

FEDERAL CREDIT REFORM ACT OF 1990
Title V of the Congressional Budget Act of 1990

Title V

TITLE V--CREDIT REFORM

§ 500

SEC. 500. SHORT TITLE.

This title may be cited as the "Federal Credit Reform Act of 1990";.

§ 501

SEC. 501. PURPOSES.

The purposes of this title are to--

§ 501(1)

(1) measure more accurately the costs of Federal credit programs;

§ 501(2)

(2) place the cost of credit programs on a budgetary basis equivalent to other Federal spending;

§ 501(3)

(3) encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries; and

§ 501(4)

(4) improve the allocation of resources among credit programs and between credit and other spending programs.

§ 502

SEC. 502. DEFINITIONS.

For purposes of this title--

§ 502(1)

(1) The term "direct loan" means a disbursement of funds by the Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by another lender and financing arrangements that defer payment for more than 90 days, including the sale of a government asset on credit terms. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims or the price support loans of the Commodity Credit Corporation.

§ 502(2)

(2) The term "direct loan obligation" means a binding agreement by a Federal agency to make a direct loan when specified conditions are fulfilled by the borrower.

§ 502(3)

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

§ 502(4)

(4) The term "loan guarantee commitment" means a binding agreement by a Federal agency to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

§ 502(5)(A)

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

§ 502(5)(B)

(B) The cost of a direct loan shall be the net present value, at the time when the direct loan is disbursed, of the following estimated cash flows:

§ 502(5)(B)(i)

(i) loan disbursements;

§ 502(5)(B)(ii)

(ii) repayments of principal; and

§ 502(5)(B)(iii)

(iii) payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries;

including the effects of changes in loan terms resulting from the exercise by the borrower of an option included in the loan contract.

§ 502(5)(C)

(C) The cost of a loan guarantee shall be the net present value, at the time when the guaranteed loan is disbursed, of the following estimated cash flows:

§ 502(5)(C)(i)

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

§ 502(5)(C)(ii)

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

including the effects of changes in loan terms resulting from the exercise by the guaranteed lender of an option included in the loan guarantee contract, or by the borrower of an option included in the guaranteed loan contract.

§ 502(5)(D)

(D) The cost of a modification is the difference between the current estimate of the net present value of the remaining cash flows under the terms of a direct loan or loan guarantee contract, and the current estimate of the net present value of the remaining cash flows under the terms of the contract, as modified.

§ 502(5)(E)

(E) In estimating net present values, the discount rate shall be the average interest rate on marketable Treasury securities of similar maturity to the cash flows of the direct loan or loan guarantee for which the estimate is being made.

§ 502(5)(F)

(F) When funds are obligated for a direct loan or loan guarantee, the estimated cost

shall be based on the current assumptions, adjusted to incorporate the terms of the loan contract, for the fiscal year in which the funds are obligated.

§ 502(6)

(6) The term "credit program account" means the budget account into which an appropriation to cover the cost of a direct loan or loan guarantee program is made and from which such cost is disbursed to the financing account.

§ 502(7)

(7) The term "financing account" means the non-budget account or accounts associated with each credit program account which holds balances, receives the cost payment from the credit program account, and also includes all other cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made on or after October 1, 1991.

§ 502(8)

(8) The term "liquidating account" means the budget account that includes all cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991. These accounts shall be shown in the budget on a cash basis.

§ 502(9)

(9) The term "modification" means any Government action that alters the estimated cost of an outstanding direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment) from the current estimate of cash flows. This includes the sale of loan assets, with or without recourse, and the purchase of guaranteed loans. This also includes any action resulting from new legislation, or from the exercise of administrative discretion under existing law, that directly or indirectly alters the estimated cost of outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) such as a change in collection procedures.

§ 502(10)

(10) The term "current" has the same meaning as in section 250(c)(9) of the Balanced Budget and Emergency Deficit Control Act of 1985.

§ 502(11)

(11) The term "Director" means the Director of the Office of Management and Budget.

§ 503

SEC. 503. OMB AND CBO ANALYSIS, COORDINATION, AND REVIEW.

§ 503(a)

(a) IN GENERAL.--For the executive branch, the Director shall be responsible for coordinating the estimates required by this title. The Director shall consult with the agencies that administer direct loan or loan guarantee programs.

§ 503(b)

(b) DELEGATION.--The Director may delegate to agencies authority to make estimates of costs. The delegation of authority shall be based upon written guidelines, regulations, or criteria consistent with the definitions in this title.

§ 503(c)

(c) COORDINATION WITH THE CONGRESSIONAL BUDGET OFFICE.--In developing estimation guidelines, regulations, or criteria to be used by Federal agencies, the Director shall consult with the Director of the Congressional Budget Office.

§ 503(d)

(d) IMPROVING COST ESTIMATES.--The Director and the Director of the Congressional Budget Office shall coordinate the development of more accurate data on historical performance of direct loan and loan guarantee programs. They shall annually review the performance of outstanding direct loans and loan guarantees to improve estimates of costs. The Office of

Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate the development and improvement of estimates of costs.

§ 503(e)

(e) HISTORICAL CREDIT PROGRAMS COSTS.--The Director shall review, to the extent possible, historical data and develop the best possible estimates of adjustments that would convert aggregate historical budget data to credit reform accounting.

§ 503(f)

(f) ADMINISTRATIVE COSTS.--The Director and the Director of the Congressional Budget Office shall each analyze and report to Congress on differences in long-term administrative costs for credit programs versus grant programs by January 31, 1992. Their reports shall recommend to Congress any changes, if necessary, in the treatment of administrative costs under credit reform accounting.

§ 504

SEC. 504. BUDGETARY TREATMENT.

§ 504(a)

(a) PRESIDENT'S BUDGET.--Beginning with fiscal year 1992, the President's budget shall reflect the costs of direct loan and loan guarantee programs. The budget shall also include the planned level of new direct loan obligations or loan guarantee commitments associated with each appropriations request.

§ 504(b)

(b) APPROPRIATIONS REQUIRED. --Notwithstanding any other provision of law, new direct loan obligations may be incurred and new loan guarantee commitments may be made of fiscal year 1992 and thereafter only to the extent that--

§ 504(b)(1)

(1) new budget authority to cover their costs is provided in advance in an appropriations Act;

§ 504(b)(2)

(2) a limitation on the use of funds otherwise available for the cost of a direct loan or loan guarantee program has been provided in advance in an appropriations Act; or

§ 504(b)(3)

(3) authority is otherwise provided in appropriation Acts.

§ 504(c)

(c) EXEMPTION FOR MANDATORY PROGRAMS.--Subsections (b) and (e) shall not apply to a direct loan or loan guarantee program that--

§ 504(c)(1)

(1) constitutes an entitlement (such as the guaranteed student loan program or the veteran's home loan guaranty program); or

§ 504(c)(2)

(2) all existing credit programs of the Commodity Credit Corporation on the date of enactment of this title.

§ 504(d)

(d) BUDGET ACCOUNTING.--

§ 504(d)(1)

(1) The authority to incur new direct loan obligations, make new loan guarantee commitments, or modify outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) shall constitute new budget authority in an amount equal to the cost of the direct loan or loan guarantee in the fiscal year in which definite authority becomes available or indefinite authority is used. Such budget authority shall constitute an obligation of the credit program account to pay to the financing account.

§ 504(d)(2)

(2) The outlays resulting from new budget authority for the cost of direct loans or loan guarantees described in paragraph (1) shall be paid from the credit program account into the financing account and recorded in the fiscal year in which the direct loan or the guaranteed loan is disbursed or its costs altered.

§ 504(d)(3)

(3) All collections and payments of the financing accounts shall be a means of financing.

§ 504(e)

(e) MODIFICATIONS.--An outstanding direct loan (or direct loan obligation) or loan guarantee (or loan guarantee commitment) shall not be modified in a manner that increases its costs unless budget authority for the additional cost has been provided in advance in an appropriations Act.

§ 504(f)

(f) REESTIMATES.--When the estimated cost for a group of direct loans or loan guarantees for a given credit program made in a single fiscal year is reestimated in a subsequent year, the difference between the reestimated cost and the previous cost estimate shall be displayed as a distinct and separately identified subaccount in the credit program account as a change in program costs and a change in net interest. There is hereby provided permanent indefinite authority for these reestimates.

§ 504(g)

(g) ADMINISTRATIVE EXPENSES.--All funding for an agency's administration of a direct loan or loan guarantee program shall be displayed as distinct and separately identified subaccounts within the same budget account as the program's cost.

§ 505

SEC. 505. AUTHORIZATIONS.

§ 505(a)

(a) AUTHORIZATION OF APPROPRIATIONS FOR COSTS.--There are authorized to be appropriated to each Federal agency authorized to make direct loan obligations or loan guarantee commitments, such sums as may be necessary to pay the cost associated with such direct loan obligations or loan guarantee commitments.

§ 505(b)

(b) AUTHORIZATION FOR FINANCING ACCOUNTS.--In order to implement the accounting required by this title, the President is authorized to establish such non-budgetary accounts as may be appropriate.

§ 505(c)

(c) TREASURY TRANSACTIONS WITH THE FINANCING ACCOUNTS.--The Secretary of the Treasury

shall borrow from, receive from, lend to, or pay to the financing accounts such amounts as may be appropriate. The Secretary of the Treasury may prescribe forms and denominations, maturities, and terms and conditions for the transactions described above, except that the rate of interest charged by the Secretary on lending to financing accounts (including amounts treated as lending to financing accounts by the Federal Financing Bank (hereinafter in this subsection referred to as the "Bank") pursuant to section 406(b)) and the rate of interest paid to financing accounts on uninvested balances in financing accounts shall be the same as the rate determined pursuant to section 502(5)(E). For guaranteed loans financed by the Bank and treated as direct loans by a Federal agency pursuant to section 406(b), any fee or interest surcharge (the amount by which the interest rate charged exceeds the rate determined pursuant to section 502(5)(E)) that the Bank charges to a private borrower pursuant to section 6(c) of the Federal Financing Bank Act of 1973 shall be considered a cash flow to the Government for the purposes of determining the cost of the direct loan pursuant to section 502(5). All such amounts shall be credited to the appropriate financing account. The Bank is authorized to require reimbursement from a Federal agency to cover the administrative expenses of the Bank that are attributable to the direct loans financed for that agency. All such payments by an agency shall be considered administrative expenses subject to section 504(g). This subsection shall apply to transactions related to direct loan obligations or loan guarantee commitments made on or after October 1,

1991. The authorities described above shall not be construed to supersede or override the authority of the head of a Federal agency to administer and operate a direct loan or loan guarantee program. All of the transactions provided in this subsection shall be subject to the provisions of subchapter II of chapter 15 of title 31, United States Code. Cash balances of the financing accounts in excess of current requirements shall be maintained in a form of uninvested funds and the Secretary of the Treasury shall pay interest on these funds.

§ 505(d)(1)

(d) AUTHORIZATION FOR LIQUIDATING ACCOUNTS.--(1) Amounts in liquidating accounts shall be available only for payments resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991, for--

§ 505(d)(1)(A)

(A) interest payments and principal repayments to the Treasury or the Federal Financing Bank for amounts borrowed;

§ 505(d)(1)(B)

(B) disbursements of loans;

§ 505(d)(1)(C)

(C) default and other guarantee claim payments;

§ 505(d)(1)(D)

(D) interest supplement payments;

§ 505(d)(1)(E)

(E) payments for the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales;

§ 505(d)(1)(F)

(F) payments to financing accounts when required for modifications;

§ 505(d)(1)(G)

(G) administrative expenses, if--

§ 505(d)(1)(G)(i)

(i) amounts credited to the liquidating account would have been available for administrative expenses under a provision of law in effect prior to October 1, 1991; and

§ 505(d)(1)(G)(ii)

(ii) no direct loan obligation or loan guarantee commitment has been made, or any modification of a direct loan or loan guarantee has been made, since September 30, 1991; or

§ 505(d)(1)(H)

(H) such other payments as are necessary for the liquidation of such direct loan obligations and loan guarantee commitments.

§ 505(d)(2)

(2) Amounts credited to liquidating accounts in any year shall be available only for payments required in that year. Any unobligated balances in liquidating accounts at the end of a fiscal year shall be transferred to miscellaneous receipts as soon as practicable after the end of the fiscal year.

§ 505(d)(3)

(3) If funds in liquidating accounts are insufficient to satisfy obligations and commitments of such accounts, there is hereby provided permanent, indefinite authority to make any payments

required to be made on such obligations and commitments.

§ 505(e)

(e) AUTHORIZATION OF APPROPRIATIONS FOR IMPLEMENTATION EXPENSES.--There are authorized to

be appropriated to existing accounts such sums as may be necessary for salaries and expenses to carry out the responsibilities under this title.

§ 505(f)

(f) REINSURANCE.--Nothing in this title shall be construed as authorizing or requiring the purchase of insurance or reinsurance on a direct loan or loan guarantee from private insurers. If any such reinsurance for a direct loan or loan guarantee is authorized, the cost of such insurance and any recoveries to the Government shall be included in the calculation of the cost.

§ 505(g)

(g) ELIGIBILITY AND ASSISTANCE.--Nothing in this title shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by a direct loan or a loan guarantee.

§ 506

SEC. 506. TREATMENT OF DEPOSIT INSURANCE AND AGENCIES AND OTHER INSURANCE PROGRAMS.

§ 506(a)

(a) IN GENERAL.--This title shall not apply to the credit or insurance activities of the Federal Deposit Insurance Corporation, National Credit Union Administration, Resolution Trust Corporation, Pension Benefit Guaranty Corporation, National Flood Insurance, National Insurance Development Fund, Crop Insurance, or Tennessee Valley Authority.

§ 506(b)

(b) STUDY.--The Director and the Director of the Congressional Budget Office shall each study whether the accounting for Federal deposit insurance programs should be on a cash basis¹ on the same basis as loan guarantees, or on a different basis. Each Director shall report findings and recommendations to the President and the Congress on or before May 31, 1991.

§ 506(c)

(c) ACCESS TO DATA.-- For the purposes of subsection (b), the Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate these studies.

§ 507

SEC. 507. EFFECT ON OTHER LAWS

§ 507(a)

(a) EFFECT ON OTHER LAWS.--This title shall supersede, modify, or repeal any provision of law enacted prior to the date of enactment of this title to the extent such provision is inconsistent with this title. Nothing in this title shall be construed to establish a credit limitation on any Federal loan or loan guarantee program.

§ 507(b)

(b) CREDITING OF COLLECTIONS.--Collections resulting from direct loans obligated or loan guarantees committed prior to October 1, 1991, shall be credited to the liquidating accounts of Federal agencies. Amounts so credited shall be available, to the same extent that they were available prior to the date of enactment of this title, to liquidate obligations arising from such direct loans obligated or loan guarantees committed prior to October 1, 1991, including repayment of any obligations held by the Secretary of the Treasury or the Federal Financing Bank. The unobligated balances of such accounts that are in excess of current needs shall be transferred to the general fund of the Treasury. Such transfers shall be made from time to time but, at least once each year.

¹So in law. There probably should be a comma after "basis".