required the Administrator to make direct loans under subsec. (a) in an aggregate amount of not less than \$400,000,000 during fiscal year ending June 30, 1975.

Subsec. (b). Pub. L. 95-89, §405, inserted following par. (9) provisions respecting interest rate on loans to repair

or replace primary residence and/or replace or repair damaged or destroyed personal property, including installation of insulation in connection with any disaster occurring on or after April 1, 1977, and transmission of a report to congressional committees respecting the activities under the provisions and the encouragement of such insulation installations.

Subsec. (b)(2)(C) to (E). Pub. L. 95-89, §403, added subs. (C) to (E).

Subsec. (b)(3). Pub. L. 95-89, §402, substituted "program or project constructed by or with funds provided in whole or in part by the Federal Government or by a program or project by a State or local government or public service entity, providing such government or public service entity has the authority to exercise the right of eminent domain on such program or project" for "federally aided urban renewal program or a highway project or any other construction constructed by or with funds provided in whole or in part by the Federal Government".

Subsec. (b)(5). Pub. L. 95-89, §302, inserted "heretofore or hereafter enacted" after "any Federal law".

Subsec. (b)(9). Pub. L. 95-89, §404, added par. (9).

Subsec. (g)(4). Pub. L. 95-89, §101(e), repealed par. (4) which authorized appropriation of not to exceed \$800,000,000 to the disaster fund solely for purpose of carrying out subsec. (g) loans to small business concerns for water pollution control facilities.

1976—Subsec. (a)(1). Pub. L. 94-305, §112(c), inserted reference to non-Federal sources.

Subsec. (a)(4)(A). Pub. L. 94-305, §111, substituted "\$500,000: *Provided*. That no such loan made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate basis shall exceed \$350,000" for "\$350,000".

Subsec. (a)(4)(C). Pub. L. 94-305, §108(b), substituted provision relating to a twenty year maturity period for any portion of loan made for the purpose of acquiring real property or constructing facilities for provision relating to a ten year maturity for portion of loan made for purpose of constructing facilities.

Subsec. (b). Pub. L. 94-305, §114, in provisions following par. (8), substituted provisions requiring interest rate on Administration's share of any loan made under this subsection not to exceed the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt for provisions requiring interest rate on Administration's share of any loan made under this subsection not to exceed 3 per centum per annum except for loans made under pars. (3), (5), (6), (7), or (8) in which the interest will not exceed either 2¾ per centum per annum or the average annual interest rate of all interest-bearing obligations of the United States then forming a part of the public debt.

Subsec. (b)(4). Pub. L. 94-305, §112(d), struck out proviso that loans under subsec. (b)(4) of this section include loans to persons who are engaged in business of raising livestock, and who suffer substantial injury as a result of animal disease.

Subsec. (i)(1), (3). Pub. L. 94-305, §109, substituted "\$100,000" for "\$50,000".

1974—Subsec. (a)(4)(B). Pub. L. 93-386, §8, substituted provisions for determining the rate of interest for the Administration's share of any loan for provisions setting forth the rate of interest for the Administration's share of any loan as not more than 5½ per centum per annum.

Subsec. (a)(5)(B). Pub. L. 93-386, §8, substituted provisions for determining the rate of interest for the Administration's share of any loan for provisions setting forth the rate of interest for the Administration's share of any loan as not less than 3 nor more than 5 per centum per annum.

Subsec. (a)(8). Pub. L. 93-386, §12, added par. (8).

Subsec. (b)(4). Pub. L. 93-237, §5, inserted proviso that loans under this paragraph include loans to persons who are engaged in the business of raising livestock and who suffer substantial economic injury as a result of animal disease.

Subsec. (b)(5) to (7). Pub. L. 93-237, §§2(a), (b), 6, consolidated into a single par. (5) the authority of the Small Business Administration contained in former par. (5) to make loans to small business concerns to meet the requirements of the Federal Coal Mine Health and Safety Act of 1969, the Egg Products Inspection Act, the Wholesome Poultry Products Act, and the Wholesome Meat Act, and former par. (6) to make loans to small business concerns to meet the requirements of the Occupational Safety and Health Act of 1970, expanded such authority to finance structural, operational, or other changes required in order to meet standards imposed by Federal laws, or by State laws enacted in conformity with Federal laws, redesignated former par. (7) as par. (6), and added par. (7).

Subsec. (b)(8). Pub. L. 93-386, §9(a), added par. (8).

Subsec. (b). Pub. L. 93-386, §9(b), substituted "paragraph (3), (5), (6), (7), or (8)" for "paragraph (3), (5), (6), or (7)" in first par. following the numbered pars.

Subsecs. (g), (h). Pub. L. 93-237, §3(a), redesignated subsec. (g), relating to loans to handicapped persons and organizations for handicapped, as (h).

Subsec. (h)(2). Pub. L. 93-386, §3(2), inserted "The Administration's share of" before "any loan".

Subsecs. (i) to (k). Pub. L. 93-386, §2(a)(4), added subs. (i) to (k).

1972—Subsec. (b). Pub. L. 92-385 added par. (7), and in text following the numbered paragraphs, inserted provisions relating to the administration of the disaster loan program in relation to disasters occurring between January 1, 1971, and July 1, 1973.

Subsec. (g). Pub. L. 92-595 added subsec. (g) relating to loans to handicapped persons and organizations for handicapped.

Pub. L. 92-500 added subsec. (g) relating to loans to small business concerns for water pollution control facilities.

1970—Subsec. (b). Pub. L. 91-597 added par. (5) relating to loans for additions or alterations required under the Egg Products Inspection Act, etc., and inserted reference to such par. (5).

Pub. L. 91-596 added par. (6) and inserted reference to par. (6) after reference to par. (5).

1969—Subsec. (b). Pub. L. 91-173 added par. (5), and inserted reference to par. (5) after reference to par. (3).

1968—Subsec. (b)(1). Pub. L. 90-448 empowered the Administration to make loans because of riots or civil disorders.

Subsec. (b)(3). Pub. L. 90-495 added continuing in business at its existing location, purchasing a business, and establishing a new business to the list of purposes for which loans may be made, and extended the causes of substantial economic injury of the concern involved to include its location in, adjacent to, or near a federally aided urban renewal program, highway project, or other construction project using federal funds.

1967—Subsec. (a)(4). Pub. L. 90-104, §103, extended maturity date for construction loans from ten to fifteen years.

Subsec. (f). Pub. L. 90-104, §104, redesignated subsec. (e), added by Pub. L. 89-769, as (f).

1966—Subsec. (e). Pub. L. 89-409 added subsec. (e).

Pub. L. 89-769 added subsec. (e) which provided for assistance to privately owned higher education in major disaster areas and repayment.

1965—Subsec. (b). Pub. L. 89-59, §1(a), increased the maturity of disaster loans from twenty to thirty years, and authorized suspension of principal and interest payments and extension of date of maturity for five year period.

Subsec. (c). Pub. L. 89-59, §1(b), designated existing provisions as par. (1) and added par. (2).

1964—Subsecs. (b)(2), (4). Pub. L. 88-264 extended provisions of par. (2) to any small business affected by disasters other than drought or excessive rainfall and added par. (4) for disaster loans to any such business suffering economic injuries through natural or undetermined causes.

Subsec. (b)(3). Pub. L. 88-560 provided that the purposes of a loan under this paragraph may include the

purchase or construction of other premises whether or not the borrower owned the premises from which it was displaced.

1961—Subsec. (b). Pub. L. 87-70 added par. (3), and inserted provisions limiting the interest rate in the case of loans made pursuant to par. (3) to not more than the higher of (A) 2¼ per centum per annum, or (B) the average annual interest rate on all interest-bearing obligations forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum, plus one-quarter of 1 per centum per annum.

Subsec. (d). Pub. L. 87-305 empowered the Administration to make grants to any corporation formed by two or more eligible entities described in the text, authorized it to recommend to grant applicants particular studies or research, eliminated the limitation of one grant to a State, and conditioned grants to the procurement of additional amounts from sources other than the Administration.

1959—Subsec. (d). Pub. L. 86-367 struck out provision for making the grants from the fund established in the Treasury by section 602(b) of the Small Business Investment Act of 1958.

1958—Subsec. (d). Pub. L. 85-699 added subsec. (d).

CHANGE OF NAME

Committee on Small Business of Senate changed to Committee on Small Business and Entrepreneurship of Senate. See Senate Resolution No. 123, One Hundred Seventh Congress, June 29, 2001. Previously, Select Committee on Small Business of Senate became Committee on Small Business of Senate. See Senate Resolution No. 101, Ninety-Seventh Congress, Mar. 25, 1981.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Pub. L. 110-234, title XII, §12078(b)(2), May 22, 2008, 122 Stat. 1415, and Pub. L. 110-246, §4(a), title XII, §12078(b)(2), June 18, 2008, 122 Stat. 1664, 2177, provided that: “The amendment made by paragraph (1) [amending this section] shall apply with respect to a loan or guarantee made after the date of enactment of this Act [June 18, 2008].”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

Pub. L. 110-234, title XII, §12083(b), May 22, 2008, 122 Stat. 1420, and Pub. L. 110-246, §4(a), title XII, §12083(b), June 18, 2008, 122 Stat. 1664, 2182, provided that: “The amendments made by this section [amending this section] shall apply to any major disaster declared on or after the date of enactment of this Act [June 18, 2008].”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-447, div. K, title I, §101(b), Dec. 8, 2004, 118 Stat. 3443, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of enactment of this Act [Dec. 8, 2004].”

Pub. L. 108-447, div. K, title I, §103(b), Dec. 8, 2004, 118 Stat. 3444, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of enactment of this Act [Dec. 8, 2004].”

Pub. L. 108-447, div. K, title I, §107(c), Dec. 8, 2004, 118 Stat. 3446, provided that: “The amendments made by this section [amending this section] shall take effect on the date of enactment of this Act [Dec. 8, 2004].”

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-100 effective Oct. 1, 2002, see section 6(e) of Pub. L. 107-100, set out in an Effective Date of 2001 Amendment; Use of Funds note under section 697 of this title.

EFFECTIVE AND TERMINATION DATES OF 1999 AMENDMENTS

Pub. L. 106-50, title IV, §402(e), Aug. 17, 1999, 113 Stat. 246, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section] shall take effect on the date of the enactment of this section [Aug. 17, 1999].

“(2) DISASTER LOANS.—The amendments made by subsection (b) [amending this section] shall apply to economic injury suffered or likely to be suffered as the result of a period of military conflict occurring or ending on or after March 24, 1999.”

Pub. L. 106-8, §3(c), Apr. 2, 1999, 113 Stat. 16, provided that effective Dec. 31, 2000, this section (amending this section and enacting provisions set out as a note under this section) and the amendments made by this section are repealed.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, §405(d)(10)] of Pub. L. 105-277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, §405(f)(9)] of Pub. L. 105-277 effective July 1, 2000, see section 101(f) [title VIII, §405(g)(1), (2)(B)] of Pub. L. 105-277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-135 effective on Oct. 1, 1997, see section 3 of Pub. L. 105-135, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 effective Oct. 1, 1996, see section 3 of Pub. L. 104-208, set out as a note under section 633 of this title.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-36 inapplicable to loans made or guaranteed under Small Business Act or Small Business Investment Act of 1958 before Oct. 12, 1995, unless such loans are refinanced, extended, restructured, or renewed on or after Oct. 12, 1995, see section 8 of Pub. L. 104-36, set out as a note under section 634 of this title.

EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT

Section 208(c) of Pub. L. 103-403 provided that: “The amendments made by this section [amending this section] shall remain in effect during the period beginning on the date of enactment of this Act [Oct. 22, 1994] and ending on October 1, 1997.”

EFFECTIVE DATE OF 1993 AMENDMENT

Section 5(b) of Pub. L. 103-81 provided that: “Notwithstanding any other provision of law, the amendments made by subsection (a) [amending this section] shall be effective September 1, 1993, but shall not be applicable to loan guarantee applications received by the Administration prior to August 21, 1993. In order to determine the percent of the loan to be guaranteed pursuant to the amendments made by subsection (a), the Administration shall aggregate the outstanding guaranteed principal of multiple loan guarantees issued on behalf of the same borrower.”

EFFECTIVE DATE OF 1992 AMENDMENT

Section 113(b) of Pub. L. 102-366 provided that: "The amendments made by paragraphs (4) and (5) of subsection (a) [amending this section] shall become effective on October 1, 1992."

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-37 applicable as if included in Pub. L. 100-656, see section 32 of Pub. L. 101-37, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendments by sections 202, 203, 206, 301(a), 408, and 505(h) of Pub. L. 100-656 and subsec. (j)(13)(G) and (I) of this section as added by section 301(b) of Pub. L. 100-656, effective Nov. 15, 1988, see section 803(a) of Pub. L. 100-656, set out as a note under section 631 of this title.

Amendments by sections 201(a), 205, 208, 301(b), (c), and 303(a) of Pub. L. 100-656 effective Aug. 15, 1989, see section 803(b)(1)(A), (B) of Pub. L. 100-656, as amended, set out as a note under section 631 of this title.

Amendment by section 302 of Pub. L. 100-656 effective June 1, 1989, see section 803(b)(2) of Pub. L. 100-656, as amended, set out as a note under section 631 of this title.

Subsection (j)(13)(E) of this section as added by section 301(b) of Pub. L. 100-656 effective Oct. 1, 1989, see section 803(b)(4)(D) of Pub. L. 100-656, as amended, set out as a note under section 631 of this title.

Amendments by sections 119(a) and 120 to 122 of Pub. L. 100-590 effective for all loan applications resulting from disaster declarations made on or after Aug. 1, 1988, or from disaster declarations whose filing periods were open on Oct. 1, 1988, see section 137 of Pub. L. 100-590, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-270 effective Oct. 1, 1983, see section 313 of Pub. L. 98-270, set out as a note under section 632 of this title.

Section 307 of Pub. L. 98-270 provided that: "The amendments made by sections 304 and 305 of this title [amending this section and provisions set out as a note under section 631 of this title] shall apply to economic dislocations certified by any State Governor to the Small Business Administration after the date of enactment of this Act [Apr. 18, 1984] providing such dislocation commenced since January 1, 1982."

Amendment by section 311 of Pub. L. 98-270 applicable to loans granted on the basis of any disaster with respect to which a declaration has been issued after Sept. 1, 1982, under subsec. (b)(2)(A), (B), or (C) of this section or with respect to which a certification has been made after such date under subsec. (b)(2)(D) of this section, see section 312 of Pub. L. 98-270, set out as a note under section 632 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 1910 of Pub. L. 97-35 provided that the repeal of subsec. (a)(6)(C), (8) of this section is effective Oct. 1, 1985.

Amendment by section 1913 of Pub. L. 97-35 effective Oct. 1, 1981, amendments by sections 1902, 1911, 1912, and 1914 of Pub. L. 97-35 effective Aug. 13, 1981, but shall not affect any financing made, obligated, or committed under this chapter or chapter 14B of this title prior to Aug. 13, 1981, see section 1918 of Pub. L. 97-35, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-302 effective Oct. 1, 1980, see section 507 of Pub. L. 96-302, set out as a note under section 631 of this title.

Section 119(d) of Pub. L. 96-302 provided that: "The amendments made by this section to sections 7(c)(3)(C) [subsection (c)(3) of this section] and 18 [section 647 of this title] of the Small Business Act shall not apply to

any disaster which commenced on or before the effective date of this Act."

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-510 effective Oct. 1, 1979, see section 105 of Pub. L. 95-510, set out as a note under section 634 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 101(d), (e) of Pub. L. 95-89 effective Oct. 1, 1977, see section 106 of Pub. L. 95-89, set out as a note under section 633 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 1(b) of Pub. L. 92-385 provided that: "The last paragraph of the amendment made by subsection (a) [amending this section] shall apply only with respect to loans made on or after the date of enactment of this Act [Aug. 16, 1972]."

EFFECTIVE DATE OF 1970 AMENDMENTS

For effective date of amendment by Pub. L. 91-597 see section 29 of Pub. L. 91-597, set out as a note under section 1031 of Title 21, Food and Drugs.

Amendment by Pub. L. 91-596 effective 120 days after Dec. 29, 1970, see section 34 of Pub. L. 91-596, set out as a note under section 651 of Title 29, Labor.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 3(c) of Pub. L. 89-409 provided that: "This section [amending this section, repealing section 637a of this title, and enacting provisions set out as a note under section 633 of this title] shall take effect on July 1, 1966."

REGULATIONS

Pub. L. 106-50, title IV, §402(d), Aug. 17, 1999, 113 Stat. 246, provided that: "Not later than 30 days after the date of the enactment of this section [Aug. 17, 1999], the Administrator of the Small Business Administration shall issue such guidelines as the Administrator determines to be necessary to carry out this section [amending this section and enacting provisions set out as notes under this section] and the amendments made by this section."

Pub. L. 106-8, §3(b), Apr. 2, 1999, 113 Stat. 15, which provided that not later than 30 days after Apr. 2, 1999, Administrator of the Small Business Administration was to issue guidelines to carry out the program under former subsec. (a)(27) of this section, was repealed by Pub. L. 106-8, §3(c), Apr. 2, 1999, 113 Stat. 16, effective Dec. 31, 2000.

Section 114 of Pub. L. 102-366 provided that: "Not later than 45 days after the date of enactment of this Act [Sept. 4, 1992], the Small Business Administration shall promulgate interim final regulations to implement the amendments made by this subtitle [subtitle B (§§111-115) of title I of Pub. L. 102-366, amending this section, enacting provisions set out as notes below, and amending provisions set out as a note under section 631 of this title]."

Section 609(i) of Pub. L. 102-140 provided that: "Not later than 90 days after the date of the enactment of this Act [Oct. 28, 1991], the Small Business Administration shall promulgate interim final regulations to implement the microloan demonstration program."

Section 801 of Pub. L. 100-656, as amended by Pub. L. 101-37, §30, June 15, 1989, 103 Stat. 76, provided that: "The Small Business Administration shall—

"(1) within 60 days after the date of enactment of this Act [Nov. 15, 1988] conduct meetings of present and potential participants in the program established by section 7(j)(10) of the Small Business Act [15 U.S.C.

636(j)(10)], as amended by this Act, to ascertain and consider public comment on the nature and extent of regulations needed to implement this Act [see Short Title of 1988 Amendment note set out under section 631 of this title];

“(2) within one hundred and twenty days after the date of enactment of this Act, publish in the Federal Register proposed rules and regulations implementing this Act; and

“(3) within 270 days after the date of enactment of this Act, publish in the Federal Register final rules and regulations implementing this Act.”

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which reports required under subsections (a)(15)(E) and (j)(16)(B) of this section are listed on page 191), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

MARKETING AND OUTREACH

Pub. L. 110-234, title XII, §12063(b), May 22, 2008, 122 Stat. 1408, and Pub. L. 110-246, §4(a), title XII, §12063(b), June 18, 2008, 122 Stat. 1664, 2170, provided that: “Not later than 90 days after the date of enactment of this Act [June 18, 2008], the Administrator shall create a marketing and outreach plan that—

“(1) encourages a proactive approach to the disaster relief efforts of the Administration;

“(2) makes clear the services provided by the Administration, including contact information, application information, and timelines for submitting applications, the review of applications, and the disbursement of funds;

“(3) describes the different disaster loan programs of the Administration, including how they are made available and the eligibility requirements for each loan program;

“(4) provides for regional marketing, focusing on disasters occurring in each region before the date of enactment of this Act [June 18, 2008], and likely scenarios for disasters in each such region; and

“(5) ensures that the marketing plan is made available at small business development centers and on the website of the Administration.”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

[“Administration” and “Administrator”, referred to in Pub. L. 110-246, §12063(b), set out above, as meaning the Small Business Administration and the Administrator thereof, see section 636e of this title.]

DEFINITION OF TERMS USED IN PUB. L. 110-186

Pub. L. 110-186, §3, Feb. 14, 2008, 122 Stat. 623, provided that: “In this Act [see Short Title of 2008 Amendment note set out under section 631 of this title]—

“(1) the term ‘activated’ means receiving an order placing a Reservist on active duty;

“(2) the term ‘active duty’ has the meaning given that term in section 101 of title 10, United States Code;

“(3) the terms ‘Administration’ and ‘Administrator’ mean the Small Business Administration and the Administrator thereof, respectively;

“(4) the term ‘Reservist’ means a member of a reserve component of the Armed Forces, as described in section 10101 of title 10, United States Code;

“(5) the term ‘Service Corps of Retired Executives’ means the Service Corps of Retired Executives authorized by section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1));

“(6) the terms ‘service-disabled veteran’ and ‘small business concern’ have the meaning as in section 3 of the Small Business Act (15 U.S.C. 632);

“(7) the term ‘small business development center’ means a small business development center described in section 21 of the Small Business Act (15 U.S.C. 648); and

“(8) the term ‘women’s business center’ means a women’s business center described in section 29 of the Small Business Act (15 U.S.C. 656).”

ESTABLISHMENT OF PRE-CONSIDERATION PROCESS AND OUTREACH AND TECHNICAL ASSISTANCE PROGRAM

Pub. L. 110-186, title II, §201(b), (c), Feb. 14, 2008, 122 Stat. 627, 628, provided that:

“(b) PRE-CONSIDERATION PROCESS.—

“(1) DEFINITION.—In this subsection, the term ‘eligible Reservist’ means a Reservist who—

“(A) has not been ordered to active duty;

“(B) expects to be ordered to active duty during a period of military conflict; and

“(C) can reasonably demonstrate that the small business concern for which that Reservist is a key employee will suffer economic injury in the absence of that Reservist.

“(2) ESTABLISHMENT.—Not later than 6 months after the date of enactment of this Act [Feb. 14, 2008], the Administrator shall establish a pre-consideration process, under which the Administrator—

“(A) may collect all relevant materials necessary for processing a loan to a small business concern under section 7(b)(3) of the Small Business Act (15 U.S.C. 636(b)(3)) before an eligible Reservist employed by that small business concern is activated; and

“(B) shall distribute funds for any loan approved under subparagraph (A) if that eligible Reservist is activated.

“(c) OUTREACH AND TECHNICAL ASSISTANCE PROGRAM.—

“(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act [Feb. 14, 2008], the Administrator, in consultation with the Secretary of Veterans Affairs and the Secretary of Defense, may develop a comprehensive outreach and technical assistance program (in this subsection referred to as the ‘program’) to—

“(A) market the loans available under section 7(b)(3) of the Small Business Act (15 U.S.C. 636(b)(3)) to Reservists, and family members of Reservists, that are on active duty and that are not on active duty; and

“(B) provide technical assistance to a small business concern applying for a loan under that section.

“(2) COMPONENTS.—The program shall—

“(A) incorporate appropriate websites maintained by the Administration, the Department of Veterans Affairs, and the Department of Defense; and

“(B) require that information on the program is made available to small business concerns directly through—

“(i) the district offices and resource partners of the Administration, including small business development centers, women’s business centers, and the Service Corps of Retired Executives; and

“(ii) other Federal agencies, including the Department of Veterans Affairs and the Department of Defense.

“(3) REPORT.—

“(A) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, and every 6 months thereafter until the date that is 30 months after such date of enactment, the Administrator shall submit to Congress a report on the status of the program.

“(B) CONTENTS.—Each report submitted under subparagraph (A) shall include—

“(i) for the 6-month period ending on the date of that report—

“(I) the number of loans approved under section 7(b)(3) of the Small Business Act (15 U.S.C. 636(b)(3));

“(II) the number of loans disbursed under that section; and

“(III) the total amount disbursed under that section; and

“(ii) recommendations, if any, to make the program more effective in serving small business concerns that employ Reservists.”

RESERVIST LOANS

Pub. L. 110-186, title II, §202, Feb. 14, 2008, 122 Stat. 629, provided that:

“(a) IN GENERAL.—The Administrator and the Secretary of Defense shall develop a joint website and printed materials providing information regarding any program for small business concerns that is available to veterans or Reservists.

“(b) MARKETING.—The Administrator is authorized—

“(1) to advertise and promote the program under section 7(b)(3) of the Small Business Act [15 U.S.C. 636(b)(3)] jointly with the Secretary of Defense and veterans’ service organizations; and

“(2) to advertise and promote participation by lenders in such program jointly with trade associations for banks or other lending institutions.”

TEMPORARY EXTENSION AND EXPANSION OF LOAN PROGRAMS

Pub. L. 108-217, §§4-8, Apr. 5, 2004, 118 Stat. 591-594, provided that:

“SEC. 4. COMBINATION FINANCING.

“(a) IN GENERAL.—During the period beginning on the date of the enactment of this section [Apr. 5, 2004] and ending on September 30, 2004, subsection (a) of section 7 of the Small Business Act (15 U.S.C. 636(a)) shall be applied as if the paragraph set forth in subsection (b) were added at the end of that subsection (a).

“(b) PARAGRAPH SPECIFIED.—The paragraph referred to in subsection (a) is as follows:

“(31) COMBINATION FINANCING.—

“(A) DEFINITIONS.—In this paragraph—

“(i) the term ‘combination financing’ means financing comprised of a loan guaranteed under this subsection and a commercial loan; and

“(ii) the term ‘commercial loan’ means a loan which is part of a combination financing and no portion of which is guaranteed by the Federal Government.

“(B) APPLICABILITY.—This paragraph applies to a loan guarantee obtained by a small business concern under this subsection, if the small business concern also obtains a commercial loan.

“(C) COMMERCIAL LOAN AMOUNT.—In the case of any combination financing, the amount of the commercial loan which is part of such financing shall not exceed the gross amount of the loan guaranteed under this subsection which is part of such financing.

“(D) COMMERCIAL LOAN PROVISIONS.—The commercial loan obtained by the small business concern—

“(i) may be made by the participating lender that is providing financing under this subsection or by a different lender;

“(ii) may be secured by a senior lien; and

“(iii) may be made by a lender in the Preferred Lenders Program, if applicable.

“(E) COMMERCIAL LOAN FEE.—A one-time fee in an amount equal to 0.7 percent of the amount of the commercial loan shall be paid by the lender to the Administration if the commercial loan has a senior credit position to that of the loan guaranteed under this subsection. Paragraph (23)(B) shall apply to the fee established by this paragraph.

“(F) DEFERRED PARTICIPATION LOAN SECURITY.—A loan guaranteed under this subsection may be secured by a subordinated lien.

“(G) COMPLETION OF APPLICATION PROCESSING.—The Administrator shall complete processing of an application for combination financing under this paragraph pursuant to the program authorized by this subsection as it was operating on October 1, 2003.

“(H) BUSINESS LOAN ELIGIBILITY.—Any standards prescribed by the Administrator relating to the eligibility of small business concerns to obtain combination financing under this subsection which are in effect on the date of the enactment of this paragraph [Apr. 5, 2004] shall apply with respect to combination financings made under this paragraph. Any modifications to such standards by the Administrator after such date shall not unreasonably restrict the availability of combination financing under this paragraph relative to the availability of such financing before such modifications.”

“SEC. 5. LOAN GUARANTEE FEES.

“(a) IN GENERAL.—During the period beginning on the date of the enactment of this section [Apr. 5, 2004] and ending on September 30, 2004, subparagraph (A) of paragraph (23) of subsection (a) of section 7 of the Small Business Act (15 U.S.C. 636(a)(23)(A)) shall be applied as if that subparagraph consisted of the language set forth in subsection (b).

“(b) LANGUAGE SPECIFIED.—The language referred to in subsection (a) is as follows:

“(A) PERCENTAGE.—

“(i) IN GENERAL.—With respect to each loan guaranteed under this subsection, the Administrator shall, in accordance with such terms and procedures as the Administrator shall establish by regulation, assess and collect an annual fee in an amount equal to 0.5 percent of the outstanding balance of the deferred participation share of the loan.

“(ii) TEMPORARY PERCENTAGE.—With respect to loans approved during the period beginning on the date of enactment of this clause [Apr. 5, 2004] and ending on September 30, 2004, the annual fee assessed and collected under clause (i) shall be equal to 0.36 percent of the outstanding balance of the deferred participation share of the loan.”

“(c) RETENTION OF CERTAIN FEES.—Subparagraph (B) of paragraph (18) of subsection (a) of section 7 of the Small Business Act (15 U.S.C. 636(a)(18)(B)) shall not be effective during the period beginning on the date of the enactment of this section [Apr. 5, 2004] and ending on September 30, 2004.

“SEC. 6. EXPRESS LOAN PROVISIONS.

“(a) DEFINITIONS.—For the purposes of this section:

“(1) The term ‘express lender’ shall mean any lender authorized by the Administrator to participate in the Express Loan Pilot Program.

“(2) The term ‘Express Loan’ shall mean any loan made pursuant to section 7(a) of the Small Business Act (15 U.S.C. 636(a)) in which a lender utilizes to the maximum extent practicable its own loan analyses, procedures, and documentation.

“(3) The term ‘Express Loan Pilot Program’ shall mean the program established by the Administrator prior to the date of enactment of this section [Apr. 5, 2004] under the authority granted in section 7(a)(25)(B) of the Small Business Act (15 U.S.C. 636(a)(25)(B)) with a guaranty rate not to exceed 50 percent.

“(4) The term ‘Administrator’ means the Administrator of the Small Business Administration.

“(5) The term ‘small business concern’ has the same meaning given such term under section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

“(b) RESTRICTION TO EXPRESS LENDER.—The authority to make an Express Loan shall be limited to those lenders deemed qualified to make such loans by the Administrator. Designation as an express lender for purposes of making an Express Loan shall not prohibit such lender from taking any other action authorized by the Administrator for that lender pursuant to section 7(a) of the Small Business Act (15 U.S.C. 636(a)).

“(c) GRANDFATHERING OF EXISTING LENDERS.—Any express lender shall retain such designation unless the Administrator determines that the express lender has violated the law or regulations promulgated by the Administrator or modifies the requirements to be an express lender and the lender no longer satisfies those requirements.

“(d) TEMPORARY EXPANSION OF EXPRESS LOAN PILOT PROGRAM.—

“(1) AUTHORIZATION.—As of the date of enactment of this section [Apr. 5, 2004], the maximum loan amount in the Express Loan Pilot Program shall be increased to a maximum loan amount of \$2,000,000 as set forth in section 7(a)(3)(A) of the Small Business Act (15 U.S.C. 636(a)(3)(A)).

“(2) TERMINATION DATE.—The authority set forth in paragraph (1) shall terminate on September 30, 2004.

“(3) SAVINGS PROVISION.—Nothing in this section shall be interpreted to modify or alter the authority of the Administrator to continue to operate the Express Loan Pilot Program on or after October 1, 2004.

“(e) OPTION TO PARTICIPATE.—Except as otherwise provided in this section, the Administrator shall take no regulatory, policy, or administrative action, without regard to whether such action requires notification pursuant to section 7(a)(24) of the Small Business Act (15 U.S.C. 636(a)(24)), that has the effect of—

“(1) requiring a lender to make an Express Loan pursuant to subsection (d);

“(2) limiting or modifying any term or condition of deferred participation loans made under such section (other than Express Loans) unless the Administrator imposes the same limit or modification on Express Loans;

“(3) transferring or re-allocating staff, staff responsibilities, resources, or funding, if the result of such transfer or re-allocation would be to increase the average loan processing, approval, or disbursement time above the averages for those functions as of October 1, 2003, for loan guarantees approved under such section by employees of the Administration or through the Preferred Lenders Program; or

“(4) otherwise providing any incentive or disincentive which encourages lenders or borrowers to make or obtain loans under the Express Loan Pilot Program instead of under the general loan authority of section 7(a) of the Small Business Act (15 U.S.C. 636(a)).

“(f) COLLECTION AND REPORTING OF DATA.—For all loans in excess of \$250,000 made pursuant to the authority set forth in subsection (d)(1), the Administrator shall, to the extent practicable, collect data on the purpose for each such loan. The Administrator shall report monthly to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives on the number of such loans and their purposes.

“(g) TERMINATION.—Subsections (b), (c), (e), and (f) shall not apply after September 30, 2004.

“SEC. 7. FISCAL YEAR 2004 DEFERRED PARTICIPATION STANDARDS.

“Deferred participation loans made during the period beginning on the date of the enactment of this Act [Apr. 5, 2004] and ending on September 30, 2004, under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) shall have the same terms and conditions (including maximum gross loan amounts and collateral requirements) as were applicable to loans made under such

section on October 1, 2003, except as otherwise provided in this Act [amending section 697 of this title, enacting this note, and amending provisions set out as a note under section 631 of this title]. This section shall not preclude the Administrator of the Small Business Administration from taking such action as necessary to maintain the loan program carried out under such section, subject to appropriations.

“SEC. 8. TEMPORARY INCREASE IN LOAN LIMIT UNDER BUSINESS LOAN AND INVESTMENT FUND AND IN ASSOCIATED GUARANTEE FEES.

“(a) TEMPORARY INCREASE IN AMOUNT PERMITTED TO BE OUTSTANDING AND COMMITTED.—During the period beginning on the date of the enactment of this Act [Apr. 5, 2004] and ending on September 30, 2004, section 7(a)(3)(A) of the Small Business Act (15 U.S.C. 636(a)(3)(A)) shall be applied as if the first dollar figure were \$1,500,000.

“(b) TEMPORARY GUARANTEE FEE ON DEFERRED PARTICIPATION SHARE OVER \$1,000,000.—With respect to loans made during the period referred to in subsection (a) to which section 7(a)(18) of the Small Business Act (15 U.S.C. 636(a)(18)) applies, the Administrator of the Small Business Administration shall collect an additional guarantee fee equal to 0.25 percent of the amount (if any) by which the deferred participation share of the loan exceeds \$1,000,000.”

BUDGETARY TREATMENT OF LOANS AND FINANCINGS

Pub. L. 107-100, §6(c), Dec. 21, 2001, 115 Stat. 971, provided that: “Assistance made available under any loan made or approved by the Small Business Administration under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) or financings made under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), during the 2-year period beginning on October 1, 2002, shall be treated as separate programs of the Small Business Administration for purposes of the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.] only.”

ENHANCED PUBLICITY DURING OPERATION ALLIED FORCE

Pub. L. 106-50, title IV, §402(c), Aug. 17, 1999, 113 Stat. 246, provided that: “For the duration of Operation Allied Force and for 120 days thereafter, the Administration shall enhance its publicity of the availability of assistance provided pursuant to the amendments made by this section [amending this section], including information regarding the appropriate local office at which affected small businesses may seek such assistance.”

EVALUATION OF PREDISASTER MITIGATION PILOT PROGRAM

Pub. L. 106-24, §1(c), Apr. 27, 1999, 113 Stat. 39, provided that, on Jan. 31, 2003, the Administrator of the Small Business Administration was to submit to the Committees on Small Business of the House of Representatives and the Senate a report on the effectiveness of the pilot program authorized by subsec. (b)(1)(C) of this section.

CONGRESSIONAL FINDINGS REGARDING SMALL BUSINESS YEAR 2000 READINESS

Pub. L. 106-8, §2, Apr. 2, 1999, 113 Stat. 13, provided that: “Congress finds that—

“(1) the failure of many computer programs to recognize the Year 2000 may have extreme negative financial consequences in the Year 2000, and in subsequent years for both large and small businesses;

“(2) small businesses are well behind larger businesses in implementing corrective changes to their automated systems;

“(3) many small businesses do not have access to capital to fix mission critical automated systems, which could result in severe financial distress or failure for small businesses; and

“(4) the failure of a large number of small businesses due to the Year 2000 computer problem would

have a highly detrimental effect on the economy in the Year 2000 and in subsequent years.”

TRANSFER OF FUNDS

Section 202(b) of Pub. L. 105-135 provided that:

“(1) IN GENERAL.—No funds are authorized to be appropriated or otherwise provided to carry out the grant program under section 7(m)(4)(F) of the Small Business Act (15 U.S.C. 636(m)(4)(F)) (as added by this section), except by transfer from another department or agency of the Federal Government to the Administration in accordance with this subsection.

“(2) LIMITATION ON AMOUNTS.—The total amount transferred to the Administration from other departments and agencies of the Federal Government to carry out the grant program under section 7(m)(4)(F) of the Small Business Act (15 U.S.C. 636(m)(4)(F)) (as added by this section) shall not exceed—

- “(A) \$3,000,000 for fiscal year 1998;
- “(B) \$4,000,000 for fiscal year 1999; and
- “(C) \$5,000,000 for fiscal year 2000.”

DEFENSE LOAN AND TECHNICAL ASSISTANCE PROGRAM

Section 507 of Pub. L. 105-135 provided that:

“(a) DELTA PROGRAM AUTHORIZED.—

“(1) IN GENERAL.—The Administrator may administer the Defense Loan and Technical Assistance program in accordance with the authority and requirements of this section.

“(2) EXPIRATION OF AUTHORITY.—The authority of the Administrator to carry out the DELTA program under paragraph (1) shall terminate when the funds referred to in subsection (g)(1) have been expended.

“(3) DELTA PROGRAM DEFINED.—In this section, the terms ‘Defense Loan and Technical Assistance program’ and ‘DELTA program’ mean the Defense Loan and Technical Assistance program that has been established by a memorandum of understanding entered into by the Administrator and the Secretary of Defense on June 26, 1995.

“(b) ASSISTANCE.—

“(1) AUTHORITY.—Under the DELTA program, the Administrator may assist small business concerns that are economically dependent on defense expenditures to acquire dual-use capabilities.

“(2) FORMS OF ASSISTANCE.—Forms of assistance authorized under paragraph (1) are as follows:

“(A) LOAN GUARANTEES.—Loan guarantees under the terms and conditions specified under this section and other applicable law.

“(B) NONFINANCIAL ASSISTANCE.—Other forms of assistance that are not financial.

“(c) ADMINISTRATION OF PROGRAM.—In the administration of the DELTA program under this section, the Administrator shall—

“(1) process applications for DELTA program loan guarantees;

“(2) guarantee repayment of the resulting loans in accordance with this section; and

“(3) take such other actions as are necessary to administer the program.

“(d) SELECTION AND ELIGIBILITY REQUIREMENTS FOR DELTA LOAN GUARANTEES.—

“(1) IN GENERAL.—The selection criteria and eligibility requirements set forth in this subsection shall be applied in the selection of small business concerns to receive loan guarantees under the DELTA program.

“(2) SELECTION CRITERIA.—The criteria used for the selection of a small business concern to receive a loan guarantee under this section are as follows:

“(A) The selection criteria established under the memorandum of understanding referred to in subsection (a)(3).

“(B) The extent to which the loans to be guaranteed would support the retention of defense workers whose employment would otherwise be permanently or temporarily terminated as a result of reductions in expenditures by the United States for

defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

“(C) The extent to which the loans to be guaranteed would stimulate job creation and new economic activities in communities most adversely affected by reductions in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

“(D) The extent to which the loans to be guaranteed would be used to acquire (or permit the use of other funds to acquire) capital equipment to modernize or expand the facilities of the borrower to enable the borrower to remain in the national technology and industrial base available to the Department of Defense.

“(3) ELIGIBILITY REQUIREMENTS.—To be eligible for a loan guarantee under the DELTA program, a borrower must demonstrate to the satisfaction of the Administrator that, during any 1 of the 5 preceding operating years of the borrower, not less than 25 percent of the value of the borrower’s sales were derived from—

“(A) contracts with the Department of Defense or the defense-related activities of the Department of Energy; or

“(B) subcontracts in support of defense-related prime contracts.

“(e) MAXIMUM AMOUNT OF LOAN PRINCIPAL.—With respect to each borrower, the maximum amount of loan principal for which the Administrator may provide a guarantee under this section during a fiscal year may not exceed \$1,250,000.

“(f) LOAN GUARANTY RATE.—The maximum allowable guarantee percentage for loans guaranteed under this section may not exceed 80 percent.

“(g) FUNDING.—

“(1) IN GENERAL.—The funds that have been made available for loan guarantees under the DELTA program and have been transferred from the Department of Defense to the Small Business Administration before the date of the enactment of this Act [Dec. 2, 1997] shall be used for carrying out the DELTA program under this section.

“(2) CONTINUED AVAILABILITY OF EXISTING FUNDS.—The funds made available under the second proviso under the heading ‘RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE’ in Public Law 103-335 (108 Stat. 2613) shall be available until expended—

“(A) to cover the costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees issued under this section; and

“(B) to cover the reasonable costs of the administration of the loan guarantees.”

TRADE ASSISTANCE PROGRAM FOR SMALL BUSINESS CONCERNS ADVERSELY AFFECTED BY NAFTA

Section 509 of Pub. L. 105-135 provided that: “The Administrator shall coordinate Federal assistance in order to provide counseling to small business concerns adversely affected by the North American Free Trade Agreement.”

PRIVATE SECTOR LOAN SERVICING DEMONSTRATION PROGRAM

Pub. L. 104-208, div. D, title I, §104(a), Sept. 30, 1996, 110 Stat. 3009-729, provided that:

“(1) IN GENERAL.—

“(A) DEMONSTRATION PROGRAM REQUIRED.—Notwithstanding any other provision of law, the Administra-

tion shall conduct a demonstration program, within the parameters described in paragraph (2), to evaluate the comparative costs and benefits of having the Administration's portfolio of disaster loans serviced under contract rather than directly by employees of the Administration. All costs of the demonstration program shall be paid from amounts made available for the Salaries and Expenses Account of the Administration.

“(B) INITIATION DATE.—Not later than 90 days after the date of enactment of this Act [Sept. 30, 1996], the Administration shall issue a request for proposals for the program parameters described in paragraph (2).

“(2) DEMONSTRATION PROGRAM PARAMETERS.—

“(A) LOAN SAMPLE.—The sample of loans for the demonstration program shall be randomly drawn from the Administration's portfolio of loans made pursuant to section 7(b) of the Small Business Act [15 U.S.C. 636(b)] and shall include a representative group of not less than 30 percent of all loans for residential properties, including 30 percent of all loans made during the demonstration program after the date of enactment of this Act, which loans shall be selected by the Administration on the basis of geographic distribution and such other factors as the Administration determines to be appropriate.

“(B) CONTRACT AND OPTIONS.—The Administration shall solicit and competitively award one or more contracts to service the loans included in the sample of loans described in subparagraph (A) for a term of not less than one year, with 3 one-year contract renewal options, each of which shall be exercised by the Administration unless the Administration terminates the contractor or contractors for good cause.

“(3) TERM OF DEMONSTRATION PROGRAM.—The demonstration program shall commence not later than October 1, 1997.

“(4) REPORTS.—

“(A) INTERIM REPORTS.—Not later than 120 days before the expiration of the initial 4-year contract performance period, the Administrator shall submit to the Committees on Small Business of the House of Representatives and the Senate [Committee on Small Business of Senate now Committee on Small Business and Entrepreneurship of Senate] an interim report on the conduct of the demonstration program. The contractor shall be afforded a reasonable opportunity to attach comments to each such report.

“(B) FINAL REPORT.—Not later than 120 days after the termination of the demonstration program, the Administrator shall submit to the Committees on Small Business of the House of Representatives and the Senate [Committee on Small Business and Entrepreneurship of Senate] a final report on the performance of the demonstration program, together with the recommendations of the Administrator for continuation, termination, or modification of the demonstration program.”

INCREASE OF AMOUNTS FOR DISASTER LOANS

Pub. L. 103-75, Aug. 12, 1993, 107 Stat. 740, provided in part: “That notwithstanding any other provision of law, the \$500,000 limitation on the amounts outstanding and committed to a borrower provided in paragraph 7(c)(6) of the Small Business Act [15 U.S.C. 636(c)(6)] shall be increased to \$1,500,000 for disasters commencing on or after April 1, 1993.”

CONGRESSIONAL FINDINGS OF MICROLENDING EXPANSION ACT OF 1992

Section 112 of Pub. L. 102-366 provided that: “The Congress finds that—

“(1) nationwide, there are many individuals who possess skills that, with certain short-term assistance, could enable them to become successfully self-employed;

“(2) many talented and skilled individuals who are employed in low-wage occupations could, with suffi-

cient opportunity, start their own small business concerns, which could provide them with an improved standard of living;

“(3) most such individuals have little or no savings, a nonexistent or poor credit history, and no access to credit or capital with which to start a business venture;

“(4) women, minorities, and individuals residing in areas of high unemployment and high levels of poverty have particular difficulty obtaining access to credit or capital;

“(5) providing such individuals with small-scale, short-term financial assistance in the form of microloans, together with intensive marketing, management, and technical assistance, could enable them to start or maintain small businesses, to become self-sufficient, and to raise their standard of living;

“(6) banking institutions are reluctant to provide such assistance because of the administrative costs associated with processing and servicing the loans and because they lack experience in providing the type of marketing, management, and technical assistance needed by such borrowers;

“(7) many organizations that have had successful experiences in providing microloans and marketing, management, and technical assistance to such borrowers exist throughout the Nation; and

“(8) loans from the Federal Government to intermediaries for the purpose of relending to start-up, newly established and growing small business concerns are an important catalyst to attract private sector participation in microlending.”

DISADVANTAGED SMALL BUSINESS STATUS DECISIONS

Section 221 of Pub. L. 102-366 provided that:

“(a) PUBLICATION OF DECISIONS.—A decision issued pursuant to section 7(j)(11)(F)(vii) of the Small Business Act (15 U.S.C. 636(j)(11)(F)(vii)) shall—

“(1) be made available to the protestor, the protested party, the contracting officer (if not the protestor), and all other parties to the proceeding, and published in full text; and

“(2) include findings of fact and conclusions of law, with specific reasons supporting such findings or conclusions, upon each material issue of fact and law of decisional significance regarding the disposition of the protest.

“(b) PRECEDENTIAL VALUE OF PRIOR DECISIONS.—A decision issued under section 7(j)(11)(F)(vii) of the Small Business Act that is issued prior to the date of enactment of this Act [Sept. 4, 1992] shall not have value as precedent in deciding any subsequent protest until such time as the decision is published in full text.”

REAUTHORIZATION OF BOND WAIVER TEST PROGRAM

Pub. L. 102-190, div. A, title VIII, §813(a)-(e), Dec. 5, 1991, 105 Stat. 1424, provided that:

“(a) AUTHORITY.—(1) In the award of construction contracts by the Department of Defense to participants in the Minority Small Business and Capital Ownership Development Program of the Small Business Administration, the Secretary of Defense may exercise the authority to grant surety bond exemptions to such participants provided by section 7(j)(13)(D) of the Small Business Act (15 U.S.C. 636(j)(13)(D)). In any case in which the Secretary exercises such authority, the Secretary may award a construction contract directly to a participant in such program, without approval by or consultation with the Small Business Administration.

“(2) In exercising the authority provided by paragraph (1), the Secretary of Defense shall make every reasonable effort to award not fewer than 30 contracts for construction projects (including repair and alteration of existing facilities) during each fiscal year.

“(b) DELEGATION OF AUTHORITY.—The Secretary of Defense shall delegate to one or more Secretaries of a military department the authority provided by subsection (a)(1).

“(c) NO RIGHT OF ACTION AGAINST THE UNITED STATES.—A dispute between a contractor granted a sur-

ety bond exemption pursuant to section 7(j)(13)(D) of the Small Business Act and a subcontractor at any tier or a supplier of such contractor relating to the amount or entitlement of a payment due such subcontractor or supplier does not constitute a dispute to which the United States is a party. The United States may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

“(d) REGULATIONS.—The Secretary of Defense shall prescribe final regulations and procedures for exercising the authority provided in this section not later than 270 days after the date of the enactment of this Act [Dec. 5, 1991].

“(e) PROGRAM DURATION.—The authority provided by this section shall apply to contracts awarded before October 1, 1994.”

EMERGENCY DIRECT LOANS FOR SMALL BUSINESS CONCERNS LOCATED IN COMMUNITIES ADVERSELY AFFECTED BY TROOP DEPLOYMENTS DURING PERSIAN GULF CONFLICT

Pub. L. 102-190, div. A, title X, §1087, Dec. 5, 1991, 105 Stat. 1483, authorized emergency direct loans to small business concerns located in counties in which at least 5 small business concerns suffered severe economic injury resulting from deployment, after July 31, 1990, of troops in connection with Persian Gulf conflict, provided that loan amounts could not exceed \$50,000 to any small business concern, and provided for source of loan funds, applications for loans, definitions, regulations to implement loan program, and expiration of loan authority at end of 270-day period beginning on date on which loan applications were first accepted.

TERMINATION OF MICROLOAN DEMONSTRATION PROGRAM

Section 609(j) of Pub. L. 102-140, as amended by Pub. L. 103-403, title II, §203, Oct. 22, 1994, 108 Stat. 4181, provided that: “The demonstration program established by subsection (h) [amending this section] shall terminate on October 1, 1997.”

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

TEST PROGRAM FOR USE OF BOND WAIVER AUTHORITY TO ASSIST CERTAIN SMALL DISADVANTAGED BUSINESS CONCERNS

Pub. L. 101-189, div. A, title VIII, §833, Nov. 29, 1989, 103 Stat. 1509, which directed Secretary of Defense and Small Business Administration to establish a program for fiscal years 1990 and 1991 to test use of authority provided by subsec. (j)(13)(D) of this section, and that under the test program, the Secretary of Defense was to make every reasonable effort during each such fiscal year to award not less than 30 contracts for construction projects (including repair and alteration of existing facilities) to participants in Minority Small Business and Capital Ownership Development Program of Small Business Administration granted surety bond exemptions under such authority, was repealed by Pub. L. 102-190, div. A, title VIII, §813(f), Dec. 5, 1991, 105 Stat. 1424.

DEFINITION OF TERMS USED IN PUB. L. 100-656

Section 2 of Pub. L. 100-656, as amended by Pub. L. 101-37, §3, June 15, 1989, 103 Stat. 70, provided that: “For the purposes of this Act [see Short Title of 1988 Amendment note set out under section 631 of this title]—

“(1) the term ‘Administration’ means the Small Business Administration;

“(2) the term ‘Administrator’ means the Administrator of the Small Business Administration, unless otherwise indicated;

“(3) the term ‘Business Opportunity Specialist’ means the Administration employee responsible for providing business development assistance to Program Participants pursuant to sections 7(j) and 8(a) of the Small Business Act (15 U.S.C. 636(j), 637(a));

“(4) the term ‘disadvantaged owners’ means those individuals upon whom eligibility is based for participation in the Program and the award of subcontracts pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a));

“(5) the term ‘minority owned businesses’ means business concerns that are at least 51 percent owned and controlled by one or more individuals who belong to those groups described or identified pursuant to section 2(e)(1)(C) of the Small Business Act (15 U.S.C. 631(e)(1)(C));

“(6) the term ‘Program’ means the Minority Small Business and Capital Ownership Development Program established by section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)), unless otherwise indicated;

“(7) the term ‘Program Participant’ means a small business concern participating in the Program; and

“(8) the term ‘Program Participation Term’ means the fixed period of time assigned to a Program Participant pursuant to section 7(j)(10)(A)(i) of the Small Business Act (15 U.S.C. 636(j)(10)(A)(i)) prior to the date of enactment of this Act [Nov. 15, 1988].”

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES OF PUB. L. 100-656

Section 101 of Pub. L. 100-656 provided that:

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

“(1) the Capital Ownership Development Program administered by the Small Business Administration and the award of contracts pursuant to section 8(a) of the Small Business Act [15 U.S.C. 637(a)] remain a primary tool for improving opportunities for small business concerns owned and controlled by socially and economically disadvantaged individuals in the Federal procurement process and bringing such concerns into the nation’s economic mainstream;

“(2) although some progress has resulted from the Program, it has generally failed to meet its objectives, which remain as valid now as when the Program was initiated;

“(3) too few concerns that have exited the Program have been prepared to compete successfully in the open marketplace on competitive procurements, and many concerns have developed an unhealthy dependency on sole-source contracts by the time they are required to leave the Program;

“(4) the application and certification process for admitting new participants to the Program is inordinately lengthy and burdensome;

“(5) the Administration has often not efficiently and equitably administered and managed the Program in a manner that provided clear lines of responsibility for implementing and monitoring many of the administrative duties under the Program;

“(6) the Administration and some program participants have given insufficient attention and support to the business development goals of the Program and instead have focused almost entirely on the size of contract awards or the number of firms certified to participate in the Program;

“(7) many Federal procuring agencies have failed to identify and offer the necessary amount of contract support in order to allow for diversification and growth of disadvantaged businesses participating in the Program;

“(8) contract support as well as business development expenses have been misused both by the Administration and Program participants and have not been equitably distributed pursuant to objective criteria;

“(9) the widespread perception of undue political influence in the operation and administration of the Program has significantly contributed to the Program’s poor image and has deterred utilization of the Program by socially and economically disadvantaged concerns and by Federal procuring agencies; and

“(10) it is imperative that increased competition and other substantial reforms be accomplished in the Program in order to promote the Congressionally mandated business development objectives and purposes.

“(b) PURPOSES.—The purposes of this Act [see Short Title of 1988 Amendment note set out under section 631 of this title] therefore are to—

“(1) affirm that the Capital Ownership Development Program and the section 8(a) [15 U.S.C. 637(a)] authority shall be used exclusively for business development purposes to help small businesses owned and controlled by the socially and economically disadvantaged to compete on an equal basis in the mainstream of the American economy;

“(2) affirm that the measure of success of the Capital Ownership Development Program, and the section 8(a) authority, shall be the number of competitive firms that exit the Program without being unreasonably reliant on section 8(a) contracts and that are able to compete on an equal basis in the mainstream of the American economy;

“(3) ensure that program benefits accrue to individuals who are both socially and economically disadvantaged;

“(4) increase the number of small businesses owned and controlled by such individuals from which the United States may purchase products and services (including construction work); and

“(5) ensure integrity, competence, and efficiency in the administration of business development services and the Federal contracting opportunities made available to eligible small businesses.”

EMPLOYEE TRAINING AND EVALUATION

Pub. L. 100-656, title IV, §410, Nov. 15, 1988, 102 Stat. 3879, as amended by Pub. L. 101-37, §18, June 15, 1989, 103 Stat. 74, provided that:

“(a) TRAINING REQUIREMENTS FOR BUSINESS OPPORTUNITY SPECIALISTS.—(1) In each Small Business Administration field office responsible for assisting one or more Program Participants there shall be a position designated as a Business Opportunity Specialist. To the maximum extent practicable the Administration shall assure that an adequate number of Business Opportunity Specialists are assigned to each district office to carry out the responsibilities of sections 7(j) and 8(a) of the Small Business Act (15 U.S.C. 636(j), 637(a)) and to assist Program Participants.

“(2) The Administration shall take such actions as may be appropriate to ensure that any person employed as a Business Opportunity Specialist receives adequate periodic training to assure such employee is capable of assisting Program Participants to fully utilize the Program and to meet the requirements of the Small Business Act [15 U.S.C. 631 et seq.], as amended by this Act.

“(b) PILOT PROGRAM.—(1) Within 180 days after the effective date of this subsection [Nov. 15, 1988] the Administrator shall designate three regions of the Administration to conduct a pilot program pursuant to the provisions of this subsection. The designated regions shall contain approximately 30 per centum of the total number of Program Participants as of the time of designation.

“(2) A Business Opportunity Specialist employed in a Region designated pursuant to paragraph (1), in addition to other assigned duties and responsibilities, shall—

“(A) conduct contract negotiations on behalf of the Administration for contracts awarded pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)) when performance will be rendered by one or more firms in such Specialist's assigned portfolio;

“(B) facilitate and otherwise assist such firms in negotiating for the receipt of contracts to be let pursuant to such section.

“(3) The Administration shall take such actions as may be appropriate to train and qualify such Specialists to perform the negotiations required pursuant to paragraph (2).

“(4) To the extent practicable, the Administrator shall ensure that the performance appraisal system applicable to a Business Opportunity Specialist employed in a region designated pursuant to paragraph (1) affords substantial recognition to how well such Specialist's assigned portfolio of concerns participating in the program established by section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) are achieving competitiveness and furthering the business development purposes of the program.

“(5) The Administration shall establish personnel positions for Business Opportunity Specialists employed in the regions designated pursuant to paragraph (1) that are classified at a grade level of the General Schedule that are sufficient, in the opinion of the Administrator, to attract and retain highly qualified personnel.

“(c) REPORT AND PILOT PROGRAM TERMINATION.—(1) Within 120 days after the termination of the pilot program conducted pursuant to subsection (b), the Administration shall issue a report to the Committees on Small Business of the Senate and of the House of Representatives [Committee on Small Business of Senate now Committee on Small Business and Entrepreneurship of Senate] on the effectiveness of the pilot. Such report shall contain such recommendations for administrative or legislative change as may be appropriate.

“(2) The pilot program conducted pursuant to subsection (b) shall be terminated three years after the date on which the Committees on Small Business of the Senate and of the House of Representatives [Committee on Small Business of Senate now Committee on Small Business and Entrepreneurship of Senate] receive written notification from the Administrator that the pilot is in full operation in each of the three designated pilot regions.”

GENERAL ACCOUNTING OFFICE REPORT

Section 504 of Pub. L. 100-656 directed Comptroller General of the United States to conduct a review of operation of Minority Small Business and Capital Ownership Development Program authorized by subsec. (j)(10) of this section and contract assistance provided pursuant to section 637(a)(15) of this title commencing within 180 days of Nov. 15, 1988, and concluding Sept. 30, 1991, such review to report on implementation of provisions of Pub. L. 100-656 by Small Business Administration and various executive departments and agencies providing contracting opportunities to the Program, and directed Comptroller General to prepare a report summarizing findings of review, make such recommendations as may be appropriate, and transmit report to Committees on Small Business of the Senate and House of Representatives by Feb. 1, 1992.

COMMISSION ON MINORITY BUSINESS DEVELOPMENT

Pub. L. 100-656, title V, §505(a)-(g), Nov. 15, 1988, 102 Stat. 3883, as amended by Pub. L. 101-37, §20, June 15, 1989, 103 Stat. 74; Pub. L. 101-574, title II, §211, Nov. 15, 1990, 104 Stat. 2821; Pub. L. 102-366, title II, §231(a), Sept. 4, 1992, 106 Stat. 1001; Pub. L. 103-160, div. A, title IX, §904(f), Nov. 30, 1993, 107 Stat. 1729, established the Commission on Minority Business Development, set out its duties, powers, membership, administration, and personnel, and provided that it cease to exist within 90 days after the date that it transmitted its final report to Congress and to the President or Sept. 30, 1992, whichever was later.

LIMITATIONS ON SPENDING AUTHORITY

Section 802(f) of Pub. L. 100-656 provided that:

“(1) Any new credit authority or authority to enter into contracts provided for in this Act [see Short Title of 1988 Amendment note set out under section 631 of this title] is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

“(2) No funds are authorized to be appropriated in subsequent appropriation Acts to the Administration

for the purpose of making grants of financial assistance under the so called 'Business Development Expense' program to any firm participating in the programs authorized by section 7(j)(10) or section 8(a) of the Small Business Act (15 U.S.C. 636(j)(10) and 637(a))."

CERTIFIED LOAN PROGRAM; EXPANDED PARTICIPATION; REPORTS TO CONGRESS

Section 102(b) of Pub. L. 100-590 provided that: "The Administration shall take appropriate steps to expand participation in the certified loan program and shall report to the Small Business Committees of the Senate and the House of Representatives on the amount of loans approved and the amount of losses sustained under the provisions of section 7(a)(19) of the Small Business Act [15 U.S.C. 636(a)(19)]. An interim report shall be submitted not later than one year after date of enactment of this Act [Nov. 3, 1988] and a final report shall be submitted not later than 18 months after the date of enactment."

Similar provisions were contained in Pub. L. 100-533, title III, § 302(b), Oct. 25, 1988, 102 Stat. 2693.

PIPELINE LOANS OR PREVIOUS DISASTERS

Section 18006(b) of Pub. L. 99-272, as amended by Pub. L. 99-349, title I, July 2, 1986, 100 Stat. 718, provided that: "Notwithstanding the amendments made by this section [amending sections 636 and 647 of this title], sections 18002 [amending provisions set out as a note under section 631 of this title] and 18016 [amending section 632 of this title], or any other provision of law, the Small Business Administration shall continue to accept, process, and approve loan applications under paragraphs (1) through (4) of subsection [section] 7(b) of the Small Business Act [15 U.S.C. 636(b)(1) to (4)] and shall obligate and disburse loan funds on account of disasters which occurred prior to October 1, 1985, and with respect to which a disaster declaration application was submitted prior to October 1, 1985, even if any such application is filed after the date of the enactment of this Act [Apr. 7, 1986]."

DETERMINATION OF NATURAL DISASTER BY SECRETARY OF AGRICULTURE TO BE DEEMED DISASTER DECLARATION BY ADMINISTRATOR OF SMALL BUSINESS ADMINISTRATION; DISASTERS COMMENCING BETWEEN JANUARY 1, 1983, AND SEPTEMBER 30, 1983

Pub. L. 98-166, title I, § 101, Nov. 28, 1983, 97 Stat. 1079, provided in part that: "beginning with disasters commencing between January 1, 1983, through September 30, 1983, determination of a natural disaster by the Secretary of Agriculture pursuant to 7 U.S.C. 1961 shall be deemed a disaster declaration by the Administrator of the Small Business Administration for purposes of determining eligibility for assistance under section 7(b)(1) of the Small Business Act [subsec. (b)(1) of this section] for agricultural enterprises as defined in section 18(b) of the Small Business Act [15 U.S.C. 647(b)]: *Provided*, That nothing in this paragraph is to preclude the applicability of section 18(a) of the Small Business Act [15 U.S.C. 647(a)] with regard to the duplication of benefits for disasters commencing between January 1, 1983, through September 30, 1983."

REPORTS TO CONGRESS; DEFAULT RATE OF LOANS

Section 1907 of Pub. L. 97-35 required the Small Business Administration to submit to Congress, not later than Feb. 28, 1984, and 1985, reports containing specific information on the aggregate number, dollar value, and default rate of all loans with respect to 15 U.S.C. 636(a)(5), (6)(C), (8)(A).

BUSINESS PLANS; SUBMITTAL BY CONCERNS ELIGIBLE TO RECEIVE CONTRACTS

Section 106(b) of Pub. L. 96-481 provided that: "Notwithstanding the provisions of subsection (a) of this section [amending subsec. (j)(10)(A)(i) of this section], for concerns eligible to receive contracts pursuant to section 8(a) of the Small Business Act [section 637(a) of

this title] on the effective date of the amendment made by this section [Oct. 21, 1980], each such concern shall submit to the Small Business Administration within two months after the promulgation of final regulations issued within one hundred and twenty days after the enactment of this Act [Oct. 21, 1981] the business plan required under section 7(j)(10)(A)(i) of the Small Business Act, as amended by subsection (a) of this section [subsec. (j)(10)(A)(i) of this section]: *Provided however*, That the period of time required under section 7(j)(10)(A)(i) of the Small Business Act, as amended by subsection (a) of this section, shall be fixed as mutually agreed upon by the program participant and the Small Business Administration prior to the awarding or extending of contracts to such concern pursuant to section 8(a) of the Small Business Act after June 1, 1981, but the period shall be fixed in no case later than eighteen months after the effective date of this Act: *Provided further*, That no determination made under this paragraph shall be considered a denial of total participation for the purposes of section 8(a)(9) of the Small Business Act."

SMALL BUSINESS EMPLOYEE OWNERSHIP; CONGRESSIONAL FINDINGS AND PURPOSES

Sections 502 and 503 of Pub. L. 96-302 provided that: "SEC. 502. The Congress hereby finds and declares that—

"(1) employee ownership of firms provides a means for preserving jobs and business activity;

"(2) employee ownership of firms provides a means for keeping a small business small when it might otherwise be sold to a conglomerate or other large enterprise;

"(3) employee ownership of firms provides a means for creating a new small business from the sale of a subsidiary of a large enterprise;

"(4) unemployment insurance programs, welfare payments, and job creation programs are less desirable and more costly for both the Government and program beneficiaries than loan guarantee programs to maintain employment in firms that would otherwise be closed, liquidated, or relocated; and

"(5) by guaranteeing loans to qualified employee trusts and similar employee organizations, the Small Business Administration can provide feasible and desirable methods for the transfer of all or part of the ownership of a small business concern to its employees.

"SEC. 503. (a) The purposes of this title [enacting sections 632(c) and 636(a)(8) of this title and provisions set out as notes under sections 631 and 636 of this title] are—

"(1) to provide that a qualified employee trust shall be eligible for loan guarantees under section 7(a) of the Small Business Act [subsec. (a) of this section] with respect to a small business concern, regardless of the percentage of stock of the concern held by the trust, and

"(2) to provide in section 505 of this Act [enacting subsec. (a)(8) of this section] authority to address the specific case in which the Small Business Administration guarantees loans under section 7(a) of the Small Business Act [subsec. (a) of this section] for purposes of providing funds to a qualified employee trust (and other employee organizations which are treated as qualified employee trusts) for the purchase, by at least 51 percent of the employees, of at least 51 percent of the stock of business which is operated for profit and which is—

"(A) a small business concern, or

"(B) a corporation which is controlled by another person if, after the plan for the purchase of such corporation is carried out, such corporation would be a small business concern.

"(b) Nothing in this title shall be construed to prohibit the Small Business Administration from making loan guarantees under section 7(a) of the Small Business Act [subsec. (a) of this section] to qualified employee trusts which own less than 51 percent of the stock of a continuing business."

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

DISASTER RELIEF AUTHORITY; STUDY AND REPORT ON CONSOLIDATION

Section 101 of Pub. L. 94-305 provided that: "The President shall undertake a comprehensive review of all Federal disaster loan authorities and shall make a report to the Congress, not later than December 1, 1976, containing such recommendations and legislative proposals, including possible consolidation of Federal disaster loan authorities, as may be demonstrated to be necessary and appropriate to assure the most effective and efficient delivery of disaster relief. Such study shall give particular emphasis to alleviating any extraordinary burden the management of Federal disaster loan programs may impose on an agency."

DISASTER LOANS; SPECIAL PROVISIONS FOR APPLICATIONS RECEIVED ON OR BEFORE MARCH 19, 1981; ASSISTANCE TO HARDSHIP APPLICANTS

Section 1916 of Pub. L. 97-35 provided that: "(a) Notwithstanding section 5(b)(6) of the Small Business Act [section 634(b)(6) of this title], or any other provision of law, any business concern applicant for assistance made pursuant to paragraph (1), (2), or (4) of subsection 7(b) of the Small Business Act [subsec. (b)(1), (2), or (4) of this section] whose application was received but not approved by the Small Business Administration on or before March 19, 1981, shall be offered loan assistance by the Small Business Administration as provided in this section.

"(b) The Small Business Administration is specifically directed to reconsider and act upon any such application and to make, remake, obligate, reobligate, commit or recommit such financing as provided herein.

"(c) If the applicant was a business concern able to obtain credit elsewhere, the terms and conditions shall be those specified in section 7(b)(3) of the Small Business Act [subsec. (b)(3) of this section]; but if the Administrator determines that imposition of these provisions would impose a substantial hardship on the applicant, he may, in his discretion on a case-by-case basis waive these provisions and provide assistance in accord with rules and regulations in effect for the date the disaster commenced for applicants able to secure credit elsewhere. If the applicant was a business concern unable to obtain credit elsewhere, or was an applicant under sections 7(b)(2) or 7(b)(4) of the Small Business Act [subsec. (b)(2) or (4) of this section], the terms and conditions shall be those in effect for such applicants on the date such application was first received. As used herein, the term 'credit elsewhere' shall have the meaning prescribed by the Small Business Act as amended herein [this chapter]."

DISASTER LOANS; INTEREST RATE; CANCELLATION OF LOANS

Section 9 of Pub. L. 93-24, Apr. 20, 1973, 87 Stat. 25, provided that: "Notwithstanding the provisions of any other law, any loan made by the Small Business Administration in connection with any disaster occurring on or after the date of enactment of this Act [Apr. 20, 1973] under sections 7(b)(1), (2), or (4) of the Small Business Act (15 U.S.C. 636(b)(1), (2), or (4)) [subsec. (b)(1), (2), or (4) of this section] shall bear interest at the rate determined under section 324 of the Consolidated Farm and Rural Development Act, as amended by section 4 of

this Act [section 1964 of Title 7, Agriculture]. No portion of any such loan shall be subject to cancellation under the provisions of any law."

INTEREST RATES ON LOANS TO MEET REGULATORY STANDARDS

Section 2(d) of Pub. L. 93-237 provided that: "In no case shall the interest rate charged for loans to meet regulatory standards be lower than loans made in connection with physical disasters."

ELECTION OF BENEFITS

Section 1(c) of Pub. L. 92-385 provided that: "Any person who (1) suffers any loss or damage as a result of a major disaster as determined by the President which occurred prior to the date of enactment of this Act [August 16, 1972], (2) is eligible for assistance under the amendment made by subsection (a), and (3) is otherwise eligible for benefits greater than those provided by the amendment made by subsection (a), may elect to receive such greater benefits."

FUND FOR MANAGEMENT COUNSELING

Section 602(a), (b) of Pub. L. 85-699 provided that:

"(a) Within sixty days after the enactment of this Act [Aug. 21, 1958], each Federal Reserve bank shall pay to the United States the aggregate amount which the Secretary of the Treasury has heretofore paid to such bank under the provisions of section 13b of the Federal Reserve Act [12 U.S.C. 352a]; and such payment shall constitute a full discharge of any obligation or liability of the Federal Reserve bank to the United States or to the Secretary of the Treasury arising out of subsection (e) of said section 13b [12 U.S.C. 352a(e)] or out of any agreement thereunder.

"(b) The amounts repaid to the United States pursuant to subsection (a) of this section shall be covered into a special fund in the Treasury which shall be available for grants under section 7(d) of the Small Business Act [subsec. (d) of this section]. Any remaining balance of funds set aside in the Treasury for payments under section 13b of the Federal Reserve Act [12 U.S.C. 352a] shall be covered into the Treasury as miscellaneous receipts."

LOANS FOR MODIFICATIONS OF MINING FACILITIES AND EQUIPMENT

Section 504(d) of Pub. L. 91-173 provided that: "Loans may also be made or guaranteed for the purposes set forth in section 7(b)(5) of the Small Business Act, as amended [subsec. (b)(5) of this section], pursuant to the provisions of section 202 of the Public Works and Economic Development Act of 1965, as amended [42 U.S.C. 3142]."

EXECUTIVE ORDER NO. 12190

Ex. Ord. No. 12190, Feb. 1, 1980, 45 F.R. 7773, established the Advisory Committee on Small and Minority Business Ownership to assist in monitoring and encouraging the placement of subcontracts by the private sector with eligible small businesses, to study and propose incentives and assistance needed by the private sector to help in the training, development, and upgrading of such businesses, to make periodic reports and recommendations to the President, and to report annually to the President and to the Congress on the activities of the Committee and provided for termination of the Committee on Dec. 31, 1980.

EXTENSION OF TERM OF ADVISORY COMMITTEE ON SMALL AND MINORITY BUSINESS OWNERSHIP

Term of the Advisory Committee on Small and Minority Business Ownership extended until Dec. 31, 1982, by Ex. Ord. No. 12258, Dec. 31, 1980, 46 F.R. 1251, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Term of the Advisory Committee on Small and Minority Business Ownership extended until Sept. 30, 1984,

by Ex. Ord. No. 12399, Dec. 31, 1982, 48 F.R. 379, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the Advisory Committee on Small and Minority Business Ownership extended until Sept. 30, 1985, by Ex. Ord. No. 12489, Sept. 28, 1984, 49 F.R. 38927, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the Advisory Committee on Small and Minority Business Ownership extended until Sept. 30, 1987, by Ex. Ord. No. 12534, Sept. 30, 1985, 50 F.R. 40319, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the Advisory Committee on Small and Minority Business Ownership extended until Sept. 30, 1989, by Ex. Ord. No. 12610, Sept. 30, 1987, 52 F.R. 36901, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the Advisory Committee on Small and Minority Business Ownership extended until Sept. 30, 1991, by Ex. Ord. No. 12692, Sept. 29, 1989, 54 F.R. 40627, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, which extension was revoked by amendment of Ex. Ord. No. 12692, by Ex. Ord. No. 12704, Feb. 26, 1990, 55 F.R. 6969.

§ 636a. Repealed. Pub. L. 97-35, title XIX, § 1917, Aug. 13, 1981, 95 Stat. 781

Section, Pub. L. 91-606, title II, § 231, Dec. 31, 1970, 84 Stat. 1752; Pub. L. 92-385, § 6, Aug. 16, 1972, 86 Stat. 559, related to small business disaster loans.

EFFECTIVE DATE OF REPEAL

Repeal effective Aug. 13, 1981, but not to affect any financing made, obligated, or committed under this chapter or chapter 14B of this title prior to Aug. 13, 1981, see section 1918 of Pub. L. 97-35, set out as an Effective Date of 1981 Amendment note under section 631 of this title.

§ 636b. Disaster loan interest rates

Any loan made under section 636a¹ of this title and section 4452¹ of title 42 shall not exceed the current cost of repairing or replacing the disaster injury, loss, or damage in conformity with current codes and specifications. Any loan made under sections 636a¹ and 636d of this title, and sections 3538 and 4452¹ of title 42 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 with remaining periods to maturity of ten to twelve years reduced by not to exceed 2 per centum per annum. In no event shall any loan made under this section bear interest at a rate in excess of 6 per centum per annum.

(Pub. L. 91-606, title II, § 234, Dec. 31, 1970, 84 Stat. 1754.)

REFERENCES IN TEXT

Section 636a of this title, referred to in text, was repealed by Pub. L. 97-35, title XIX, § 1917, Aug. 13, 1981, 95 Stat. 781.

Section 4452 of title 42, referred to in text, was repealed by Pub. L. 93-24, § 7, Apr. 20, 1973, 87 Stat. 25.

CODIFICATION

Section was enacted as part of the Disaster Relief Act of 1970, and not as part of the Small Business Act which comprises this chapter. Section was formerly classified

¹ See References in Text note below.

to section 4453 of Title 42, The Public Health and Welfare.

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.

§ 636c. Age of applicant for disaster loans

In the administration of any Federal disaster loan program under the authority of section 636a¹ of this title, section 4452¹ of title 42, or section 233 of Public Law 91-606, the age of any adult loan applicant shall not be considered in determining whether such loan should be made or the amount of such loan.

(Pub. L. 91-606, title II, § 235, Dec. 31, 1970, 84 Stat. 1754.)

REFERENCES IN TEXT

Section 636a of this title, referred to in text, was repealed by Pub. L. 97-35, title XIX, § 1917, Aug. 13, 1981, 95 Stat. 781.

Section 4452 of title 42, referred to in text, was repealed by Pub. L. 93-24, § 7, Apr. 20, 1973, 87 Stat. 25.

Section 233 of Public Law 91-606, referred to in text, amended section 1820(a)(2), (f) [now 3720(a)(2), (f)] of Title 38, Veterans' Benefits.

CODIFICATION

Section was enacted as part of the Disaster Relief Act of 1970, and not as part of the Small Business Act which comprises this chapter. Section was formerly classified to section 4454 of Title 42, The Public Health and Welfare.

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.

§ 636d. Disaster aid to major sources of employment

(a) Loans to disaster areas

The Small Business Administration in the case of a nonagricultural enterprise, and the Farmers Home Administration in the case of an agricultural enterprise, are authorized to provide any industrial, commercial, agricultural, or other enterprise, which has constituted a major source of employment in an area suffering a major disaster and which is no longer in substantial operation as a result of such disaster, a loan in such amount as may be necessary to enable such enterprise to resume operations in order to assist in restoring the economic viability of the disaster area. Loans authorized by this section shall be made without regard to limitations on the size of loans which may otherwise be imposed by any other provision of law or regulations promulgated pursuant thereto.

(b) Interest; deferred payments

Assistance under this section shall be in addition to any other Federal disaster assistance, except that such other assistance may be adjusted or modified to the extent deemed appro-

¹ See References in Text note below.