Rural Electrification Act of 1936

With Amendments as Approved through December 31, 2000

[U.S. Code, Title 7, Chap. 31]

AN ACT

To provide for rural electrification, and for other purposes.

TITLE I-Rural Electrification

SEC. 1. SHORT TITLE.-- This chapter may be cited as the "Rural Electrification Act of 1936".

[May 20, 1936, ch. 432, Title I, §1, 49 Stat. 1363; 1939 Reorg. Plan No. II, §5, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434; Oct. 28, 1949, ch. 776, §2, 63 Stat. 948; October 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(1), 108 Stat. 3220; 7 U.S.C. 901.] (NOTE: Provisions of this section that prescribed the basic annual compensation of the Administrator were omitted to conform to the provisions of the Federal Executive Salary Schedule. See section 2210 et. seq. of Title 5, Executive Departments and Government Officers and Employees.)

SEC. 2. GENERAL AUTHORITY OF THE SECRETARY OF AGRICULTURE--(a) LOANS.-- The Secretary of Agriculture (referred to in this chapter as the "Secretary") is authorized and empowered to make loans in the several States and Territories of the United States for rural electrification and for the purpose of furnishing and improving electric and telephone service in rural areas, as provided in this chapter, and for the purpose of assisting electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems.

(b) INVESTIGATIONS AND REPORTS.-- The Secretary may make, or cause to be made, studies, investigations, and reports regarding matters, including financial, technological, and regulatory matters, affecting the condition and progress of electric, telecommunications, and economic development in rural areas, and publish and disseminate information with respect to the matters.

[May 20, 1936, ch. 432, Title I, §2, 49 Stat. 1363; Oct. 28, 1949, ch. 776, §2, 3, 63 Stat. 948; Nov. 1, 1993, Public Law 103-129, §2(c)(1), 107 Stat. 1363; October 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(2), (13), 108 Stat. 3220, 3221; Apr. 4, 1996, Public Law 104-127, Title VII, Subtitle C, §771, 110 Stat. 1149; 7 U.S.C. 902.]

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.-- There are authorized to be appropriated such sums as are necessary to carry out this chapter.

[May 20, 1936, ch. 432, Title I, §3, 49 Stat. 1364; June 21, 1938, ch. 554, Title IV, §401, 52 Stat. 818; Sept. 21, 1944, ch. 412, Title V, §§501, 503, 504, 58 Stat. 739, 740; July 30, 1947, ch. 356, Title I, §1, 61 Stat. 546; Oct. 28, 1949, ch. 776, §§2, 4(a)-(d), 63 Stat. 948; June 15, 1955, ch. 139, §1, 69 Stat. 131; May 7, 1971, Public Law 92-12 §3(a), 85 Stat. 37; May 11, 1973, Public Law 93-32, §3, 87 Stat. 70; Oct. 13, 1994, Public

Law 103-354, Title II, Subtitle C, §235(a)(3), (13), 108 Stat. 3220, 3221; Apr. 4, 1996, Public Law 104-127, Title VII, §772(a), 110 Stat. 1149; 7 U.S.C. 903.]

SEC. 4. LOANS BY SECRETARY OF AGRICULTURE FOR ELECTRICAL PLANTS AND TRANSMISSION LINES, PREFERENCES; CONSENT OF STATE AUTHORITIES.-- The Secretary is authorized and empowered, from the sums hereinbefore authorized, to make loans for rural electrification to persons, corporations, States, Territories, and subdivisions and agencies thereof, municipalities, peoples' utility districts and cooperative, nonprofit, or limited-dividend associations, organized under the laws of any State or Territory of the United States, for the purpose of financing the construction and operation of generating plants, electric transmission and distribution lines or systems for the furnishing and improving of electric service to persons in rural areas, including by assisting electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems, and loans, from funds available under section 3 of this Act, to cooperative associations and municipalities for the purpose of enabling said cooperative associations, and municipalities to the extent that such indebtedness was incurred with respect to electric transmission and distribution lines or systems or portions thereof serving persons in rural areas, to discharge or refinance long-term debts owed by them to the Tennessee Valley Authority on account of loans made or credit extended under the terms of the Tennessee Valley Authority Act of 1933, as amended: Provided, That the Secretary, in making such loans, shall give preference to States, Territories, and subdivisions and agencies thereof, municipalities, peoples' utility districts, and cooperative, nonprofit, or limited-dividend associations, the projects of which comply with the requirements of this Act. Such loans shall be on such terms and conditions relating to the expenditure of the moneys loaned and the security therefor as the Secretary shall determine and may be made payable in whole or in part out of the income, except that no loan for the construction, operation, or enlargement of any generating plant shall be made unless the consent of the State authority having jurisdiction in the premises is first obtained. Loans under this section shall not be made unless the Secretary finds and certifies that in his judgment the security therefor is reasonably adequate and such loan will be repaid within the time agreed.

[May 20 1936, ch. 432, Title I, §4, 49 Stat. 1365; Sept. 21, 1944, ch. 412, Title V, §§502(a), 503, 58 Stat. 739; Dec. 23, 1944, ch. 725, 58 Stat. 925; June 29, 1948, Ch. 703, 62 Stat. 1070; Oct. 28, 1949, ch. 776, §§2, 4(e), 63 Stat. 948; June 15, 1955, ch. 139, §2, 69 Stat. 132; Nov. 1, 1993, Public Law 103-129, §2(c)(2), 107 Stat. 1363; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(13), 108 Stat. 3221; Apr. 4, 1996, Public Law 104-127, Title VII, §773, 104 Stat. 1149; 7 U.S.C. 904.]

SEC. 5. [Repealed April 4, 1996].

[This section related to loans for electrical and plumbing equipment and specified persons eligible for such loans.]

[May 20, 1936, ch. 432, Title I, §5, 49 Stat. 1365; Sept. 21, 1944, ch. 412, Title V, §502(b), 58 Stat. 739; Oct. 28, 1949, ch. 776, §2, 63 Stat. 948; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(13), 108 Stat. 3221; Apr. 4, 1996, Public Law 104-127, Title VII, Subtitle C, §774(a), 110 Stat. 1150; 7 U.S.C. 905.]

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.-- For the purpose of administering this Act and for the purpose of making the studies, investigations, publications, and reports herein provided for, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as

shall be necessary.

[May 20, 1936, ch. 432, Title I, §6, 49 Stat. 1365; Oct. 28, 1949, ch. 776, §2, 63 Stat. 948; Nov. 4, 1975, Public Law 94-124, §3, 89 Stat. 677; S. Res. 4, Feb. 4, 1977; Nov. 2, 1994, Public Law 103-437, §4(a)(3), 108 Stat. 4581; Apr. 4, 1996, Public Law 104-127, Title VII, Subtitle C, §775, 104 Stat. 1150; 7 U.S.C. 906.]

SEC. 7. ACQUISITION OF PROPERTY PLEDGED FOR LOANS; DISPOSITION, SALE OF PLEDGED PROPERTY BY BORROWER.--The Secretary is authorized and empowered to bid for and purchase at any foreclosure or other sale, or otherwise to acquire, property pledged or mortgaged to secure any loan made pursuant to this Act; to pay the purchase price and any costs and expenses incurred in connection therewith from the sums authorized in section 3 of this Act; to accept title to any property so purchased or acquired in the name of the United States of America; to operate or lease such property for such period as may be deemed necessary or advisable to protect the investment therein, but not to exceed five years after the acquisition thereof, and to sell such property so purchased or acquired, upon such terms and for such consideration as the Secretary shall determine to be reasonable. No borrower of funds under section 4 or section 201 shall, without the approval of the Secretary, sell or dispose of its property, rights, or franchises, acquired under the provisions of this Act, until any loan obtained from the Rural Electrification Administration, including all interest and charges, shall have been repaid.

[May 20, 1936, ch. 432, Title I, §7, 49 Stat. 1365; Oct. 28, 1949, ch. 776, §§2, 4(f), 63 Stat. 948; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(13), 108 Stat. 3221; 7 U.S.C. 907.]

SEC. 8. [Repealed April 4, 1996].

[This section related to the transfer of functions of the Rural Electrification Administration established by Executive Order Number 7037, dated May 11, 1935, to the Administrator authorized to be appointed by the Rural Electrification Act of 1936.]

[May 20, 1936, ch. 432, Title I, §8, 49 Stat. 1366; Oct. 28, 1949, ch. 776, §2, 63 Stat. 948; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(4), 108 Stat. 3221; Apr. 4, 1996, Public Law 104-127, Title VII, Subtitle C, §776, 110 Stat. 1150; 7 U.S.C. 908.]

SEC. 9. ADMINISTRATION ON NONPOLITICAL BASIS, DISMISSAL OF OFFICERS OR EMPLOYEES FOR VIOLATING PROVISIONS.--This Act shall be administered entirely on a nonpartisan basis, and in the appointment of officials the selection of employees, and in the promotion of any such officials, or employees no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency. If the Secretary herein provided for is found by the President of the United States to be guilty of a violation of this section, he shall be removed from office by the President, and any appointee or selection of officials or employees made by the Secretary who is found guilty of a violation of this Act shall be removed by the Secretary.

[May 20, 1936, ch. 432, Title I, §9, 49 Stat. 1366; Oct. 28, 1949, ch. 776, §2, 63 Stat. 948; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(13), 108 Stat. 3221; 7 U.S.C. 909.]

SEC. 10. [Repealed April 4, 1996].

[This section provided for an annual report to be presented to the Congress].

[May 20, 1936, ch. 432, Title I, §10, 49 Stat. 1366; Oct. 28, 1949, ch. 776, §2, 63 Stat 948; April 21, 1976, Public Law 94-273, §11(1), 90 Stat. 378; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(13), 108 Stat. 3221; Apr. 4, 1996, Public Law 104-127, Title VII, Subtitle C, §777, 110 Stat. 1150; 7 U.S.C. 910.]

SEC. 11. ACCEPTANCE OF SERVICES OF FEDERAL OR STATE OFFICERS; APPLICATION OF CIVIL SERVICE LAWS, EXPENDITURES FOR SUPPLIES AND EQUIPMENT.--In order to carry out the provisions of this Act the Secretary may accept and utilize such voluntary and uncompensated services of Federal, State, and local officers and employees as are available, and he may without regard to the provisions of civil-service laws applicable to officers and employees of the United States appoint and fix the compensation of attorneys engineers, and experts, and he may, subject to the civil-service laws, appoint such other officers and employees as he may find necessary and prescribe their duties. The Secretary is authorized, from sums appropriated pursuant to section 6, to make such expenditures (including expenditures for personal services, supplies and equipment; lawbooks and books of reference, directories and periodicals, travel expenses; rental at the seat of government and elsewhere, the purchase operation or maintenance of passenger-carrying vehicles; and printing and binding) as are appropriate and necessary to carry out the provisions of this Act.

[May 20, 1936, ch. 439, Title I, §11, 49 Stat. 1366; Oct. 28, 1949, ch. 776, §2, 63 Stat. 948; October 13, 1994, Public Law 103-354, Title II, Subtitle C, § 235(a)(13), 108 Stat. 3221; 7 U.S.C. 911.]

SEC. 11A. [Repealed Oct. 13, 1994].

[This section provided for an Assistant Administrator for Economic Development].

[Nov. 28, 1990, Public Law 101-624, Title XXIII, Subtitle E, §2350, 104 Stat. 4037; Dec. 13, 1991, Public Law 102-237, Title VII, §703(a), 105 Stat. 1881; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(5), 108 Stat. 3221; 7 U.S.C. 911a.]

SEC. 12. EXTENSION OF TIME FOR REPAYMENT OF LOANS.--(a) The Secretary is authorized and empowered to extend the time of payment of interest or principal of any loans made by the Secretary pursuant to this Act: Provided however, That with respect to any loan made under section 4 or section 201, the payment of interest or principal shall not be extended more than five years after such payment shall have become due.

> (b)(l) Subject to limitations established in appropriations Acts, the Secretary shall permit any borrower to defer the payment of principal and interest on any insured or direct loan made under this Act under circumstances described in this subsection, notwithstanding any limitation contained in subsection (a), except that such deferment shall not be permitted based on the determination of the Secretary of the financial hardship of the borrower.

(2) (A) In the case of deferments made to enable the borrower to provide financing to local businesses, the deferment shall be repaid in equal installments, without the accrual of interest, over the 60-month period beginning on the date of the deferment, and the total amount of such payments shall be equal to the amount of the payment deferred.

(B) In the case of deferments made to enable the borrower to provide community development assistance, technical assistance to businesses, and for other community, business, or economic development projects not included under subparagraph (A), the deferment shall be repaid in equal installments, without the accrual of interest, over the 120-month period beginning on the date of the deferment, and the total amount of such payments shall be equal to the amount of the payment deferred.

(3) (A) A borrower may defer its debt service payments only in an amount equal to an investment made by such borrower as described in paragraph (2).

(B) The amount of the deferment shall not exceed 50 percent of the total cost of a community or economic development project for which a deferment is provided under this subsection.

(C) The total amount of deferments under this subsection during each of the fiscal years 1990 through 1993 shall not exceed 3 percent of the total payments due during such fiscal year from all borrowers on direct and insured loans made under this Act and shall not exceed 5 percent of such total payments due in each subsequent fiscal year.

(D) At the time of a deferment, the borrower shall make a payment to a cushion of credit account established and maintained pursuant to section 313 in an amount equal to the amount of the payment deferred. The balance of such account shall not be reduced by the borrower below the level of the unpaid balance of the payment deferred. Subject to limitations established in annual appropriations Acts, such cushion of credit amounts and any other cushion of credit and advance payments of any borrower shall be included in the interest differential calculation under section 313(b) (2) (A).

(4) The Secretary shall undertake all reasonable efforts to permit the full amount of deferments authorized by this subsection during each fiscal year.

[May 20, 1936, ch. 432, Title I, §12, 49 Stat. 1366; Oct. 28, 1949, ch. 776, §§2, 4(f), 63 Stat. 948; Nov. 28, 1990, Public Law 101-624, Title XXIII, Subtitle E, §2344, 104 Stat. 4028; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(13), 108 Stat. 3221; Apr. 4, 1996, Public Law 104-127, Title VII, Subtitle C, §774(b), 110 Stat. 1150; 7 U.S.C. 912.]

SEC. 13. DEFINITIONS.--As used in this Act the term "rural area", except as provided in section 203(b), shall be deemed to mean any area of the United States not included within the boundaries of any urban area, as defined by the Bureau of the Census, and such term shall be deemed to include both the farm and nonfarm population thereof; the term "farm" shall be deemed to mean a farm as defined in the publications of the Bureau of the Census, the term "person" shall be deemed to mean any natural person, firm, corporation, or association; the term "Territory" shall be deemed to include any insular possession of the United States; and the term "Secretary" shall be deemed to mean the Secretary of Agriculture.

[May 20,1936, ch. 432, Title I, §13, 49 Stat. 1367; Oct. 28,1949, ch. 776, §2, 63 Stat. 948; Nov. 1, 1993, Public Law 103-129, §2(c)(3), 107 Stat. 1363; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C,

§235(a)(6), 108 Stat. 3221; 7 U.S.C.913.]

SEC.14. SEPARABILITY OF PROVISIONS.--If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

[May 20,1936, ch. 432, Title I, §14, 49 Stat. 1367; Oct. 28,1949, ch. 776 §2 63 Stat. 948; 7 U.S.C.914.]

SEC. 15. PURCHASE OF FINANCIAL AND CREDIT REPORTS.-- The Secretary of Agriculture is authorized to purchase such financial and credit reports as may be necessary to carry out its authorized work: Provided, That purchases under this authority shall not be made unless provision is made therefor in the applicable appropriation and the cost thereof is not in excess of limitations prescribed therein.

[Sept. 21, 1944, ch. 412, Title V, §505, 58 Stat. 740; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(b)(2), 108 Stat. 3221; 7 U.S.C. 915.]

SEC. 16. CRITERIA FOR LOANS.--In order to insure coordination of electric generation and transmission financing under this Act with the national energy policy, the Secretary in making or guaranteeing loans for the construction, operations, or enlargement of generating plants or electric transmission lines or systems shall consider such general criteria consistent with the provisions of this Act as may be published by the Secretary of Energy.

[Aug. 4, 1977, Public Law 95-91, Title VII, §709(f), 91 Stat. 608; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(13), 108 Stat. 3221; 7 U.S.C. 916.]

SEC. 17. PROHIBITION ON RESTRICTING WATER AND WASTE FACILITY SERVICES TO ELECTRIC CUSTOMERS.--(a) PROHIBITION. Assistance under any rural development program administered by the Secretary or any agency of the Department of Agriculture shall not be conditioned on any requirement that the recipient of the assistance accept or receive electric service from any particular utility, supplier, or cooperative.

(b) ENSURING COMPLIANCE. The Secretary shall establish, by regulation, adequate safeguards to ensure that assistance under any rural development program is not subject to such a condition. The safeguards shall include periodic certifications and audits, and appropriate measures and sanctions against any person violating, or attempting to violate subsection (a) of this section.

(c) RURAL DEVELOPMENT PROGRAMS DEFINED. In this section, the term "rural development program" means the following:

(1) Sections 304(b), 306, 306A, 306C, 306D, 310B, and 375 and subtitle E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924(b), 1926, 1926a, 1926c, 1926d, 1932, 2008j and 2009 et seq.).

(2) Subtitle G of title XVI and sections 2281, 2333, and 2381 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901-5908, 5177a, 950aaa-2, and 3125b).

(3) Subtitle C of title IX of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102-237; 7 U.S.C. 5930 note).

(4) Section 1323(b) of the Food Security Act of 1985 (Public Law 99-198; 7 U.S.C. 1932 note).

(5) Title V and section 603(c) of the Rural Development Act of 1972 (7 U.S.C. 2661-2669 and 2204a(c)).

(6) Sections 5 and 311 and title IV of this Act (7 U.S.C. 905, 940a, and 941-950b).

(d) REGULATIONS. Not later than 60 days after April 4, 1996, the Secretary shall issue final regulations to ensure compliance with subsection (a) of this section.

[Apr. 4, 1996, Public Law 104-127, Title VII, Subtitle C, §778, 110 Stat. 1150; 7 U.S.C. 917]

A prior section 17, as added Nov. 28, 1990, Public Law 101-624, Title XXIII, §2343, 104 Stat. 4027, related to the establishment of a technical assistance unit to provide advice and technical assistance to electric and telephone borrowers. This earlier section 17 was repealed effective Dec. 13, 1991 by Public Law 102-237, Title VII, §703(b), 105 Stat. 1881.

SEC. 18. GENERAL PROHIBITIONS.--

(a) NO CONSIDERATION OF BORROWER'S LEVEL OF GENERAL FUNDS.--The Secretary and the Governor of the telephone bank shall not deny or reduce any loan or loan advance under this Act based on a borrower's level of general funds.

(b) LOAN ORIGINATION FEES.--The Secretary and the Governor of the telephone bank may not charge any fee or charge not expressly provided in this Act in connection with any loan made or guaranteed under this Act.

(c) CONSULTANTS.--

(1) IN GENERAL.--To facilitate timely action on applications by borrowers for financial assistance under this Act and for approvals required of the Rural Electrification Administration pursuant to the terms of outstanding loan or security instruments or otherwise, the Secretary may use consultants funded by the borrower, paid for out of the general funds of the borrower, for financial, legal, engineering, and other technical advice and services in connection with the review of the application by the Rural Electrification Administration.

(2) CONFLICTS OF INTEREST.--The Secretary shall establish procedures for the selection and the provision of technical services by consultants to ensure that the consultants have no financial or other conflicts of interest in the outcome of the application of the borrower.

(3) PAYMENT OF COSTS.--The Secretary may not, without the consent of the borrower, require, as a condition of processing an application for approval, that the borrower agree to pay the costs, fees, and expenses of consultants hired to provide technical or advisory services to the Secretary.

(4) CONTRACTS, GRANTS, AND AGREEMENTS.--The Secretary may enter into such contracts, grants, or cooperative agreements as are necessary to carry out this section.

(5) USE OF CONSULTANTS.--Nothing in this subsection shall limit the authority of the Secretary to

retain the services of consultants from funds made available to the Secretary or otherwise.

[Nov. 28, 1990, Public Law 101-624, Title XXIII, Subtitle F, ch. 1 §2353, 104 Stat. 4039; Nov. 1, 1993, Public Law 103-129, §2(c)(4), 107 Stat. 1364; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(13), 108 Stat. 3221; 7 U.S.C. 918.]

SEC. 19. ENERGYGENERATION, TRANSMISSION, AND DISTRIBUTION FACILITIES EFFICIENCY GRANTS AND LOANS IN RURAL COMMUNITIES WITH EXTREMELY HIGH ENERGY COSTS.--(a) IN GENERAL.--The Secretary, acting through the Rural Utilities Service, may--

(1) in coordination with State rural development initiatives, make grants and loans to persons, States, political subdivisions of States, and other entities organized under the laws of States to acquire, construct, extend, upgrade, and otherwise improve energy generation, transmission, or distribution facilities serving communities in which the average residential expenditure for home energy is at least 275 percent of the national average residential expenditure for home energy (as determined by the Energy Information Agency using the most recent data available);

(2) make grants and loans to the Denali Commission established by the Denali Commission Act of 1998 (42 U.S.C. 3121 not; Public Law 105-277) to acquire, construct, extend, upgrade, and otherwise improve energy generation, transmission, or distribution facilities serving communities described in paragraph (1); and

(3) make grants to State entities, in existence as of the date of the enactment of this section, to establish and support a revolving fund to provide a more cost-effective means of purchasing fuel where the fuel cannot be shipped by means of surface transportation.

(b) AUTHORIZATION OF APPROPRIATIONS.--

(1) In General.--There are authorized to be appropriated to carry out this section $50,000,000 for fiscal year 2001 and such sums as are necessary for each subsequent fiscal year.

(2) Limitation on planning and administrative expenses.--Not more than 4 percent of the amounts made available under paragraph (1) may be used for planning and administrative expenses.

[Nov. 9, 2000, Public Law 106-472, Title III, § 301, 114 Stat. 2058, 7 U.S.C. 918a),