Effective: May 13, 2002

United States Code Annotated Currentness
Title 7. Agriculture
Chapter 50. Agricultural Credit (Refs & Annos)
Subchapter I. Real Estate Loans
§ 1926. Water and waste facility loans and grants

(a) Criteria; definitions; limitation on allowable uses of Federal funds; inclusion of interest or other income in gross income on sale of insured loan

(1) The Secretary is also authorized to make or insure loans to associations, including corporations not operated for profit, Indian tribes on Federal and State reservations and other federally recognized Indian tribes, and public and quasi-public agencies to provide for the application or establishment of soil conservation practices, shifts in land use, the conservation, development, use, and control of water, and the installation or improvement of drainage or waste disposal facilities, recreational developments, and essential community facilities including necessary related equipment, all primarily serving farmers, ranchers, farm tenants, farm laborers, rural businesses, and other rural residents, and to furnish financial assistance or other aid in planning projects for such purposes. The Secretary may also make or insure loans to communities that have been designated as rural empowerment zones or rural enterprise communities pursuant to part I of subchapter U of chapter 1 of Title 26, or as rural enterprise communities pursuant to section 766 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Public Law 105-277; 112 Stat. 2681, 2681-37), to provide for the installation or improvement of essential community facilities including necessary related equipment, and to furnish financial assistance or other aid in planning projects for such purposes. The Secretary may also make loans to any borrower to whom a loan has been made under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), for the conservation, development, use, and control of water, and the installation of drainage or waste disposal facilities, primarily serving farmers, ranchers, farm tenants, farm laborers, rural businesses, and other rural residents. When any loan made for a purpose specified in this paragraph is sold out of the Agricultural Credit Insurance Fund as an insured loan, the interest or other income thereon paid to an insured holder shall be included in gross income for purposes of chapter 1 of Title 26. With respect to loans of less than $500,000 made or insured under this paragraph that are evidenced by notes and mortgages, as distinguished from bond issues, borrowers shall not be required to appoint bond counsel to review the legal validity of the loan whenever the Secretary has available legal counsel to perform such review.

(2) Water, waste disposal, and wastewater facility grants

(A) Authority

(i) In general

The Secretary is authorized to make grants to such associations to finance specific projects for works for the development, storage, treatment, purification, or distribution of water or the collection, treatment, or dispos-

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al of waste in rural areas.

(ii) Amount

The amount of any grant made under the authority of this subparagraph shall not exceed 75 per centum of the development cost of the project to serve the area which the association determines can be feasibly served by the facility and to adequately serve the reasonably foreseeable growth needs of the area.

(iii) Grant rate

The Secretary shall fix the grant rate for each project in conformity with regulations issued by the Secretary that shall provide for a graduated scale of grant rates establishing higher rates for projects in communities that have lower community population and income levels.

(B) Revolving funds for financing water and wastewater projects

(i) In general

The Secretary may make grants to qualified private, nonprofit entities to capitalize revolving funds for the purpose of providing financing to eligible entities for--

(I) predevelopment costs associated with proposed water and wastewater projects or with existing water and wastewater systems; and

(II) short-term costs incurred for replacement equipment, small-scale extension services, or other small capital projects that are not part of the regular operations and maintenance activities of existing water and wastewater systems.

(ii) Eligible entities

To be eligible to obtain financing from a revolving fund under clause (i), an eligible entity must be eligible to obtain a loan, loan guarantee, or grant under paragraph (1) or this paragraph.

(iii) Maximum amount of financing

The amount of financing made to an eligible entity under this subparagraph shall not exceed--

(I) $100,000 for costs described in clause (i)(I); and

(II) $100,000 for costs described in clause (i)(II).

(iv) Term

The term of financing provided to an eligible entity under this subparagraph shall not exceed 10 years.

(v) Administration

The Secretary shall limit the amount of grant funds that may be used by a grant recipient for administrative costs incurred under this subparagraph.

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(vi) Annual report

A nonprofit entity receiving a grant under this subparagraph shall submit to the Secretary an annual report that describes the number and size of communities served and the type of financing provided.

(vii) Authorization of appropriations

There are authorized to be appropriated to carry out this subparagraph $30,000,000 for each of fiscal years 2002 through 2007.

(3) No grant shall be made under paragraph (2) of this subsection in connection with any project unless the Secretary determines that the project (i) will serve a rural area which, if such project is carried out, is not likely to decline in population below that for which the project was designed, (ii) is designed and constructed so that adequate capacity will or can be made available to serve the present population of the area to the extent feasible and to serve the reasonably foreseeable growth needs of the area, and (iii) is necessary for an orderly community development consistent with a comprehensive community water, waste disposal, or other development plan of the rural area.

(4)(A) The term "development cost" means the cost of construction of a facility and the land, easements, and rights-of-way, and water rights necessary to the construction and operation of the facility.

(B) The term "project" shall include facilities providing central service or facilities serving individual properties, or both.

(5) Application requirements

Not earlier than 60 days before a preliminary application is filed for a loan under paragraph (1) or a grant under paragraph (2) for a water or waste disposal purpose, a notice of the intent of the applicant to apply for the loan or grant shall be published in a general circulation newspaper. The selection of engineers for a project design shall be done by a request for proposals by the applicant.

(6) The Secretary may make grants aggregating not to exceed $30,000,000 in any fiscal year to public bodies or such other agencies as the Secretary may determine having authority to prepare comprehensive plans for the development of water or waste disposal systems in rural areas which do not have funds available for immediate undertaking of the preparation of such plan.

(7) Repealed. Pub.L. 107-171, Title VI, § 6020(b)(1), May 13, 2002, 116 Stat. 363

(8) In each instance where the Secretary receives two or more applications for financial assistance for projects that would serve substantially the same group of residents within a single rural area, and one such application is submitted by a city, town, county or other unit of general local government, he shall, in the absence of substantial reasons to the contrary, provide such assistance to such city, town, county or other unit of general local government.

(9) Conformity with State drinking water standards

No Federal funds shall be made available under this section for a water system unless the Secretary determines that the water system will make significant progress toward meeting the standards established under title XIV of

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the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300f et seq.).

(10) Conformity with Federal and State water pollution control standards

No Federal funds shall be made available under this section for a water treatment discharge or waste disposal system unless the Secretary determines that the effluent from the system conforms with applicable Federal and State water pollution control standards.

(11) Rural business opportunity grants

(A) In general

The Secretary may make grants, not to exceed $1,500,000 annually, to public bodies, private nonprofit community development corporations or entities, or such other agencies as the Secretary may select to enable the recipients--

(i) to identify and analyze business opportunities, including opportunities in export markets, that will use local rural economic and human resources;

(ii) to identify, train, and provide technical assistance to existing or prospective rural entrepreneurs and managers;

(iii) to establish business support centers and otherwise assist in the creation of new rural businesses, the development of methods of financing local businesses, and the enhancement of the capacity of local individuals and entities to engage in sound economic activities;

(iv) to conduct regional, community, and local economic development planning and coordination, and leadership development; and

(v) to establish centers for training, technology, and trade that will provide training to rural businesses in the utilization of interactive communications technologies to develop international trade opportunities and markets.

(B) Criteria

In awarding the grants, the Secretary shall consider, among other criteria to be established by the Secretary--

(i) the extent to which the applicant provides development services in the rural service area of the applicant; and

(ii) the capability of the applicant to accomplish the activities described in the relevant clauses of subparagraph (A).

(C) Coordination

The Secretary shall ensure, to the maximum extent practicable, that assistance provided under this paragraph is coordinated with and delivered in cooperation with similar services or assistance provided to rural residents by the Cooperative State Research, Education, and Extension Service or other Federal agencies.

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(D) Authorization of appropriations

There are authorized to be appropriated to carry out this paragraph $15,000,000 for each of fiscal years 1996 through 2007.

(12)(A) The Secretary shall, in cooperation with institutions eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503-505, as amended; 7 U.S.C. 301-305, 307 and 308), or the Act of August 30, 1890 (26 Stat. 417-419, as amended; 7 U.S.C. 321-326 and 328), including the Tuskegee Institute and State, substate, and regional planning bodies, establish a system for the dissemination of information and technical assistance on federally sponsored or funded programs. The system shall be for the use of institutions eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503-505, as amended; 7 U.S.C. 301-305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417-419, as amended; 7 U.S.C. 321-326 and 328), including the Tuskegee Institute and State, substate, and regional planning bodies, and other persons concerned with rural development.

(B) The informational system developed under this paragraph shall contain all pertinent information, including, but not limited to, information contained in the Federal Procurement Data System, Federal Assistance Program Retrieval System, Catalogue of Federal Domestic Assistance, Geographic Distribution of Federal Funds, United States Census, and Code of Federal Regulations.

(C) The Secretary shall obtain from all other Federal departments and agencies comprehensive, relevant, and applicable information on programs under their jurisdiction that are operated in rural areas.

(D) Of the sums authorized to be appropriated to carry out the provisions of this chapter, not more than $1,000,000 per year may be expended to carry out the provisions of this paragraph.

(13) In the making of loans and grants for community waste disposal and water facilities under paragraphs (1) and (2) of this subsection the Secretary shall accord highest priority to the application of any municipality or other public agency (including an Indian tribe on a Federal or State reservation or other federally recognized Indian tribal group) in a rural community having a population not in excess of five thousand five hundred and which, in the case of water facility loans, has a community water supply system, where the Secretary determines that due to unanticipated diminution or deterioration of its water supply, immediate action is needed, or in the case of waste disposal, has a community waste disposal system, where the Secretary determines that due to unanticipated occurrences the system is not adequate to the needs of the community. The Secretary shall utilize the Soil Conservation Service in rendering technical assistance to applicants under this paragraph to the extent he deems appropriate.

(14) Rural water and wastewater technical assistance and training programs

(A) In general

The Secretary may make grants to private nonprofit organizations for the purpose of enabling them to provide to associations described in paragraph (1) of this subsection technical assistance and training to--

(i) identify, and evaluate alternative solutions to, problems relating to the obtaining, storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas;

(ii) prepare applications to receive financial assistance for any purpose specified in paragraph (2) of this subsection from any public or private source; and

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(iii) improve the operation and maintenance practices at any existing works for the storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas.

(B) Selection priority

In selecting recipients of grants to be made under subparagraph (A), the Secretary shall give priority to private nonprofit organizations that have experience in providing the technical assistance and training described in subparagraph (A) to associations serving rural areas in which residents have low income and in which water supply systems or waste facilities are unhealthful.

(C) Funding

Not less than 1 nor more than 3 percent of any funds appropriated to carry out paragraph (2) of this subsection for any fiscal year shall be reserved for grants under subparagraph (A) unless the applications, qualifying for grants, received by the Secretary from eligible nonprofit organizations for the fiscal year total less than 1 per centum of those funds.

(15) In the case of water and waste disposal facility projects serving more than one separate rural community, the Secretary shall use the median population level and the community income level of all the separate communities to be served in applying the standards specified in paragraph (2) of this subsection and section 1927(a)(3)(A) of this title.

(16) Grants under paragraph (2) of this subsection may be used to pay the local share requirements of another Federal grant-in-aid program to the extent permitted under the law providing for such grant-in-aid program.

(17)(A) In the approval and administration of a loan made under paragraph (1) for a water or waste disposal facility, the Secretary shall consider fully any recommendation made by the loan applicant or borrower concerning the technical design and choice of materials to be used for such facility.

(B) If the Secretary determines that a design or materials, other than those that were recommended, should be used in the water or waste disposal facility, the Secretary shall provide such applicant or borrower with a comprehensive justification for such determination.

(18) In making or insuring loans or making grants under this subsection, the Secretary may not condition approval of such loans or grants upon any requirement, condition or certification other than those specified under this chapter.

(19) Community facilities grant program

(A) In general

The Secretary may make grants, in a total amount not to exceed $10,000,000 for any fiscal year, to associations, units of general local government, nonprofit corporations, Indian tribes (as such term is defined under section 450b(e) of Title 25), [FN1] and federally recognized Indian tribes to provide the Federal share of the cost of developing specific essential community facilities in rural areas.

(B) Federal share

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(i) In general

Except as provided in clauses (ii) and (iii), the Secretary shall, by regulation, establish the amount of the Federal share of the cost of the facility under this paragraph.

(ii) Maximum amount

The amount of a grant provided under this paragraph for a facility shall not exceed 75 percent of the cost of developing the facility.

(iii) Graduated scale

The Secretary shall provide for a graduated scale for the amount of the Federal share provided under this paragraph, with higher Federal shares for facilities in communities that have lower community population and income levels, as determined by the Secretary.

(C) Reservation of funds for child day care facilities

(i) In general

For each fiscal year, not less than 10 percent of the funds made available to carry out this paragraph shall be reserved for grants to pay the Federal share of the cost of developing and constructing day care facilities for children in rural areas.

(ii) Release

Funds reserved under clause (i) for a fiscal year shall be reserved only until April 1 of the fiscal year.

(20) Community facilities grant program for rural communities with extreme unemployment and severe economic depression

(A) Definition of not employed rate

In this paragraph, the term “not employed rate”, with respect to a community, means the percentage of individuals over the age of 18 who reside within the community and who are ready, willing, and able to be employed but are unable to find employment, as determined by the department of labor of the State in which the community is located.

(B) Grant authority

The Secretary may make grants to associations, units of general local government, nonprofit corporations, and Indian tribes (as defined in section 450b of Title 25) in a State to provide the Federal share of the cost of developing specific essential community facilities in rural communities with respect to which the not employed rate is greater than the lesser of--

(i) 500 percent of the average national unemployment rate on November 9, 2000, as determined by the Bureau of Labor Statistics; or

(ii) 200 percent of the average national unemployment rate during the Great Depression, as determined

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by the Bureau of Labor Statistics.

(C) Federal share

Paragraph (19)(B) shall apply to a grant made under this paragraph.

(D) Authorization of appropriations

There are authorized to be appropriated to carry out this paragraph $50,000,000 for fiscal year 2001 and such sums as are necessary for each subsequent fiscal year, of which not more than 5 percent of the amount made available for a fiscal year shall be available for community planning and implementation.

(E) Rural broadband

Notwithstanding subparagraph (C), the Secretary may make grants to state [FN2] agencies for use by regulatory commissions in states [FN2] with rural communities without local dial-up Internet access or broadband service to establish a competitively, technologically neutral grant program to telecommunications carriers or cable operators that establish common carrier facilities and services which, in the commission's determination, will result in the long-term availability to such communities of affordable broadband services which are used for the provision of high speed Internet access.

(21) Community facilities grant program for rural communities with high levels of out-migration or loss of population

(A) Grant authority

The Secretary may make grants to associations, units of general local government, nonprofit corporations, and Indian tribes (as defined in section 450b of Title 25) in a State to provide the Federal share of the cost of developing specific essential community facilities in any geographic area--

(i) that is represented by--

(I) any political subdivision of a State;

(II) an Indian tribe on a Federal or State reservation; or

(III) other federally recognized Indian tribal group;

(ii) that is located in a rural area (as defined in section 2009 of this title);

(iii) with respect to which, during the most recent 5-year period, the net out-migration of inhabitants, or other population loss, from the area equals or exceeds 5 percent of the population of the area; and

(iv) that has a median household income that is less than the nonmetropolitan median household income of the United States.

(B) Federal share

Paragraph (19)(B) shall apply to a grant made under this paragraph.

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(C) Authorization of appropriations

There are authorized to be appropriated to carry out this paragraph $50,000,000 for fiscal year 2001 and such sums as are necessary for each subsequent fiscal year, of which not more than 5 percent of the amount made available for a fiscal year shall be available for community planning and implementation.

(22) Rural water and wastewater circuit rider program

(A) In general

The Secretary shall establish a national rural water and wastewater circuit rider program that is based on the rural water circuit rider program of the National Rural Water Association that (as of May 13, 2002) receives funding from the Secretary, acting through the Rural Utilities Service.

(B) Relationship to existing program

The program established under subparagraph (A) shall not affect the authority of the Secretary to carry out the circuit rider program for which funds are made available under the heading "RURAL COMMUNITY ADVANCEMENT PROGRAM" in title III of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (115 Stat. 719).

(C) Authorization of appropriations

There is authorized to be appropriated to carry out this paragraph $15,000,000 for fiscal year 2003 and each fiscal year thereafter.

(23) Multijurisdictional regional planning organizations

(A) Grants

The Secretary shall provide grants to multijurisdictional regional planning and development organizations to pay the Federal share of the cost of providing assistance to local governments to improve the infrastructure, services, and business development capabilities of local governments and local economic development organizations.

(B) Priority

In determining which organizations will receive a grant under this paragraph, the Secretary shall give priority to an organization that--

(i) serves a rural area that, during the most recent 5-year period--

(I) had a net out-migration of inhabitants, or other population loss, from the rural area that equals or exceeds 5 percent of the population of the rural area; or

(II) had a median household income that is less than the nonmetropolitan median household income of the applicable State; and

(ii) has a history of providing substantive assistance to local governments and economic development

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organizations.

(C) Federal share

A grant provided under this paragraph shall be for not more than 75 percent of the cost of providing assistance described in subparagraph (A).

(D) Maximum amount of grants

The amount of a grant provided to an organization under this paragraph shall not exceed $100,000.

(E) Authorization of appropriations

There is authorized to be appropriated to carry out this paragraph $30,000,000 for each of fiscal years 2003 through 2007.

(24) Loan guarantees for water, wastewater, and essential community facilities loans

(A) In general

The Secretary may guarantee a loan made to finance a community facility or water or waste facility project in a rural area, including a loan financed by the net proceeds of a bond described in section 142(a) of Title 26.

(B) Requirements

To be eligible for a loan guarantee under subparagraph (A), an individual or entity offering to purchase the loan shall demonstrate to the Secretary that the person has--

(i) the capabilities and resources necessary to service the loan in a manner that ensures the continued performance of the loan, as determined by the Secretary; and

(ii) the ability to generate capital to provide borrowers of the loan with the additional credit necessary to properly service the loan.

(25) Tribal college and university essential community facilities

(A) In general

The Secretary may make grants to tribal colleges and universities (as defined in section 1059c of Title 20) to provide the Federal share of the cost of developing specific tribal college or university essential community facilities in rural areas.

(B) Federal share

(i) In general

Except as provided in clauses (ii) and (iii), the Secretary shall, by regulation, establish the maximum percentage of the cost of the facility that may be covered by a grant under this paragraph.

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(ii) Maximum amount

The amount of a grant provided under this paragraph for a facility shall not exceed 75 percent of the cost of developing the facility.

(iii) Graduated scale

The Secretary shall provide for a graduated scale of the percentages of the cost covered by a grant made under this paragraph that provides higher percentages for facilities in communities that have lower community population and income levels, as determined by the Secretary.

(C) Authorization of appropriations

There is authorized to be appropriated to carry out this paragraph $10,000,000 for each of fiscal years 2003 through 2007.

(b) Curtailment or limitation of service prohibited

The service provided or made available through any such association shall not be curtailed or limited by inclusion of the area served by such association within the boundaries of any municipal corporation or other public body, or by the granting of any private franchise for similar service within such area during the term of such loan; nor shall the happening of any such event be the basis of requiring such association to secure any franchise, license, or permit as a condition to continuing to serve the area served by the association at the time of the occurrence of such event.

(c) Repealed. Pub. L. 91-606, Title III, § 302(2), Dec. 31, 1970, 84 Stat. 1759

(d) Carryover of unused authorizations for appropriations

Any amounts appropriated under this section shall remain available until expended, and any amounts authorized for any fiscal year under this section but not appropriated may be appropriated for any succeeding fiscal year.

CREDIT(S)

(Pub.L. 87-128, Title III, § 306, Aug. 8, 1961, 75 Stat. 308; Pub.L. 87-703, Title IV, § 401(2), Sept. 27, 1962, 76 Stat. 632; Pub.L. 89-240, § 1, Oct. 7, 1965, 79 Stat. 931; Pub.L. 89-769, § 6(b), Nov. 6, 1966, 80 Stat. 1318; Pub.L. 90-488, §§ 3-5, Aug. 15, 1968, 82 Stat. 770; Pub.L. 91-524, Title VIII, § 806(a), Nov. 30, 1970, 84 Stat. 1383; Pub.L. 91-606, Title III, § 302(2), Dec. 31, 1970, 84 Stat. 1759; Pub.L. 91-617, § 1(a), Dec. 31, 1970, 84 Stat. 1855; Pub.L. 92-419, Title I, §§ 104-112, Aug. 30, 1972, 86 Stat. 658, 659; Pub.L. 91-524, Title VIII, § 816(c), as added Pub.L. 93-86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 240; Pub.L. 95-334, Title I, §§ 104-107(a), Aug. 4, 1978, 92 Stat. 421, 422; Pub.L. 96-355, § 7, Sept. 24, 1980, 94 Stat. 1174; Pub.L. 96-438, § 2(1), Oct. 13, 1980, 94 Stat. 1871; Pub.L. 97-35, Title I, § 121, Aug. 13, 1981, 95 Stat. 368; Pub.L. 99-198, Title XIII, § 1304(a), Dec. 23, 1985, 99 Stat. 1519; Pub.L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, and amended Pub.L. 101-624, Title XXIII, §§ 2316(b), 2321, 2328, 2329, 2341, 2342, 2393, Nov. 28, 1990, 104 Stat. 4008, 4010, 4017, 4026, 4027, 4057; Pub.L. 102-237, Title VII, § 701(a), (h)(1)(A), (B), Dec. 13, 1991, 105 Stat. 1879, 1880; Pub.L. 103-129, § 3, Nov. 1, 1993, 107 Stat. 1366; Pub.L. 103-354, Title II, § 235(b)(5), Oct. 13, 1994, 108 Stat. 3222; Pub.L. 104-127, Title VII, §§ 741(a), 758, 763, Apr. 4, 1996, 110 Stat. 1122, 1132, 1148; Pub.L. 106-387, § 1(a) [Title VII, § 773], Oct. 28, 2000, 114 Stat. 1549, 1549A-45; Pub.L. 106-472, Title III, §§

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, 305(a), Nov. 9, 2000, 114 Stat. 2070, 2071; Pub.L. 107-76, Title VII, § 762, Nov. 28, 2001, 115 Stat. 743; Pub.L. 107-171, Title VI, §§ 6001 to 6006, 6007(a), 6008, 6020(b)(1), May 13, 2002, 116 Stat. 352 to 355, 363.)

[FN1] So in original. Probably should be "section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)".

[FN2] So in original. Probably should be capitalized.

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1961 Acts. Conference Report No. 839 and Senate Report No. 566, see 1961 U.S.Code Cong. and Adm.News, p. 2243.

1962 Acts. Conference Report No. 2385 and Senate Report No. 1787, see 1962 U.S.Code Cong. and Adm.News, p. 2662.

1965 Acts. Senate Report No. 500, see 1965 U.S.Code Cong. and Adm.News, p. 3405.

1966 Acts. House Report No. 2141, see 1966 U.S.Code Cong. and Adm.News, p. 4135.

1968 Acts. House Report No. 1635, see 1968 U.S.Code Cong. and Adm.News, p. 3360.

1970 Acts. Conference Report No. 91-1594 and Senate Report No. 19-1154, see 1970 U.S.Code Cong. and Adm.News, p. 4788.

Conference Report No. 91-1752 and House Report No. 91-1524, see 1970 U.S.Code Cong. and Adm.News, p. 5486.

Senate Report No. 91-1469, see 1970 U.S.Code Cong. and Adm.News, p. 5745.

1972 Acts.House Conference Report No. 92-1129 and House Report No. 92-835, see 1972 U.S.Code Cong. and Adm.News, p. 3147.

1973 Acts.House Conference Report No. 93-427 and House Report No. 93-337, see 1973 U.S.Code Cong. and Adm.News, p. 1750.

1978 Acts.House Conference Report No. 95-1344 and House Report No. 95-986, see 1978 U.S.Code Cong. and Adm.News, p. 1106.

1980 Acts. House Report No. 96-259, see 1980 U.S.Code Cong. and Adm.News, p. 2806.

House Conference Report No. 96-1394 and Senate Report No. 96-168, see 1980 U.S.Code Cong. and Adm.News, p. 3923.

1981 Acts.House Conference Report No. 97-208 and Senate Report No. 97-139, see 1981 U.S.Code Cong. and Adm.News, p. 396.

1985 Acts. House Conference Report No. 99-447, House Report No. 99-271, and Senate Report No. 99-145, see

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1985 U.S.Code Cong. and Adm.News, p. 1103.

1990 Acts.Senate Report No. 101-357 and House Conference Report No. 101-916, see 1990 U.S. Code Cong. and Adm. News p. 4656.

1991 Acts. House Report No. 102-175, see 1991 U.S. Code Cong. and Adm. News, p. 1481.

1994 Acts. House Report No. 103-649, see 1994 U.S. Code Cong. and Adm. News, p. 2516.

1996 Acts.House Report No. 104-462 and House Conference Report No. 104-494, see 1996 U.S. Code Cong. and Adm. News, p. 611.

2000 Acts. House Conference Report No. 106-948, see 2000 U.S. Code Cong. and Adm. News, p. 1412.

2001 Acts.House Conference Report No. 107-275 and Statement by President, see 2001 U.S. Code Cong. and Adm. News, p. 757.

2002 Acts.House Conference Report No. 107-424 and Statement by President, see 2002 U.S. Code Cong. and Adm. News, p. 141.

References in Text

Part I of subchapter U of chapter I of Title 26, referred to in subsec. (a)(1), is 26 U.S.C.A. § 1391 et seq.

Section 766 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, referred to in subsec. (a)(1), is Pub.L. 105-277, Div. A, § 101(a) [Title VII, § 766], Oct. 21, 1998, 112 Stat. 2681-37, which is not classified to the Code.

The Rural Electrification Act of 1936, referred to in subsec. (a)(1), is Act May 20, 1936, c. 432, 49 Stat. 1363, as amended, which is classified generally to chapter 31 (section 901 et seq.) of this title. For complete classification of this Act to the Code, see section 901 of this title and Tables.

Title XIV of the Public Health Service Act, commonly known as the Safe Drinking Water Act, referred to in subsec. (a)(9), is Title XIV of Act July 1, 1944, c. 373, as added by Pub.L. 93-523, Dec. 16, 1974, 88 Stat. 1660, and amended, which is classified principally to subchapter XII (section 300f et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

This chapter, referred to in subsec. (a)(12) and (18), in the original read “this title”, meaning Title III of Pub.L. 87-128, Aug. 8, 1961, 75 Stat. 307, as amended, known as the Consolidated Farm and Rural Development Act. For complete classification of Title III to the Code, see Short Title note set out under section 1921 of this title and Tables.

The Act of July 2, 1862 (12 Stat. 503 to 505, as amended; 7 U.S.C.A. §§ 301 to 305, 307 and 308), referred to in subsec. (a)(12)(A), is Act July 2, 1862, c. 130, 12 Stat. 503, as amended, popularly known as the Morrill Act and also as the First Morrill Act, which is classified generally to subchapter I (section 301 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Tables volume.

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The Act of August 30, 1890 (26 Stat. 417 to 419, as amended; 7 U.S.C.A. §§ 321 to 326 and 328), referred to in subsec. (a)(12)(A), is Act Aug. 30, 1890, c. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (section 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Tables volume.

November 9, 2000, referred to in subsec. (a)(20)(B)(i), originally read "the date of the enactment of this paragraph", meaning November 9, 2000, the date of the enactment of Pub.L. 106-472, 114 Stat. 2058, which enacted par. (20) of subsec. (a) and was approved on Nov. 9, 2000.

Section 2009 of this title, referred to in subsec. (a)(21)(A)(ii), was subsequently amended, and no longer defines the term "rural area".

May 13, 2002, referred to in subsec. (a)(20)(E), (22)(A), originally read "the date of enactment of this paragraph", meaning the date of enactment of Pub.L. 107-171, Title III, § 3106(m), 116 Stat. 294, which enacted paragraph (22) of subsec. (a) and was approved May 13, 2002.

The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002, referred to in subsec. (a)(22)(B), is Pub.L. 107-76, Nov. 28, 2001, 115 Stat. 704. Provisions under the heading "Rural Community Advancement Program" in Title III of the Act appear at 115 Stat. 719 and are not classified to the Code.

Codifications

Section 773 of Pub.L. 106-387, directing amendment of "section 306(a)(19)(A) of the Consolidated Farmers Home Administration Act of 1961" was executed to subsec. (a)(19)(A) of this section as the probable intent of Congress. Section 306 of that Act was enacted as part of Pub.L. 87-128, Title III, Aug. 8, 1961, 75 Stat. 307, originally known as the Consolidated Farmers Home Administration Act of 1961, and subsequently renamed the Consolidated Farm and Rural Development Act by Pub.L. 92-419, Title I, § 101, Aug. 30, 1972, 86 Stat. 657. See Short Title note set out under section 1921 of this title and Tables for complete classification.

Amendment by section 741(a)(6)(D)(ii) of Pub.L. 104-127, which directed that subsec. (a)(14)(C) of this section, as redesignated by section 741(a)(5) of Pub.L. 104-127, be amended by substituting "3 percent of any funds appropriated" for "2 per centum of any funds provided in appropriations Acts" was executed, as the probable intent of Congress, by substituting the former phrase for "2 per centum of any funds provided in Appropriations Acts", as the latter phrase did not appear in text. See 1996 Amendments note set out under this section.

Amendment by section 758 of Pub.L. 104-127 was executed to subsec. (a) of this section despite parenthetical reference in directory language to "7 U.S.C. 926(a)" as the probable intent of Congress. See 1996 Amendments note set out under this section.

Amendment by section 6007(a) of Pub.L. 107-171 to section 306(a) of the Consolidated Farm and Rural Development Act was executed to subsec. (a) of this section, despite parenthetical reference to 7 U.S.C. 1925(a), since section 306(a) of that Act is classified to this section, as the probable intent of Congress.

Amendments

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2002 Amendments. Subsec. (a)(1). Pub.L. 107-171, § 6001, inserted after the first sentence "The Secretary may also make or insure loans to communities that have been designated as rural empowerment zones or rural enterprise communities pursuant to part I of subchapter U of chapter 1 of Title 26, or as rural enterprise communities pursuant to section 766 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Public Law 105-277; 112 Stat. 2681, 2681-37), to provide for the installation or improvement of essential community facilities including necessary related equipment, and to furnish financial assistance or other aid in planning projects for such purposes."

Subsec. (a)(2)(A)(i). Pub.L. 107-171, § 6002(1), (2), added the headings for par. (2), subpar. (A), and cl. (i), and struck out "aggregating not to exceed $590,000,000 in any fiscal year" after "to make grants".

Subsec. (a)(2)(A)(ii). Pub.L. 107-171, § 6002(3), (4), inserted the heading for cl. (ii) before "The amount" and changed 'paragraph" to "subparagraph".

Subsec. (a)(2)(A)(iii). Pub.L. 107-171, § 6002(5), added the heading for cl. (iii) before "The Secretary shall".

Subsec. (a)(2)(B). Pub.L. 107-171, § 6002(6), added subpar. (B).

Subsec. (a)(7). Pub.L. 107-171, § 6020(b)(1), struck out par. (7), which formerly read:

"(7) Definition of rural and rural areas

"For the purpose of water and waste disposal grants and direct and guaranteed loans provided under paragraphs (1) and (2), the terms "rural" and "rural area" mean a city, town, or unincorporated area that has a population of no more than 10,000 inhabitants."

Subsec. (a)(11)(D). Pub.L. 107-171, § 6003, struck out "$7,500,000" and inserted "$15,000,000" and struck out "2002" and inserted "2007".

Subsec. (a)(19)(C). Pub.L. 107-171, § 6004, added subpar. (C).

Subsec. (a)(22). Pub.L. 107-171, § 6005, added par. (22).

Subsec. (a)(23). Pub.L. 107-171, § 6006, added par. (23).

Subsec. (a)(24). Pub.L. 107-171, § 6007(a), added par. (24).

Subsec. (a)(25). Pub.L. 107-171, § 6008, added par. (25).

2001 Amendments. Subsec. (a)(20)(E). Pub.L. 107-76, § 762, added subpar. (E).

2000 Amendments. Subsec. (a)(19)(A). Pub.L. 106-387, § 773, inserted after "nonprofit corporations" the following new phrase: ", Indian tribes (as such term is defined under section 450b(e) of Title 25),".

Subsec. (a)(20). Pub.L. 106-472, § 304(a), added par. (20).

Subsec. (a)(21). Pub.L. 106-472, § 305(a), added par. (21).

1996 Amendments. Subsec. (a)(2). Pub.L. 104-127, § 741(a)(1), substituted "$590,000,000" for "$500,000,000".

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Subsec. (a)(5). Pub.L. 104-127, § 758, added par. (5). See Codifications note set out under this section.

Subsec. (a)(7). Pub.L. 104-127, § 741(a)(2), amended par. generally, substituting current provisions for provisions which read as follows: "As used in this chapter, the terms 'rural' and 'rural area' shall not include any area in any city or town which has a population in excess of ten thousand inhabitants, except that (A) for the purpose of loans for essential community facilities under subsection (a)(1) of this section, the terms 'rural' and 'rural area' may include any area in any city or town that has a population not in excess of twenty thousand inhabitants; and (B) for purposes of loans and grants for private business enterprises under sections 1924(b), 1932, and 1942(b), (c), and (d) of this title the terms 'rural' and 'rural area' may include all territory of a State that is not within the outer boundary of any city having a population of fifty thousand or more and its immediately adjacent urbanized and urbanizing areas with a population density of more than one hundred persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States: *Provided*, That special consideration for such loans and grants shall be given to areas other than cities having a population of more than twenty-five thousand."

Subsec. (a)(9). Pub.L. 104-127, § 741(a)(3), amended par. generally, substituting current provisions for provisions which read as follows: "No Federal funds shall be authorized for use unless it be certified by the appropriate State water pollution control agency that the water supply system authorized will not result in pollution of waters of the State in excess of standards established by that agency."

Subsec. (a)(10). Pub.L. 104-127, § 741(a)(3), amended par. generally, substituting current provisions for provisions which read as follows: "In the case of sewers and waste disposal systems, no Federal funds shall be advanced hereunder unless the appropriate State water pollution control agency shall certify that the effluent therefrom shall conform with appropriate State and Federal water pollution control standards when and where established."

Subsec. (a)(11). Pub.L. 104-127, § 741(a)(3), amended par. generally, in subpar. (A), adding subpar. heading, redesignating introductory provisions of former cl. (i) as introductory provisions of subpar. (A), as so redesignated, substituting "$1,500,000" for "$15,000,000" and "the recipients" for "such recipients", redesignating former subcls. (I) through (IV) of former cl. (i) as cls. (i) through (iv), respectively, in cl. (iii), as so redesignated, substituting "the enhancement of the capacity" for "enhancing the capacity" and striking out "and" following the semicolon, in cl. (iv), as so redesignated, substituting "development; and" for "development;", and adding cl. (v), in subpar. (B), adding subpar. heading, redesignating introductory provisions of former cl. (ii) of subpar. (A) as introductory provisions of subpar. (B), as so redesignated, substituting "the grants" for "such grants", redesignating former subcls. (I) and (II) of former cl. (ii) of subpar. (A) as cls. (i) and (ii), respectively, in cl. (i), as so redesignated, substituting "the rural service area of the applicant" for "its rural service area", and in cl. (ii), as so redesignated, substituting "accomplish the activities described in the relevant clauses of subparagraph (A)" for "carry out the purposes of this section", in subpar. (C), adding subpar. heading, redesignating former cl. (iii) of subpar. (A) as subpar. (C), and, as so redesignated, inserting "maximum" preceding "extent", and substituting "this paragraph" for "this subsection" and "Cooperative State Research, Education, and Extension Service" for "Extension Service", in subpar. (D), adding subpar. heading, redesignating former cl. (iv) of subpar. (A) as subpar. (D), and, as so redesignated, substituting "There are authorized to be appropriated to carry out this paragraph $7,500,000 for each of fiscal years 1996 through 2002" for "For grants under this subparagraph, there are authorized to be appropriated to the Secretary $7,500,000 in each fiscal year", and struck out former subpar. (B), which required Secretary to establish and implement loan program for municipalities which had populations of less than 20,000 and which were financially unable to correct emergency conditions or urgent

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situations, to promulgate regulations, and to process applications within 30 days of receipt, established size and durational limitations for loans, related to refinancing of loans for financially troubled municipalities, and authorized appropriations to carry out loan program.

Subsec. (a)(14). Pub.L. 104-127, § 741(a)(4), struck out former par. (14), which read as follows:

"(14)(A) The Secretary, under such reasonable rules and conditions as he shall establish, shall make grants to eligible volunteer fire departments for up to 50 per centum of the cost of firefighting equipment needed by such departments but which such departments are unable to purchase through the resources otherwise available to them, and for the cost of the training necessary to enable such departments to use such equipment efficiently.

"(B) For the purposes of this subsection, the term 'eligible volunteer fire department' means any established volunteer fire department in a rural town, village, or unincorporated area where the population is less than two thousand but greater than two hundred, as reasonably determined by the Secretary."

Pub.L. 104-127, § 741(a)(5), (6), redesignated former par. (16) as (14), and, as so redesignated, added par. heading, in subpar. (A), added subpar. heading and adjusted margins of introductory provisions and of cls. (i) through (iii), in subpar. (B), added subpar. heading and adjusted margin, and in subpar. (C), added subpar. heading, adjusted margin, and substituted "3 percent of any funds appropriated" for "2 per centum of any funds provided in Appropriations Acts". See Codifications note set out under this section.

Subsec. (a)(15). Pub.L. 104-127, § 741(a)(4), struck out former par. (15), which authorized Secretary to make or insure loans, not to exceed $1,000,000 for any such loan, to associations, including corporations not operated for profit, Indian tribes, and public and quasi-public agencies, for financing construction, acquisition, and operation of transmission facilities for electric system owned and operated by public body located in rural area and, as of Oct. 1, 1976, receiving bulk power from Southwestern Power Administration, Southeastern Power Administration, Bonneville Power Administration, Bureau of Reclamation, or Alaska Power Administration, prohibited making or insuring of loan unless Secretary determined that applicant could not obtain sufficient credit elsewhere from reliable sources at reasonable rates and terms, specified that interest or other income from obligations evidencing such loans were to be included in gross income for purposes of chapter 1 of Title 26, Internal Revenue Code, and terminated authority of Secretary to make or insure such loans on Sept. 30, 2006.

Pub.L. 104-127, § 741(a)(5), redesignated former par. (17) as (15).

Subsec. (a)(16) through (18). Pub.L. 104-127, § 741(a)(5), redesignated former pars. (16) through (20) as (14) through (18), respectively.

Subsec. (a)(19). Pub.L. 104-127, § 741(a)(5), redesignated former par. (19) as (17).

Pub.L. 104-127, § 763, added new par. (19).

Subsec. (a)(20). Pub.L. 104-127, § 741(a)(5), redesignated par. (20) as (18).

1994 Amendments

Subsec. (a)(15)(C), (D). Pub.L. 103-354, § 235(b)(5), redesignated former subpar. (D) as (C), and struck out former subpar. (C) which read as follows: "The Administrator of the Rural Electrification Administration shall

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administer loans made or insured under this paragraph."

1993 Amendments. Subsec. (a)(1). Pub.L. 103-129, § 3, authorized Secretary to make loans to any borrower to whom a loan has been made under the Rural Electrification Act of 1936, for conservation, development, use, and control of water, and the installation of drainage or waste disposal facilities, primarily serving farmers, ranchers, farm tenants, farm laborers, rural businesses, and other rural residents.

1991 Amendments. Subsec. (a)(11)(B). Pub.L. 102-237, § 701(a)(1), in subcl. (I) inserted "and" after the semicolon and in subcl. (II) struck out "; and" and inserted a period.

Subsec. (a)(12)(D). Pub.L. 102-237, § 701(h)(1)(A), substituted "this chapter" for "this Act".

Subsec. (a)(20). Pub.L. 102-237, § 701(h)(1)(B), substituted "this chapter" for "this Act".

Subsec. (a)(21). Pub.L. 102-237, § 701(a)(2), struck out par. (21), which provided that in making or insuring loans or making grants under this subsection, the Secretary not condition approval of such loans or grants upon any requirement, condition, or certification other than those specified in this Act.

1990 Amendments. Subsec. (a)(1). Pub.L. 101-624 inserted "rural businesses," following "farm laborers,".

Subsec. (a)(2). Pub.L. 101-624 deleted proviso that for fiscal years commencing after Sept. 30, 1981, grants relating to water and waste projects may not exceed $154,900,000 in any fiscal year.

Subsec. (a)(3). Pub.L. 101-624, § 2316(b), deleted provisions prohibiting any grant being made under par. (2) of this subsec. unless the Secretary determines that the project is not inconsistent with any planned development provided in any State, multijurisdictional, county, or municipal plan approved by competent authority, along with provisions requiring submission of project financing applications to the pertinent planning and developing authority as well as the county or municipal government having jurisdiction over the area, prohibiting any loan under this section that is inconsistent with any multijurisdictional planning and development district plan, authorizing the Secretary to reimburse agencies or local government for cost of making required review, and authorizing the Secretary, prior to Oct. 1, 1973, to make grants without completion of the comprehensive plan.

Subsec. (a)(11)(A). Pub. 101-624, § 2341, designated existing provisions as subpar. (A) and, as so designated, included private nonprofit community development corporations or entities in the list of possible recipients to whom the Secretary may make grants, delineated the allowable uses of such grants by recipients, and inserted provisions relating to the criteria considered by the Secretary in awarding such grants and ensuring that assistance provided under this subsec. is coordinated with similar assistance provided to rural residents.

Subsec. (a)(11)(B). Pub. 101-624, § 2342, added subpar. (B).

Subsec. (a)(20). Pub.L. 101-624 added par. (20).

Subsec. (a)(21). Pub.L. 101-624, § 2393, added par. (21).

1986 Amendments. Subsec. (a)(1), (15)(B). Pub.L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "Title 26" thus requiring no change in text.

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1985 Amendments. Subsec. (a)(2). Pub.L. 99-198, § 1304(a)(1), provided for graduated scale of grant rates for each project and higher rates in communities having lower community population and income levels.

Subsec. (a)(16) to (19). Pub.L. 99-198, § 1304(a)(2), added pars. (16) to (19).

1981 Amendments. Subsec. (a)(2). Pub.L. 97-35 added provisions limiting grants for fiscal years after Sept. 30, 1981.

1980 Amendments. Subsec. (a)(7). Pub.L. 96-438 provided that for the purpose of loans for essential community facilities under subsection (a)(1) of this section, the terms “rural” and “rural area” included any area in any city or town with a population not in excess of twenty thousand.

Subsec. (a)(11) to (15). Pub.L. 96-355 in par. (11) substituted provisions authorizing annual grants not to exceed $15,000,000 for rural development technical assistance, rural community leadership development, etc., for provisions authorizing annual grants not to exceed $10,000,000 for preparation of comprehensive plans for rural development or designated aspects of such rural development, added par. (12), and redesignated former pars. (12) to (14) as (13) to (15), respectively.

1978 Amendments. Subsec. (a)(1). Pub.L. 95-334, § 104, added provisions respecting bond counsel requirements for loans under $500,000.

Subsec. (a)(2). Pub.L. 95-334, § 105, substituted “$500,000,000” for “$300,000,000”, and “75” for “50”.

Subsec. (a)(7). Pub.L. 95-334, § 106, struck out references to the Commonwealth of Puerto Rico and the Virgin Islands.

Subsec. (a)(14). Pub.L. 95-334, § 107(a), added par. (14).

1973 Amendments. Subsec. (a)(13). Pub.L. 91-524, Title VIII, § 816(c), as added by Pub.L. 93-86, added par. (13).

1972 Amendments. Subsec. (a)(1). Pub.L. 92-419, § 104(1), (2), authorized loans to Indian tribes on Federal and State reservations and other federally recognized Indian tribes and included as an allowable use provision for essential community facilities including necessary related equipment, respectively.

Subsec. (a)(2). Pub.L. 92-419, § 105, substituted “$300,000,000” for “$100,000,000”.

Subsec. (a)(3). Pub.L. 92-419, §§ 106, 107, substituted “project” for “facility” where first appearing; in item (i), substituted “project” for “facility” and inserted in such text “, if such project is carried out,”; in item (ii), substituted “will or can be” for “will be or can be”; substituted “and (iii)” for “or (iii)” and in such item (iii), substituted “an orderly community development consistent with a comprehensive community water, waste disposal, or other development plan” and “development provided in any State, multijurisdictional, county, or municipal plan approved by competent authority” for “orderly community development consistent with a comprehensive community water or sewer development plan” and “development under State, county, or municipal plans approved as official plans by competent authority”, substituted “Secretary shall require the submission of all applications for financial assistance under this section to the multijurisdictional substate areawide general purpose planning and development agency that has been officially designated as a clearinghouse agency under Office of Management and Budget Circular A-95 and to the county or municipal government having jurisdiction over the area in

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which the proposed project is to be located for review and comment within a designated period of time not to exceed 30 days concerning among other considerations, the effect of the project upon the areawide goals and plans of such agency or government" for "Secretary shall establish regulations requiring the submission of all applications for financial assistance under this chapter to the county or municipal government in which the proposed project is to be located for review and comment by such agency within a designated period of time"; prohibited loans inconsistent with multijurisdictional planning and development district areawide plan of the agency; authorized agency or government reimbursement for cost of making the review; and extended authority for making grants prior to completion of the comprehensive plan from Oct. 1, 1971, to Oct. 1, 1973.

Subsec. (a)(5). Pub.L. 92-419, § 110, struck out provisions of former par. (5), which prohibited any loan or grant under subsec. (a) of this section which would cause the unpaid principal indebtedness of any association under this chapter and Act Aug. 28, 1937, as amended (superseded by this chapter), together with amount of any assistance in the form of a grant to exceed $4,000,000 at any one time.

Subsec. (a)(6). Pub.L. 92-419, § 108, substituted "$30,000,000" for "$15,000,000", struck out "official" preceding "comprehensive plans", and substituted "waste disposal systems" for "sewer systems".

Subsec. (a)(7). Pub.L. 92-419, § 109, substituted definition of "rural" and "rural area" as excluding an area in a city or town with a population in excess of ten thousand inhabitants for prior provision for rural areas for purposes of water and waste disposal projects excluding an area in a city or town with a population in excess of 5,500 inhabitants, provided exception provision and special consideration for loans and grants to areas other than cities having a population of more than twenty-five thousand.

Subsec. (a)(11), (12). Pub.L. 92-419, §§ 111, 112, added pars. (11) and (12).

1970 Amendments. Subsec. (a)(1). Pub.L. 91-617 required inclusion in gross income of the interest or other income paid to an insured holder when any loan made for a purpose specified in subsec. (a)(1) is sold out of the Agricultural Credit Insurance Fund as an insured loan.

Subsec. (c). Pub.L. 91-606 repealed subsec. (c), which related to loans to associations in areas suffering major disasters.

Subsec. (d). Pub.L. 91-524 added subsec. (d).

1968 Amendments. Subsec. (a). Pub.L. 90-488 substituted "$100,000,000" for "$50,000,000" in par. (2), "October 1, 1971" for "October 1, 1968" in par. (3), and "$15,000,000" for "$5,000,000" in par. (6), respectively.

1966 Amendments. Subsec. (c). Pub.L. 89-769 added subsec. (c).

1965 Amendments. Subsec. (a). Pub.L. 89-240 designated existing provisions as par. (1), struck out "including the development of recreational facilities" following "shifts in land use", substituted "drainage or waste disposal facilities" for "drainage facilities", inserted "and recreational developments", deleted provisions which prohibited loans which would cause an association's unpaid principal indebtedness to exceed $500,000, in the case of direct loans and $1,000,000 in the case of insured loans at any one time, and added pars. (2) to (10).

1962 Amendments. Subsec. (a). Pub.L. 87-703 authorized loans to be made or insured to provide for the application or establishment of shifts in land use including the development of recreational facilities.

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Effective and Applicability Provisions

1991 Acts. Amendment by section 701(a) of Pub.L. 102-237 effective as if included in section of Pub.L. 101-624 to which it relates, see section 1101(b)(6) of Pub.L. 102-237, set out as a note under section 1421 of this title.

Amendment by section 701(h)(1)(A) and (B) of Pub.L. 102-237 to provision specified therein effective as if such amendment had been included in the Act that added the provision so specified at the time such Act became law, see section 1101(c) of Pub.L. 102-237, set out as a note under section 1421 of this title.

1980 Acts. Amendment of Pub.L. 96-355 effective Oct. 1, 1980, see section 10 of Pub.L. 96-355, set out as a note under section 2204b of this title.

1978 Acts. Section 105 of Pub.L. 95-334 provided in part that the amendment to subsec. (a)(2) of this section by Pub.L. 95-334 is effective Oct. 1, 1978.

1970 Acts. Section 1(b) of Pub.L. 91-617 provided that: "The amendment made by subsection (a) [to subsec. (a)(1) of this section] shall apply to the insured loans sold out of the Agricultural Credit Insurance Fund after the date of the enactment of this Act [Dec. 31, 1970]."

Repeal of subsec. (c) of this section by Pub.L. 91-606 effective Dec. 31, 1970, see section 304 of Pub.L. 91-606, set out as a note under section 165 of Title 26, Internal Revenue Code.

1966 Acts. Amendment by Pub.L. 89-769 applicable with respect to any major disaster occurring after October 3, 1964, see section 14 of Pub.L. 89-769.

1961 Acts. Section effective Oct. 15, 1961, with certain exceptions, see former section 300.1 of Title 6, Code of Federal Regulations, set out as a note under section 1921 of this title.

Transfer of Functions

The functions of the Secretary of the Interior with respect to the Southwestern Power Administration, Southeastern Power Administration, Bonneville Power Administration, Alaska Power Administration, and the power marketing functions of the Bureau of Reclamation were transferred to the Secretary of Energy by section 7152(a) of Title 42, The Public Health and Welfare, with each Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator and the functions of the Bureau of Reclamation transferred to be exercised by the Secretary through a separate Administration within the Department of Energy.

The powers, duties and assets of agencies, offices and other entities within the Department of Agriculture relating to rural development functions were transferred to the Rural Development Administration by section 2302(b) of Pub.L. 101-624, set out as a note under section 2006f of this title.

Severability of Provisions

If any provision of Pub.L. 101-624 or the application thereof to any person or circumstance is held invalid, such invalidity not to affect other provisions or applications of Pub.L. 101-624 which can be given effect without re-

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gard to the invalid provision or application, see section 2519 of Pub.L. 101-624, set out as a note under section 1421 of this title.

Maximum Income Levels for Loans, Grants, and Assistance for Housing and Community Facilities in Alaska; Business and Industry Guaranteed Loans; Calculation of Household Income Level and Unemployment Rate for Rural Community Development Assistance

Pub.L. 106-387, § 1(a) [Title VII, § 736], Oct. 28, 2000, 114 Stat. 1549, 1549A-33, provided that: "Notwithstanding any other provision of law, for any fiscal year, in the case of a high cost, isolated rural area of the State of Alaska that is not connected to a road system--

"(1) in the case of assistance provided by the Rural Housing Service for single family housing under title V of the Housing Act of 1949 (7 U.S.C. 1471 et seq.), the maximum income level for the assistance shall be 150 percent of the average income level in metropolitan areas of the State;
"(2) in the case of community facility loans and grants provided under paragraphs (1) and (19), respectively, of section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) and assistance provided under programs carried out by the Rural Utilities Service, the maximum income level for the loans, grants, and assistance shall be 150 percent of the average income level in nonmetropolitan areas of the State;
"(3) In the case of a business and industry guaranteed loan made under section 310B(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)(1)), to the extent permitted under that Act [7 U.S.C.A. § 1921 et seq.], the Secretary of Agriculture shall--

"(A) guarantee the repayment of 90 percent of the principal and interest due on the loan; and
"(B) charge a loan origination and servicing fee in an amount not to exceed 1 percent of the amount of the loan; and
"(4) in the case of assistance provided under the Rural Community Development Initiative for fiscal year 2001 carried out under the rural community advancement program established under subtitle E of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009 et seq.), the median household income level, and the not employed rate, with respect to applicants for assistance under the Initiative shall be scored on a community-by-community basis."

Interest Rate Restructuring for Certain Other Borrowers

Pub.L. 100-233, Title VI, § 615(b)(2), Jan. 6, 1988, 101 Stat. 1682, provided that: "Effective July 29, 1987, the interest rate charged on any loan of $2,000,000 or more made on such date under section 306 [this section], to any nonprofit corporation shall be the interest rate quoted to such nonprofit corporation by the Farmers Home Administration on June 22, 1987, in the request for obligation of funds made with respect to the loan."

Lease of Certain Acquired Property

Pub.L. 100-233, Title VI, § 620, Jan. 6, 1988, 101 Stat. 1684, provided that: "Notwithstanding any other provision of law, the Secretary of Agriculture may lease to public or private nonprofit organizations, for a nominal rent, any facilities acquired in connection with the disposition of a loan made by the Secretary under section 306 [this section]. Any such lease shall be for such reasonable period of time as the Secretary determines is appropri-

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ate."

Limits on Authorization of Appropriations for Fiscal Years 1982, 1983 and 1984

Section 120 of Pub.L. 97-35 provided in part that: "For rural development planning grants pursuant to section 306(a)(11) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)) [subsec. (a)(11) of this section]; $4,767,000 for fiscal year 1982, $4,959,000 for fiscal year 1983, and $5,155,000 for fiscal year 1984."

Rural Wastewater Treatment Circuit Rider Program

Section 2324 of Pub.L. 101-624, which required Secretary to establish national rural wastewater circuit rider grant program modeled after National Rural Water Association Rural Water Circuit Rider Program that received funding from Farmers Home Administration and authorized to be appropriated $4,000,000 for each fiscal year to carry out such program, was repealed by Pub.L. 104-127, Title VII, § 703, Apr. 4, 1996, 110 Stat. 1108.

Temporary Expanded Eligibility of Certain Timber-Dependent Communities in the Pacific Northwest for Loans and Grants from the Rural Development Administration

Pub.L. 103-427, Oct. 31, 1994, 108 Stat. 4373, provided that:

"(a) Findings.--Congress finds the following:

> **"(1)** Timber-dependent communities in the Pacific Northwest have contributed significantly to the economic needs of the United States and have helped ensure an adequate national supply of timber and timber products.
> **"(2)** A significant portion of the timber traditionally harvested in the Pacific Northwest is derived from Federal forest lands, and these forests have played an important role in sustaining local economies.
> **"(3)** A number of traditionally timber-dependent communities are experiencing significant economic difficulties as a result of their proximity to the range of the northern spotted owl.
> **"(4)** These timber-dependent communities need economic assistance to help them diversify, including support from water and waste facility loans and grants and community facility loans and grants funded through the Rural Development Administration.

"(b) Expanded eligibility.--During the period beginning on the date of the enactment of this Act [Oct. 31, 1994] and ending on September 30, 1998, the terms 'rural' and 'rural area', as used in the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) [probably means Title III of Pub.L. 87-128, Aug. 8, 1961, 75 Stat. 307, which enacted this chapter], shall include any town, city, or municipality--

> **"(1)** part or all of which lies within 100 miles of the boundary of a national forest covered by the Federal document entitled 'Forest Plan for a Sustainable Economy and a Sustainable Environment', dated July 1, 1993;
> **"(2)** that is located in a county in which at least 15 percent of the total primary and secondary labor and proprietor income is derived from forestry, wood products, or forest-related industries such as recreation and tourism; and
> **"(3)** that has a population of not more than 25,000 inhabitants.

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"(c) Effect on State allotments of funds.--This section shall not be taken into consideration in allotting funds to the various States for purposes of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) [probably means Title III of Pub.L. 87-128, Aug. 8, 1961, 75 Stat. 307, which enacted this chapter], or otherwise affect or alter the manner under which such funds were allotted to States before the date of the enactment of this Act [Oct. 31, 1994]."

CROSS REFERENCES

"Designated rural development program" defined as in this section for purposes of rural forestry and economic diversification action teams, see7 USCA § 6613.
Disaster relief, priority given to areas affected by major disasters under this section, see42 USCA § 5153.
Informational system, annual evaluation of and recommendations regarding, see7 USCA § 2204b.
"Rural development program" defined as in this section for purposes of prohibition on restricting water and waste facility services to electric customers, see7 USCA § 917.

RESEARCH REFERENCES

ALR Library

193 ALR, Fed. 139, "Sham" Exception to Application of Noerr-Pennington Doctrine, Exempting from Federal Antitrust Laws Joint Efforts to Influence Governmental Action Based on Petitioning Administrative or Judicial...

146 ALR, Fed. 387, Construction and Application of 7 U.S.C.A. § 1926(B), Prohibiting Curtailment or Conditioning of Water or Sewer Service Based on Inclusion Within Municipal Borders.

118 ALR, Fed. 1, Propriety of Amount of Attorneys' Fees Awarded to Prevailing Parties Under Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C.A. § 1988).

76 ALR, Fed. 46, Discretionary Exercise of Pendent Jurisdiction of Federal Court Over State Claim When Joined With Claim Arising Under Laws, Treaties, or Constitution of United States.

50 ALR, Fed. 472, Propriety Under 28 U.S.C.A. § 1920 and Rule 54(D) of the Federal Rules of Civil Procedure of Allowing Prevailing Party Costs for Copies of Depositions.

172 ALR 847, Right to Declaratory Relief as Affected by Existence of Other Remedy.

140 ALR 717, Duty of Federal Courts, Since Erie R. Co. v. Tompkins, in Determining Ultimate Federal Question, to Follow State Laws or State Court Decisions of Substantive Character, Upon Questions Which Are Preliminary, Incidental...

132 ALR 1495, Membership Corporation or Association or Co-Operative Group Furnishing to Its Members Electric, Telephone, or Other Service Commonly Supplied by Public Utility, as Subject to Governmental Regulation or to Jurisdiction...

90 ALR 846, What Employees Are Engaged in Interstate Commerce Within Federal Employers' Liability Act.

Encyclopedias

Am. Jur. 2d Federal Taxation P 12962, Exemption Under Non-Code Provision.

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Am. Jur. 2d Waterworks and Water Companies § 6, Curtailment of Service or Grant of a Private Franchise.

Treatises and Practice Aids

West's Federal Administrative Practice § 5708, Rural Development Statutes -- Rural Development Act of 1990.

West's Federal Administrative Practice § 5713, Rural Development Programs -- Rural Utilities.

13A Wright & Miller: Federal Prac. & Proc. § 3531.11, Standing--Government and Public Officials Standing.

NOTES OF DECISIONS

Generally 1/212
"Area served by" 3
Constitutionality 3/434
Contracts with customers 11
Costs of construction 8
Curtailment or limitation of service 10
Curtailment or limitation of service - Indebtedness requirement 10b
Curtailment or limitation of service - Pipes in the ground 10a
Curtailment or limitation of service - Service element 10c
Debtors 6
Effect of repurchase 12
Enforcement of section 14
Grant during term of loan 5
Grant of "private franchise for similar service" 4
Indebtedness requirement, curtailment or limitation of service 10b
Injunction 16
Interest 9
Jurisdiction 17
Limitations 15
Pipes in the ground, curtailment or limitation of service 10a
Purpose 1
Reborrowing 13
Service element, curtailment or limitation of service 10c
State regulation or control 2
Use of funds 7

1/212. Generally

Protection granted to qualified rural water association under provision of Consolidated Farm and Rural Development Act barring curtailment or limitation of service provided or made available by federally-indebted association is absolute, and statute neither requires that encroachment actually threaten government's security for its loan nor that the protection be limited to particular geographic service area financed by loan. Le-Ax Water District v. City of Athens, Ohio, S.D.Ohio 2001, 174 F.Supp.2d 696, reversed346 F.3d 701, rehearing en banc denied. Waters And Water Courses 202

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3/434. Constitutionality

No taking, within meaning of Fifth Amendment, was effected by application of federal statute prohibiting any municipal curtailment of service provided by water district or association indebted on federal loan to municipality that previously had been selling water to customers in disputed service area, before water association became indebted on Farmers' Home Administration (FmHA) and allegedly became entitled to protections of statute; statute permissibly conditioned receipt of federal funds for water association on agreement by state and its subdivisions not to effect curtailment of association's service rights, and statute did not prevent municipality from selling water to customers in non-protected area or from selling water to water association itself. Pittsburg County Rural Water Dist. No. 7 v. City of McAlester, C.A.10 (Okla.) 2004, 358 F.3d 694, certiorari denied125 S.Ct. 44, 543 U.S. 810, 160 L.Ed.2d 13, certiorari denied125 S.Ct. 54, 543 U.S. 811, 160 L.Ed.2d 13. Eminent Domain 2.17(3)

Provision of Consolidated Farm and Rural Development Act barring curtailment or limitation of service provided or made available by federally-indebted rural water association, as written and as applied to Ohio regional water district to protect its right to provide water service to proposed development site outside its defined service area, did not violate Tenth Amendment; prohibition against municipal encroachment reasonably advanced congressional purpose of promoting rural development and protecting federally indebted water associations, statute unambiguously set forth conditions accompanying underlying federal loans, Ohio voluntarily and knowingly accepted those conditions, and authorized district to accept federal loan and to provide service within and without its territory, and limits imposed by statute were limited in time and scope. Le-Ax Water District v. City of Athens, Ohio, S.D.Ohio 2001, 174 F.Supp.2d 696, reversed346 F.3d 701, rehearing en banc denied. States 4.16(2); Waters And Water Courses 202

1. Purpose

One of main legislative purposes in enacting Consolidated Farm and Rural Development Act provision protecting federally financed water associations from curtailment was safeguarding Farmers Home Administration (FmHA) loans. Scioto County Regional Water Dist. No. 1 v. Scioto Water Inc., C.A.6 (Ohio) 1996, 103 F.3d 38, certiorari denied117 S.Ct. 2497, 521 U.S. 1111, 138 L.Ed.2d 1003. Waters And Water Courses 182

Section of Consolidated Farm and Rural Development Act, prohibiting cities from curtailing services of water associations indebted to Farmers Home Administration by granting competing franchises or annexing areas served by association, serves two congressional purposes: to encourage rural water development by expanding number of potential users of such systems, thereby decreasing per-user cost, and to safeguard viability and financial security of such associations and loans by Farmers Home Administration to such associations by protecting those associations from expansion of nearby cities and towns. City of Madison, Miss. v. Bear Creek Water Ass'n, Inc., C.A.5 (Miss.) 1987, 816 F.2d 1057. Waters And Water Courses 202

Provision of Consolidated Farm and Rural Development Act barring curtailment or limitation of service provided or made available by federally-indebted rural water association was not created to give rural water districts predatory rights. Le-Ax Water District v. City of Athens, Ohio, S.D.Ohio 2001, 174 F.Supp.2d 696, reversed346 F.3d 701, rehearing en banc denied.

Doctrine of equitable estoppel did not prevent rural, nonprofit water corporation from seeking to bar municipality from selling water to private utility company for distribution to subdivision residents under statute governing federal rural water loan program, notwithstanding private company's contention that nonprofit corporation was

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aware that, if it raised its rates, private company would buy its water elsewhere; purposes of statute were to encourage rural water development and safeguard United States' interest in having its loans repaid, rather than merely to protect private interests of rural water association, and application of doctrine would be contrary to public interests promoted by statute. Jennings Water, Inc. v. City of North Vernon, Ind., S.D.Ind.1988, 682 F.Supp. 421, affirmed895 F.2d 311. Estoppel 52(8)

Intent of Congress in establishing statutes that authorized the development of recreational complexes in rural areas was not to establish liability on part of the government for knowledge of certain facts of which the government agencies, through their employees, would become aware during the development and construction of the recreation areas. Wright v. U. S., D.C.Mont.1977, 428 F.Supp. 782, affirmed599 F.2d 304. United States 78(2)

2. State regulation or control

Claims asserted by rural county water association against municipality for its alleged misconduct over period of several years, both before and after deannexation proceedings, in selling water to certain customers that association allegedly had exclusive right to serve, upon theory that such sales violated federal antitrust law and statute regulating terms on which the Farmers' Home Administration (FmHA) could provide loans to water service associations, did not raise any issues actually decided in connection with, or necessary to, state administrative agency's grant of petition to deannex territory from water association, or to decision by Oklahoma state courts on whether water association had properly perfected appeal from deannexation order; thus, water association's claims were not barred by issue preclusive effect of prior state administrative or judicial rulings. Pittsburg County Rural Water Dist. No. 7 v. City of McAlester, C.A.10 (Okla.) 2004, 358 F.3d 694, certiorari denied125 S.Ct. 44, 543 U.S. 810, 160 L.Ed.2d 13, certiorari denied125 S.Ct. 54, 543 U.S. 811, 160 L.Ed.2d 13. Administrative Law And Procedure 501; Judgment 828.7

Claims asserted by rural county water association against municipality for its alleged misconduct over period of several years, both before and after deannexation proceedings, in selling water to certain customers that association allegedly had exclusive right to serve were not dependent upon an overturning, in form or substance, of Oklahoma state court's dismissal of association's appeal from administrative deannexation order, and were not barred by *Rooker-Feldman* doctrine. Pittsburg County Rural Water Dist. No. 7 v. City of McAlester, C.A.10 (Okla.) 2004, 358 F.3d 694, certiorari denied125 S.Ct. 44, 543 U.S. 810, 160 L.Ed.2d 13, certiorari denied125 S.Ct. 54, 543 U.S. 811, 160 L.Ed.2d 13. Courts 509

South Carolina empowered public service district to issue general obligation bonds to obtain loans from the Rural Development Association (RDA), and thus agreed to the conditions unambiguously set forth in the Consolidated Farm and Rural Development Act, providing that the service provided by such a district shall not be curtailed or limited by inclusion in the area of a municipal corporation; South Carolina Constitution specifically provides special purpose districts with the power to incur bonded general obligation debt, the district's enabling act expressly authorized it to issue and sell general obligation bonds to the United States, and the South Carolina General Assembly has prohibited municipalities from taking actions that impinge on districts' ability to pay RDA loans. James Island Public Service Dist. v. City of Charleston , South Carolina, C.A.4 (S.C.) 2001, 249 F.3d 323. United States 82(2)

Under Kentucky law, city was entitled to provide water service to residents both within and outside of its annexed area without permission from Farmers Home Administration (FmHA)-indebted water district, where dis-

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trict was not currently serving disputed areas and had not received approval from Public Service Commission (PSC) to extend service to those areas. Lexington-South Elkhorn Water Dist. v. City of Wilmore, Ky., C.A.6 (Ky.) 1996, 93 F.3d 230. Municipal Corporations 36(1); Waters And Water Courses 202

When water association has a right under state law to provide services to a particular area, that right is protected by provision of Consolidated Farm and Rural Development Act barring curtailment or limitation of service provided or made available by federally-indebted rural water association if the water association meets the threshold requirements of the federal statute. Le-Ax Water District v. City of Athens, Ohio, S.D.Ohio 2001, 174 F.Supp.2d 696, reversed346 F.3d 701, rehearing en banc denied. Waters And Water Courses 202

Consolidated Farm and Rural Development Act subsection protecting federally-indebted rural water associations against municipal encroachment does not expressly preempt state law that defines service area of association at moment association becomes indebted to federal government and is thereby entitled to protection of subsection; subsection expressly prohibits only curtailment or limitation of existing service area of association by some action of municipality to include association's existing service area within municipality's boundaries, and subsection does not expressly prohibit state-law definition of existing service area of association at moment association can invoke protections of subsection by becoming indebted to government. Rural Water System No. 1 v. City of Sioux Center, Iowa, N.D.Iowa 1997, 967 F.Supp. 1483, affirmed202 F.3d 1035, rehearing and rehearing en banc denied, certiorari denied121 S.Ct. 61, 531 U.S. 820, 148 L.Ed.2d 28. States 18.91; Waters And Water Courses 202

While power of municipalities to sell water outside of their city limits, as provided for by 11 Okl.St.Ann. §§ 37-119 to 37-123, is not negated by this section regulating competition within franchised territory granted to a rural water district, this section does place limitations upon such power; thus, city utility was enjoined from any additional or further expansion of water services within geographical confines or territory of rural water district in light of subsequent impairment of water district's ability to repay indebtedness due Farmer's Home Administration for construction money loaned to water district. Rural Water Dist. No. 3 v. Owasso Utilities Authority, N.D.Okla.1979, 530 F.Supp. 818. Waters And Water Courses 202

3. “Area served by”

Regional water district made service available to disputed area being served by municipality, as would support its claim against municipality under Consolidated Farm and Rural Development Act section protecting rural water associations from encroachment of its service area by expanding municipalities, where it showed that it had transmission lines running up to new subdivision within municipality, and that it could run service lines into subdivision overnight. Village of Grafton v. Rural Lorain County Water Authority, C.A.6 (Ohio) 2005, 419 F.3d 562. Waters And Water Courses 202

Nonprofit water service corporation qualified for protection against encroachments on its service area by public bodies under Consolidated Farm and Rural Development Act as result of federal loan it obtained to finance extension of service to development, even though that development was not directly related to service area with respect to which Act's protections were asserted; statute did not restrict scope of protection to geographical area served by federal loan proceeds triggering protection. Bell Arthur Water Corp. v. Greenville Utilities Com'n, C.A.4 (N.C.) 1999, 173 F.3d 517. Waters And Water Courses 202

Term “area” within statutory clause prohibiting curtailment of service provided by rural water association that holds Farmers Home Administration (FmHA) loan by granting of private franchise for similar service within

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"such area" during term of that loan means "area served by" association; private franchise clause is preceded by clause prohibiting curtailment of service by inclusion of "area served by" association in boundaries of municipal corporation, and use of term "such" indicates that "area" has same meaning in private franchise clause. CSL Utilities, Inc. v. Jennings Water, Inc., C.A.7 (Ind.) 1993, 16 F.3d 130, modified on denial of rehearing, certiorari denied115 S.Ct. 65, 513 U.S. 812, 130 L.Ed.2d 22. Waters And Water Courses 202

County's agreement to supply water to proposed commercial development did not violate rural water association's protected service area under Rural Development Act, even though county had previously permitted association to provide water to country club outside of its service area, and proposed development was adjacent to country club, where disputed area lay outside realm of both parties' service areas, and association's state permit did not extend to proposed development. Chesapeake Ranch Water Co. v. Board of Com'rs of Calvert County, D.Md.2004, 301 F.Supp.2d 424, affirmed401 F.3d 274. Waters And Water Courses 202

Area served by a water district for purposes of Consolidated Farm and Rural Development Act is determined by state law. Le-Ax Water District v. City of Athens, Ohio, S.D.Ohio 2001, 174 F.Supp.2d 696, reversed346 F.3d 701, rehearing en banc denied.

4. Grant of "private franchise for similar service"

Granting of permits and certificates necessary for private nonprofit water utility's construction of proposed water treatment and delivery facility, which would reduce amount of water it purchased from rural water association indebted to Farmers Home Administration (FmHA), was not granting of private "franchise" for similar service in violation of statute prohibiting curtailment of service provided by such association; grant of permission to utility to build facility would not confer right to serve new customers or provide new and different service, but, rather, would authorize utility to provide its usual service in somewhat different fashion. CSL Utilities, Inc. v. Jennings Water, Inc., C.A.7 (Ind.) 1993, 16 F.3d 130, modified on denial of rehearing, certiorari denied115 S.Ct. 65, 513 U.S. 812, 130 L.Ed.2d 22. Waters And Water Courses 202

5. Grant during term of loan

Private nonprofit water utility was granted private franchise "during the term" of rural water association's Farmers Home Administration (FmHA) loan, for purposes of statute prohibiting curtailment of service provided by such association by granting of private franchise during term of loan, even though association's own loan was secured after utility was granted franchise; association assumed FmHA loans of one of the two associations which merged to create it prior to granting of franchise, and such assumption did not alter statute's scope of protection. CSL Utilities, Inc. v. Jennings Water, Inc., C.A.7 (Ind.) 1993, 16 F.3d 130, modified on denial of rehearing, certiorari denied115 S.Ct. 65, 513 U.S. 812, 130 L.Ed.2d 22. Waters And Water Courses 202

6. Debtors

When bond issuer buys back its own bond it had issued to Farmers Home Administration (FmHA) and cancels debt, it no longer qualifies as "debtor" for protection from curtailment under Consolidated Farm and Rural Development Act provision protecting federally financed water associations against curtailment. Scioto County Regional Water Dist. No. 1 v. Scioto Water Inc., C.A.6 (Ohio) 1996, 103 F.3d 38, certiorari denied117 S.Ct. 2497, 521 U.S. 1111, 138 L.Ed.2d 1003. Waters And Water Courses 202

A rural water association which had obtained loans from the Farmers Home Administration (FmHA) for con-

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structing water facilities had continuing indebtedness to the FmHA so as to be entitled to statutory protection against encroachment on its territory, though its notes had been assigned to a third party pursuant to the Omnibus Budget Reconciliation Act (OBRA) of 1986, prior to amendment of OBRA to state that the statutory protection would be applicable to all notes or other obligations sold under OBRA; the amendment was merely a clarification of the existing law and not a change. Moongate Water Co., Inc. v. Butterfield Park Mutual Domestic Water Ass'n., D.N.M.2000, 125 F.Supp.2d 1304, affirmed291 F.3d 1262. Waters And Water Courses 202

7. Use of funds

Sanitary district which had received grant from Administration could divert funds to payment of attorney fees and litigation expenses incurred in contractor's state court suit to recover amounts allegedly due under contract, and in any event contractor was not entitled to preliminary injunction against diversion of funds in absence of showing of irreparable injury or probable success on the merits. West Coast Const. Co. v. Oceano Sanitary Dist., N.D.Cal.1970, 311 F.Supp. 378. Health 369; Injunction 147

8. Costs of construction

Farmers Home Administration was acting in a sovereign capacity when it made a community facility loan and grant to village for construction of a sewer plant and in requiring the project to be constructed in accordance with the wishes of Congress, and, therefore, there was no implied-in-fact contract that imposed liability on the government for contractor's cost overrun. Somerville Technical Services v. U. S., Ct.Cl.1981, 640 F.2d 1276, 226 Ct.Cl. 291. United States 69(2)

9. Interest

Letter from state director of the Farmers Home Administration stating that note for accrued interest on final payment due contractor upon completion of sewer project would have been an eligible item of expense under the community facility loan and grant to the village for the project did not create any liability on the part of the government, where the government had already paid all of the loan and grant to the village and no more money was available and contractor did not show that the state director had authority to make the government liable for the note. Somerville Technical Services v. U. S., Ct.Cl.1981, 640 F.2d 1276, 226 Ct.Cl. 291. United States 53(7)

10. Curtailment or limitation of service

In determining whether rural water district practices result in rates or assessments that are unreasonable, excessive, and confiscatory, so as to permit encroachment in area by municipal water system despite normal statutory prohibition against competition in areas where district has “made service available,” relevant factors are: (1) whether challenged practice allows district to yield more than fair profit; (2) whether practice establishes rate that is disproportionate to services rendered; (3) whether other, similarly situated districts do not follow practice; (4) whether the practice establishes an arbitrary classification between various users. Rural Water Dist. No. 1, Ellsworth County, Kansas v. City of Wilson, Kansas, C.A.10 (Kan.) 2001, 243 F.3d 1263, on remand211 F.Supp.2d 1324. Waters And Water Courses 202

Municipality that agreed to provide water to village that was currently under contract to purchase its water from local water district did not have to actually annex or attempt to physically include village within its boundaries in order for water supply agreement to be regarded as curtailment on water district's service, in violation of anti-

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curtailment provision of the Consolidated Farm and Rural Development Act. Adams County Regional Water Dist. v. Village of Manchester, Ohio, C.A.6 (Ohio) 2000, 226 F.3d 513. Waters And Water Courses 202

Water association incorporated under Nonprofit Corporation Act of Iowa was not a "water district" within meaning of Iowa statute providing that water services generally shall not be provided within two miles of the limits of a city by a "rural water district incorporated under this chapter or [the Nonprofit Corporation Act]," in light of section of the same chapter defining "district" for the purposes of that chapter as "a rural water district incorporated and organized pursuant to the provision of this chapter"; thus city violated statute which prevents municipalities from curtailing the service area of rural water service providers who are indebted to the United States, by providing water to customers of the association within two miles of city. Rural Water System # 1 v. City of Sioux Center, C.A.8 (Iowa) 2000, 202 F.3d 1035, rehearing and rehearing en banc denied, certiorari denied121 S.Ct. 61, 531 U.S. 820, 148 L.Ed.2d 28. Waters And Water Courses 202

Rural water district's repurchase of its loans from Farmers Home Administration (FmHA), which thereby cancelled district's debt to government, ended protection of district under statute prohibiting curtailment of any service provided by water district or association that is recipient of federal loan, but encroachments occurring prior to repurchase were actionable even after repurchase. Sequoyah County Rural Water Dist. No. 7 v. Town of Muldrow, C.A.10 (Okla.) 1999, 191 F.3d 1192, certiorari denied120 S.Ct. 1532, 529 U.S. 1037, 146 L.Ed.2d 346, certiorari denied120 S.Ct. 1548, 529 U.S. 1049, 146 L.Ed.2d 362. Waters And Water Courses 202

Water district, which was Farmers Home Administration (FmHA)-indebted rural water association, had not provided service or made service available within disputed territories as required to protect district under Consolidated Farm and Rural Development Act from encroachment by city providing service to territories, where district had not obtained certificate of public convenience and necessity from Public Service Commission (PSC) to construct facilities to serve customers within portions of territories, and had no requests for service from potential customers in territories. Lexington-South Elkhorn Water Dist. v. City of Wilmore, Ky., C.A.6 (Ky.) 1996, 93 F.3d 230. Waters And Water Courses 202

Rural water supply company, which was indebted to Farmer's Home Association (FmHA), had "made service available" to disputed residential subdivisions in company's certificated area and, thus, city violated statute protecting federally-indebted water associations from municipal expansion by providing water service to subdivisions; company's state law duty to provide service was legal equivalent to company's making service available under statute, and company had factually made service available to disputed areas, as it had provided water service to adjacent subdivisions, had lines and adequate facilities to provide service to disputed areas, and had not refused service to anyone requesting it within certificated area. North Alamo Water Supply Corp. v. City of San Juan, Tex., C.A.5 (Tex.) 1996, 90 F.3d 910, certiorari denied117 S.Ct. 586, 519 U.S. 1029, 136 L.Ed.2d 515. United States 53(7); Waters And Water Courses 202

Consolidated Farm and Rural Development Act provision prohibiting water association from curtailing or conditioning offer of water service based on inclusion within municipal borders applies, even when association is municipality. Wayne v. Village of Sebring, C.A.6 (Ohio) 1994, 36 F.3d 517, 146 A.L.R. Fed. 701, rehearing and suggestion for rehearing en banc denied, certiorari denied115 S.Ct. 2000, 514 U.S. 1127, 131 L.Ed.2d 1001. Waters And Water Courses 202

Statute protecting rural water associations indebted to Farmers Home Administration (FmHA) forbids encroachment on association's service area either through expansion of municipal or other public water system or through

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introduction of new or expanded service by private supplier, and, thus, prohibit another supplier, whether public or private, from being substituted for or from displacing service of association. CSL Utilities, Inc. v. Jennings Water, Inc., C.A.7 (Ind.) 1993, 16 F.3d 130, modified on denial of rehearing, certiorari denied115 S.Ct. 65, 513 U.S. 812, 130 L.Ed.2d 22. Waters And Water Courses 202

Federal statute prohibiting the curtailment of any service provided by water district or other association that is recipient of federal funds prohibited municipality from using its annexation of territory within rural water district as springboard for providing water service of its own to residents within district. Glenpool Utility Services Authority v. Creek County Rural Water Dist. No. 2, C.A.10 (Okla.) 1988, 861 F.2d 1211, certiorari denied109 S.Ct. 2068, 490 U.S. 1067, 104 L.Ed.2d 633. Waters And Water Courses 202

Under Consolidated Farm and Rural Development Act, local government may not encroach upon services provided by water association indebted to Farmers Home Administration, be that encroachment in form of competing franchises, new or additional permit requirements, or similar means, such as condemnation of association's facilities or certificate of public convenience and necessity. City of Madison, Miss. v. Bear Creek Water Ass'n, Inc., C.A.5 (Miss.) 1987, 816 F.2d 1057. Waters And Water Courses 202

Rural water district's proposed provision of service to property was excessive, unreasonable, and confiscatory, and thus district had not “made service available” to property so as to protect it from competition from municipality under Consolidated Farm and Rural Development Act, even if proposed fee of $32,000 did not allow district to earn more than fair profit, where estimated fee far exceeded average cost to obtain service in most districts and exceeded highest historical cost in many districts, service provided consisted only of domestic water for two duplexes in small town, other rural districts had practice of releasing small users if neighboring city could provide more economical service, district could not explain how situation differed from others in past in which it released property, and district took position that property owners were not entitled to any rebate of construction costs if other users were later added to same service line. Rural Water Dist. No. 1, Ellsworth County, Kansas v. City of Wilson, Kansas, D.Kan.2002, 211 F.Supp.2d 1324. Waters And Water Courses 202

The protection accorded rural water association indebted to federal agency, pursuant to Consolidated Farm and Rural Development Act, under provision barring curtailment or limitation of service provided or made available by association applies whenever three elements are met: (1) the entity seeking protection is a rural water association, (2) the rural water association is indebted to Rural Economic and Community Development Service (RECDS), successor to Farmers Home Administration (FmHA), and (3) the rural water association provides or makes service available to the geographical area in question. Le-Ax Water District v. City of Athens, Ohio, S.D.Ohio 2001, 174 F.Supp.2d 696, reversed346 F.3d 701, rehearing en banc denied. Waters And Water Courses 202

Water service association was an “association” within the meaning of section of the Consolidated Farm and Rural Development Act protecting qualified associations which have a continuing indebtedness to the Farmers Home Administration (FmHA) against encroachment on their territories, where its articles of incorporation stated that it was a non-profit organization, and though the articles authorized the distribution of “surplus funds” to members of the organization, this was not inconsistent with a non-profit organization, and even if the refunded contributions rendered the association a “for-profit corporation,” it qualified s a “quasi-public corporation” providing an essential public service. Moongate Water Co., Inc. v. Butterfield Park Mutual Domestic Water Ass'n., D.N.M.2000, 125 F.Supp.2d 1304, affirmed291 F.3d 1262. Waters And Water Courses 202

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Rural water service association with indebtedness to the Farmers Home Administration (FmHA) made service available to particular property, so as to be entitled to protection of its territory against encroachment by another water utility, where association provided service to the neighborhood and provided service to the property in question before the present owner purchased it, thus meeting the "pipes-in-the-ground" test, though it conditioned continued service on owner's granting an easement across her property for its waterline, as requested fees and easement were not unreasonable. Moongate Water Co., Inc. v. Butterfield Park Mutual Domestic Water Ass'n., D.N.M.2000, 125 F.Supp.2d 1304, affirmed291 F.3d 1262. Waters And Water Courses 202

Competing county regional water district authority did not violate federal statutory provision, prohibiting curtailment of water services provided by association indebted to Farmers Home Administration (FmHA) during term of such indebtedness, by petitioning administrative and judicial bodies for legal redress, in attempt to halt water association's water distribution project, absent legal authorities suggesting that one's First Amendment right to petition courts for redress of grievances was circumscribed to any extent by provision. Scioto County Regional Water Dist. No. 1 v. Scioto Water, Inc., S.D.Ohio 1995, 916 F.Supp. 692. Waters And Water Courses 183.5

Rural water association had made water service "available" to planned residential subdivisions, and thus had dominant right to provide water service to areas in question and could have municipal water utility enjoined from providing such service; though association had no customers within properties in question, it had water lines located either adjacent to or running through properties and was required under state law to extend service to potential customers located reasonably near to its distribution lines. North Shelby Water Co. v. Shelbyville Mun. Water and Sewer Com'n, E.D.Ky.1992, 803 F.Supp. 15. Waters And Water Courses 202

Private company which sought to provide sewage services to development could not maintain action against city based on city's requirement that development utilize its sewage services under statute which prohibited curtailment or limitation of FmHA indebted association's service by municipal annexation or inclusion; although private company had contractual obligations to county, which was "association" under statute, company was not indebted to FmHA nor was it an "association." Pinehurst Enterprises, Inc. v. Town of Southern Pines, M.D.N.C.1988, 690 F.Supp. 444, affirmed887 F.2d 1080. Municipal Corporations 712(1)

Section of the Agricultural Act [7 U.S.C.A. § 1926(b)] prohibiting any curtailment or limitation of service provided by a rural water association resulting from inclusion of all or part of its territory within a municipality while association is indebted to the Farmers Home Administration barred municipality from taking association's exclusive service rights and water facilities located within town boundaries through eminent domain proceedings. Moore Bayou Water Ass'n, Inc. v. Town of Jonestown, Miss., N.D.Miss.1986, 628 F.Supp. 1367. States 18.69

10a. ---- Pipes in the ground

The "pipes-in-the-ground" test for determining whether federally indebted water service association meets service element of test for statutory protection from competitive encroachment on service area under Consolidated Farm and Rural Development Act is satisfied by a showing that water association has adequate facilities within or adjacent to the area to provide service to the area within a reasonable time after a request for service is made, and amounts to asking whether the water association has the capacity to provide water service to a given customer. Moongate Water Co., Inc. v. Butterfield Park Mut. Domestic Water Ass'n, C.A.10 (N.M.) 2002, 291 F.3d 1262. Waters And Water Courses 202

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Pursuant to "pipes in the ground" test, regional water district made water service available to proposed development area within the meaning of provision of Consolidated Farm and Rural Development Act barring curtailment or limitation of service provided or made available by federally indebted rural water association, even though it did not serve site and site was outside of area identified in petition that gave rise to water district's creation, inasmuch as water district had pipes in the ground with which it could make service available to site and which had been in place more than 20 years, before nearby city was interested in right to distribute water to region in question. Le-Ax Water District v. City of Athens, Ohio, S.D.Ohio 2001, 174 F.Supp.2d 696, reversed346 F.3d 701, rehearing en banc denied. Waters And Water Courses 202

10b. ---- Indebtedness requirement

In event that district court determined, on remand, that rural county water association had made service available to deannexed area, such that its exclusive service rights in this area were protected by federal statute for as long as it remained indebted upon Farmers' Home Administration (FmHA) loan, deannexation order would be no bar to municipality's liability under statute, for selling water to customers in deannexed area. Pittsburg County Rural Water Dist. No. 7 v. City of McAlester, C.A.10 (Okla.) 2004, 358 F.3d 694, certiorari denied125 S.Ct. 44, 543 U.S. 810, 160 L.Ed.2d 13, certiorari denied125 S.Ct. 54, 543 U.S. 811, 160 L.Ed.2d 13. Waters And Water Courses 202

Mere fact that municipality had sold water to certain customers before rural county water association became indebted to federal government on Farmers' Home Administration (FmHA) loan, and thus acquired federal statutory protection against any curtailment of its service area, did not mean that municipality's continued sale of water to these customers could not violate federal statute in question, as being in nature of unlawful curtailment of water association's service rights. Pittsburg County Rural Water Dist. No. 7 v. City of McAlester, C.A.10 (Okla.) 2004, 358 F.3d 694, certiorari denied125 S.Ct. 44, 543 U.S. 810, 160 L.Ed.2d 13, certiorari denied125 S.Ct. 54, 543 U.S. 811, 160 L.Ed.2d 13. Waters And Water Courses 202

Rural water service association satisfied indebtedness requirement for protection against territorial encroachment that was afforded under Consolidated Farm and Rural Development Act to federally indebted water service associations after association's Farmers Home Administration (FmHA) notes were sold to third parties, in accordance with budget reconciliation legislation, pursuant to provision of Agricultural Credit Act of 1987 that extended such protections to federal notes or obligations sold to third parties. Moongate Water Co., Inc. v. Butterfield Park Mut. Domestic Water Ass'n, C.A.10 (N.M.) 2002, 291 F.3d 1262. Waters And Water Courses 202

10c. ---- Service element

Nonprofit water association, though indebted to federal government, presently possessed no statutory protection from competition with respect to future customers in disputed area absent showing that it currently could provide service to any such future customer within reasonable time. Moongate Water Co., Inc. v. Dona Ana Mutual Domestic Water Consumers Ass'n, C.A.10 (N.M.) 2005, 420 F.3d 1082. Waters And Water Courses 202

Regional water district association providing water to areas located within county had legal right to serve new subdivision in previously unserved part of municipality, as would support its claim against municipality under Consolidated Farm and Rural Development Act section protecting rural water associations from encroachment of its service area by expanding municipalities; water association's original water service area included area of

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new subdivision, area was never removed from association's district, and municipality did not take steps to provide water and sewage service to area until after association had obtained loan from Rural Economic and Community Development Service (RECDS). Village of Grafton v. Rural Lorain County Water Authority, C.A.6 (Ohio) 2005, 419 F.3d 562. Waters And Water Courses 202

Rural water service association satisfied service element of test for statutory protection from competitive encroachment on service area under Consolidated Farm and Rural Development Act with respect to customer that competitor sought to serve, inasmuch as association had provided water service to customer's property and to entire area for many years and fees which association attempted to assess and easement which it sought for purposes of maintaining and servicing water line were not unreasonable. Moongate Water Co., Inc. v. Butterfield Park Mut. Domestic Water Ass'n, C.A.10 (N.M.) 2002, 291 F.3d 1262. Waters And Water Courses 202

11. Contracts with customers

Statute protecting rural water associations indebted to Farmers' Home Administration from municipal encroachment by means of annexation or grant of private franchise prohibited municipality from selling water to rural association's customer. Jennings Water, Inc. v. City of North Vernon, Ind., C.A.7 (Ind.) 1989, 895 F.2d 311. Waters And Water Courses 202

12. Effect of repurchase

Agricultural Credit Act of 1987 subsection, providing that Consolidated Farm and Rural Development Act provision protecting federally financed water associations against curtailment shall be applicable to all notes or other obligations sold or intended to be sold under Agricultural Credit Act, did not apply to bond issuer that repurchases its own bonds from Farmers Home Administration (FmHA), effectively extinguishing them and, thus, regional water district was no longer entitled to protection provided by Consolidated Farm and Rural Development Act against curtailment, after district repurchased its own bonds that it had previously issued to FmHA; district's indebtedness to FmHA was marked “paid in full” and debt was thus discharged, not “sold.” Scioto County Regional Water Dist. No. 1 v. Scioto Water Inc., C.A.6 (Ohio) 1996, 103 F.3d 38, certiorari denied117 S.Ct. 2497, 521 U.S. 1111, 138 L.Ed.2d 1003. Waters And Water Courses 202

13. Reborrowing

Water association which reborrowed federal funds after it had previously paid off its Farmers Home Administration (FmHA) loan pursuant to Agricultural Credit Act of 1987 would be entitled to protection in city's newly-annexed development area under Consolidated Farm and Rural Development Act provision protecting federally-indebted water associations against municipal encroachment only if association's entire water system was pledged as security for its reborrowing loan, which it obtained to construct separate project located approximately one mile from development area. Bell Arthur Water Corp. v. Greenville Utilities Com'n, E.D.N.C.1997, 972 F.Supp. 951, affirmed173 F.3d 517. Waters And Water Courses 202

14. Enforcement of section

Any question as to whether nonprofit water association could obtain statutory protection from competition with respect to future customers in disputed area was rendered moot by intervening administrative determination that association was prohibited from further construction of facilities in area. Moongate Water Co., Inc. v. Dona Ana Mutual Domestic Water Consumers Ass'n, C.A.10 (N.M.) 2005, 420 F.3d 1082. Federal Courts 13

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Claims asserted by rural county water association against municipality for its alleged misconduct over period of several years, both before and after deannexation proceedings, in selling water to certain customers that association allegedly had exclusive right to serve, upon theory that such sales violated federal antitrust law and statute regulating terms on which the Farmers' Home Administration (FmHA) could provide loans to water service associations, were not claims that could have been raised or adjudicated in administrative proceedings to deannex territory from water association, in which only issue was whether granting deannexation petition was in best interests of affected landowners and association, or on subsequent appeal of deannexation order to state courts; accordingly, water association's federal claims were not barred by claim preclusive effect of prior state administrative or judicial rulings. Pittsburg County Rural Water Dist. No. 7 v. City of McAlester, C.A.10 (Okla.) 2004, 358 F.3d 694, certiorari denied125 S.Ct. 44, 543 U.S. 810, 160 L.Ed.2d 13, certiorari denied125 S.Ct. 54, 543 U.S. 811, 160 L.Ed.2d 13. Judgment 828.7; Waters And Water Courses 202; Administrative Law And Procedure 501

Protection under statute prohibiting curtailment of any service provided by water district or association that is recipient of federal loan lapses when a rural water district's federal debt is retired. Rural Water District No. 3 v. Owasso Public Works Authority, N.D.Okla.2007, 2007 WL 464697. Waters And Water Courses 202

City had prudential standing to bring action challenging decision of United States Department of Agriculture (USDA) and Rural Utilities Service (RUS) to lend money to rural water association, despite government's contention that city's interests were at odds with purpose of Consolidated Farm and Rural Development Act; association and city were competitors for water service, and regulations promulgated pursuant to Act recognized that cities had interest in rural water development in surrounding areas. City of College Station v. U.S. Dept. of Agriculture, S.D.Tex.2005, 395 F.Supp.2d 495. Waters And Water Courses 202

Rural water association had no cause of action created by Consolidated Farm and Rural Development Act Consolidated Farm and Rural Development Act subsection protecting federally-indebted rural water associations against municipal encroachment for violation of subsection's terms, as subsection created enforceable right, but provided no mechanism for its enforcement. Rural Water System No. 1 v. City of Sioux Center, Iowa, N.D.Iowa 1997, 967 F.Supp. 1483, affirmed202 F.3d 1035, rehearing and rehearing en banc denied, certiorari denied121 S.Ct. 61, 531 U.S. 820, 148 L.Ed.2d 28. Action 3

15. Limitations

Iowa two-year personal injury statute of limitations governed rural water association's claim against city pursuant to § 1983 alleging violations of Consolidated Farm and Rural Development Act subsection protecting federally-indebted rural water associations against municipal encroachment, in association's action brought in federal district court sitting in Iowa. Rural Water System No. 1 v. City of Sioux Center, Iowa, N.D.Iowa 1997, 967 F.Supp. 1483, affirmed202 F.3d 1035, rehearing and rehearing en banc denied, certiorari denied121 S.Ct. 61, 531 U.S. 820, 148 L.Ed.2d 28. Civil Rights 1384

16. Injunction

Rural water service was not entitled to injunctive relief preventing city from running water lines to subdivision in which no development was planned in near future, to protect its exclusive right to provide water service, where city intended to run lines for purpose of fire protection and district failed to establish when, if ever, there would be water users in development or it would be able to serve them. Rural Water Dist. No. 1, Ellsworth County, Kansas v. City of Wilson, Kansas, C.A.10 (Kan.) 2001, 243 F.3d 1263, on remand211 F.Supp.2d 1324.

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Injunction 77(1)

Permanent injunction forbidding city to provide or offer to provide water service within rural water supply company's entire certificated area, albeit broad, was not abuse of district court's discretion in action in which court found that city violated statute protecting federally-indebted water associations from municipal expansion by providing water service to residential subdivisions in company's certificated area, although it would have been more prudent to limit injunction to disputed areas, where company had satisfied requirements of statute with respect to entire certificated area. North Alamo Water Supply Corp. v. City of San Juan, Tex., C.A.5 (Tex.) 1996, 90 F.3d 910, certiorari denied117 S.Ct. 586, 519 U.S. 1029, 136 L.Ed.2d 515. Waters And Water Courses 202

Judgment which contained injunction that extended rural water district's protection, under statute prohibiting curtailment of any service provided by water district or association that was recipient of federal loan, to its entire state-law geographic territory was void for vagueness, where it did not define types of services that would fall within scope of prohibited "expansion of services," it did not define district's "territory" adequately to enable public works authority to identify proper geographical limitation of the injunction, and it did not define temporal scope of the injunction. Rural Water District No. 3 v. Owasso Public Works Authority, N.D.Okla.2007, 2007 WL 464697. Constitutional Law 315; Waters And Water Courses 202

City was likely to prevail on merits of its claim that 40-year loan from United States Department of Agriculture (USDA) and Rural Utilities Service (RUS) to rural water association violated Consolidated Farm and Rural Development Act, and thus city was entitled to preliminary injunction barring agencies from funding loan to association, where majority of loan proceeds were to be used to acquire electronically read water meters, which had ten-year useful life, loan included funds for facilities in areas annexed by city, agencies did not consult with city officials to accommodate or address their concerns, association had contractually promised to transfer right to provide water service to areas annexed by city, required public meeting was held after agencies' approved loan, and approval of loan prevented city from providing water service to annexed areas for life of loan. City of College Station v. U.S. Dept. of Agriculture, S.D.Tex.2005, 395 F.Supp.2d 495. Injunction 138.66

City had substantial likelihood of prevailing on its claim that nonprofit water service corporation failed to comply with its own procedures and corporate bylaws in issuing notice of special meeting for purpose of voting on whether to accept loan and grant from United States Department of Agriculture Rural Utility Service (USDA RUS) for upgrade and improvement of its water supply system, and thus city was entitled to preliminary injunction requiring corporation to properly re-hold meeting, where notice did not appear to pertain to USDA loan or grant, and failed to contain sufficient information to describe items requiring votes and failed to adequately set forth amendments to be considered, and, if loan was funded, city would be precluded from annexing portions of corporation's district for 40 years without USDA approval. Melissa Indus. Development Corp. v. North Collin Water Supply Corp., E.D.Tex.2004, 316 F.Supp.2d 421. Injunction 138.42

17. Jurisdiction

Pursuant to *Brillhart* abstention doctrine, federal court would defer to pending parallel state court proceeding in which city sought a declaration of its rights and duties under the contract with rural water district, rather than exercising jurisdiction over district's federal court action, which sought declaration that contract violated federal statute relating to water and waste facility loans and grants; while presence of a federal question weighed heavily against abstention, other factors, including the relative progress of the litigation, the reactive nature of the

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district's federal action, the state courts' ability to decide federal statutory issues, and the effect of declaratory relief on city's legitimate choice of forum, which would undermine the state court's prerogative to decide the case before it, counseled, on balance, in favor of abstention. Clay Regional Water v. City of Spirit Lake, Iowa, N.D.Iowa 2002, 193 F.Supp.2d 1129. Federal Courts 51

7 U.S.C.A. § 1926, 7 USCA § 1926
Current through P.L. 110-198 approved 3-24-08

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