

**Editorial Notes**

## REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (d), is the date of enactment of Pub. L. 110-246, which was approved June 18, 2008.

## CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE

Enactment 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, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of this title.

**§ 937. Loans from other credit sources**

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

(May 20, 1936, ch. 432, title III, §307, as added Pub. L. 93-32, §2, May 11, 1973, 87 Stat. 70; amended Pub. L. 97-35, title I, §165(c), Aug. 13, 1981, 95 Stat. 379; Pub. L. 103-129, §2(c)(8), Nov. 1, 1993, 107 Stat. 1365; Pub. L. 103-354, title II, §235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

**Editorial Notes**

## AMENDMENTS

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

1993—Pub. L. 103-129 inserted at end “The Administrator may not request any applicant for an electric loan under this chapter to apply for and accept a loan in an amount exceeding 30 percent of the credit needs of the applicant.”

1981—Pub. L. 97-35 substituted “an insured loan” for “a loan insured at the standard rate”.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE

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

**§ 938. Full faith and credit of the United States**

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

(May 20, 1936, ch. 432, title III, §308, as added Pub. L. 93-32, §2, May 11, 1973, 87 Stat. 70; amended Pub. L. 94-124, §2, Nov. 4, 1975, 89 Stat. 677; Pub. L. 103-354, title II, §235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

**Editorial Notes**

## AMENDMENTS

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

1975—Pub. L. 94-124 substituted “of which the holder had actual knowledge at the time it became a holder” for “of which the holder has actual knowledge”.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE

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

**§ 939. Loan terms and conditions**

Loans made from or insured through the fund shall be for the same purposes and on the same terms and conditions as are provided for loans in subchapters I and II of this chapter except as otherwise provided in sections 933 to 938 inclusive.

(May 20, 1936, ch. 432, title III, §309, as added Pub. L. 93-32, §2, May 11, 1973, 87 Stat. 70; amended Pub. L. 101-624, title XXIII, §2360, Nov. 28, 1990, 104 Stat. 4042; Pub. L. 103-129, §2(b)(2), Nov. 1, 1993, 107 Stat. 1363; Pub. L. 104-127, title VII, §779, Apr. 4, 1996, 110 Stat. 1151; Pub. L. 115-334, title VI, §6602(b)(11), Dec. 20, 2018, 132 Stat. 4777.)

**Editorial Notes**

## AMENDMENTS

2018—Pub. L. 115-334 struck out at end “The preceding sentence shall not be construed to make section 948(b)(2) or 950b of this title applicable to this subchapter.”

1996—Pub. L. 104-127 struck out subsec. (a) designation and heading “In general” and heading and text of subsec. (b). Prior to amendment, text read as follows: “The term of any telephone loan made under this subchapter shall be determined by the borrower at the time the loan application is submitted.”

1993—Subsec. (a). Pub. L. 103-129 inserted at end “The preceding sentence shall not be construed to make section 948(b)(2) or 950b of this title applicable to this subchapter.”

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

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE

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

**§ 940. Refinancing of rural development loans**

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

(May 20, 1936, ch. 432, title III, §310, as added Pub. L. 93-32, §2, May 11, 1973, 87 Stat. 70;

amended Pub. L. 103-354, title II, §235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Consolidated Farm and Rural Development Act, referred to in text, is title III of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 307, which is classified principally to chapter 50 (§1921 et seq.) of this title. For complete classification of the Act to the Code, see Short Title note set out under section 1921 of this title and Tables.

##### AMENDMENTS

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

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

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

#### § 940a. Repealed. Pub. L. 104-127, title VII, § 780, Apr. 4, 1996, 110 Stat. 1151

Section, act May 20, 1936, ch. 432, title III, §311, as added Oct. 18, 1986, Pub. L. 99-500, §101(m) [title VI, §623], 100 Stat. 1783-308, 1783-333, and Oct. 30, 1986, Pub. L. 99-591, §101(m) [title VI, §623], 100 Stat. 3341-308, 3341-333; amended Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(7), (13), 108 Stat. 3221, related to privatization demonstration program.

#### § 940b. Use of funds

A borrower of an insured or guaranteed electric loan under this chapter may, without restriction or prior approval of the Secretary, invest its own funds or make loans or guarantees, not in excess of 15 percent of its total utility plant.

(May 20, 1936, ch. 432, title III, §312, as added Pub. L. 100-203, title I, §1402, Dec. 22, 1987, 101 Stat. 1330-21; amended Pub. L. 103-354, title II, §235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

#### Editorial Notes

##### AMENDMENTS

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

#### § 940c. Cushion of credit payments program

##### (a) Establishment

###### (1) In general

###### (A) Development and promotion of program

The Secretary shall develop and promote a program to encourage borrowers to voluntarily make deposits into cushion of credit accounts established within the Rural Electrification and Telephone Revolving Fund.

###### (B) Termination

Effective on December 20, 2018, no deposits may be made under subparagraph (A).

###### (2) Interest

###### (A) In general

Amounts in each cushion of credit account shall accrue interest to the borrower at a rate of 5 percent per annum.

###### (B) Reduction

Notwithstanding subparagraph (A), amounts in each cushion of credit account

shall accrue interest to the borrower at a rate equal to—

(i) 4 percent per annum in fiscal year 2021; and

(ii) the then applicable 1-year Treasury rate thereafter.

##### (3) Balance

###### (A) In general

A borrower may reduce the balance of its cushion of credit account only if the amount obtained from the reduction is used to make scheduled payments on loans made or guaranteed under this chapter.

###### (B) Prepayment

Notwithstanding subparagraph (A) and subject to subparagraph (C), beginning on December 20, 2018, and ending with September 30, 2020, a borrower may, at the sole discretion of the borrower, reduce the balance of its cushion of credit account if the amount obtained from the reduction is used to prepay loans made or guaranteed under this chapter.

###### (C) No prepayment premium

Notwithstanding any other provision of this chapter, no prepayment premium shall be imposed or collected with respect to that portion of a loan that is prepaid by a borrower in accordance with subparagraph (B).

###### (D) Mandatory funding

Notwithstanding section 661c of title 2, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall make available such sums as necessary to cover any loan modification costs as defined in section 661a of title 2.

##### (b) Uses of cushion of credit payments

###### (1) In general

###### (A) Cash balance

Cushion of credit payments shall be held in the Rural Electrification and Telephone Revolving Fund as a cash balance in the cushion of credit accounts of borrowers.

###### (B) Interest

All cash balance amounts (obtained from cushion of credit payments, loan payments, and other sources) held by the Fund shall bear interest to the Fund at a rate equal to the weighted average rate on outstanding certificates of beneficial ownership issued by the Fund.

###### (C) Credits

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

###### (2) Rural economic development subaccount

The Secretary shall maintain a subaccount within the Rural Electrification and Telephone Revolving Fund to which shall be credited, on a monthly basis, a sum determined by multiplying the outstanding cushion of credit payments made after October 1, 1987, by the difference (converted to a monthly basis) be-