

RURAL ELECTRIFICATION ACT OF 1936

With Amendments as Approved through January 23, 2004

[U.S. Code, Title 7, Chap. 31]

AN ACT

To provide for rural electrification, and for other purposes.

TITLE III - Rural Electric and Telephone Direct Loan Programs

SEC. 306B. SALE OR PREPAYMENT OF DIRECT OR INSURED LOANS.

(a) DISCOUNTED PREPAYMENT BY BORROWERS OF ELECTRIC LOANS.

(1) **IN GENERAL.**—Except as provided in paragraph (2), a direct or insured loan made under this Act shall not be sold or prepaid at a value that is less than the outstanding principal balance on the loan.

(2) **EXCEPTION.**—On request of the borrower, an electric loan made under this Act, or a portion of such a loan, that was advanced before May 1, 1992, or has been advanced for not less than 2 years, shall be sold to or prepaid by the borrower at the lesser of—

(A) the outstanding principal balance on the loan; or

(B) the present value of the loan discounted from the face value at maturity at the rate established by the Secretary.

(3) **DISCOUNT RATE.**—The discount rate applicable to the prepayment under this subsection of a loan or loan advance shall be the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the remaining term of the loan.

(4) **TAX EXEMPT FINANCING.**—If a borrower prepays a loan under this subsection using tax exempt financing, the discount shall be adjusted to ensure that the borrower receives a benefit that is equal to the benefit the borrower would receive if the borrower used fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Secretary may establish that are reasonable and necessary to carry out this subsection.

(5) ELIGIBILITY.

(A) **IN GENERAL.**—A borrower that has prepaid an insured or direct loan shall remain eligible for assistance under this Act in the same manner as other borrowers, except that—

(i) a borrower that has prepaid a loan, either before or after the date of enactment of this subsection, at a discount rate as provided by paragraph (3), shall not be eligible, except at the discretion of the Secretary, to apply for or receive direct or insured loans under this Act during the 120-month period beginning on the date of the prepayment; and

(ii) a borrower that prepaid a loan before the date of enactment of this subsection at a discount rate greater than that provided by paragraph (3), shall not be eligible—

(I) except at the discretion of the Secretary, to apply for or receive direct or insured loans described in clause (i) during the 180-month period beginning on the date of the prepayment, or

(II) to apply for or receive direct or insured loans described in clause (i) until the borrower has repaid to the Federal Government the sum of—

(aa) the amount (if any) by which the discount the borrower received by reason of the prepayment exceeds the discount the borrower would have received had the discount been based on the cost of funds to the Department of the Treasury at the time of the prepayment, and

(bb) interest on the amount described in item (aa), for the period beginning on the date of the prepayment and ending on the date of the repayment, at a rate equal to the average

annual cost of borrowing by the Department of the Treasury.

(B) **EFFECT ON EXISTING AGREEMENTS.**—If a borrower and the Secretary have entered into an agreement with respect to a prepayment occurring before the date of enactment of this subsection this paragraph shall supersede any provision in the agreement relating to the restoration of eligibility for loans under this Act.

(C) **DISTRIBUTION BORROWERS.**—A distribution borrower not in default on the repayment of loans made or insured under this Act shall be eligible for discounted prepayment as provided in this subsection. For the purpose of determining eligibility for discounted prepayment under this subsection or eligibility for assistance under this Act, a default by a borrower from which a distribution borrower purchases wholesale power shall not be considered a default by the distribution borrower.

(6) **DEFINITIONS.**—As used in this subsection:

(A) **DIRECT LOAN.**—The term 'direct loan' means a loan made under section 4.

(B) **INSURED LOAN.**—The term 'insured loan' means a loan made under section 305.

(b) **MERGERS OF ELECTRIC BORROWERS.**

Notwithstanding subsection (a), a direct or insured loan may be prepaid by an electric borrower at the lesser of the outstanding principal balance due thereon or the present value thereof discounted from the face value at maturity at the rate set by the Secretary if the borrower is an electrical organization which resulted from a merger or consolidation between a borrower and an organization which, prior to October 1, 1987, prepaid its direct or insured loans pursuant to this section. Prepayments by a borrower hereunder shall be made not later than one year after the effective date of the merger, consolidation, or other transaction. The discount rate to be set by the Secretary for direct or insured loans prepayments hereunder shall be based on the current cost of funds to the Department of the Treasury for obligations of comparable maturity to those being prepaid. If a borrower prepays using tax exempt financing, the discount shall be adjusted to make the discount equivalent to fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Secretary may establish which are reasonable and necessary to implement this provision. As used in this section, the term "direct loan" means a loan made under section 4.

[Oct. 21, 1986, Public Law 99-509, Title I, Subtitle B, §1011(a), 100 Stat. 1876; Nov. 28, 1990, Public Law 101-624, Title XXIII, Subtitle H, §2387, 104 Stat. 4051; Oct. 21, 1992, Public Law 102-428, §2, 106 Stat. 2183; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(13), 108 Stat. 3221; 7 U.S.C. 936b.]

SEC. 306C. REFINANCING AND PREPAYMENT OF FFB LOANS.

(a) **IN GENERAL.**—A borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 may, at the option of the borrower, refinance or prepay the loan or an advance on the loan, or any portion of the loan or advance.

(b) **PENALTY.**

(1) **DETERMINATION OF PENALTY.**— A penalty shall be assessed against a borrower that refinances or prepays a loan or loan advance, or any portion of a loan or advance, under this section. Except as provided in paragraph (2), the penalty shall be equal to the lesser of—

(A) the difference between the outstanding principal balance of the loan being refinanced and the present value of the loan discounted at a rate equal to the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the loan being refinanced or prepaid;

(B) 100 percent of the amount of interest for 1 year on the outstanding principal balance of the loan or loan advance, or any portion of the loan or advance, being refinanced, multiplied by the ratio that

—

(i) the number of quarterly payment dates between the date of the refinancing or prepayment and the maturity date for the loan advance; bears to

(ii) the number of quarterly payment dates between the first quarterly payment date that occurs 12 years after the end of the year in which the amount being refinanced was advanced and the maturity date of the loan advance, and

(C) (i) the present value of 100 percent of the amount of interest for 1 year on the outstanding principal balance of the loan or loan advance or any portion of the loan or advance, being refinanced or prepaid, plus

- (ii) for the interval between the date of the refinancing or prepayment and the first quarterly payment date that occurs 12 years after the end of the year in which the amount being refinanced or prepaid was advanced, the present value of the difference between—
 - (I) each payment scheduled for the interval on the loan amount being refinanced or prepaid; and
 - (II) the payment amounts that would be required during the interval on the amounts being refinanced or prepaid if the interest rate on the loan were equal to the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the loan being refinanced or prepaid.
- (2) LIMITATION.
 - (A) IN GENERAL — Except as provided in subpara-graph (B), the penalty provided by paragraph (1)(A) shall be required for refinancing or prepayment under this section.
 - (B) EXCEPTION.—In the case of a loan advanced under an agreement that permits the refinancing or prepayment of the loan advance based on the payment of 1 year of interest on the outstanding principal balance of the loan advance, a borrower may, in lieu of the penalty required by paragraph (1)(A), pay a penalty as provided by—
 - (i) paragraph (1)(B), if the loan advance has reached the 12-year maturity required under the loan agreement for the refinancing or prepayment, or
 - (ii) paragraph (1)(C), if the loan advance has not reached the 12-year maturity required under the loan agreement for the refinancing or prepayment.
- (3) FINANCING OF PENALTY.
 - (A) IN GENERAL.—In the case of a refinancing under this section, a borrower may, at the option of the borrower, meet the penalty requirements of paragraph (1) by—
 - (i) making a payment in the amount of the required penalty at the time of the refinancing, or
 - (ii) increasing the outstanding principal balance of the loan advance guaranteed by the Secretary that is being refinanced under this section by the amount of the penalty.
 - (B) INCREASED PRINCIPAL.—If a borrower meets the penalty requirements of paragraph (1) by increasing the outstanding principal balance of the loan advance that is being refinanced, the borrower shall make a payment at the time of the refinancing equal to 2.5 percent of the amount of the penalty that is added to the outstanding principal balance of the loan.
- (c) LOAN TERMS AND CONDITIONS AFTER REFINANCING.
 - (1) IN GENERAL.—On the payment of a penalty as provided by subsection (b), the loan or loan advance, or any portion of the loan or advance, shall be refinanced at the interest rate described in paragraph (2) for a term selected by the borrower pursuant to paragraph (3), except that this paragraph shall not apply if the loan advance, or any portion of the advance, is prepaid by the borrower.
 - (2) INTEREST RATE.—The interest rate on a loan refinanced under this section shall be determined to be equal to the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to a term selected by the borrower pursuant to paragraph (3) except that such rate shall not be greater than 7 percent per year subject to subsection (d).
 - (3) LOAN TERM—Subject to paragraph (4), the borrower of a loan that is refinanced under this section
 - (A) shall select the term for which an interest rate shall be determined pursuant to paragraph (2); and
 - (B) at the end of the term (and any succeeding term selected by the borrower under this paragraph), may renew the loan for another term selected by the borrower.
 - (4) MAXIMUM TERM.—The borrower may not select a term pursuant to paragraph (3) that ends after the maturity date set for the loan before the refinancing of the loan under this section.
 - (5) EXISTING LOANS.—In the case of the refinancing of a loan of a borrower pursuant to this section and the inclusion of a penalty in the outstanding principal balance of the refinanced loan pursuant to subsection (b)(3) of this section³—
 - (A) the refinancing and inclusion of the penalty shall not be subject to appropriations or limited by the amount provided during a fiscal year for new loans, loan guarantees, or other credit activity;

³ the words "of this section" appear in the codification but not in the public law as printed in U.S. Statutes at Large.

- (B) the request of the borrower for the refinancing under this section may not be denied or delayed, and
- (C) the borrower may not be limited in the selection of any refinancing or prepayment option provided by this section to the borrower.

(d) MAXIMUM RATE OPTION.

- (1) IN GENERAL.—Except as provided in paragraphs (2), (3), and (4), a borrower of a loan or loan

advance, or any portion of the loan or advance that is refinanced under this section shall have the option of ensuring that the interest rate on such loan, loan advance, or portion thereof does not exceed 7 percent per year.

- (2) LIMITATION.—A borrower may not exercise the option under paragraph (1) in the case of a loan or loan advance, or portion thereof, if the total amount of such loans for which such option would be exercised exceeds 50 percent of the outstanding principal balance of the loans made to such borrower and guaranteed under section 306.
- (3) FEE.—A borrower that exercises the maximum rate option under paragraph (1) shall, at the time of exercising such option, pay a fee equal to 1 percent of the outstanding principal balance of such loan or loan advance, or portion thereof, for which such option is exercised. Such fee shall be in addition to the penalties and other payments required under subsection (b).
- (4) SUNSET.—The option provided under paragraph (1) shall not be available in the case of any loan or loan advance, or portion thereof, unless a written request to exercise such option is sent to the Secretary not later than 1 year after the effective date of regulations issued to carry out the Rural Electrification Loan Restructuring Act of 1993.

[Aug. 10, 1993, Public Law 103-66, Title I, Subtitle B, §1201(a), 107 Stat. 327; Nov. 1, 1993, Public Law 103-129 §2(c)(10), 107 Stat. 1365; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(13), 108 Stat. 3221; 7 U.S.C. 936c.]