

106TH CONGRESS
2D SESSION

S. 2097

AN ACT

To authorize loan guarantees in order to facilitate access to local television broadcast signals in unserved and underserved areas, and for other purposes.

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 “Launching Our Com-
5 munities’ Access to Local Television Act of 2000”.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is to facilitate access, on a
3 technologically neutral basis and by December 31, 2006,
4 to signals of local television stations, and related signals
5 (including high-speed Internet access and National Weath-
6 er Service warnings), for households located in unserved
7 areas and underserved areas.

8 **SEC. 3. LOCAL TELEVISION LOAN GUARANTEE BOARD.**

9 (a) ESTABLISHMENT.—There is established the
10 LOCAL Television Loan Guarantee Board (in this Act re-
11 ferred to as the “Board”).

12 (b) MEMBERS.—

13 (1) IN GENERAL.—Subject to paragraph (2),
14 the Board shall consist of the following members:

15 (A) The Secretary of the Treasury, or the
16 designee of the Secretary.

17 (B) The Chairman of the Board of Gov-
18 ernors of the Federal Reserve System, or the
19 designee of the Chairman.

20 (C) The Secretary of Agriculture, or the
21 designee of the Secretary.

22 (2) REQUIREMENT AS TO DESIGNEES.—An in-
23 dividual may not be designated a member of the
24 Board under paragraph (1) unless the individual is
25 an officer of the United States pursuant to an ap-

pointment by the President, by and with the advice and consent of the Senate.

(c) FUNCTIONS OF THE BOARD.—

(1) IN GENERAL.—The Board shall determine whether or not to approve loan guarantees under this Act. The Board shall make such determinations consistent with the purpose of this Act and in accordance with this subsection and section 4 of this Act.

(2) CONSULTATION AUTHORIZED.—

(A) IN GENERAL.—In carrying out its functions under this Act, the Board shall consult with such departments and agencies of the Federal Government as the Board considers appropriate, including the Department of Commerce, the Department of Agriculture, the Department of the Treasury, the Department of Justice, the Department of the Interior, the Board of Governors of the Federal Reserve System, the Federal Communications Commission, the Federal Trade Commission, and the National Aeronautics and Space Administration.

(B) RESPONSE.—A department or agency consulted by the Board under subparagraph (A) shall provide the Board such expertise and as-

1 sistance as the Board requires to carry out its
2 functions under this Act.

3 (3) APPROVAL BY MAJORITY VOTE.—The deter-
4 mination of the Board to approve a loan guarantee
5 under this Act shall be by a vote of a majority of
6 the Board.

7 **SEC. 4. APPROVAL OF LOAN GUARANTEES.**

8 (a) AUTHORITY TO APPROVE LOAN GUARANTEES.—
9 Subject to the provisions of this section and consistent
10 with the purpose of this Act, the Board may approve loan
11 guarantees under this Act.

12 (b) REGULATIONS.—

13 (1) REQUIREMENTS.—The Administrator (as
14 defined in section 5 of this Act), under the direction
15 of and for approval by the Board, shall prescribe
16 regulations to implement the provisions of this Act
17 and shall do so not later than 120 days after funds
18 authorized to be appropriated under section 9 of this
19 Act have been appropriated in a bill signed into law.

20 (2) ELEMENTS.—The regulations prescribed
21 under paragraph (1) shall—

22 (A) set forth the form of any application to
23 be submitted to the Board under this Act;

24 (B) set forth time periods for the review
25 and consideration by the Board of applications

1 to be submitted to the Board under this Act,
2 and for any other action to be taken by the
3 Board with respect to such applications;

4 (C) provide appropriate safeguards against
5 the evasion of the provisions of this Act;

6 (D) set forth the circumstances in which
7 an applicant, together with any affiliate of an
8 applicant, shall be treated as an applicant for
9 a loan guarantee under this Act;

10 (E) include requirements that appropriate
11 parties submit to the Board any documents and
12 assurances that are required for the administra-
13 tion of the provisions of this Act; and

14 (F) include such other provisions con-
15 sistent with the purpose of this Act as the
16 Board considers appropriate.

17 (3) CONSTRUCTION.—(A) Nothing in this Act
18 shall be construed to prohibit the Board from requir-
19 ing, to the extent and under circumstances consid-
20 ered appropriate by the Board, that affiliates of an
21 applicant be subject to certain obligations of the ap-
22 plicant as a condition to the approval or mainte-
23 nance of a loan guarantee under this Act.

24 (B) If any provision of this Act or the applica-
25 tion of such provision to any person or entity or cir-

1 cumstance is held to be invalid by a court of com-
 2 petent jurisdiction, the remainder of this Act, or the
 3 application of such provision to such person or entity
 4 or circumstance other than those as to which it is
 5 held invalid, shall not be affected thereby.

6 (c) AUTHORITY LIMITED BY APPROPRIATIONS
 7 ACTS.—The Board may approve loan guarantees under
 8 this Act only to the extent provided for in advance in ap-
 9 propriations Acts. The Board may delegate to the Admin-
 10 istrator (as defined in section 5 of this Act) the authority
 11 to approve loan guarantees of up to \$20,000,000. To the
 12 extent the Administrator is delegated such authority, the
 13 Administrator shall comply with the terms of this Act ap-
 14 plicable to the Board.

15 (d) REQUIREMENTS AND CRITERIA APPLICABLE TO
 16 APPROVAL.—

17 (1) IN GENERAL.—The Board shall utilize the
 18 underwriting criteria developed under subsection (g),
 19 and any relevant information provided by the de-
 20 partments and agencies with which the Board
 21 consults under section 3, to determine which loans
 22 may be eligible for a loan guarantee under this Act.

23 (2) PREREQUISITES.—In addition to meeting
 24 the underwriting criteria under paragraph (1), a
 25 loan may not be guaranteed under this Act unless—

1 (A) the loan is made to finance the acqui-
2 sition, improvement, enhancement, construction,
3 deployment, launch, or rehabilitation of the
4 means by which local television broadcast sig-
5 nals, and related signals (including high-speed
6 Internet access and National Weather Service
7 warnings), will be delivered to an unserved area
8 or underserved area;

9 (B) the proceeds of the loan will not be
10 used for operating expenses;

11 (C) the proposed project, as determined by
12 the Board in consultation with the National
13 Telecommunications and Information Adminis-
14 tration, is not likely to have a substantial ad-
15 verse impact on competition that outweighs the
16 benefits of improving access to the signals of a
17 local television station in an unserved area or
18 underserved area;

19 (D)(i) the loan (including Other Debt, as
20 defined in subsection (f)(2)(B))—

21 (I) is provided by any entity engaged
22 in the business of commercial lending—

23 (aa) if the loan is made in ac-
24 cordance with loan-to-one-borrower
25 and affiliate transaction restrictions to

1 which the entity is subject under ap-
2 plicable law; or

3 (bb) if item (aa) does not apply,
4 the loan is made only to a borrower
5 that is not an affiliate of the entity
6 and only if the amount of the loan
7 and all outstanding loans by that enti-
8 ty to that borrower and any of its af-
9 filiates does not exceed 10 percent of
10 the net equity of the entity; or

11 (II) is provided by a nonprofit cor-
12 poration, including the National Rural
13 Utilities Cooperative Finance Corporation,
14 engaged primarily in commercial lending, if
15 the Board determines that such nonprofit
16 corporation has one or more issues of out-
17 standing long-term debt that is rated with-
18 in the highest 3 rating categories of a na-
19 tionally recognized statistical rating orga-
20 nization, and, if the Board determines that
21 the making of the loan by such nonprofit
22 corporation will cause a decline in the debt
23 rating mentioned above, the Board at its
24 discretion may disapprove the loan guar-
25 antee on this basis;

1 (ii)(I) no loan (including Other Debt as de-
2 fined in subsection (f)(2)(B)) may be made for
3 purposes of this Act by a governmental entity
4 or affiliate thereof, or by the Federal Agricul-
5 tural Mortgage Corporation, or any institution
6 supervised by the Office of Federal Housing
7 Enterprise Oversight, the Federal Housing Fi-
8 nance Board, or any affiliate of such entities;

9 (II) any loan (including Other Debt as de-
10 fined in subsection (f)(2)(B)) must have terms,
11 in the judgment of the Board, that are con-
12 sistent in material respects with the terms of
13 similar obligations in the private capital mar-
14 ket;

15 (III) for purposes of clause (i)(I)(bb), the
16 term “net equity” means the value of the total
17 assets of the entity, less the total liabilities of
18 the entity, as recorded under generally accepted
19 accounting principles for the fiscal quarter
20 ended immediately prior to the date on which
21 the subject loan is approved;

22 (E) repayment of the loan is required to be
23 made within a term of the lesser of—

24 (i) 25 years from the date of the exe-
25 cution of the loan; or

1 (ii) the economically useful life, as de-
 2 termined by the Board or in consultation
 3 with persons or entities deemed appro-
 4 priate by the Board, of the primary assets
 5 to be used in the delivery of the signals
 6 concerned; and

7 (F) the loan meets any additional criteria
 8 developed under subsection (g).

9 (3) PROTECTION OF UNITED STATES FINAN-
 10 CIAL INTERESTS.—The Board may not approve the
 11 guarantee of a loan under this Act unless—

12 (A) the Board has been given documenta-
 13 tion, assurances, and access to information,
 14 persons, and entities necessary, as determined
 15 by the Board, to address issues relevant to the
 16 review of the loan by the Board for purposes of
 17 this Act; and

18 (B) the Board makes a determination in
 19 writing that—

20 (i) to the best of its knowledge upon
 21 due inquiry, the assets, facilities, or equip-
 22 ment covered by the loan will be utilized
 23 economically and efficiently;

24 (ii) the terms, conditions, security,
 25 and schedule and amount of repayments of

1 principal and the payment of interest with
2 respect to the loan protect the financial in-
3 terests of the United States and are rea-
4 sonable;

5 (iii) to the extent possible, the value
6 of collateral provided by an applicant is at
7 least equal to the unpaid balance of the
8 loan amount covered by the loan guarantee
9 (the “Amount” for purposes of this
10 clause); and if the value of collateral pro-
11 vided by an applicant is less than the
12 Amount, the additional required collateral
13 is provided by any affiliate of the appli-
14 cant; and if the combined value of collat-
15 eral provided by an applicant and any affil-
16 iate is not at least equal to the Amount,
17 the collateral from such affiliate represents
18 all of such affiliate’s assets;

19 (iv) all necessary and required regu-
20 latory and other approvals, spectrum
21 rights, and delivery permissions have been
22 received for the loan, the project under the
23 loan, and the Other Debt, if any, under
24 subsection (f)(2)(B);

1 (v) the loan would not be available on
2 reasonable terms and conditions without a
3 loan guarantee under this Act; and

4 (vi) repayment of the loan can reason-
5 ably be expected.

6 (e) CONSIDERATIONS.—

7 (1) TYPE OF MARKET.—

8 (A) PRIORITY CONSIDERATIONS.—To the
9 maximum extent practicable, the Board shall
10 give priority in the approval of loan guarantees
11 under this Act in the following order: First, to
12 projects that will serve the greatest number of
13 households in unserved areas and the number
14 of States (including noncontiguous States); and
15 second, to projects that will serve the greatest
16 number of households in underserved areas. In
17 each instance, the Board shall consider the
18 project's efficiency in providing service given
19 the area to be served.

20 (B) ADDITIONAL CONSIDERATIONS.—To
21 the maximum extent practicable, the Board
22 should give additional consideration to projects
23 which also provide related signals (including
24 high-speed Internet access and National Weath-
25 er Service warnings).

1 (C) PROHIBITION.—The Board may not
 2 approve a loan guarantee under this Act for a
 3 project that is designed primarily to serve 1 or
 4 more of the 40 most populated designated mar-
 5 ket areas (as that term is defined in section
 6 122(j) of title 17, United States Code).

7 (2) OTHER CONSIDERATIONS.—The Board shall
 8 consider other factors, which shall include projects
 9 that would—

10 (A) offer a separate tier of local broadcast
 11 signals, but for applicable Federal, State, or
 12 local laws or regulations;

13 (B) provide lower projected costs to con-
 14 sumers of such separate tier; and

15 (C) enable the delivery of local broadcast
 16 signals consistent with the purpose of this Act
 17 by a means reasonably compatible with existing
 18 systems or devices predominantly in use.

19 (f) GUARANTEE LIMITS.—

20 (1) LIMITATION ON AGGREGATE VALUE OF
 21 LOANS.—The aggregate value of all loans for which
 22 loan guarantees are issued under this Act (including
 23 the unguaranteed portion of loans issued under
 24 paragraph (2)(A)) and Other Debt under paragraph
 25 (2)(B) may not exceed \$1,250,000,000.

1 (2) GUARANTEE LEVEL.—A loan guarantee
2 issued under this Act—

3 (A) may not exceed an amount equal to 80
4 percent of a loan meeting in its entirety the re-
5 quirements of subsection (d)(2)(A). If only a
6 portion of a loan meets the requirements of
7 that subsection, the Board shall determine that
8 percentage of the loan meeting such require-
9 ments (the “applicable portion”) and may issue
10 a loan guarantee in an amount not exceeding
11 80 percent of the applicable portion; or

12 (B) may, as to a loan meeting in its en-
13 tirety the requirements of subsection (d)(2)(A),
14 cover the amount of such loan only if that loan
15 is for an amount not exceeding 80 percent of
16 the total debt financing for the project, and
17 other debt financing (also meeting in its en-
18 tirety the requirements of subsection (d)(2)(A))
19 from the same source for a total amount not
20 less than 20 percent of the total debt financing
21 for the project (“Other Debt”) has been ap-
22 proved.

23 (g) UNDERWRITING CRITERIA.—Within the period
24 provided for under subsection (b)(1), the Board shall, in
25 consultation with the Director of the Office of Manage-

1 ment and Budget and an independent public accounting
2 firm, develop underwriting criteria relating to the guar-
3 antee of loans that are consistent with the purpose of this
4 Act, including appropriate collateral and cash flow levels
5 for loans guaranteed under this Act, and such other mat-
6 ters as the Board considers appropriate.

7 (h) CREDIT RISK PREMIUMS.—

8 (1) ESTABLISHMENT AND ACCEPTANCE.—The
9 Board may establish and approve the acceptance of
10 credit risk premiums with respect to a loan guar-
11 antee under this Act in order to cover the cost, as
12 determined under section 504(b)(1) of the Federal
13 Credit Reform Act of 1990, of the loan guarantee.
14 To the extent that appropriations of budget author-
15 ity are insufficient to cover the cost, as so deter-
16 mined, of a loan guarantee under this Act, credit
17 risk premiums shall be accepted from a non-Federal
18 source under this subsection on behalf of the appli-
19 cant for the loan guarantee.

20 (2) CREDIT RISK PREMIUM AMOUNT.—

21 (A) IN GENERAL.—The Board shall deter-
22 mine the amount of any credit risk premium to
23 be accepted with respect to a loan guarantee
24 under this Act on the basis of—

1 (i) the financial and economic cir-
2 cumstances of the applicant for the loan
3 guarantee, including the amount of collat-
4 eral offered;

5 (ii) the proposed schedule of loan dis-
6 bursements;

7 (iii) the business plans of the appli-
8 cant for providing service;

9 (iv) any financial commitment from a
10 broadcast signal provider; and

11 (v) the concurrence of the Director of
12 the Office of Management and Budget as
13 to the amount of the credit risk premium.

14 (B) PROPORTIONALITY.—To the extent
15 that appropriations of budget authority are suf-
16 ficient to cover the cost, as determined under
17 section 504(b)(1) of the Federal Credit Reform
18 Act of 1990, of loan guarantees under this Act,
19 the credit risk premium with respect to each
20 loan guarantee shall be reduced proportionately.

21 (C) PAYMENT OF PREMIUMS.—Credit risk
22 premiums under this subsection shall be paid to
23 an account (the “Escrow Account”) established
24 in the Treasury which shall accrue interest and

1 such interest shall be retained by the account,
2 subject to subparagraph (D).

3 (D) DEDUCTIONS FROM ESCROW AC-
4 COUNT.—If a default occurs with respect to any
5 loan guaranteed under this Act and the default
6 is not cured in accordance with the terms of the
7 underlying loan or loan guarantee agreement,
8 the Administrator, in accordance with sub-
9 sections (h) and (i) of section 5 of this Act,
10 shall liquidate, or shall cause to be liquidated,
11 all assets collateralizing such loan as to which
12 it has a lien or security interest. Any shortfall
13 between the proceeds of the liquidation net of
14 costs and expenses relating to the liquidation,
15 and the guarantee amount paid pursuant to
16 this Act shall be deducted from funds in the
17 Escrow Account and credited to the Adminis-
18 trator for payment of such shortfall. At such
19 time as determined under subsection (d)(2)(E)
20 when all loans guaranteed under this Act have
21 been repaid or otherwise satisfied in accordance
22 with this Act and the regulations promulgated
23 hereunder, remaining funds in the Escrow Ac-
24 count, if any, shall be refunded, on a pro rata
25 basis, to applicants whose loans guaranteed

1 under this Act were not in default, or where
2 any default was cured in accordance with the
3 terms of the underlying loan or loan guarantee
4 agreement.

5 (i) JUDICIAL REVIEW.—The decision of the Board to
6 approve or disapprove the making of a loan guarantee
7 under this Act shall not be subject to judicial review.

8 **SEC. 5. ADMINISTRATION OF LOAN GUARANTEES.**

9 (a) IN GENERAL.—The Administrator of the Rural
10 Utilities Service (in this Act referred to as the “Adminis-
11 trator”) shall issue and otherwise administer loan guaran-
12 tees that have been approved by the Board in accordance
13 with sections 3 and 4 of this Act.

14 (b) SECURITY FOR PROTECTION OF UNITED STATES
15 FINANCIAL INTERESTS.—

16 (1) TERMS AND CONDITIONS.—An applicant
17 shall agree to such terms and conditions as are sat-
18 isfactory, in the judgment of the Board, to ensure
19 that, as long as any principal or interest is due and
20 payable on a loan guaranteed under this Act, the
21 applicant—

22 (A) shall maintain assets, equipment, fa-
23 cilities, and operations on a continuing basis;

1 (B) shall not make any discretionary divi-
 2 dend payments that impair its ability to repay
 3 obligations guaranteed under this Act; and

4 (C) shall remain sufficiently capitalized.

5 (2) COLLATERAL.—

6 (A) EXISTENCE OF ADEQUATE COLLAT-
 7 ERAL.—An applicant shall provide the Board
 8 such documentation as is necessary, in the
 9 judgment of the Board, to provide satisfactory
 10 evidence that appropriate and adequate collat-
 11 eral secures a loan guaranteed under this Act.

12 (B) FORM OF COLLATERAL.—Collateral re-
 13 quired by subparagraph (A) shall consist solely
 14 of assets of the applicant, any affiliate of the
 15 applicant, or both (whichever the Board con-
 16 sidered appropriate), including primary assets to
 17 be used in the delivery of signals for which the
 18 loan is guaranteed.

19 (C) REVIEW OF VALUATION.—The value of
 20 collateral securing a loan guaranteed under this
 21 Act may be reviewed by the Board, and may be
 22 adjusted downward by the Board if the Board
 23 reasonably believes such adjustment is appro-
 24 priate.

1 (3) LIEN ON INTERESTS IN ASSETS.—Upon the
 2 Board’s approval of a loan guarantee under this Act,
 3 the Administrator shall have liens on assets securing
 4 the loan, which shall be superior to all other liens on
 5 such assets, and the value of the assets (based on
 6 a determination satisfactory to the Board) subject to
 7 the liens shall be at least equal to the unpaid bal-
 8 ance of the loan amount covered by the loan guar-
 9 antee, or that value approved by the Board under
 10 section 4(d)(3)(B)(iii) of this Act.

11 (4) PERFECTED SECURITY INTEREST.—With
 12 respect to a loan guaranteed under this Act, the Ad-
 13 ministrator and the lender shall have a perfected se-
 14 curity interest in assets securing the loan that are
 15 fully sufficient to protect the financial interests of
 16 the United States and the lender.

17 (5) INSURANCE.—In accordance with practices
 18 in the private capital market, as determined by the
 19 Board, the applicant for a loan guarantee under this
 20 Act shall obtain, at its expense, insurance sufficient
 21 to protect the financial interests of the United
 22 States, as determined by the Board.

23 (c) ASSIGNMENT OF LOAN GUARANTEES.—The hold-
 24 er of a loan guarantee under this Act may assign the loan

1 guaranteed under this Act in whole or in part, subject to
2 such requirements as the Board may prescribe.

3 (d) MODIFICATION.—The Board may approve the
4 modification of any term or condition of a loan guarantee
5 or a loan guaranteed under this Act, including the rate
6 of interest, time of payment of principal or interest, or
7 security requirements only if—

8 (1) the modification is consistent with the fi-
9 nancial interests of the United States;

10 (2) consent has been obtained from the parties
11 to the loan agreement;

12 (3) the modification is consistent with the un-
13 derwriting criteria developed under section 4(g) of
14 this Act;

15 (4) the modification does not adversely affect
16 the interest of the Federal Government in the assets
17 or collateral of the applicant;

18 (5) the modification does not adversely affect
19 the ability of the applicant to repay the loan; and

20 (6) the National Telecommunications and Infor-
21 mation Administration has been consulted by the
22 Board regarding the modification.

23 (e) PERFORMANCE SCHEDULES.—

24 (1) PERFORMANCE SCHEDULES.—An applicant
25 for a loan guarantee under this Act for a project

1 covered by section 4(e)(1) of this Act shall enter into
2 stipulated performance schedules with the Adminis-
3 trator with respect to the signals to be provided
4 through the project.

5 (2) PENALTY.—The Administrator may assess
6 against and collect from an applicant described in
7 paragraph (1) a penalty not to exceed 3 times the
8 interest due on the guaranteed loan of the applicant
9 under this Act if the applicant fails to meet its stip-
10 ulated performance schedule under that paragraph.

11 (f) COMPLIANCE.—The Administrator, in cooperation
12 with the Board and as the regulations of the Board may
13 provide, shall enforce compliance by an applicant, and any
14 other party to a loan guarantee for whose benefit assist-
15 ance under this Act is intended, with the provisions of this
16 Act, any regulations under this Act, and the terms and
17 conditions of the loan guarantee, including through the
18 submittal of such reports and documents as the Board
19 may require in regulations prescribed by the Board and
20 through regular periodic inspections and audits.

21 (g) COMMERCIAL VALIDITY.—A loan guarantee
22 under this Act shall be incontestable—

23 (1) in the hands of an applicant on whose be-
24 half the loan guarantee is made, unless the applicant

1 engaged in fraud or misrepresentation in securing
2 the loan guarantee; and

3 (2) as to any person or entity (or their respec-
4 tive successor in interest) who makes or contracts to
5 make a loan to the applicant for the loan guarantee
6 in reliance thereon, unless such person or entity (or
7 respective successor in interest) engaged in fraud or
8 misrepresentation in making or contracting to make
9 such loan.

10 (h) DEFAULTS.—The Board shall prescribe regula-
11 tions governing defaults on loans guaranteed under this
12 Act, including the administration of the payment of guar-
13 anteed amounts upon default.

14 (i) RECOVERY OF PAYMENTS.—

15 (1) IN GENERAL.—The Administrator shall be
16 entitled to recover from an applicant for a loan
17 guarantee under this Act the amount of any pay-
18 ment made to the holder of the guarantee with re-
19 spect to the loan.

20 (2) SUBROGATION.—Upon making a payment
21 described in paragraph (1), the Administrator shall
22 be subrogated to all rights of the party to whom the
23 payment is made with respect to the guarantee
24 which was the basis for the payment.

25 (3) DISPOSITION OF PROPERTY.—

1 (A) SALE OR DISPOSAL.—The Adminis-
2 trator shall, in an orderly and efficient manner,
3 sell or otherwise dispose of any property or
4 other interests obtained under this Act in a
5 manner that maximizes taxpayer return and is
6 consistent with the financial interests of the
7 United States.

8 (B) MAINTENANCE.—The Administrator
9 shall maintain in a cost-effective and reasonable
10 manner any property or other interests pending
11 sale or disposal of such property or other inter-
12 ests under subparagraph (A).

13 (j) ACTION AGAINST OBLIGOR.—

14 (1) AUTHORITY TO BRING CIVIL ACTION.—The
15 Administrator may bring a civil action in an appro-
16 priate district court of the United States in the
17 name of the United States or of the holder of the
18 obligation in the event of a default on a loan guar-
19 anteed under this Act. The holder of a loan guar-
20 antee shall make available to the Administrator all
21 records and evidence necessary to prosecute the civil
22 action.

23 (2) FULLY SATISFYING OBLIGATIONS OWED
24 THE UNITED STATES.—The Administrator may ac-
25 cept property in satisfaction of any sums owed the

1 United States as a result of a default on a loan
2 guaranteed under this Act, but only to the extent
3 that any cash accepted by the Administrator is not
4 sufficient to satisfy fully the sums owed as a result
5 of the default.

6 (k) BREACH OF CONDITIONS.—The Administrator
7 shall commence a civil action in a court of appropriate
8 jurisdiction to enjoin any activity which the Board finds
9 is in violation of this Act, the regulations under this Act,
10 or any conditions which were duly agreed to, and to secure
11 any other appropriate relief, including relief against any
12 affiliate of the applicant.

13 (l) ATTACHMENT.—No attachment or execution may
14 be issued against the Administrator or any property in the
15 control of the Administrator pursuant to this Act before
16 the entry of a final judgment (as to which all rights of
17 appeal have expired) by a Federal, State, or other court
18 of competent jurisdiction against the Administrator in a
19 proceeding for such action.

20 (m) FEES.—

21 (1) APPLICATION FEE.—The Board may charge
22 and collect from an applicant for a loan guarantee
23 under this Act a fee to cover the cost of the Board
24 in making necessary determinations and findings

1 with respect to the loan guarantee application under
2 this Act. The amount of the fee shall be reasonable.

3 (2) LOAN GUARANTEE ORIGINATION FEE.—The
4 Board may charge, and the Administrator may col-
5 lect, a loan guarantee origination fee with respect to
6 the issuance of a loan guarantee under this Act.

7 (3) USE OF FEES COLLECTED.—Any fee col-
8 lected under this subsection shall be used to offset
9 administrative costs under this Act, including costs
10 of the Board and of the Administrator.

11 (n) REQUIREMENTS RELATING TO AFFILIATES.—

12 (1) INDEMNIFICATION.—The United States
13 shall be indemnified by any affiliate (acceptable to
14 the Board) of an applicant for a loan guarantee
15 under this Act for any losses that the United States
16 incurs as a result of—

17 (A) a judgment against the applicant or
18 any of its affiliates;

19 (B) any breach by the applicant or any of
20 its affiliates of their obligations under the loan
21 guarantee agreement;

22 (C) any violation of the provisions of this
23 Act, and the regulations prescribed under this
24 Act, by the applicant or any of its affiliates;

1 (D) any penalties incurred by the applicant
2 or any of its affiliates for any reason, including
3 violation of a stipulated performance schedule
4 under subsection (e); and

5 (E) any other circumstances that the
6 Board considers appropriate.

7 (2) LIMITATION ON TRANSFER OF LOAN PRO-
8 CEEDS.—An applicant for a loan guarantee under
9 this Act may not transfer any part of the proceeds
10 of the loan to an affiliate.

11 (o) EFFECT OF BANKRUPTCY.—(1) Notwithstanding
12 any other provision of law, whenever any person or entity
13 is indebted to the United States as a result of any loan
14 guarantee issued under this Act and such person or entity
15 is insolvent or is a debtor in a case under title 11, United
16 States Code, the debts due to the United States shall be
17 satisfied first.

18 (2) A discharge in bankruptcy under title 11, United
19 States Code, shall not release a person or entity from an
20 obligation to the United States in connection with a loan
21 guarantee under this Act.

22 **SEC. 6. ANNUAL AUDIT.**

23 (a) REQUIREMENT.—The Comptroller General of the
24 United States shall conduct on an annual basis an audit
25 of the administration of the provisions of this Act.

1 (b) REPORT.—The Comptroller General shall submit
 2 to the Committee on Banking, Housing, and Urban Af-
 3 fairs of the Senate and the Committee on Banking and
 4 Financial Services of the House of Representatives a re-
 5 port on each audit conducted under subsection (a).

6 **SEC. 7. SUNSET.**

7 No loan guarantee may be approved under this Act
 8 after December 31, 2006.

9 **SEC. 8. DEFINITIONS.**

10 In this Act:

11 (1) AFFILIATE.—The term “affiliate”—

12 (A) means any person or entity that con-
 13 trols, or is controlled by, or is under common
 14 control with, another person or entity; and

15 (B) may include any individual who is a di-
 16 rector or senior management officer of an affil-
 17 iate, a shareholder controlling more than 25
 18 percent of the voting securities of an affiliate,
 19 or more than 25 percent of the ownership inter-
 20 est in an affiliate not organized in stock form.

21 (2) UNSERVED AREA.—The term “unserved
 22 area” means any area that—

23 (A) is outside the grade B contour (as de-
 24 termined using standards employed by the Fed-
 25 eral Communications Commission) of the local

1 television broadcast signals serving a particular
 2 designated market area; and

3 (B) does not have access to such signals by
 4 other widely marketed means.

5 (3) UNDERSERVED AREA.—The term “under-
 6 served area” means any area that—

7 (A) is outside the grade A contour (as de-
 8 termined using standards employed by the Fed-
 9 eral Communications Commission) of the local
 10 television broadcast signals serving a particular
 11 designated market area; and

12 (B) has access to local television broadcast
 13 signals from not more than one commercial,
 14 for-profit multichannel video provider.

15 (4) COMMON TERMS.—Except as provided in
 16 paragraphs (1) through (3), any term used in this
 17 Act that is defined in the Communications Act of
 18 1934 (47 U.S.C. 151 et seq.) has the meaning given
 19 that term in the Communications Act of 1934.

20 **SEC. 9. AUTHORIZATIONS OF APPROPRIATIONS.**

21 (a) COST OF LOAN GUARANTEES.—For the cost of
 22 the loans guaranteed under this Act, including the cost
 23 of modifying the loans, as defined in section 502 of the
 24 Congressional Budget Act of 1974 (2 U.S.C. 661(a)),

1 there are authorized to be appropriated for fiscal years
2 2001 through 2006, such amounts as may be necessary.

3 (b) COST OF ADMINISTRATION.—There is hereby au-
4 thorized to be appropriated such sums as may be nec-
5 essary to carry out the provisions of this Act, other than
6 to cover costs under subsection (a).

7 (c) AVAILABILITY.—Any amounts appropriated pur-
8 suant to the authorizations of appropriations in sub-
9 sections (a) and (b) shall remain available until expended.

Passed the Senate March 30, 2000.

Attest:

Secretary.

106TH CONGRESS
2D SESSION

S. 2097

AN ACT

To authorize loan guarantees in order to facilitate access to local television broadcast signals in unserved and underserved areas, and for other purposes.

S 2097 ES—2

S 2097 ES—3

S 2097 ES—4

S 2097 ES—5