

RURAL LOCAL BROADCAST SIGNAL ACT

MARCH 1, 2000.—Ordered to be printed

Mr. COMBEST, from the Committee on Agriculture,
submitted the following

R E P O R T

[To accompany H.R. 3615]

[Including cost estimate of the Congressional Budget Office]

The Committee on Agriculture, to whom was referred the bill (H.R. 3615) to amend the Rural Electrification Act of 1936 to ensure improved access to the signals of local television stations by multichannel video providers to all households which desire such service in unserved and underserved rural areas by December 31, 2006, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Rural Local Broadcast Signal Act”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) In 1936, most of the rural United States did not have access to electrical service enjoyed by the rest of the United States, and this lack of electrical service inhibited economic development in the rural areas of the United States.

(2) In response to this lack of service, Congress enacted the Rural Electrification Act of 1936 (also known as the Norris-Rayburn Rural Electrification Act) which established the Rural Electrification Administration to ensure that all Americans have access to electrical service and to promote rural development.

(3) The program under the Rural Electrification Act of 1936 has successfully brought electricity to all parts of the rural United States and has stimulated rural development throughout the United States.

(4) In 1949, most of the rural United States did not have access to telephone service enjoyed by the rest of the United States, and this lack of telephone service inhibited economic development in the rural areas of the United States.

(5) In response to this lack of service, Congress amended the Rural Electrification Act of 1936 to assure that the rural United States has access to tele-

communications services, including telephone services, distance learning, and telemedicine in order to promote rural development.

(6) The programs under these amendments have successfully brought telecommunications to all parts of the United States and has stimulated rural development throughout the United States.

(7) Public Law 93-32 amended the Rural Electrification Act of 1936 to establish a revolving fund for insured and guaranteed loans.

(8) The reorganization of the Department of Agriculture by Public Law 103-354 created the Rural Utilities Service (RUS) within the Department of Agriculture and assigned it the responsibility for administering programs under the Rural Electrification Act of 1936.

(9) The Rural Utilities Service now manages a portfolio of federally-guaranteed and direct loans in excess of \$42,000,000,000.

(10) The Rural Utilities Service has granted loans for the purpose of telecommunications services to more than 800 borrowers, including telephone and electricity cooperatives, in all States of the United States.

(11) Local television coverage is vitally important for rural development efforts.

(12) Local television programming broadcasts crop reports, local news, weather reports, public service announcements, and advertisements by local businesses, all of which are important for rural development.

(13) In today's age of modern communications, rural communities often receive the majority of their information from satellite platforms.

(14) The rest of the United States, including most of the rural United States, is not able to receive local television signals via satellite.

(15) Without access to local television signals, the development of the rural United States is greatly inhibited.

(16) Just as important public purposes were served by bringing electricity to the rural United States and then by bringing telephone service to the rural United States, so the United States would be served by ensuring that the rural United States can receive local television signals via satellite.

(17) It is in the public interest that the Rural Utilities Service of the Department of Agriculture utilize existing and new loan guarantee programs to promote rural development by ensuring that the rural United States has access to the signals of local television stations by multichannel video providers.

SEC. 3. RURAL LOCAL TELEVISION SIGNALS.

The Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) is amended by adding at the end the following:

“TITLE VI—RURAL LOCAL TELEVISION SIGNALS

“SEC. 601. DEFINITIONS.

“In this title:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Rural Utilities Service.

“(2) AFFILIATE.—The term ‘affiliate’ means any person or entity that controls, or is controlled by, or is under common control with, another person or entity.

“(3) BORROWER.—The term ‘borrower’ means any person or entity receiving a loan guarantee under this title.

“(4) COST.—

“(A) IN GENERAL.—The term ‘cost’ means the estimated long-term cost to the Government of a loan guarantee or modification thereof, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.

“(B) LOAN GUARANTEES.—For purposes of this paragraph the cost of a loan guarantee—

“(i) shall be the net present value, at the time when the guaranteed loan is disbursed, of the estimated cash flows of—

“(I) payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments; and

“(II) payments to the Government, including origination and other fees, penalties, and recoveries; and

“(ii) shall include the effects of changes in loan terms resulting from the exercise by the guaranteed lender of an option included in the loan

guarantee contract, or by the borrower of an option included in the guaranteed loan contract.

“(C) COST OF MODIFICATION.—The cost of the modification shall be the difference between the current estimate of the net present value of the remaining cash flows under the terms of a loan guarantee contract, and the current estimate of the net present value of the remaining cash flows under the terms of the contract, as modified.

“(D) DISCOUNT RATE.—In estimating net present value, the discount rate shall be the average interest rate on marketable Treasury securities of similar maturity to the cash flows of the guarantee for which the estimate is being made.

“(E) FISCAL YEAR ASSUMPTIONS.—When funds of a loan guarantee under this title are obligated, the estimated cost shall be based on the current assumptions, adjusted to incorporate the terms of the loan contract, for the fiscal year in which the funds are obligated.

“(5) CURRENT.—The term ‘current’ has the meaning given that term in section 250(c)(9) of the Balanced Budget and Emergency Deficit Control Act of 1985.

“(6) DESIGNATED MARKET AREA.—The term ‘designated market area’ has the meaning given that term in section 122(j) of title 17, United States Code.

“(7) LOAN GUARANTEE.—The term ‘loan guarantee’ means any guarantee, insurance, or other pledge with respect to the payment of all or part of the principal or interest on any debt obligation of a non-Federal borrower to the Federal Financing Bank or a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

“(8) MODIFICATION.—The term ‘modification’ means any Government action that alters the estimated cost of an outstanding loan guarantee (or loan guarantee commitment) from the current estimate of cash flows, including the sale of loan assets, with or without recourse, and the purchase of guaranteed loans.

“(9) COMMON TERMS.—Except as provided in paragraphs (1) through (9), any term used in this title that is defined in the Communications Act of 1934 (47 U.S.C. 151 et seq.) has the meaning given the term in that Act.

“SEC. 602. LOAN GUARANTEES.

“(a) PURPOSE.—The purpose of this title is to enable the Administrator to provide such loan guarantees as are necessary to ensure improved access to the signals of local television stations by multichannel video providers to all households which desire such service in unserved and underserved rural markets by December 31, 2006.

“(b) ASSISTANCE TO BORROWERS.—Subject to the appropriations limitation under subsection (c)(2), the Administrator may provide loan guarantees to borrowers to finance projects to provide local television broadcast signals by providers of multichannel video services including direct broadcast satellite licensees and licensees of multichannel multipoint distribution systems, to areas that do not receive local television broadcast signals over commercial for-profit direct-to-home satellite distribution systems. A borrower that receives a loan guarantee under this title may not transfer any part of the proceeds of the monies from the loans guaranteed under this program to an affiliate of the borrower.

“(c) UNDERWRITING CRITERIA; PREREQUISITES.—

“(1) IN GENERAL.—The Administrator shall administer the underwriting criteria developed under subsection (f)(1) to determine which loans are eligible for a guarantee under this title.

“(2) AUTHORITY TO MAKE LOAN GUARANTEES.—The Administrator shall be authorized to guarantee loans under this title only to the extent provided for in advance by appropriations Acts.

“(3) PREREQUISITES.—In addition to meeting the underwriting criteria under paragraph (1), a loan is not eligible for a loan guarantee under this title unless—

“(A) the loan is made to finance the acquisition, improvement, enhancement, construction, deployment, launch, or rehabilitation of the means, including spectrum rights, by which local television broadcast signals will be delivered to an area not receiving such signals over commercial for-profit direct-to-home satellite distribution systems;

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

“(C) the total amount of all such loans may not exceed in the aggregate \$1,250,000,000;

“(D) the loan does not exceed \$100,000,000, except that 1 loan under this title may exceed \$100,000,000, but shall not exceed \$625,000,000;

“(E) the loan bears interest and penalties which, in the Administrator’s judgment, are not unreasonable, taking into consideration the prevailing in-

terest rates and customary fees incurred under similar obligations in the private capital market; and

“(F) the Administrator determines that taking into account the practices of the private capital markets with respect to the financing of similar projects, the security of the loan is adequate.

“(4) ADDITIONAL CRITERIA.—In addition to the requirements of paragraphs (1), (2), and (3), a loan for which a guarantee is sought under this title shall meet any additional criteria promulgated under subsection (f)(1).

“(d) ADDITIONAL REQUIREMENTS.—The Administrator may not make a loan guarantee under this title unless—

“(1) repayment of the loan is required to be made within a term of the lesser of—

“(A) 25 years from the date of its execution; or

“(B) the useful life of the primary assets used in the delivery of relevant signals;

“(2) the Administrator has been given the assurances and documentation necessary to review and approve the guaranteed loans; and

“(3) the Administrator makes a determination in writing that—

“(A) the applicant has given reasonable assurances that the assets, facilities, or equipment will be utilized economically and efficiently;

“(B) necessary and sufficient regulatory approvals, spectrum rights, and delivery permissions have been received or will be obtained by project participants to assure the financial feasibility of the project; and

“(C) repayment of the loan can reasonably be expected, including the use of an appropriate combination of credit risk premiums and collateral offered by the applicant to protect the Federal Government.

“(e) APPROVAL OF NTIA REQUIRED.—

“(1) IN GENERAL.—The Administrator may not issue a loan guarantee under this title unless the National Telecommunications and Information Administration consults with the Administrator and certifies that the issuance of the loan guarantee is consistent with subsection (a).

“(2) CERTIFICATION.—The Administrator shall provide the appropriate information on each loan guarantee application recommended by the Administrator to the National Telecommunications and Information Administration for certification. If the National Telecommunications and Information Administration fails to make the required determination within 90 days after receiving the information from the Administrator with respect to a particular loan guarantee application, the certification shall be deemed to have been granted.

“(f) REQUIREMENTS.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this title, the Administrator shall consult with an appropriate independent consultant, including a public accounting firm, to develop underwriting criteria relating to the issuance of loan guarantees, appropriate collateral and cash flow levels for the types of loan guarantees that might be issued under this title, and such other matters as the Administrator determines appropriate.

“(2) AUTHORITY OF ADMINISTRATOR.—In lieu of or in combination with appropriations of budget authority to cover the costs of loan guarantees as required under section 504(b)(1) of the Federal Credit Reform Act of 1990, the Administrator may accept on behalf of an applicant for assistance under this title a commitment from a non-Federal source to fund in whole or in part the credit risk premiums with respect to the applicant’s loan. The aggregate of appropriations of budget authority and credit risk premiums described in this paragraph with respect to a loan guarantee may not be less than the cost of that loan guarantee.

“(3) CREDIT RISK PREMIUM AMOUNT.—The Administrator shall determine the amount required for credit risk premiums under this subsection on the basis of—

“(A) the circumstances of the applicant, including the amount of collateral offered;

“(B) the proposed schedule of loan disbursements;

“(C) the borrower’s business plans for providing service;

“(D) financial commitment from the broadcast signal provider; and

“(E) any other factors the Administrator considers relevant.

“(4) PAYMENT OF PREMIUMS.—Credit risk premiums under this subsection shall be paid to an account established in the Treasury which shall accrue interest and such interest shall be retained by the account. In addition, the Administrator may accept credit risk premiums in the form of letters of credit or other forms of non-cash instruments, which shall not accrue interest. As obligations

attached to a cohort of loans established under paragraph (5) are being satisfied, credit risk premiums for the cohort, and interest accrued thereon, which are not required to mitigate losses shall be returned to the original source on a pro rata basis.

“(5) COHORTS OF LOANS.—In order to maintain sufficient balances of credit risk premiums to adequately protect the Federal Government from risk of default, while minimizing the length of time the Government retains possession of those balances, the Administrator in consultation with the Office of Management and Budget shall establish cohorts of loans.

“(g) CONDITIONS OF ASSISTANCE.—A borrower shall agree to such terms and conditions as are sufficient, in the judgment of the Administrator to ensure that, as long as any principal or interest is due and payable on such obligation, the borrower—

“(1) will maintain assets, equipment, facilities, and operations on a continuing basis;

“(2) will not make any discretionary dividend payments that reduce the ability to repay obligations incurred under this section; and

“(3) will remain sufficiently capitalized.

“(h) LIEN ON INTERESTS IN ASSETS.—Upon providing a loan guarantee to a borrower under this title, the Administrator shall have liens which shall be superior to all other liens on assets of the borrower equal to the unpaid balance of the loan subject to such guarantee.

“(i) SUBORDINATION OR SHARING OF LIENS.—Notwithstanding subsection (h), at the request of a private lender providing financing to the borrower for the purposes set forth in subsection (a), the Administrator may offer—

“(1) to share the Government’s lien on the borrower’s assets; or

“(2) to subordinate the Government’s lien on the borrower’s assets.

“(j) PERFECTED INTEREST.—The Administrator and the lender shall have a perfected security interest in those assets of the borrower fully sufficient to protect the Administrator and the lender.

“(k) INSURANCE POLICIES.—In accordance with practices of private lenders, as determined by the Administrator, the borrower shall obtain, at its expense, insurance sufficient to protect the interests of the Federal Government, as determined by the Administrator.

“(l) AUTHORIZATION OF APPROPRIATIONS.—For the additional costs of the loans guaranteed under this title, including the cost of modifying the loans as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661(a)), there are authorized to be appropriated for fiscal years 2000 through 2006, such amounts as may be necessary. In addition there are authorized to be appropriated such sums as may be necessary to administer this title. Any amounts appropriated under this subsection shall remain available until expended.

“SEC. 603. ADMINISTRATION OF LOAN GUARANTEES.

“(a) APPLICATIONS.—The Administrator shall prescribe the form and contents for an application for a loan guarantee under section 602.

“(b) ASSIGNMENT OF LOAN GUARANTEES.—The holder of a loan guaranteed under this title may assign the loan guarantee in whole or in part, subject to such requirements as the Administrator may prescribe.

“(c) MODIFICATIONS.—The Administrator may approve the modification of any term or condition of a loan guarantee including the rate of interest, time of payment of interest or principal, or security requirements, if—

“(1) the Administrator finds in writing that—

“(A) the modification is equitable and is in the overall best interests of the United States;

“(B) consent has been obtained from the borrower and the lender;

“(C) the modification is consistent with the objective underwriting criteria developed in consultation with an appropriate independent consultant, including a public accounting firm, under section 602(f);

“(D) the modification does not adversely affect the Federal Government’s interest in the entity’s assets or loan collateral; and

“(E) the modification does not adversely affect the entity’s ability to repay the loan; and

“(2) the National Telecommunications and Information Administration does not object to the modification on the ground that it is inconsistent with the certification under section 602(e).

“(d) PRIORITY MARKETS.—

“(1) IN GENERAL.—To the maximum extent practicable, the Administrator shall give priority to projects which serve the most underserved rural markets, as determined by the Administrator. In making prioritization determinations,

the Administrator shall consider prevailing market conditions, feasibility of providing service, population, terrain, and other factors the Administrator determines appropriate.

“(2) PRIORITY RELATING TO CONSUMER COSTS AND SEPARATE TIER OF SIGNALS.—The Administrator shall give priority to projects that—

“(A) offer a separate tier of local broadcast signals; and

“(B) provide lower projected costs to consumers of such separate tier.

“(3) PERFORMANCE SCHEDULES.—Applicants under this section shall enter into stipulated performance schedules with the Administrator.

“(4) PENALTY.—In addition to any other authority of the Administrator, the Administrator may assess a borrower a penalty not to exceed 3 times the interest due on the guaranteed loan, if the borrower fails to meet its stipulated performance schedule. The penalty shall be paid to the account established under section 602.

“(5) LIMITATION ON CONSIDERATION OF MOST POPULATED AREAS.—The Administrator shall not provide a loan guarantee for a project that is primarily designed to serve the 40 most populated designated market areas and shall take into consideration the importance of serving rural markets that are not likely to be otherwise offered service under section 122 of title 17, United States Code, except through the loan guarantee program under this title.

“(e) COMPLIANCE.—The Administrator shall enforce compliance by an applicant and any other party to the loan guarantee for whose benefit assistance is intended, with the provisions of this title, regulations issued hereunder, and the terms and conditions of the loan guarantee, including through regular periodic inspections and audits.

“(f) COMMERCIAL VALIDITY.—For purposes of claims by any party other than the Administrator, a loan guarantee shall be conclusive evidence that the underlying obligation is in compliance with the provisions of the title, and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a guarantee shall be valid and incontestable in the hands of a holder thereof, including the original lender or any other holder, as of the date when the Administrator granted the application therefore, except as to fraud or material misrepresentation by such holder.

“(g) DEFAULTS.—The Administrator shall prescribe regulations governing a default on a loan guaranteed under this title.

“(h) RIGHTS OF THE ADMINISTRATOR.—

“(1) SUBROGATION.—If the Administrator authorizes payment to a holder, or a holder’s agent, under subsection (g) in connection with a loan guarantee made under section 602, the Administrator shall be subrogated to all of the rights of the holder with respect to the obligor under the loan.

“(2) DISPOSITION OF PROPERTY.—The Administrator may complete, recondition, reconstruct, renovate, repair, maintain, operate, rent, sell, or otherwise dispose of any property or other interests obtained under this title in a manner that maximizes taxpayer return and is consistent with the public convenience and necessity.

“(i) ACTION AGAINST OBLIGOR.—The Administrator may bring a civil action in an appropriate district court of the United States in the name of the United States or of the holder of the obligation in the event of a default on a loan guaranteed under this title. The holder of a guarantee shall make available to the Administrator all records and evidence necessary to prosecute the civil action. The Administrator may accept property in full or partial satisfaction of any sums owed as a result of default. If the Administrator receives, through the sale or other disposition of such property, an amount greater than the aggregate of—

“(1) the amount paid to the holder of a guarantee under subsection (g); and

“(2) any other cost to the United States of remedying the default, the Administrator shall pay such excess to the obligor.

“(j) BREACH OF CONDITIONS.—The Attorney General shall commence a civil action in a court of appropriate jurisdiction to enjoin any activity which the Administrator finds is in violation of this title, regulations issued hereunder, or any conditions which were duly agreed to, and to secure any other appropriate relief, including relief against any affiliate of the borrower.

“(k) ATTACHMENT.—No attachment or execution may be issued against the Administrator or any property in the control of the Administrator prior to the entry of final judgment to such effect in any State, Federal, or other court.

“(l) INVESTIGATION CHARGE AND FEES.—

“(1) APPRAISAL FEE.—The Administrator may charge and collect from an applicant a reasonable fee for appraisal for the value of the equipment or facilities for which the loan guarantee is sought, and for making necessary determina-

tions and findings. The fee may not, in the aggregate, be more than one-half of one percent of the principal amount of the obligation.

“(2) LOAN ORIGATION FEE.—The Administrator may charge a loan origination fee.

“(3) USE OF FEES.—Fees collected pursuant to this subsection shall be credited to the account which administers the loan guarantee program under this title. Such fees shall be made available to the Administrator without further appropriation and shall remain available until expended.

“(m) ANNUAL AUDIT.—The Comptroller General of the United States shall annually audit the administration of this title and report the results of the audit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives.

“(n) INDEMNIFICATION.—An affiliate of the borrower shall indemnify the Government for any losses it incurs as a result of—

“(1) a judgment against the borrower;

“(2) any breach by the borrower of its obligations under the loan guarantee agreement;

“(3) any violation of the provisions of this title by the borrower;

“(4) any penalties incurred by the borrower for any reason, including the violation of the stipulated performance; and

“(5) any other circumstances that the Administrator determines to be appropriate.

“(o) SUNSET.—The Administrator may not approve a loan guarantee under this title after December 31, 2006.

“SEC. 604. RETRANSMISSION OF LOCAL TELEVISION BROADCAST STATIONS.

“A borrower shall be subject to applicable rights, obligations, and limitations of title 17, United States Code. If a local broadcast station requests carriage of its signal and is located in a market not served by a satellite carrier providing service under a statutory license under section 122 of title 17, United States Code, the borrower shall carry the signal of that station without charge and shall be subject to the applicable rights, obligations, and limitations of sections 338, 614, and 615 of the Communications Act of 1934.”

BRIEF EXPLANATION

H.R. 3615, the Rural Local Broadcast Signal Act amends the Rural Electrification Act of 1936 to authorize the Administrator of the Rural Utilities Service to make loan guarantees to providers of multichannel video services, including direct broadcast satellite licensees, to improve access to local television broadcasting to all households desiring such service in unserved and underserved rural areas.

Requires certification of loan guarantee applications by the National Telecommunications and Information Administration, and authorizes appropriations for such purposes.

PURPOSE AND NEED

H.R. 3615 is not the first legislation to address the issue of rural local television signal transmission over satellite. The Committee notes that H.R. 3615 is very similar to Title II of H.R. 1554, the Intellectual Property and Communications Omnibus Reform Act of 1999, as ordered reported by the House of Representatives (see House Report 106–464, November 9, 1999). Unfortunately, Title II of H.R. 1554 was not ultimately adopted by the Congress, which instead only adopted provisions regarding the study of rural local satellite signals that were part of the Senate version of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948). The Senate version, S. 1948, was ultimately passed by both Houses and signed by the President as part of Public Law 106–113 on November 29, 1999.

The Committee finds that it is very important that rural Americans receive the benefits of this Act along with urban residents. There are concerns that without this legislation, many rural Americans would not receive local broadcast signals. It is the Committee's intent that this legislation provide farmers, ranchers and others in rural areas up-to-the-minute information about weather forecasts and disaster warnings. The ability of rural Americans to receive their local television broadcast signals is essential to protect the lives of rural Americans.

The Committee understands that major satellite carriers intend to provide local broadcast TV stations via satellite only in the largest markets rather than in more rural areas. These satellite providers have stated that it is not economically feasible to provide such service in rural areas at the present time. Many rural areas of the United States are not served by broadcast television or cable service.

H.R. 3615 authorizes the Administrator of the Rural Utility Service, United States Department of Agriculture, to guarantee loans not exceeding \$1.25 billion for providing local broadcast TV signals in rural areas. In addition, providers can offer other services, such as data service, should excess capacity permit. No single loan can exceed \$625 million to any one provider and the rest of the loans may not exceed \$100 million face value.

No loan shall be guaranteed unless: (1) approved in advance by an appropriations Act; (2) the National Telecommunications and Information Administration certifies that the loan guarantee is consistent with the purposes of improving rural access to local television signals via satellites; (3) USDA has security that is adequate to protect the government's interests; (4) USDA can reasonably expect repayment "using an appropriate combination of credit risk premiums and collateral offered by the applicant to protect the Federal Government;" and, (5) the borrower has insurance sufficient to protect the interests of the Federal Government.

The provisions are technology neutral in that the borrower can use any delivery mechanism to provide local television signals that otherwise meets the requirements of this title.

The language of H.R. 3615 is similar to the Railroad Rehabilitation and Improvement Financing Act which provided up to \$3.5 billion in federal loan guarantees to help shortline railroads serve rural America. The underwriting criteria for the USDA loan guarantee—such as cash flow levels and appropriate collateral—will be developed in consultation with an appropriate independent consultant and are modeled after the Railroad Act language.

SECTION-BY-SECTION

Section 1. Short title

This Act may be cited as the "Rural Local Broadcast Signal Act."

Sec. 2 Findings

The Congress makes several findings regarding the historical role of the Department of Agriculture and the Rural Utilities Service in furthering economic and technological development in rural areas.

Sec. 3. Rural local television signals

This section amends the Rural Electrification Act to add a new Title VI, called Rural Local Television Signals.

Sec. 601. Definitions

The new Title VI includes definitions for the following terms: “Administrator,” “Affiliate,” “Borrower,” “Cost,” “Cost of Loan Guarantees,” “Cost of Modification,” “Discount Rate,” “Fiscal Year Assumptions,” “current,” “Designated Market Area,” “Loan Guarantee,” “Modification,” and “Common Terms.”

Sec. 602. Loan guarantees

Purpose—The purpose of the Title is to authorize the Administrator of the Rural Utilities Service, with the certification of the National Telecommunications and Information Administration, to guarantee loans not exceeding \$1.25 billion for the purpose of providing local broadcast TV signals in rural areas.

Assistance to Borrowers—Subject to appropriations Acts, the Secretary of Agriculture is authorized to establish a program of loan guarantees to fund projects which finance the acquisition, improvement, enhancement, deployment, launch, or rehabilitation of the means, including spectrum rights, by which local television broadcast signals will be delivered to areas not receiving such signals over commercial for-profit direct-to-home satellite distribution systems. Borrowers who receive loan guarantees may not transfer any part of the proceeds from the loans guaranteed to an affiliate of the borrower.

Underwriting Criteria—No single guaranteed loan can exceed \$625 million to any one provider and none of the remaining loans may exceed \$100 million in face value. Strict requirements for insurance, collateral, assurances of repayments to the Administrator, perfected interests of the Administrator, liens on assets, and lien subordination authority, and strong security provisions are set forth in the law. All of these provisions are designed to protect the interests of the taxpayers.

Approval of NTIA Required—The Administrator may not issue a loan guarantee under this title unless the National Telecommunications and Information Administration consults with the Administrator and certifies that the issuance of the loan guarantee is consistent with the above criteria.

Underwriting Requirements—In developing underwriting standards relating to the issuance of loan guarantees, appropriate collateral and cash flow levels, the Administrator is required to consult with an appropriate independent consultant. In addition, the Secretary may accept on behalf of an applicant a commitment from a non-Federal source to fund in whole or in part the credit risk premiums with respect to the loan. The Administrator shall also establish cohorts of loans to minimize risk.

Conditions of Assistance, Liens, and Insurance Policies—A borrower shall agree to such terms and conditions that ensure that the borrower will maintain assets, equipment, facilities, and operations on a continuing basis, will not reduce the ability of the borrower to repay obligations through discretionary dividend payments, and will remain sufficiently capitalized. The Administrator will also

have liens which shall be superior to all other liens on assets of the borrower equal to the unpaid balance of the loan. The Administrator has discretion, upon the request of the borrower, to share or subordinate the lien. The borrower will also obtain, at its expense, insurance to protect the interests of the Federal Government, as determined by the Administrator.

Authorization of Appropriations—Such amounts as may be necessary are authorized for the costs of the loans guaranteed and for the administration of the loan guarantees.

Sec. 603. Administration of loan guarantees

Priority Markets—In deciding which loan guarantees to approve, the Administrator, to the maximum extent practicable shall give priority to projects which serve the most unserved and underserved rural markets, taking into account such factors as feasibility, population, terrain, prevailing market conditions, and projected costs to consumers. These applicants for priority projects shall agree to performance schedules which if missed make the borrower potentially subject to stiff penalties. Detailed subrogation, disposition of property, default, breach of agreement, attachment, and audit provisions are designed to protect the interests of the taxpayers.

Indemnification—The Administrator may require an affiliate of the borrower to indemnify the Government for any losses it incurs as a result of a judgment against the borrower, and breach of the borrower's obligations, or any violation of the provisions of the Act.

Sunset Clause—The sunset clause provides that the Secretary may not approve a loan guarantee under this title after December 31, 2006.

Sec. 604. Retransmission of local television broadcast stations

Application of Must-Carry Requirements—Borrowers shall have the same authority and other rights to transmit the signals of local television broadcast stations as provided in title 17 of the U.S. Code and shall carry the signals of local stations in accordance with the Communications Act of 1934.

COMMITTEE CONSIDERATION

I. Hearings

On February 9, 2000, the Subcommittee on Department Operations, Oversight, Nutrition and Forestry held a public hearing on rural local satellite access. Testimony was taken from Members of Congress, the Administration, and various television station and trade association representatives. The purpose of the hearing was to review proposed legislation to establish a loan guarantee program to promote the delivery of direct-to-home satellite services in rural America. The predominate issue discussed was how the legislation would allow satellite providers to become more effective competitors with cable operators. Furthermore, the Subcommittee examined the prospects of enabling rural America to benefit from local news coverage, weather reports, information related to natural disasters or community emergencies, local sports, politics, and other information that is vital to the integrity of communities across the country.

II. Full committee

The Committee on Agriculture met, pursuant to notice, with a quorum present, on February 16, 2000, to consider H.R. 3615, the Rural Local Broadcast Signal Act, and other pending business.

Chairman Combest called the meeting to order and noted that the bill would be open for amendment at any point.

Counsel was recognized to give a brief explanation of the bill. The Chairman and Ranking Minority Member of the Subcommittee on Department Operations, Oversight, Nutrition, and Forestry, Mr. Goodlatte and Mrs. Clayton, were recognized for statements in support of the bill, as was Mr. Stenholm, Full Committee Ranking Minority Member.

Mr. Stenholm pointed out that the Congressional Budget Office (CBO) had estimated that a loan guarantee program of this nature would have a subsidy rate. Mr. Goodlatte indicated his desire to work with Mr. Stenholm and other Members, CBO and the Budget Committee on this issue.

Chairman Combest noted that H.R. 3615 was reintroduced by Mr. Goodlatte in order to give the Committee on Agriculture primary jurisdiction and to establish the time frame for consideration of the bill.

Mr. Goodlatte was then recognized to offer and explain an en bloc amendment. However, he noted that many of the changes were technical.

Mr. Ose was recognized and expressed his concern over the circumstances under which the Administrator of the Rural Utilities Service would subordinate liens on borrowers' assets. Mr. Goodlatte indicated that he would work with Mr. Ose before the bill would be taken to the House Floor to address his concerns and to clarify what would be the role of the Rural Utilities Service in subordinating liens and under what specific circumstances.

By voice vote and in the presence of a quorum, the Goodlatte en bloc amendment was adopted.

Mr. Stenholm moved that the bill H.R. 3615, as amended, be reported favorably to the House. By a voice vote, the Stenholm motion was adopted.

Mr. Goodlatte requested a recorded vote, and by a vote of 41 yeas, 0 nays, and 9 not voting, H.R. 3615 was adopted, as amended, and ordered reported favorably to the House. (See Rollcall Vote No. 1.)

All Members were given permission to submit additional statements for the record.

Mr. Stenholm moved that the Committee authorize the Chairman to offer such motions as may be necessary in the House to go to conference with the Senate on the bill, H.R. 3615, or any similar Senate bill. By a voice vote, the motion was adopted.

Chairman Combest announced that Members would be given two working days to file minority, supplemental, or other views.

Without objection, the usual instructions were given to staff to make any necessary technical, clarifying, or conforming changes as were appropriate without changing the substance of the legislation.

The meeting was then adjourned subject to the call of the Chair.

REPORTING THE BILL—ROLLCALL VOTES

In compliance with clause 3(b) of Rule XIII of the House of Representatives, the Committee sets forth the record of the following rollcall votes taken with respect to H.R. 3615.

Rollcall Vote No. 1

Summary: Final passage.

Requested By: Mr. Goodlatte.

Results: 41 yeas, 0 nays, 9 not voting.

Yeas—Mr. Combest, Mr. Barrett, Mr. Ewing, Mr. Goodlatte, Mr. Pombo, Mr. Smith, Mr. Everett, Mr. Lucas of Oklahoma, Mr. Chambliss, Mr. LaHood, Mr. Moran, Mr. Thune, Mr. Jenkins, Mr. Calvert, Mr. Gutknecht, Mr. Riley, Mr. Walden, Mr. Simpson, Mr. Ose, Mr. Fletcher, Mr. Stenholm, Mr. Condit, Mr. Peterson, Mr. Dooley, Mrs. Clayton, Mr. Minge, Mr. Hilliard, Mr. Pomeroy, Mr. Holden, Mr. Thompson of Mississippi, Mr. Berry, Mr. McIntyre, Ms. Stabenow, Mr. Etheridge, Mr. John, Mr. Boswell, Mr. Phelps, Mr. Lucas of Kentucky, Mr. Thompson of California, Mr. Hill, and Mr. Baca.

Not voting—Mr. Boehner, Mr. Canady, Mrs. Chenoweth-Hage, Mr. Hostettler, Mr. Schaffer, Mr. Cooksey, Mr. Hayes, Mr. Bishop, and Mr. Baldacci.

BUDGET ACT COMPLIANCE (SECTIONS 308, 402, AND 423)

The provisions of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a)(1) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority, new spending authority, new credit authority, or increased or decreased revenues or tax expenditures) are not considered applicable. The estimate and comparison required to be prepared by the Director of the Congressional Budget Office under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and sections 402 and 423 of the Congressional Budget Act of 1974 submitted to the Committee prior to the filing of this report are as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 1, 2000.

Hon. LARRY COMBEST,
Chairman, Committee on Agriculture,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3615, the Rural Local Broadcast Signal Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Hadley.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 3615—Rural Local Broadcast Signal Act

Summary: H.R. 3615 would establish a loan guarantee program for certain companies to provide local television service to areas of the country that do not receive local television stations from satellite companies. The bill would authorize the Administrator of the Rural Utilities Service (RUS) at the Department of Agriculture to guarantee loans to qualified borrowers, totaling up to \$1.25 billion. The bill would authorize the appropriation of amounts necessary for the costs of the loan guarantees and associated administrative expenses.

Under the bill, one guaranteed loan could be as much as \$625 million, but all other loans would have to be \$100 million or less. Qualifying loans would be payable in full within the lesser of 25 years or the useful life of the assets purchased. H.R. 3615 would allow the government's guarantee to be subordinate to any private-sector financing and would give RUS broad authority to modify the terms and conditions of loans. The authority to guarantee loans would be contingent upon future appropriation action and would expire on December 31, 2006.

CBO estimates that implementing H.R. 3615 would cost about \$365 million for loan subsidy and administrative costs over the 2000–2005 period, assuming appropriation of the necessary amounts. H.R. 3615 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 3615 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: For the purpose of this estimate, CBO assumes that H.R. 3615 and related supplemental appropriations will be enacted in fiscal year 2000. The estimated budgetary impact of H.R. 3615 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—					
	2000	2001	2002	2003	2004	2005
SPENDING SUBJECT TO APPROPRIATION						
Estimated authorization level	5	352	2	2	2	2
Estimated outlays	2	233	124	2	2	2

Basis of estimate: Under procedures established by the Federal Credit Reform Act of 1990, the subsidy cost of a loan guarantee is the estimated long-term cost to the government, calculated on a net present value basis (excluding administrative costs). We estimate that the loan guarantees provided under the bill would cost about 28 percent of the total amount guaranteed—or \$350 million, subject to the availability of appropriated funds. In addition, CBO estimates that administering the program would cost about \$5 million in 2000 and about \$2 million in each subsequent year. The bill would authorize the Secretary of Agriculture to charge fees, which could offset some of the subsidy or administrative costs, but this estimate assumes no fees would be charged.

To prepare this estimate, CBO consulted with industry experts and investment analysis and examined the credit ratings of firms in the satellite television and related industries. The information on credit ratings is useful because different credit ratings reflect analysts' expectations of defaults. Based on this information, we assume that the rural television loans likely to be guaranteed under this bill would have a credit risk comparable to debt rated as "B" or "CCC," which typically have default rates ranging from about 30 percent to 45 percent, respectively. We also estimate that provisions in H.R. 3615 allowing the government's guarantee to be subordinate to private-sector financing would increase the subsidy cost of such guarantees. Subordination would reduce the incentive for lenders to assess the riskiness of the loan and increase the likelihood that if a default occurred, the government's loss would be significant. Recoveries from subordinated debt have been lower than recoveries from senior debt in both federal credit programs and the private debt market.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 3615 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Mark Hadley.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the Committee report incorporates the cost estimate prepared by the Director of the Congressional Budget Office pursuant to sections 402 and 423 of the Congressional Budget Act of 1974.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the Constitutional authority for this legislation in Article I, clause 8, section 18, that grants Congress the power to make all laws necessary and proper for carrying out the powers vested by Congress in the Constitution of the United States or in any department or officer thereof.

OVERSIGHT STATEMENT

No summary of oversight findings and recommendations made by the Committee on Government Reform, as provided for in clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, was available to the Committee with reference to the subject matter specifically addressed by H.R. 3615.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Agriculture's oversight findings and recommendations are reflected in the body of this report.

ADVISORY COMMITTEE STATEMENT

No advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act was created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

FEDERAL MANDATES STATEMENT

The Committee adopted as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

RURAL ELECTRIFICATION ACT OF 1936

* * * * *

TITLE VI—RURAL LOCAL TELEVISION SIGNALS

SEC. 601. DEFINITIONS.

In this title:

(1) *ADMINISTRATOR.*—The term “Administrator” means the Administrator of the Rural Utilities Service.

(2) *AFFILIATE.*—The term “affiliate” means any person or entity that controls, or is controlled by, or is under common control with, another person or entity.

(3) *BORROWER.*—The term “borrower” means any person or entity receiving a loan guarantee under this title.

(4) *COST.*—

(A) *IN GENERAL.*—The term “cost” means the estimated long-term cost to the Government of a loan guarantee or modification thereof, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.

(B) *LOAN GUARANTEES.*—For purposes of this paragraph the cost of a loan guarantee—

(i) shall be the net present value, at the time when the guaranteed loan is disbursed, of the estimated cash flows of—

(I) payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments; and

(II) payments to the Government, including origination and other fees, penalties, and recoveries; and

(ii) shall include the effects of changes in loan terms resulting from the exercise by the guaranteed lender of an option included in the loan guarantee contract, or by the borrower of an option included in the guaranteed loan contract.

(C) *COST OF MODIFICATION.*—The cost of the modification shall be the difference between the current estimate of the net present value of the remaining cash flows under the terms of a loan guarantee contract, and the current estimate of the net present value of the remaining cash flows under the terms of the contract, as modified.

(D) *DISCOUNT RATE.*—In estimating net present value, the discount rate shall be the average interest rate on marketable Treasury securities of similar maturity to the cash flows of the guarantee for which the estimate is being made.

(E) *FISCAL YEAR ASSUMPTIONS.*—When funds of a loan guarantee under this title are obligated, the estimated cost shall be based on the current assumptions, adjusted to incorporate the terms of the loan contract, for the fiscal year in which the funds are obligated.

(5) *CURRENT.*—The term “current” has the meaning given that term in section 250(c)(9) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(6) *DESIGNATED MARKET AREA.*—The term “designated market area” has the meaning given that term in section 122(j) of title 17, United States Code.

(7) *LOAN GUARANTEE.*—The term “loan guarantee” means any guarantee, insurance, or other pledge with respect to the payment of all or part of the principal or interest on any debt obligation of a non-Federal borrower to the Federal Financing Bank or a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

(8) *MODIFICATION.*—The term “modification” means any Government action that alters the estimated cost of an outstanding loan guarantee (or loan guarantee commitment) from the current estimate of cash flows, including the sale of loan assets, with or without recourse, and the purchase of guaranteed loans.

(9) *COMMON TERMS.*—Except as provided in paragraphs (1) through (9), any term used in this title that is defined in the Communications Act of 1934 (47 U.S.C. 151 et seq.) has the meaning given the term in that Act.

SEC. 602. LOAN GUARANTEES.

(a) *PURPOSE.*—The purpose of this title is to enable the Administrator to provide such loan guarantees as are necessary to ensure improved access to the signals of local television stations by multi-

channel video providers to all households which desire such service in unserved and underserved rural markets by December 31, 2006.

(b) *ASSISTANCE TO BORROWERS.*—Subject to the appropriations limitation under subsection (c)(2), the Administrator may provide loan guarantees to borrowers to finance projects to provide local television broadcast signals by providers of multichannel video services including direct broadcast satellite licensees and licensees of multichannel multipoint distribution systems, to areas that do not receive local television broadcast signals over commercial for-profit direct-to-home satellite distribution systems. A borrower that receives a loan guarantee under this title may not transfer any part of the proceeds of the monies from the loans guaranteed under this program to an affiliate of the borrower.

(c) *UNDERWRITING CRITERIA; PREREQUISITES.*—

(1) *IN GENERAL.*—The Administrator shall administer the underwriting criteria developed under subsection (f)(1) to determine which loans are eligible for a guarantee under this title.

(2) *AUTHORITY TO MAKE LOAN GUARANTEES.*—The Administrator shall be authorized to guarantee loans under this title only to the extent provided for in advance by appropriations Acts.

(3) *PREREQUISITES.*—In addition to meeting the underwriting criteria under paragraph (1), a loan is not eligible for a loan guarantee under this title unless—

(A) the loan is made to finance the acquisition, improvement, enhancement, construction, deployment, launch, or rehabilitation of the means, including spectrum rights, by which local television broadcast signals will be delivered to an area not receiving such signals over commercial for-profit direct-to-home satellite distribution systems;

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

(C) the total amount of all such loans may not exceed in the aggregate \$1,250,000,000;

(D) the loan does not exceed \$100,000,000, except that 1 loan under this title may exceed \$100,000,000, but shall not exceed \$625,000,000;

(E) the loan bears interest and penalties which, in the Administrator's judgment, are not unreasonable, taking into consideration the prevailing interest rates and customary fees incurred under similar obligations in the private capital market; and

(F) the Administrator determines that taking into account the practices of the private capital markets with respect to the financing of similar projects, the security of the loan is adequate.

(4) *ADDITIONAL CRITERIA.*—In addition to the requirements of paragraphs (1), (2), and (3), a loan for which a guarantee is sought under this title shall meet any additional criteria promulgated under subsection (f)(1).

(d) *ADDITIONAL REQUIREMENTS.*—The Administrator may not make a loan guarantee under this title unless—

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

- (A) 25 years from the date of its execution; or
- (B) the useful life of the primary assets used in the delivery of relevant signals;
- (2) the Administrator has been given the assurances and documentation necessary to review and approve the guaranteed loans; and
- (3) the Administrator makes a determination in writing that—

(A) the applicant has given reasonable assurances that the assets, facilities, or equipment will be utilized economically and efficiently;

(B) necessary and sufficient regulatory approvals, spectrum rights, and delivery permissions have been received or will be obtained by project participants to assure the financial feasibility of the project; and

(C) repayment of the loan can reasonably be expected, including the use of an appropriate combination of credit risk premiums and collateral offered by the applicant to protect the Federal Government.

(e) APPROVAL OF NTIA REQUIRED.—

(1) IN GENERAL.—The Administrator may not issue a loan guarantee under this title unless the National Telecommunications and Information Administration consults with the Administrator and certifies that the issuance of the loan guarantee is consistent with subsection (a).

(2) CERTIFICATION.—The Administrator shall provide the appropriate information on each loan guarantee application recommended by the Administrator to the National Telecommunications and Information Administration for certification. If the National Telecommunications and Information Administration fails to make the required determination within 90 days after receiving the information from the Administrator with respect to a particular loan guarantee application, the certification shall be deemed to have been granted.

(f) REQUIREMENTS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this title, the Administrator shall consult with an appropriate independent consultant, including a public accounting firm, to develop underwriting criteria relating to the issuance of loan guarantees, appropriate collateral and cash flow levels for the types of loan guarantees that might be issued under this title, and such other matters as the Administrator determines appropriate.

(2) AUTHORITY OF ADMINISTRATOR.—In lieu of or in combination with appropriations of budget authority to cover the costs of loan guarantees as required under section 504(b)(1) of the Federal Credit Reform Act of 1990, the Administrator may accept on behalf of an applicant for assistance under this title a commitment from a non-Federal source to fund in whole or in part the credit risk premiums with respect to the applicant's loan. The aggregate of appropriations of budget authority and credit risk premiums described in this paragraph with respect to a loan guarantee may not be less than the cost of that loan guarantee.

(3) *CREDIT RISK PREMIUM AMOUNT.*—The Administrator shall determine the amount required for credit risk premiums under this subsection on the basis of—

- (A) the circumstances of the applicant, including the amount of collateral offered;
- (B) the proposed schedule of loan disbursements;
- (C) the borrower's business plans for providing service;
- (D) financial commitment from the broadcast signal provider; and
- (E) any other factors the Administrator considers relevant.

(4) *PAYMENT OF PREMIUMS.*—Credit risk premiums under this subsection shall be paid to an account established in the Treasury which shall accrue interest and such interest shall be retained by the account. In addition, the Administrator may accept credit risk premiums in the form of letters of credit or other forms of non-cash instruments, which shall not accrue interest. As obligations attached to a cohort of loans established under paragraph (5) are being satisfied, credit risk premiums for the cohort, and interest accrued thereon, which are not required to mitigate losses shall be returned to the original source on a pro rata basis.

(5) *COHORTS OF LOANS.*—In order to maintain sufficient balances of credit risk premiums to adequately protect the Federal Government from risk of default, while minimizing the length of time the Government retains possession of those balances, the Administrator in consultation with the Office of Management and Budget shall establish cohorts of loans.

(g) *CONDITIONS OF ASSISTANCE.*—A borrower shall agree to such terms and conditions as are sufficient, in the judgment of the Administrator to ensure that, as long as any principal or interest is due and payable on such obligation, the borrower—

- (1) will maintain assets, equipment, facilities, and operations on a continuing basis;
- (2) will not make any discretionary dividend payments that reduce the ability to repay obligations incurred under this section; and
- (3) will remain sufficiently capitalized.

(h) *LIEN ON INTERESTS IN ASSETS.*—Upon providing a loan guarantee to a borrower under this title, the Administrator shall have liens which shall be superior to all other liens on assets of the borrower equal to the unpaid balance of the loan subject to such guarantee.

(i) *SUBORDINATION OR SHARING OF LIENS.*—Notwithstanding subsection (h), at the request of a private lender providing financing to the borrower for the purposes set forth in subsection (a), the Administrator may offer—

- (1) to share the Government's lien on the borrower's assets; or
- (2) to subordinate the Government's lien on the borrower's assets.

(j) *PERFECTED INTEREST.*—The Administrator and the lender shall have a perfected security interest in those assets of the borrower fully sufficient to protect the Administrator and the lender.

(k) *INSURANCE POLICIES.*—In accordance with practices of private lenders, as determined by the Administrator, the borrower shall obtain, at its expense, insurance sufficient to protect the interests of the Federal Government, as determined by the Administrator.

(l) *AUTHORIZATION OF APPROPRIATIONS.*—For the additional costs of the loans guaranteed under this title, including the cost of modifying the loans as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661(a)), there are authorized to be appropriated for fiscal years 2000 through 2006, such amounts as may be necessary. In addition there are authorized to be appropriated such sums as may be necessary to administer this title. Any amounts appropriated under this subsection shall remain available until expended.

SEC. 603. ADMINISTRATION OF LOAN GUARANTEES.

(a) *APPLICATIONS.*—The Administrator shall prescribe the form and contents for an application for a loan guarantee under section 602.

(b) *ASSIGNMENT OF LOAN GUARANTEES.*—The holder of a loan guaranteed under this title may assign the loan guarantee in whole or in part, subject to such requirements as the Administrator may prescribe.

(c) *MODIFICATIONS.*—The Administrator may approve the modification of any term or condition of a loan guarantee including the rate of interest, time of payment of interest or principal, or security requirements, if—

(1) the Administrator finds in writing that—

(A) the modification is equitable and is in the overall best interests of the United States;

(B) consent has been obtained from the borrower and the lender;

(C) the modification is consistent with the objective underwriting criteria developed in consultation with an appropriate independent consultant, including a public accounting firm, under section 602(f);

(D) the modification does not adversely affect the Federal Government's interest in the entity's assets or loan collateral; and

(E) the modification does not adversely affect the entity's ability to repay the loan; and

(2) the National Telecommunications and Information Administration does not object to the modification on the ground that it is inconsistent with the certification under section 602(e).

(d) *PRIORITY MARKETS.*—

(1) *IN GENERAL.*—To the maximum extent practicable, the Administrator shall give priority to projects which serve the most underserved rural markets, as determined by the Administrator. In making prioritization determinations, the Administrator shall consider prevailing market conditions, feasibility of providing service, population, terrain, and other factors the Administrator determines appropriate.

(2) *PRIORITY RELATING TO CONSUMER COSTS AND SEPARATE TIER OF SIGNALS.*—The Administrator shall give priority to projects that—

(A) offer a separate tier of local broadcast signals; and

(B) provide lower projected costs to consumers of such separate tier.

(3) *PERFORMANCE SCHEDULES.*—Applicants under this section shall enter into stipulated performance schedules with the Administrator.

(4) *PENALTY.*—In addition to any other authority of the Administrator, the Administrator may assess a borrower a penalty not to exceed 3 times the interest due on the guaranteed loan, if the borrower fails to meet its stipulated performance schedule. The penalty shall be paid to the account established under section 602.

(5) *LIMITATION ON CONSIDERATION OF MOST POPULATED AREAS.*—The Administrator shall not provide a loan guarantee for a project that is primarily designed to serve the 40 most populated designated market areas and shall take into consideration the importance of serving rural markets that are not likely to be otherwise offered service under section 122 of title 17, United States Code, except through the loan guarantee program under this title.

(e) *COMPLIANCE.*—The Administrator shall enforce compliance by an applicant and any other party to the loan guarantee for whose benefit assistance is intended, with the provisions of this title, regulations issued hereunder, and the terms and conditions of the loan guarantee, including through regular periodic inspections and audits.

(f) *COMMERCIAL VALIDITY.*—For purposes of claims by any party other than the Administrator, a loan guarantee shall be conclusive evidence that the underlying obligation is in compliance with the provisions of the title, and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a guarantee shall be valid and incontestable in the hands of a holder thereof, including the original lender or any other holder, as of the date when the Administrator granted the application therefore, except as to fraud or material misrepresentation by such holder.

(g) *DEFAULTS.*—The Administrator shall prescribe regulations governing a default on a loan guaranteed under this title.

(h) *RIGHTS OF THE ADMINISTRATOR.*—

(1) *SUBROGATION.*—If the Administrator authorizes payment to a holder, or a holder's agent, under subsection (g) in connection with a loan guarantee made under section 602, the Administrator shall be subrogated to all of the rights of the holder with respect to the obligor under the loan.

(2) *DISPOSITION OF PROPERTY.*—The Administrator may complete, recondition, reconstruct, renovate, repair, maintain, operate, rent, sell, or otherwise dispose of any property or other interests obtained under this title in a manner that maximizes taxpayer return and is consistent with the public convenience and necessity.

(i) *ACTION AGAINST OBLIGOR.*—The Administrator may bring a civil action in an appropriate district court of the United States in the name of the United States or of the holder of the obligation in the event of a default on a loan guaranteed under this title. The holder of a guarantee shall make available to the Administrator all records and evidence necessary to prosecute the civil action. The Ad-

ministrator may accept property in full or partial satisfaction of any sums owed as a result of default. If the Administrator receives, through the sale or other disposition of such property, an amount greater than the aggregate of—

(1) the amount paid to the holder of a guarantee under subsection (g); and

(2) any other cost to the United States of remedying the default, the Administrator shall pay such excess to the obligor.

(j) **BREACH OF CONDITIONS.**—The Attorney General shall commence a civil action in a court of appropriate jurisdiction to enjoin any activity which the Administrator finds is in violation of this title, regulations issued hereunder, or any conditions which were duly agreed to, and to secure any other appropriate relief, including relief against any affiliate of the borrower.

(k) **ATTACHMENT.**—No attachment or execution may be issued against the Administrator or any property in the control of the Administrator prior to the entry of final judgment to such effect in any State, Federal, or other court.

(l) **INVESTIGATION CHARGE AND FEES.**—

(1) **APPRAISAL FEE.**—The Administrator may charge and collect from an applicant a reasonable fee for appraisal for the value of the equipment or facilities for which the loan guarantee is sought, and for making necessary determinations and findings. The fee may not, in the aggregate, be more than one-half of one percent of the principal amount of the obligation.

(2) **LOAN ORIGINATION FEE.**—The Administrator may charge a loan origination fee.

(3) **USE OF FEES.**—Fees collected pursuant to this subsection shall be credited to the account which administers the loan guarantee program under this title. Such fees shall be made available to the Administrator without further appropriation and shall remain available until expended.

(m) **ANNUAL AUDIT.**—The Comptroller General of the United States shall annually audit the administration of this title and report the results of the audit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives.

(n) **INDEMNIFICATION.**—An affiliate of the borrower shall indemnify the Government for any losses it incurs as a result of—

(1) a judgment against the borrower;

(2) any breach by the borrower of its obligations under the loan guarantee agreement;

(3) any violation of the provisions of this title by the borrower;

(4) any penalties incurred by the borrower for any reason, including the violation of the stipulated performance; and

(5) any other circumstances that the Administrator determines to be appropriate.

(o) **SUNSET.**—The Administrator may not approve a loan guarantee under this title after December 31, 2006.

SEC. 604. RETRANSMISSION OF LOCAL TELEVISION BROADCAST STATIONS.

A borrower shall be subject to applicable rights, obligations, and limitations of title 17, United States Code. If a local broadcast station requests carriage of its signal and is located in a market not

served by a satellite carrier providing service under a statutory license under section 122 of title 17, United States Code, the borrower shall carry the signal of that station without charge and shall be subject to the applicable rights, obligations, and limitations of sections 338, 614, and 615 of the Communications Act of 1934.

