

**Calendar No. 461**

106TH CONGRESS  
2D SESSION

**S. 2097**

**[Report No. 106-243]**

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**A BILL**

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

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MARCH 15, 2000

Reported with an amendment

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2000

Mr. BURNS (for himself, Mr. GRAMM, Mr. LOTT, Mr. STEVENS, Mr. CRAPO, Mr. HUTCHINSON, Mr. ALLARD, Mr. BUNNING, Ms. SNOWE, Ms. COLLINS, Mr. GRASSLEY, Mr. ENZI, Mr. THOMAS, Mr. HAGEL, Mr. LUGAR, and Mr. COCHRAN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

MARCH 15, 2000

Reported under authority of the order of the Senate of March 9, 2000, by  
Mr. GRAMM, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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## A BILL

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Launching Our Com-  
3 munities’ Access to Local Television Act of 2000”.

4 **SEC. 2. PURPOSE.**

5 The purpose of this Act is to facilitate access, on a  
6 technologically neutral basis and by December 31, 2006,  
7 to signals of local television stations in unserved areas and  
8 underserved areas for the households located in such areas  
9 that seek access to such signals.

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

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

14 (b) **MEMBERS.**—

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

17 (A) The Secretary of the Treasury, or the  
18 designee of the Secretary.

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

22 (C) The Secretary of Agriculture, or the  
23 designee of the Secretary.

24 (2) **REQUIREMENT AS TO DESIGNEES.**—An in-  
25 dividual may not be designated a member of the  
26 Board under paragraph (1) unless the individual is

1 an officer of the United States pursuant to an ap-  
2 pointment by the President, by and with the advice  
3 and consent of the Senate.

4 (c) FUNCTIONS OF THE BOARD.—

5 (1) IN GENERAL.—The Board shall determine  
6 whether or not to approve loan guarantees under  
7 this Act. The Board shall make such determinations  
8 consistent with the purpose of this Act and in ac-  
9 cordance with this subsection and section 4.

10 (2) CONSULTATION AUTHORIZED.—

11 (A) IN GENERAL.—In carrying out its  
12 functions under this Act, the Board shall con-  
13 sult with such departments and agencies of the  
14 Federal Government as the Board considers ap-  
15 propriate, including the Department of Com-  
16 merce, the Department of Agriculture, the De-  
17 partment of the Treasury, the Department of  
18 Justice, the Department of the Interior, the  
19 Board of Governors of the Federal Reserve Sys-  
20 tem, the Federal Communications Commission,  
21 the Federal Trade Commission, and the Na-  
22 tional Aeronautics and Space Administration.

23 (B) RESPONSE.—A department or agency  
24 consulted by the Board under subparagraph (A)  
25 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 Board shall pre-  
14                 scribe regulations to implement the provisions of this  
15                 Act.

16                 ~~(2) ELEMENTS.—~~The regulations prescribed  
17                 under paragraph ~~(1)~~ shall—

18                         ~~(A)~~ set forth the form of any application to  
19                         be submitted to the Board under this Act;

20                         ~~(B)~~ set forth time periods for the review  
21                         and consideration by the Board of applications  
22                         to be submitted to the Board under this Act,  
23                         and for any other action to be taken by the  
24                         Board with respect to such applications;

1           (C) provide appropriate safeguards against  
2 the evasion of the provisions of this Act;

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

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

11           (F) include such other provisions con-  
12 sistent with the purpose of this Act as the  
13 Board considers appropriate.

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

21           (B) If any provision of this Act or the applica-  
22 tion of such provision to any person or entity or cir-  
23 cumstance is held to be invalid by a court of com-  
24 petent jurisdiction, the remainder of this Act, or the  
25 application of such provision to such person or entity

1 or circumstance other than those as to which it is  
2 held invalid, shall not be affected thereby.

3 ~~(c) AUTHORITY LIMITED BY APPROPRIATIONS~~  
4 ~~ACTS.—~~The Board may approve loan guarantees under  
5 this Act only to the extent provided for in advance in ap-  
6 propriations Acts.

7 ~~(d) REQUIREMENTS AND CRITERIA APPLICABLE TO~~  
8 ~~APPROVAL.—~~

9 ~~(1) IN GENERAL.—~~The Board shall utilize the  
10 underwriting criteria developed under subsection (g);  
11 and any relevant information provided by the de-  
12 partments and agencies with which the Board  
13 consults under section 3, to determine which loans  
14 may be eligible for a loan guarantee under this Act.

15 ~~(2) PREREQUISITES.—~~In addition to meeting  
16 the underwriting criteria under paragraph (1), a  
17 loan may not be guaranteed under this Act unless—

18 ~~(A) the loan is made to finance the acqui-~~  
19 ~~sition, improvement, enhancement, construction,~~  
20 ~~deployment, launch, or rehabilitation of the~~  
21 ~~means by which local television broadcast sig-~~  
22 ~~nals will be delivered to an unserved area or un-~~  
23 ~~derserved area;~~

24 ~~(B) the proceeds of the loan will not be~~  
25 ~~used for operating expenses;~~

1           (C) the proposed project, as determined by  
2           the Board in consultation with the National  
3           Telecommunications and Information Adminis-  
4           tration, is not likely to have a substantial ad-  
5           verse impact on competition that outweighs the  
6           benefits of improving access to the signals of a  
7           local television station in an unserved area or  
8           underserved area;

9           (D) the loan is provided by an insured de-  
10          pository institution (as that term is defined in  
11          section 3 of the Federal Deposit Insurance Act)  
12          that is acceptable to the Board, and has terms,  
13          in the judgment of the Board, that are con-  
14          sistent in material respects with the terms of  
15          similar obligations in the private capital mar-  
16          ket;

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

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

21               (ii) the economically useful life, as de-  
22               termined by the Board, of the primary as-  
23               sets to be used in the delivery of the sig-  
24               nals concerned; and



1           (~~F~~) the loan meets any additional criteria  
2           developed under subsection (~~g~~).

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

6           (A) the Board has been given documenta-  
7           tion, assurances, and access to information and  
8           persons necessary, as determined by the Board,  
9           to address issues relevant to the review of the  
10          loan by the Board for purposes of this Act; and

11          (B) the Board makes a determination in  
12          writing that—

13               (i) the assets, facilities, or equipment  
14               covered by the loan will be utilized eco-  
15               nomically and efficiently;

16               (ii) the terms, conditions, security,  
17               and schedule and amount of repayments of  
18               principal and the payment of interest with  
19               respect to the loan protect the financial in-  
20               terests of the United States and are rea-  
21               sonable;

22               (iii) all necessary and required regu-  
23               latory and other approvals, spectrum  
24               rights, and delivery permissions have been

1 received for the loan and the project under  
2 the loan;

3 (iv) the loan would not be available on  
4 reasonable terms and conditions without a  
5 loan guarantee under this Act; and

6 (v) repayment of the loan can reason-  
7 ably be expected.

8 (e) PRIORITY CONSIDERATIONS.—

9 (1) TYPE OF MARKET.—

10 (A) PRIORITY CONSIDERATION TO  
11 UNSERVED AREAS.—To the maximum extent  
12 practicable, the Board shall give priority in the  
13 approval of loan guarantees under this Act for  
14 projects that will serve unserved areas.

15 (B) PROHIBITION.—The Board may not  
16 approve a loan guarantee under this Act for a  
17 project that is designed primarily to serve one  
18 or more of the 40 most populated designated  
19 market areas (as that term is defined in section  
20 122(j) of title 17, United States Code).

21 (2) PROJECTS THAT WOULD REDUCE CON-  
22 SUMER COSTS.—To the maximum extent practicable,  
23 the Board shall also give priority in the approval of  
24 loan guarantees under this Act to projects that  
25 would—

1           (A) offer a separate tier of local broadcast  
2 signals, but for applicable Federal, State, or  
3 local laws or regulations;

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

6           (C) enable the delivery of local broadcast  
7 signals consistent with the purpose of this Act  
8 by a means reasonably compatible with existing  
9 systems or devices predominantly in use.

10 (f) GUARANTEE LIMITS.—

11           (1) LIMITATION ON AGGREGATE VALUE OF  
12 LOANS.—The aggregate value of all loans for which  
13 loan guarantees are issued under this Act may not  
14 exceed \$1,250,000,000.

15           (2) GUARANTEE LEVEL.—A loan guarantee  
16 issued under this Act may not exceed an amount  
17 equal to 70 percent of a loan meeting in its entirety  
18 the requirements of subsection (d)(2)(A). If only a  
19 portion of a loan meets the requirements of that  
20 subsection, the Board shall determine that percent-  
21 age of the loan meeting such requirements (the “ap-  
22 plicable portion”) and may issue a loan guarantee  
23 in an amount not exceeding 70 percent of the appli-  
24 cable portion.

1       (g) UNDERWRITING CRITERIA.—Not later than 180  
2 days after the date of the enactment of this Act, the Board  
3 shall, in consultation with the Director of the Office of  
4 Management and Budget and an independent public ac-  
5 counting firm, develop underwriting criteria relating to the  
6 guarantee of loans that are consistent with the purpose  
7 of this Act, including appropriate collateral and cash flow  
8 levels for loans guaranteed under this Act, and such other  
9 matters as the Board considers appropriate.

10       (h) CREDIT RISK PREMIUMS.—

11               (1) ESTABLISHMENT AND ACCEPTANCE.—

12                       (A) AUTHORITY.—The Board may estab-  
13 lish and approve the acceptance of credit risk  
14 premiums with respect to a loan guarantee  
15 under this Act in order to cover the cost, as de-  
16 termined under section 504(b)(1) of the Fed-  
17 eral Credit Reform Act of 1990, of the loan  
18 guarantee. To the extent that appropriations of  
19 budget authority are insufficient to cover the  
20 cost, as so determined, of a loan guarantee  
21 under this Act, credit risk premiums shall be  
22 accepted from a non-Federal source under this  
23 subsection on behalf of the applicant for the  
24 loan guarantee.

25               (2) CREDIT RISK PREMIUM AMOUNT.—

1           (A) ~~IN GENERAL.~~—The Board shall deter-  
2 mine the amount of any credit risk premium to  
3 be accepted with respect to a loan guarantee  
4 under this Act on the basis of—

5           (i) the financial and economic cir-  
6 cumstances of the applicant for the loan  
7 guarantee, including the amount of collat-  
8 eral offered;

9           (ii) the proposed schedule of loan dis-  
10 bursements;

11           (iii) the business plans of the appli-  
12 cant for providing service;

13           (iv) any financial commitment from a  
14 broadcast signal provider; and

15           (v) the concurrence of the Director of  
16 the Office of Management and Budget as  
17 to the amount of the credit risk premium.

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

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

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

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

10           (b) **SECURITY FOR PROTECTION OF UNITED STATES**  
 11 **FINANCIAL INTERESTS.**—

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

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

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

23                           (C) shall remain sufficiently capitalized.

24                   (2) **COLLATERAL.**—

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

7           (B) FORM OF COLLATERAL.—Collateral re-  
8           quired by subparagraph (A) shall consist solely  
9           of assets of the applicant, any affiliate of the  
10          applicant, or both (whichever the Board con-  
11          siders appropriate), including primary assets to  
12          be used in the delivery of signals for which the  
13          loan is guaranteed.

14          (C) REVIEW OF VALUATION.—The value of  
15          collateral securing a loan guaranteed under this  
16          Act may be reviewed by the Board, and may be  
17          adjusted downward by the Board if the Board  
18          reasonably believes such adjustment is appro-  
19          priate.

20          (3) LIEN ON INTERESTS IN ASSETS.—Upon the  
21          Board's approval of a loan guarantee under this Act,  
22          the Administrator shall have liens on assets securing  
23          the loan, which shall be superior to all other liens on  
24          such assets, and the value of the assets (based on  
25          a determination satisfactory to the Board) subject to

1 the liens shall be at least equal to the unpaid bal-  
2 ance of the loan amount covered by the loan guar-  
3 antee.

4 (4) PERFECTED SECURITY INTEREST.—With  
5 respect to a loan guaranteed under this Act, the Ad-  
6 ministrator and the lender shall have a perfected se-  
7 curity interest in assets securing the loan that are  
8 fully sufficient to protect the financial interests of  
9 the United States and the lender.

10 (5) INSURANCE.—In accordance with practices  
11 in the private capital market, as determined by the  
12 Board, the applicant for a loan guarantee under this  
13 Act shall obtain, at its expense, insurance sufficient  
14 to protect the financial interests of the United  
15 States, as determined by the Board.

16 (c) ASSIGNMENT OF LOAN GUARANTEES.—The hold-  
17 er of a loan guarantee under this Act may assign the loan  
18 guaranteed under this Act in whole or in part, subject to  
19 such requirements as the Board may prescribe.

20 (d) MODIFICATION.—The Board may approve the  
21 modification of any term or condition of a loan guarantee  
22 under this Act, including the rate of interest, time of pay-  
23 ment of principal or interest, or security requirements only  
24 if—



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

3           (2) consent has been obtained from the parties  
4           to the loan agreement;

5           (3) the modification is consistent with the un-  
6           derwriting criteria developed under section 4(g);

7           (4) the modification does not adversely affect  
8           the interest of the Federal Government in the assets  
9           or collateral of the applicant;

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

12          (6) the National Telecommunications and Infor-  
13          mation Administration has been consulted by the  
14          Board regarding the modification.

15        (c) PERFORMANCE SCHEDULES.—

16           (1) PERFORMANCE SCHEDULES.—An applicant  
17           for a loan guarantee under this Act for a project  
18           covered by section 4(e)(1) shall enter into stipulated  
19           performance schedules with the Administrator with  
20           respect to the signals to be provided through the  
21           project.

22           (2) PENALTY.—The Administrator may assess  
23           against and collect from an applicant described in  
24           paragraph (1) a penalty not to exceed 3 times the  
25           interest due on the guaranteed loan of the applicant

1 under this Act if the applicant fails to meet its stip-  
2 ulated performance schedule under that paragraph.

3 (f) COMPLIANCE.—The Administrator, in cooperation  
4 with the Board and as the regulations of the Board may  
5 provide, shall enforce compliance by an applicant, and any  
6 other party to a loan guarantee for whose benefit assist-  
7 ance under this Act is intended, with the provisions of this  
8 Act, any regulations under this Act, and the terms and  
9 conditions of the loan guarantee, including through the  
10 submittal of such reports and documents as the Board  
11 may require in regulations prescribed by the Board and  
12 through regular periodic inspections and audits.

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

15 (1) in the hands of an applicant on whose be-  
16 half the loan guarantee is made, unless the applicant  
17 engaged in fraud or misrepresentation in securing  
18 the loan guarantee; and

19 (2) as to any person or entity (or their respec-  
20 tive successor in interest) who makes or contracts to  
21 make a loan to the applicant for the loan guarantee  
22 in reliance thereon, unless such person or entity (or  
23 respective successor in interest) engaged in fraud or  
24 misrepresentation in making or contracting to make  
25 such loan.

1       (h) ~~DEFAULTS.~~—The Board shall prescribe regula-  
 2 tions governing defaults on loans guaranteed under this  
 3 Act, including the administration of the payment of guar-  
 4 anteed amounts upon default.

5       (i) ~~RECOVERY OF PAYMENTS.~~—

6           (1) ~~IN GENERAL.~~—The Administrator shall be  
 7 entitled to recover from an applicant for a loan  
 8 guarantee under this Act the amount of any pay-  
 9 ment made to the holder of the guarantee with re-  
 10 spect to the loan.

11          (2) ~~SUBROGATION.~~—Upon making a payment  
 12 described in paragraph (1), the Administrator shall  
 13 be subrogated to all rights of the party to whom the  
 14 payment is made with respect to the guarantee  
 15 which was the basis for the payment.

16          (3) ~~DISPOSITION OF PROPERTY.~~—

17           (A) ~~SALE OR DISPOSAL.~~—The Adminis-  
 18 trator shall, in an orderly and efficient manner,  
 19 sell or otherwise dispose of any property or  
 20 other interests obtained under this Act in a  
 21 manner that maximizes taxpayer return and is  
 22 consistent with the financial interests of the  
 23 United States.

24           (B) ~~MAINTENANCE.~~—The Administrator  
 25 shall maintain in a cost-effective and reasonable

1 manner any property pending sale or disposal  
2 of such property under subparagraph (A).

3 (j) ACTION AGAINST OBLIGOR.—

4 (1) AUTHORITY TO BRING CIVIL ACTION.—The  
5 Administrator may bring a civil action in an appro-  
6 priate district court of the United States in the  
7 name of the United States or of the holder of the  
8 obligation in the event of a default on a loan guar-  
9 anteed under this Act. The holder of a loan guar-  
10 antee shall make available to the Administrator all  
11 records and evidence necessary to prosecute the civil  
12 action.

13 (2) FULLY SATISFYING OBLIGATIONS OWED  
14 THE UNITED STATES.—The Administrator may ac-  
15 cept property in satisfaction of any sums owed the  
16 United States as a result of a default on a loan  
17 guaranteed under this Act, but only to the extent  
18 that any cash accepted by the Administrator is not  
19 sufficient to satisfy fully the sums owed as a result  
20 of the default.

21 (k) BREACH OF CONDITIONS.—The Administrator  
22 shall commence a civil action in a court of appropriate  
23 jurisdiction to enjoin any activity which the Board finds  
24 is in violation of this Act, the regulations under this Act,  
25 or any conditions which were duly agreed to, and to secure

1 any other appropriate relief, including relief against any  
2 affiliate of the applicant.

3 (l) ATTACHMENT.—No attachment or execution may  
4 be issued against the Administrator or any property in the  
5 control of the Administrator pursuant to this Act before  
6 the entry of a final judgment (as to which all rights of  
7 appeal have expired) by a State, Federal, or other court  
8 of competent jurisdiction against the Administrator in a  
9 proceeding for such action.

10 (m) FEES.—

11 (1) APPLICATION FEE.—The Board may charge  
12 and collect from an applicant for a loan guarantee  
13 under this Act a fee to cover the cost of the Board  
14 in making necessary determinations and findings  
15 with respect to the loan guarantee application under  
16 this Act. The amount of the fee shall be reasonable.

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

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

25 (n) REQUIREMENTS RELATING TO AFFILIATES.—

1           (1) INDEMNIFICATION.—An affiliate of an ap-  
2           plicant for a loan guarantee under this Act shall in-  
3           demnify the United States for any losses that the  
4           United States incurs as a result of—

5                   (A) a judgment against the applicant or  
6                   any of its affiliates;

7                   (B) any breach by the applicant or any of  
8                   its affiliates of their obligations under the loan  
9                   guarantee agreement;

10                  (C) any violation of the provisions of this  
11                  Act, and the regulations prescribed under this  
12                  Act, by the applicant or any of its affiliates;

13                  (D) any penalties incurred by the applicant  
14                  or any of its affiliates for any reason, including  
15                  violation of a stipulated performance schedule  
16                  under subsection (c); and

17                  (E) any other circumstances that the  
18                  Board considers appropriate.

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

23           (6) EFFECT OF BANKRUPTCY.—(1) Notwithstanding  
24           any other provision of law, whenever any person or entity  
25           is indebted to the United States as a result of any loan

1 guarantee issued under this Act and such person or entity  
 2 is insolvent or is a debtor in a case under title 11, United  
 3 States Code, the debts due to the United States shall be  
 4 satisfied first.

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

9 **SEC. 6. ANNUAL AUDIT.**

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

13 (b) REPORT.—The Comptroller General shall submit  
 14 to the Committee on Banking, Housing, and Urban Af-  
 15 fairs of the Senate and the Committee on Banking and  
 16 Financial Services of the House of Representatives a re-  
 17 port on each audit conducted under subsection (a).

18 **SEC. 7. SUNSET.**

19 No loan guarantee may be approved under this Act  
 20 after December 31, 2006.

21 **SEC. 8. RETRANSMISSION OF LOCAL TELEVISION BROAD-  
 22 CAST STATIONS.**

23 An applicant shall be subject to applicable rights, ob-  
 24 ligations, and limitations of title 17, United States Code.  
 25 If a local broadcast station requests carriage of its signal

1 and is located in a market not served by a satellite carrier  
 2 providing service under a statutory license under section  
 3 122 of title 17, United States Code, the applicant shall  
 4 carry the signal of that station without charge, and shall  
 5 be subject to the applicable rights, obligations, and limita-  
 6 tions of sections 338, 614, and 615 of the Communica-  
 7 tions Act of 1934.

8 **SEC. 9. DEFINITIONS.**

9 In this Act:

10 (1) **AFFILIATE.**—The term “affiliate”—

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

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

20 (2) **UNSERVED AREA.**—The term “unserved  
 21 area” means any area (as determined using stand-  
 22 ards employed by the Federal Communications Com-  
 23 mission) that—



1           (A) is outside the grade B contour of the  
2           local television broadcast signals serving a par-  
3           ticular dominant market area; and

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

6           (3) ~~UNDERSERVED AREA.~~—The term “under-  
7           served area” means any area that does not receive  
8           local television broadcast signals over a commercial  
9           for-profit direct-to-home satellite distribution system.

10          (4) ~~COMMON TERMS.~~—Except as provided in  
11          paragraphs (1) through (3), any term used in this  
12          Act that is defined in the Communications Act of  
13          1934 (47 U.S.C. 151 et seq.) has the meaning given  
14          that term in the Communications Act of 1934.

15 **SEC. 10. AUTHORIZATIONS OF APPROPRIATIONS.**

16          (a) ~~COST OF LOAN GUARANTEES.~~—For the cost of  
17          the loans guaranteed under this Act, including the cost  
18          of modifying the loans, as defined in section 502 of the  
19          Congressional Budget Act of 1974 (2 U.S.C. 661(a)),  
20          there are authorized to be appropriated for fiscal years  
21          2001 through 2006, such amounts as may be necessary.

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

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

4 **SECTION 1. SHORT TITLE.**

5       *This Act may be cited as the “Launching Our Commu-  
6 nities’ Access to Local Television Act of 2000”.*

7 **SEC. 2. PURPOSE.**

8       *The purpose of this Act is to facilitate access, on a  
9 technologically neutral basis and by December 31, 2006, to  
10 signals of local television stations for households located in  
11 unserved areas and underserved areas.*

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

13       (a) *ESTABLISHMENT.*—*There is established the  
14 LOCAL Television Loan Guarantee Board (in this Act re-  
15 ferred to as the “Board”).*

16       (b) *MEMBERS.*—

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

19                       (A) *The Secretary of the Treasury, or the  
20 designee of the Secretary.*

21                       (B) *The Chairman of the Board of Gov-  
22 ernors of the Federal Reserve System, or the des-  
23 ignee of the Chairman.*

24                       (C) *The Secretary of Agriculture, or the des-  
25 ignee of the Secretary.*

1           (2) *REQUIREMENT AS TO DESIGNEES.*—An indi-  
2           vidual may not be designated a member of the Board  
3           under paragraph (1) unless the individual is an offi-  
4           cer of the United States pursuant to an appointment  
5           by the President, by and with the advice and consent  
6           of the Senate.

7           (c) *FUNCTIONS OF THE BOARD.*—

8           (1) *IN GENERAL.*—The Board shall determine  
9           whether or not to approve loan guarantees under this  
10          Act. The Board shall make such determinations con-  
11          sistent with the purpose of this Act and in accordance  
12          with this subsection and section 4 of this Act.

13          (2) *CONSULTATION AUTHORIZED.*—

14          (A) *IN GENERAL.*—In carrying out its func-  
15          tions under this Act, the Board shall consult  
16          with such departments and agencies of the Fed-  
17          eral Government as the Board considers appro-  
18          priate, including the Department of Commerce,  
19          the Department of Agriculture, the Department  
20          of the Treasury, the Department of Justice, the  
21          Department of the Interior, the Board of Gov-  
22          ernors of the Federal Reserve System, the Federal  
23          Communications Commission, the Federal Trade  
24          Commission, and the National Aeronautics and  
25          Space Administration.

1           (B) *RESPONSE.*—A department or agency  
2           consulted by the Board under subparagraph (A)  
3           shall provide the Board such expertise and as-  
4           sistance as the Board requires to carry out its  
5           functions under this Act.

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

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

11           (a) *AUTHORITY TO APPROVE LOAN GUARANTEES.*—  
12           Subject to the provisions of this section and consistent with  
13           the purpose of this Act, the Board may approve loan guar-  
14           antees under this Act.

15           (b) *REGULATIONS.*—

16           (1) *REQUIREMENTS.*—The Administrator (as de-  
17           fined in section 5 of this Act), under the direction of  
18           and for approval by the Board, shall prescribe regula-  
19           tions to implement the provisions of this Act and  
20           shall do so not later than 120 days after funds au-  
21           thorized to be appropriated under section 10 of this  
22           Act have been appropriated in a bill signed into law.

23           (2) *ELEMENTS.*—The regulations prescribed  
24           under paragraph (1) shall—

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

3           (B) set forth time periods for the review and  
4 consideration by the Board of applications to be  
5 submitted to the Board under this Act, and for  
6 any other action to be taken by the Board with  
7 respect to such applications;

8           (C) provide appropriate safeguards against  
9 the evasion of the provisions of this Act;

10          (D) set forth the circumstances in which an  
11 applicant, together with any affiliate of an ap-  
12 plicant, shall be treated as an applicant for a  
13 loan guarantee under this Act;

14          (E) include requirements that appropriate  
15 parties submit to the Board any documents and  
16 assurances that are required for the administra-  
17 tion of the provisions of this Act; and

18          (F) include such other provisions consistent  
19 with the purpose of this Act as the Board con-  
20 siders appropriate.

21          (3) CONSTRUCTION.—(A) Nothing in this Act  
22 shall be construed to prohibit the Board from requir-  
23 ing, to the extent and under circumstances considered  
24 appropriate by the Board, that affiliates of an appli-  
25 cant be subject to certain obligations of the applicant

1        *as a condition to the approval or maintenance of a*  
 2        *loan guarantee under this Act.*

3            *(B) If any provision of this Act or the applica-*  
 4        *tion of such provision to any person or entity or cir-*  
 5        *cumstance is held to be invalid by a court of com-*  
 6        *petent jurisdiction, the remainder of this Act, or the*  
 7        *application of such provision to such person or entity*  
 8        *or circumstance other than those as to which it is held*  
 9        *invalid, shall not be affected thereby.*

10        *(c) AUTHORITY LIMITED BY APPROPRIATIONS ACTS.—*  
 11        *The Board may approve loan guarantees under this Act*  
 12        *only to the extent provided for in advance in appropria-*  
 13        *tions Acts. The Board may delegate to the Administrator*  
 14        *(as defined in section 5 of this Act) the authority to approve*  
 15        *loan guarantees of up to \$20,000,000. To the extent the Ad-*  
 16        *ministrator is delegated such authority, the Administrator*  
 17        *shall comply with the terms of this Act applicable to the*  
 18        *Board.*

19        *(d) REQUIREMENTS AND CRITERIA APPLICABLE TO*  
 20        *APPROVAL.—*

21            *(1) IN GENERAL.—The Board shall utilize the*  
 22        *underwriting criteria developed under subsection (g),*  
 23        *and any relevant information provided by the depart-*  
 24        *ments and agencies with which the Board consults*

1        *under section 3, to determine which loans may be eli-*  
2        *gible for a loan guarantee under this Act.*

3            (2) *PREREQUISITES.*—*In addition to meeting the*  
4        *underwriting criteria under paragraph (1), a loan*  
5        *may not be guaranteed under this Act unless—*

6            (A) *the loan is made to finance the acquisi-*  
7        *tion, improvement, enhancement, construction,*  
8        *deployment, launch, or rehabilitation of the*  
9        *means by which local television broadcast signals*  
10       *will be delivered to an unserved area or under-*  
11       *served area;*

12           (B) *the proceeds of the loan will not be used*  
13       *for operating expenses;*

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

22           (D) *the loan is provided by an insured de-*  
23       *pository institution (as that term is defined in*  
24       *section 3 of the Federal Deposit Insurance Act)*  
25       *that is acceptable to the Board, and has terms,*

1           *in the judgment of the Board, that are consistent*  
2           *in material respects with the terms of similar ob-*  
3           *ligations in the private capital market;*

4           *(E) repayment of the loan is required to be*  
5           *made within a term of the lesser of—*

6                   *(i) 25 years from the date of the execu-*  
7                   *tion of the loan; or*

8                   *(ii) the economically useful life, as de-*  
9                   *termined by the Board or in consultation*  
10                  *with persons or entities deemed appropriate*  
11                  *by the Board, of the primary assets to be*  
12                  *used in the delivery of the signals con-*  
13                  *cerned; and*

14           *(F) the loan meets any additional criteria*  
15           *developed under subsection (g).*

16           (3) *PROTECTION OF UNITED STATES FINANCIAL*  
17           *INTERESTS.—The Board may not approve the guar-*  
18           *antee of a loan under this Act unless—*

19                   *(A) the Board has been given documenta-*  
20                   *tion, assurances, and access to information, per-*  
21                   *sons, and entities necessary, as determined by*  
22                   *the Board, to address issues relevant to the re-*  
23                   *view of the loan by the Board for purposes of*  
24                   *this Act; and*



1           (B) the Board makes a determination in  
2           writing that—

3                   (i) to the best of its knowledge upon  
4                   due inquiry, the assets, facilities, or equip-  
5                   ment covered by the loan will be utilized  
6                   economically and efficiently;

7                   (ii) the terms, conditions, security, and  
8                   schedule and amount of repayments of prin-  
9                   cipal and the payment of interest with re-  
10                  spect to the loan protect the financial inter-  
11                  ests of the United States and are reasonable;

12                  (iii) to the extent possible, the value of  
13                  collateral provided by an applicant is at  
14                  least equal to the unpaid balance of the loan  
15                  amount covered by the loan guarantee (the  
16                  “Amount” for purposes of this clause); and  
17                  if the value of collateral provided by an ap-  
18                  plicant is less than the Amount, the addi-  
19                  tional required collateral is provided by any  
20                  affiliate of the applicant; and if the com-  
21                  bined value of collateral provided by an ap-  
22                  plicant and any affiliate is not at least  
23                  equal to the Amount, the collateral from  
24                  such affiliate represents all of such affili-  
25                  ate’s assets;

1                   (iv) all necessary and required regu-  
 2                   latory and other approvals, spectrum rights,  
 3                   and delivery permissions have been received  
 4                   for the loan, the project under the loan, and  
 5                   the Other Debt, if any, under subsection  
 6                   (f)(2)(B);

7                   (v) the loan would not be available on  
 8                   reasonable terms and conditions without a  
 9                   loan guarantee under this Act; and

10                   (vi) repayment of the loan can reason-  
 11                   ably be expected.

12           (e) CONSIDERATIONS.—

13                   (1) TYPE OF MARKET.—

14                   (A) PRIORITY CONSIDERATIONS.—To the  
 15                   maximum extent practicable, the Board shall  
 16                   give priority in the approval of loan guarantees  
 17                   under this Act in the following order: First, to  
 18                   projects that will serve the greatest number of  
 19                   households in unserved areas; and second, to  
 20                   projects that will serve the greatest number of  
 21                   households in underserved areas. In each in-  
 22                   stance, the Board shall consider the project's esti-  
 23                   mated cost per household to be served.

24                   (B) PROHIBITION.—The Board may not ap-  
 25                   prove a loan guarantee under this Act for a

1           *project that is designed primarily to serve 1 or*  
2           *more of the 40 most populated designated market*  
3           *areas (as that term is defined in section 122(j)*  
4           *of title 17, United States Code).*

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

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

11                  (B) *provide lower projected costs to con-*  
12                  *sumers of such separate tier; and*

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

17           (f) *GUARANTEE LIMITS.—*

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

24                   (2) *GUARANTEE LEVEL.—A loan guarantee*  
25                   *issued under this Act—*

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

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

20           (g) *UNDERWRITING CRITERIA.*—Within the period  
21           provided for under subsection (b)(1), the Board shall, in  
22           consultation with the Director of the Office of Management  
23           and Budget and an independent public accounting firm,  
24           develop underwriting criteria relating to the guarantee of  
25           loans that are consistent with the purpose of this Act, in-

1 *cluding appropriate collateral and cash flow levels for loans*  
2 *guaranteed under this Act, and such other matters as the*  
3 *Board considers appropriate.*

4 *(h) CREDIT RISK PREMIUMS.—*

5 *(1) ESTABLISHMENT AND ACCEPTANCE.—The*  
6 *Board may establish and approve the acceptance of*  
7 *credit risk premiums with respect to a loan guarantee*  
8 *under this Act in order to cover the cost, as deter-*  
9 *mined under section 504(b)(1) of the Federal Credit*  
10 *Reform Act of 1990, of the loan guarantee. To the ex-*  
11 *tent that appropriations of budget authority are in-*  
12 *sufficient to cover the cost, as so determined, of a loan*  
13 *guarantee under this Act, credit risk premiums shall*  
14 *be accepted from a non-Federal source under this sub-*  
15 *section on behalf of the applicant for the loan guar-*  
16 *antee.*

17 *(2) CREDIT RISK PREMIUM AMOUNT.—*

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

22 *(i) the financial and economic cir-*  
23 *cumstances of the applicant for the loan*  
24 *guarantee, including the amount of collat-*  
25 *eral offered;*

1                   (ii) the proposed schedule of loan dis-  
2                   bursements;

3                   (iii) the business plans of the applicant  
4                   for providing service;

5                   (iv) any financial commitment from a  
6                   broadcast signal provider; and

7                   (v) the concurrence of the Director of  
8                   the Office of Management and Budget as to  
9                   the amount of the credit risk premium.

10                  (B) *PROPORTIONALITY.*—To the extent that  
11                  appropriations of budget authority are sufficient  
12                  to cover the cost, as determined under section  
13                  504(b)(1) of the Federal Credit Reform Act of  
14                  1990, of loan guarantees under this Act, the  
15                  credit risk premium with respect to each loan  
16                  guarantee shall be reduced proportionately.

17                  (C) *PAYMENT OF PREMIUMS.*—Credit risk  
18                  premiums under this subsection shall be paid to  
19                  an account (the “Escrow Account”) established  
20                  in the Treasury which shall accrue interest and  
21                  such interest shall be retained by the account,  
22                  subject to subparagraph (D).

23                  (D) *DEDUCTIONS FROM ESCROW AC-*  
24                  *COUNT.*—If a default occurs with respect to any  
25                  loan guaranteed under this Act and the default

1            *is not cured in accordance with the terms of the*  
2            *underlying loan or loan guarantee agreement,*  
3            *the Administrator, in accordance with sub-*  
4            *sections (h) and (i) of section 5 of this Act, shall*  
5            *liquidate, or shall cause to be liquidated, all as-*  
6            *sets collateralizing such loan as to which it has*  
7            *a lien or security interest. Any shortfall between*  
8            *the proceeds of the liquidation net of costs and*  
9            *expenses relating to the liquidation, and the*  
10           *guarantee amount paid pursuant to this Act*  
11           *shall be deducted from funds in the Escrow Ac-*  
12           *count and credited to the Administrator for pay-*  
13           *ment of such shortfall. At such time as deter-*  
14           *mined under subsection (d)(2)(E) when all loans*  
15           *guaranteed under this Act have been repaid or*  
16           *otherwise satisfied in accordance with this Act*  
17           *and the regulations promulgated hereunder, re-*  
18           *maining funds in the Escrow Account, if any,*  
19           *shall be refunded, on a pro rata basis, to appli-*  
20           *cants whose loans guaranteed under this Act*  
21           *were not in default, or where any default was*  
22           *cured in accordance with the terms of the under-*  
23           *lying loan or loan guarantee agreement.*

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

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

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

10       (b) *SECURITY FOR PROTECTION OF UNITED STATES*  
 11 *FINANCIAL INTERESTS.*—

12               (1) *TERMS AND CONDITIONS.*—*An applicant*  
 13 *shall agree to such terms and conditions as are satis-*  
 14 *factory, in the judgment of the Board, to ensure that,*  
 15 *as long as any principal or interest is due and pay-*  
 16 *able on a loan guaranteed under this Act, the*  
 17 *applicant—*

18                       (A) *shall maintain assets, equipment, facili-*  
 19 *ties, and operations on a continuing basis;*

20                       (B) *shall not make any discretionary divi-*  
 21 *dend payments that impair its ability to repay*  
 22 *obligations guaranteed under this Act; and*

23                       (C) *shall remain sufficiently capitalized.*

24               (2) *COLLATERAL.*—



1           (A) *EXISTENCE OF ADEQUATE COLLAT-*  
2           *ERAL.*—*An applicant shall provide the Board*  
3           *such documentation as is necessary, in the judg-*  
4           *ment of the Board, to provide satisfactory evi-*  
5           *dence that appropriate and adequate collateral*  
6           *secures a loan guaranteed under this Act.*

7           (B) *FORM OF COLLATERAL.*—*Collateral re-*  
8           *quired by subparagraph (A) shall consist solely*  
9           *of assets of the applicant, any affiliate of the ap-*  
10          *plicant, or both (whichever the Board considers*  
11          *appropriate), including primary assets to be*  
12          *used in the delivery of signals for which the loan*  
13          *is guaranteed.*

14          (C) *REVIEW OF VALUATION.*—*The value of*  
15          *collateral securing a loan guaranteed under this*  
16          *Act may be reviewed by the Board, and may be*  
17          *adjusted downward by the Board if the Board*  
18          *reasonably believes such adjustment is appro-*  
19          *priate.*

20          (3) *LIEN ON INTERESTS IN ASSETS.*—*Upon the*  
21          *Board's approval of a loan guarantee under this Act,*  
22          *the Administrator shall have liens on assets securing*  
23          *the loan, which shall be superior to all other liens on*  
24          *such assets, and the value of the assets (based on a de-*  
25          *termination satisfactory to the Board) subject to the*

1        *liens shall be at least equal to the unpaid balance of*  
2        *the loan amount covered by the loan guarantee, or*  
3        *that value approved by the Board under section*  
4        *4(d)(3)(B)(iii) of this Act.*

5            (4) *PERFECTED SECURITY INTEREST.*—*With re-*  
6        *spect to a loan guaranteed under this Act, the Admin-*  
7        *istrator and the lender shall have a perfected security*  
8        *interest in assets securing the loan that are fully suf-*  
9        *ficient to protect the financial interests of the United*  
10       *States and the lender.*

11           (5) *INSURANCE.*—*In accordance with practices*  
12       *in the private capital market, as determined by the*  
13       *Board, the applicant for a loan guarantee under this*  
14       *Act shall obtain, at its expense, insurance sufficient*  
15       *to protect the financial interests of the United States,*  
16       *as determined by the Board.*

17           (c) *ASSIGNMENT OF LOAN GUARANTEES.*—*The holder*  
18       *of a loan guarantee under this Act may assign the loan*  
19       *guaranteed under this Act in whole or in part, subject to*  
20       *such requirements as the Board may prescribe.*

21           (d) *MODIFICATION.*—*The Board may approve the*  
22       *modification of any term or condition of a loan guarantee*  
23       *or a loan guaranteed under this Act, including the rate of*  
24       *interest, time of payment of principal or interest, or secu-*  
25       *rity requirements only if—*

1           (1) *the modification is consistent with the finan-*  
2 *cial interests of the United States;*

3           (2) *consent has been obtained from the parties to*  
4 *the loan agreement;*

5           (3) *the modification is consistent with the under-*  
6 *writing criteria developed under section 4(g) of this*  
7 *Act;*

8           (4) *the modification does not adversely affect the*  
9 *interest of the Federal Government in the assets or*  
10 *collateral of the applicant;*

11           (5) *the modification does not adversely affect the*  
12 *ability of the applicant to repay the loan; and*

13           (6) *the National Telecommunications and Infor-*  
14 *mation Administration has been consulted by the*  
15 *Board regarding the modification.*

16 *(e) PERFORMANCE SCHEDULES.—*

17           (1) *PERFORMANCE SCHEDULES.—An applicant*  
18 *for a loan guarantee under this Act for a project cov-*  
19 *ered by section 4(e)(1) of this Act shall enter into*  
20 *stipulated performance schedules with the Adminis-*  
21 *trator with respect to the signals to be provided*  
22 *through the project.*

23           (2) *PENALTY.—The Administrator may assess*  
24 *against and collect from an applicant described in*  
25 *paragraph (1) a penalty not to exceed 3 times the in-*

1        *terest due on the guaranteed loan of the applicant*  
2        *under this Act if the applicant fails to meet its stipu-*  
3        *lated performance schedule under that paragraph.*

4        *(f) COMPLIANCE.—The Administrator, in cooperation*  
5        *with the Board and as the regulations of the Board may*  
6        *provide, shall enforce compliance by an applicant, and any*  
7        *other party to a loan guarantee for whose benefit assistance*  
8        *under this Act is intended, with the provisions of this Act,*  
9        *any regulations under this Act, and the terms and condi-*  
10       *tions of the loan guarantee, including through the submittal*  
11       *of such reports and documents as the Board may require*  
12       *in regulations prescribed by the Board and through regular*  
13       *periodic inspections and audits.*

14       *(g) COMMERCIAL VALIDITY.—A loan guarantee under*  
15       *this Act shall be incontestable—*

16                *(1) in the hands of an applicant on whose behalf*  
17                *the loan guarantee is made, unless the applicant en-*  
18                *gaged in fraud or misrepresentation in securing the*  
19                *loan guarantee; and*

20                *(2) as to any person or entity (or their respective*  
21                *successor in interest) who makes or contracts to make*  
22                *a loan to the applicant for the loan guarantee in reli-*  
23                *ance thereon, unless such person or entity (or respec-*  
24                *tive successor in interest) engaged in fraud or mis-*

1        *representation in making or contracting to make such*  
2        *loan.*

3        *(h) DEFAULTS.—The Board shall prescribe regulations*  
4        *governing defaults on loans guaranteed under this Act, in-*  
5        *cluding the administration of the payment of guaranteed*  
6        *amounts upon default.*

7        *(i) RECOVERY OF PAYMENTS.—*

8            *(1) IN GENERAL.—The Administrator shall be*  
9        *entitled to recover from an applicant for a loan guar-*  
10       *antee under this Act the amount of any payment*  
11       *made to the holder of the guarantee with respect to the*  
12       *loan.*

13           *(2) SUBROGATION.—Upon making a payment*  
14       *described in paragraph (1), the Administrator shall*  
15       *be subrogated to all rights of the party to whom the*  
16       *payment is made with respect to the guarantee which*  
17       *was the basis for the payment.*

18           *(3) DISPOSITION OF PROPERTY.—*

19            *(A) SALE OR DISPOSAL.—The Adminis-*  
20       *trator shall, in an orderly and efficient manner,*  
21       *sell or otherwise dispose of any property or other*  
22       *interests obtained under this Act in a manner*  
23       *that maximizes taxpayer return and is con-*  
24       *sistent with the financial interests of the United*  
25       *States.*

1           (B) *MAINTENANCE.*—*The Administrator*  
2           *shall maintain in a cost-effective and reasonable*  
3           *manner any property or other interests pending*  
4           *sale or disposal of such property or other inter-*  
5           *ests under subparagraph (A).*

6           (j) *ACTION AGAINST OBLIGOR.*—

7           (1) *AUTHORITY TO BRING CIVIL ACTION.*—*The*  
8           *Administrator may bring a civil action in an appro-*  
9           *priate district court of the United States in the name*  
10          *of the United States or of the holder of the obligation*  
11          *in the event of a default on a loan guaranteed under*  
12          *this Act. The holder of a loan guarantee shall make*  
13          *available to the Administrator all records and evi-*  
14          *dence necessary to prosecute the civil action.*

15          (2) *FULLY SATISFYING OBLIGATIONS OWED THE*  
16          *UNITED STATES.*—*The Administrator may accept*  
17          *property in satisfaction of any sums owed the United*  
18          *States as a result of a default on a loan guaranteed*  
19          *under this Act, but only to the extent that any cash*  
20          *accepted by the Administrator is not sufficient to sat-*  
21          *isfy fully the sums owed as a result of the default.*

22          (k) *BREACH OF CONDITIONS.*—*The Administrator*  
23          *shall commence a civil action in a court of appropriate ju-*  
24          *risdiction to enjoin any activity which the Board finds is*  
25          *in violation of this Act, the regulations under this Act, or*

1 *any conditions which were duly agreed to, and to secure*  
2 *any other appropriate relief, including relief against any*  
3 *affiliate of the applicant.*

4       *(l) ATTACHMENT.—No attachment or execution may be*  
5 *issued against the Administrator or any property in the*  
6 *control of the Administrator pursuant to this Act before the*  
7 *entry of a final judgment (as to which all rights of appeal*  
8 *have expired) by a Federal, State, or other court of com-*  
9 *petent jurisdiction against the Administrator in a pro-*  
10 *ceeding for such action.*

11       *(m) FEES.—*

12               *(1) APPLICATION FEE.—The Board may charge*  
13 *and collect from an applicant for a loan guarantee*  
14 *under this Act a fee to cover the cost of the Board in*  
15 *making necessary determinations and findings with*  
16 *respect to the loan guarantee application under this*  
17 *Act. The amount of the fee shall be reasonable.*

18               *(2) LOAN GUARANTEE ORIGINATION FEE.—The*  
19 *Board may charge, and the Administrator may col-*  
20 *lect, a loan guarantee origination fee with respect to*  
21 *the issuance of a loan guarantee under this Act.*

22               *(3) USE OF FEES COLLECTED.—Any fee collected*  
23 *under this subsection shall be used to offset adminis-*  
24 *trative costs under this Act, including costs of the*  
25 *Board and of the Administrator.*

1       (n) *REQUIREMENTS RELATING TO AFFILIATES.*—

2           (1) *INDEMNIFICATION.*—*The United States shall*  
3 *be indemnified by any affiliate (acceptable to the*  
4 *Board) of an applicant for a loan guarantee under*  
5 *this Act for any losses that the United States incurs*  
6 *as a result of—*

7           (A) *a judgment against the applicant or*  
8 *any of its affiliates;*

9           (B) *any breach by the applicant or any of*  
10 *its affiliates of their obligations under the loan*  
11 *guarantee agreement;*

12           (C) *any violation of the provisions of this*  
13 *Act, and the regulations prescribed under this*  
14 *Act, by the applicant or any of its affiliates;*

15           (D) *any penalties incurred by the applicant*  
16 *or any of its affiliates for any reason, including*  
17 *violation of a stipulated performance schedule*  
18 *under subsection (e); and*

19           (E) *any other circumstances that the Board*  
20 *considers appropriate.*

21       (2) *LIMITATION ON TRANSFER OF LOAN PRO-*  
22 *CEEDS.*—*An applicant for a loan guarantee under*  
23 *this Act may not transfer any part of the proceeds of*  
24 *the loan to an affiliate.*



1       (o) *EFFECT OF BANKRUPTCY.*—(1) *Notwithstanding*  
2 *any other provision of law, whenever any person or entity*  
3 *is indebted to the United States as a result of any loan*  
4 *guarantee issued under this Act and such person or entity*  
5 *is insolvent or is a debtor in a case under title 11, United*  
6 *States Code, the debts due to the United States shall be sat-*  
7 *isfied first.*

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

12 **SEC. 6. ANNUAL AUDIT.**

13       (a) *REQUIREMENT.*—*The Comptroller General of the*  
14 *United States shall conduct on an annual basis an audit*  
15 *of the administration of the provisions of this Act.*

16       (b) *REPORT.*—*The Comptroller General shall submit*  
17 *to the Committee on Banking, Housing, and Urban Affairs*  
18 *of the Senate and the Committee on Banking and Financial*  
19 *Services of the House of Representatives a report on each*  
20 *audit conducted under subsection (a).*

21 **SEC. 7. SUNSET.**

22       *No loan guarantee may be approved under this Act*  
23 *after December 31, 2006.*

1 **SEC. 8. RETRANSMISSION OF LOCAL TELEVISION BROAD-**  
2 **CAST STATIONS.**

3 *An applicant shall be subject to applicable rights, obli-*  
4 *gations, and limitations of title 17, United States Code. If*  
5 *a local broadcast station requests carriage of its signal and*  
6 *is located in a market not served by a satellite carrier pro-*  
7 *viding service under a statutory license under section 122*  
8 *of title 17, United States Code, the applicant shall carry*  
9 *the signal of that station without charge, and shall be sub-*  
10 *ject to the applicable rights, obligations, and limitations of*  
11 *sections 338, 614, and 615 of the Communications Act of*  
12 *1934.*

13 **SEC. 9. DEFINITIONS.**

14 *In this Act:*

15 (1) *AFFILIATE.*—*The term “affiliate”*—

16 (A) *means any person or entity that con-*  
17 *trols, or is controlled by, or is under common*  
18 *control with, another person or entity; and*

19 (B) *may include any individual who is a*  
20 *director or senior management officer of an affil-*  
21 *iate, a shareholder controlling more than 25 per-*  
22 *cent of the voting securities of an affiliate, or*  
23 *more than 25 percent of the ownership interest*  
24 *in an affiliate not organized in stock form.*

25 (2) *UNSERVED AREA.*—*The term “unserved*  
26 *area” means any area that—*

1           (A) is outside the grade B contour (as deter-  
2           mined using standards employed by the Federal  
3           Communications Commission) of the local tele-  
4           vision broadcast signals serving a particular des-  
5           ignated market area; and

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

8           (3) *UNDERSERVED AREA.*—The term “under-  
9           served area” means any area that—

10           (A) is outside the grade A contour (as deter-  
11           mined using standards employed by the Federal  
12           Communications Commission) of the local tele-  
13           vision broadcast signals serving a particular des-  
14           ignated market area; and

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

18           (4) *COMMON TERMS.*—Except as provided in  
19           paragraphs (1) through (3), any term used in this  
20           Act that is defined in the Communications Act of  
21           1934 (47 U.S.C. 151 et seq.) has the meaning given  
22           that term in the Communications Act of 1934.

23 **SEC. 10. AUTHORIZATIONS OF APPROPRIATIONS.**

24           (a) *COST OF LOAN GUARANTEES.*—For the cost of the  
25           loans guaranteed under this Act, including the cost of modi-

1 *fy*ing the loans, as defined in section 502 of the Congres-  
2 sional Budget Act of 1974 (2 U.S.C. 661(a)), there are au-  
3 thorized to be appropriated for fiscal years 2001 through  
4 2006, such amounts as may be necessary.

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

9 (c) *AVAILABILITY.*—Any amounts appropriated pursu-  
10 ant to the authorizations of appropriations in subsections  
11 (a) and (b) shall remain available until expended.