

104TH CONGRESS
1ST SESSION

H. R. 66

To amend the Housing Act of 1949 to authorize the Secretary of Agriculture to guarantee the repayment of loans made by private lenders for the development costs of multifamily rural rental housing for low- and moderate-income families in rural areas.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mr. BEREUTER introduced the following bill; which was referred to the
Committee on Banking and Financial Services

A BILL

To amend the Housing Act of 1949 to authorize the Secretary of Agriculture to guarantee the repayment of loans made by private lenders for the development costs of multifamily rural rental housing for low- and moderate-income families in rural areas.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Rural Multifamily
5 Rental Housing Loan Guarantee Demonstration Act”.

1 **SEC. 2. LOAN GUARANTEES FOR MULTIFAMILY RENTAL**
2 **HOUSING IN RURAL AREAS.**

3 Title V of the Housing Act of 1949 (42 U.S.C. 1471
4 et seq.) is amended by inserting after section 537 the fol-
5 lowing new section:

6 **“SEC. 538. LOAN GUARANTEES FOR MULTIFAMILY RENTAL**
7 **HOUSING IN RURAL AREAS.**

8 “(a) **AUTHORITY.**—The Secretary may make commit-
9 ments to guarantee eligible loans for the development costs
10 of eligible housing and related facilities, and may guaran-
11 tee such eligible loans, in accordance with this section.

12 “(b) **EXTENT OF GUARANTEE.**—A guarantee made
13 under this section shall guarantee repayment of an
14 amount not exceeding the total of the amount of the un-
15 paid principal and interest of the loan for which the guar-
16 antee is made. The liability of the United States under
17 any guarantee under this section shall decrease or increase
18 pro rata with any decrease or increase of the amount of
19 the unpaid portion of the obligation.

20 “(c) **ELIGIBLE BORROWERS.**—A loan guaranteed
21 under this section may be made to a nonprofit organiza-
22 tion, an agency or body of any State government or politi-
23 cal subdivision thereof, or a private entity.

24 “(d) **ELIGIBLE HOUSING.**—A loan may be guaran-
25 teed under this section only if the loan is used for the

1 development costs of housing and related facilities (as
2 such terms are defined in section 515(e)) that—

3 “(1) consists of 5 or more adequate dwellings;

4 “(2) is available for occupancy only by low or
5 moderate income families or persons, whose incomes
6 at the time of initial occupancy do not exceed 115
7 percent of the median income of the area, as deter-
8 mined by the Secretary;

9 “(3) will remain available as provided in para-
10 graph (2), according to such binding commitments
11 as the Secretary may require, for the period of the
12 original term of the loan guaranteed, unless the
13 housing is acquired by foreclosure (or instrument in
14 lieu of foreclosure) or the Secretary waives the appli-
15 cability of such requirement for the loan only after
16 determining, based on objective information, that—

17 “(A) there is no longer a need for low- and
18 moderate-income housing in the market area in
19 which the housing is located;

20 “(B) housing opportunities for low-income
21 households and minorities will not be reduced
22 as a result of the waiver; and

23 “(C) additional Federal assistance will not
24 be necessary as a result of the waiver; and

25 “(4) is located in a rural area.

1 “(e) ELIGIBLE LENDERS.—

2 “(1) REQUIREMENT.—A loan may be guaran-
3 teed under this subsection only if the loan is made
4 by a lender that the Secretary determines—

5 “(A) meets the qualifications, and has been
6 approved by the Secretary of Housing and
7 Urban Development, to make loans for multi-
8 family housing that are to be insured under the
9 National Housing Act;

10 “(B) meets the qualifications, and has
11 been approved by the Federal National Mort-
12 gage Association and the Federal Home Loan
13 Mortgage Corporation, to make loans for multi-
14 family housing that are to be sold to such cor-
15 porations; or

16 “(C) meets any qualifications that the Sec-
17 retary may, by regulation, establish for partici-
18 pation of lenders in the loan guarantee program
19 under this section.

20 “(2) ELIGIBILITY LIST AND ANNUAL AUDIT.—
21 The Secretary shall establish a list of eligible lenders
22 and shall annually conduct an audit of each lender
23 included in the list for purposes of determining
24 whether such lender continues to be an eligible
25 lender.

1 “(f) LOAN TERMS.—Each loan guaranteed pursuant
2 to this subsection shall—

3 “(1) provide for complete amortization by peri-
4 odic payments to be made for a term not to exceed
5 40 years;

6 “(2) involve a rate of interest agreed upon by
7 the borrower and the lender that does not exceed the
8 maximum allowable rate established by the Secretary
9 for purposes of this section and is fixed over the
10 term of the loan;

11 “(3) involve a principal obligation (including
12 initial service charges, appraisal, inspection, and
13 other fees as the Secretary may approve) not to
14 exceed—

15 “(A) in the case of a borrower that is a
16 nonprofit organization or an agency or body of
17 any State or local government, 97 percent of
18 the development costs of the housing and relat-
19 ed facilities or the value of the housing and fa-
20 cilities, whichever is less;

21 “(B) in the case of a borrower that is a
22 for-profit entity not referred to in subparagraph
23 (A), 90 percent of the development costs of the
24 housing and related facilities or the value of the
25 housing and facilities, whichever is less; and

1 “(C) in the case of any borrower, for such
2 part of the property as may be attributable to
3 dwelling use, the applicable maximum per unit
4 dollar amount limitations under section 207(c)
5 of the National Housing Act;

6 “(4) be secured by a first mortgage on the
7 housing and related facilities for which the loan is
8 made, or otherwise, as the Secretary may determine
9 necessary to ensure repayment of the obligation; and

10 “(5) for at least 20 percent of the loans made
11 under this section, the Secretary shall provide the
12 borrower with assistance in the form of credits pur-
13 suant to section 521(a)(1)(B) to the extent nec-
14 essary to reduce the rate of interest under para-
15 graph (2) to the applicable Federal rate, as such
16 term is used in section 42(i)(2)(D) of the Internal
17 Revenue Code of 1986.

18 “(g) GUARANTEE FEE.—At the time of issuance of
19 a loan guaranteed under this section, the Secretary may
20 collect from the lender a fee equal to not more than 1
21 percent of the principal obligation of the loan.

22 “(h) AUTHORITY FOR LENDERS TO ISSUE CERTIFI-
23 CATES OF GUARANTEE.—The Secretary may authorize
24 certain eligible lenders to determine whether a loan meets
25 the requirements for guarantee under this section and,

1 subject to the availability of authority to enter into guar-
2 antees under this section, execute a firm commitment for
3 a guarantee binding upon the Secretary and issue a certifi-
4 cate of guarantee evidencing a guarantee, without review
5 and approval by the Secretary of the specific loan. The
6 Secretary may establish standards for approving eligible
7 lenders for a delegation of authority under this subsection.

8 “(i) PAYMENT UNDER GUARANTEE.—

9 “(1) NOTICE OF DEFAULT.—In the event of de-
10 fault by the borrower on a loan guaranteed under
11 this section, the holder of the guarantee certificate
12 for the loan shall provide written notice of the de-
13 fault to the Secretary.

14 “(2) FORECLOSURE.—After receiving notice
15 under paragraph (1) and providing written notice of
16 action under this paragraph to the Secretary, the
17 holder of the guarantee certificate for the loan may
18 initiate foreclosure proceedings for the loan in a
19 court of competent jurisdiction, in accordance with
20 regulations issued by the Secretary, to obtain posses-
21 sion of the security property. After the court issues
22 a final order authorizing foreclosure on the property,
23 the holder of the certificate shall be entitled to pay-
24 ment by the Secretary under the guarantee (in the
25 amount provided under subsection (b)) upon (A)

1 conveyance to the Secretary of title to the security
2 property, (B) submission to the Secretary of a claim
3 for payment under the guarantee, and (C) assign-
4 ment to the Secretary of all the claims of the holder
5 of the guarantee against the borrower or others aris-
6 ing out of the loan transaction or foreclosure pro-
7 ceedings, except claims released with the consent of
8 the Secretary.

9 “(3) ASSIGNMENT BY SECRETARY.—After re-
10 ceiving notice under paragraph (1), the Secretary
11 may accept assignment of the loan if the Secretary
12 determines that the assignment is in the best inter-
13 ests of the United States. Assignment of a loan
14 under this paragraph shall include conveyance to the
15 Secretary of title to the security property, assign-
16 ment to the Secretary of all rights and interests
17 arising under the loan, and assignment to the Sec-
18 retary of all claims against the borrower or others
19 arising out of the loan transaction. Upon assignment
20 of a loan under this paragraph, the holder of a guar-
21 antee certificate for the loan shall be entitled to pay-
22 ment by the Secretary under the guarantee (in the
23 amount provided under subsection (b)).

24 “(4) REQUIREMENTS.—Before any payment
25 under a guarantee is made under paragraph (2) or

1 (3), the holder of the guarantee certificate shall ex-
2 haust all reasonable possibilities of collection on the
3 loan guaranteed. Upon payment, in whole or in part,
4 to the holder, the note or judgment evidencing the
5 debt shall be assigned to the United States and the
6 holder shall have no further claim against the bor-
7 rower or the United States. The Secretary shall then
8 take such action to collect as the Secretary deter-
9 mines appropriate.

10 “(j) VIOLATION OF GUARANTEE REQUIREMENTS BY
11 LENDERS ISSUING GUARANTEES.—

12 “(1) INDEMNIFICATION.—If the Secretary de-
13 termines that a loan guaranteed by an eligible lender
14 pursuant to delegation of authority under subsection
15 (h) was not originated in accordance with the re-
16 quirements under this section and the Secretary
17 pays a claim under the guarantee for the loan, the
18 Secretary may require the eligible lender authorized
19 under subsection (h) to issue the guarantee certifi-
20 cate for the loan—

21 “(A) to indemnify the Secretary for the
22 loss, if the payment under the guarantee was
23 made within a reasonable period specified by
24 the Secretary; or

1 “(B) to indemnify the Secretary for the
2 loss regardless of when payment under the
3 guarantee was made, if the Secretary deter-
4 mines that fraud or misrepresentation was in-
5 volved in connection with the origination of the
6 loan.

7 “(2) TERMINATION OF AUTHORITY TO ISSUE
8 GUARANTEES.—The Secretary may cancel a delega-
9 tion of authority under subsection (h) to an eligible
10 lender if the Secretary determines that the lender
11 has violated the requirements and procedures for
12 guaranteed loans under this section or for other
13 good cause. Any such cancellation shall be made by
14 giving notice to the eligible lender and shall take ef-
15 fect upon receipt of the notice by the mortgagee or
16 at a later date, as the Secretary may provide. A de-
17 cision by the Secretary to cancel a delegation shall
18 be final and conclusive and shall not be subject to
19 judicial review.

20 “(k) REFINANCING.—Any loan guaranteed under this
21 section may be refinanced and extended in accordance
22 with terms and conditions that the Secretary shall pre-
23 scribe, but in no event for an additional amount or term
24 that exceeds the limitations under subsection (f).

1 “(l) NONASSUMPTION.—The borrower under a loan
2 that is guaranteed under this section and under which any
3 portion of the principal obligation or interest remains out-
4 standing may not be relieved of liability with respect to
5 the loan, notwithstanding the transfer of property for
6 which the loan was made.

7 “(m) GEOGRAPHICAL TARGETING.—

8 “(1) STUDY.—The Secretary shall provide for
9 an independent entity to conduct a study to deter-
10 mine the extent to which borrowers in the United
11 States will utilize loan guarantees under this section,
12 the rural areas in the United States in which bor-
13 rowers can best utilize and most need loans guaran-
14 teed under this section, and the rural areas in the
15 United States in which housing of the type eligible
16 for a loan guarantee under this section is most need-
17 ed by low- and moderate-income families. The Sec-
18 retary shall require the independent entity conduct-
19 ing the study to submit a report to the Secretary
20 and to the Congress describing the results of the
21 study not later than the expiration of the 90-day pe-
22 riod beginning on the date of the enactment of the
23 Rural Multifamily Rental Housing Loan Guarantee
24 Demonstration Act.

1 “(2) TARGETING.—In providing loan guaran-
2 tees under this section, the Secretary shall establish
3 standards to target and give priority to rural areas
4 in which borrowers can best utilize and most need
5 loans guaranteed under this section, as determined
6 by the Secretary based on the results of the study
7 under paragraph (1) and any other information the
8 Secretary considers appropriate.

9 “(n) INAPPLICABILITY OF CREDIT-ELSEWHERE
10 TEST.—Section 501(c) shall not apply to guarantees, or
11 loans guaranteed, under this section.

12 “(o) TENANT PROTECTIONS.—The Secretary shall
13 establish standards for the treatment of tenants of hous-
14 ing developed using amounts from a loan guaranteed
15 under this section, which shall incorporate, to the extent
16 applicable, existing standards applicable to tenants of
17 housing developed with loans made under section 515.
18 Such standards shall include standards for fair housing
19 and equal opportunity, lease and grievance procedures,
20 and tenant appeals of adverse actions.

21 “(p) HOUSING STANDARDS.—The standards estab-
22 lished under section 515(m) for housing and related facili-
23 ties assisted under section 515 shall apply to housing and
24 related facilities the development costs of which are fi-

1 nanced in whole or in part with a loan guaranteed under
2 this section.

3 “(q) LIMITATION ON COMMITMENTS TO GUARANTEE
4 LOANS.—

5 “(1) REQUIREMENT OF APPROPRIATIONS.—The
6 authority of the Secretary to enter into commit-
7 ments to guarantee loans under this section, and to
8 guarantee loans, shall be effective for any fiscal year
9 only to the extent or in such amounts as are or have
10 been provided in appropriations Acts for such fiscal
11 year.

12 “(2) LIMITATION ON PROJECTS AND OUT-
13 STANDING AGGREGATE PRINCIPAL AMOUNT.—Sub-
14 ject to the limitation in paragraph (1), the Secretary
15 may enter into commitments to guarantee loans
16 under this section for not more than 25 housing
17 projects in each of fiscal years 1995 and 1996, hav-
18 ing an aggregate outstanding principal amount not
19 exceeding \$50,000,000 in each of such fiscal years.

20 “(r) REPORT.—

21 “(1) IN GENERAL.—The Secretary shall submit
22 a report to the Congress, not later than the expira-
23 tion of the 2-year period beginning on the date of
24 the enactment of the Rural Multifamily Rental
25 Housing Loan Guarantee Demonstration Act, de-

1 scribing the program under this section for guaran-
2 teeing loans.

3 “(2) CONTENTS.—The report shall—

4 “(A) describe the types of borrowers pro-
5 viding housing with loans guaranteed under this
6 section, the areas served by the housing pro-
7 vided and the geographical distribution of the
8 housing, the levels of income of the residents of
9 the housing, the number of dwelling units pro-
10 vided, the extent to which borrowers under such
11 loans have obtained other financial assistance
12 for development costs of housing provided with
13 the loans, and the extent to which borrowers
14 under such loans have used low-income housing
15 tax credits provided under section 42 of the In-
16 ternal Revenue Code of 1986 in connection with
17 the housing provided with the loans;

18 “(B) analyze the financial viability of the
19 housing provided with loans guaranteed under
20 this section and the need for project-based rent-
21 al assistance for such housing;

22 “(C) include any recommendations of the
23 Secretary for expanding or improving the pro-
24 gram under this section for guaranteeing loans;
25 and

1 “(D) include any other information regard-
2 ing the program for guaranteeing loans under
3 this section that the Secretary considers appro-
4 priate.

5 “(s) DEFINITIONS.—For purposes of this subsection,
6 the following definitions shall apply:

7 “(1) The term ‘development cost’ has the mean-
8 ing given the term in section 515(e).

9 “(2) The term ‘eligible lender’ means a lender
10 determined by the Secretary to meet the require-
11 ments of subparagraph (A), (B), (C), or (D) of sub-
12 section (e)(1).

13 “(3) The terms ‘housing’ and ‘related facilities’
14 have the meanings given such terms in section
15 515(e).

16 “(t) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated for fiscal years 1995
18 and 1996 such sums as may be necessary for costs (as
19 such term is defined in section 502 of the Congressional
20 Budget Act of 1974) of loan guarantees made under this
21 section.

22 “(u) TERMINATION DATE.—A loan may not be guar-
23 anteed under this section after September 30, 1996.”.

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