

**TITLE 20 - EDUCATION****CHAPTER 28 - HIGHER EDUCATION RESOURCES AND STUDENT ASSISTANCE****SUBCHAPTER VIII - MISCELLANEOUS****§ 1155. Connie Lee privatization****(a) Status of Corporation and corporate powers; obligations not federally guaranteed****(1) Status of the Corporation**

The Corporation shall not be an agency, instrumentality, or establishment of the United States Government, nor a Government corporation, nor a Government controlled corporation, as such terms are defined in section 103 of title 5. No action under section 1491 of title 28 (commonly known as the Tucker Act) shall be allowable against the United States based on the actions of the Corporation.

**(2) Corporate powers**

The Corporation shall be subject to the provisions of this section, and, to the extent not inconsistent with this section, to the District of Columbia Business Corporation Act (or the comparable law of another State, if applicable). The Corporation shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act (or such other applicable State law) as from time to time in effect in order to conduct the Corporation's affairs as a private, for-profit corporation and to carry out the Corporation's purposes and activities incidental thereto. The Corporation shall have the power to enter into contracts, to execute instruments, to incur liabilities, to provide products and services, and to do all things as are necessary or incidental to the proper management of the Corporation's affairs and the efficient operation of a private, for-profit business.

**(3) Limitation on ownership of stock****(A) Student Loan Marketing Association**

The Student Loan Marketing Association shall not increase its share of the ownership of the Corporation in excess of 42 percent of the shares of stock of the Corporation outstanding on September 30, 1996. The Student Loan Marketing Association shall not control the operation of the Corporation, except that the Student Loan Marketing Association may participate in the election of directors as a shareholder, and may continue to exercise the Student Loan Marketing Association's right to appoint directors under section 1132f-3 of this title as long as that section is in effect.

**(B) Prohibition**

Until such time as the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c) of this section, the Student Loan Marketing Association shall not provide financial support or guarantees to the Corporation.

**(C) Financial support or guarantees**

After the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c) of this section, the Student Loan Marketing Association may provide financial support or guarantees to the Corporation, if such support or guarantees are subject to terms and conditions that are no more advantageous to the Corporation than the terms and conditions the Student Loan Marketing Association provides to other entities, including, where applicable, other monoline financial guaranty corporations in which the Student Loan Marketing Association has no ownership interest.

**(4) No Federal guarantee****(A) Obligations insured by the Corporation**

- (i) Full faith and credit of the United States

No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the full faith and credit of the United States.

**(ii) Student Loan Marketing Association**

No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the Student Loan Marketing Association.

**(iii) Special rule**

This paragraph shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes.

**(B) Securities offered by the Corporation**

No debt or equity securities of the Corporation shall be deemed to be guaranteed by the full faith and credit of the United States.

**(5) “Corporation” defined**

The term “Corporation” as used in this section means the College Construction Loan Insurance Association as in existence on the day before September 30, 1996, and any successor corporation.

**(b) Related privatization requirements**

**(1) Notice requirements**

**(A) In general**

During the six-year period following September 30, 1996, the Corporation shall include, in each of the Corporation’s contracts for the insurance, guarantee, or reinsurance of obligations, and in each document offering debt or equity securities of the Corporation, a prominent statement providing notice that—

**(i)** such obligations or such securities, as the case may be, are not obligations of the United States, nor are such obligations or such securities, as the case may be, guaranteed in any way by the full faith and credit of the United States; and

**(ii)** the Corporation is not an instrumentality of the United States.

**(B) Additional notice**

During the five-year period following the sale of stock pursuant to subsection (c)(1) of this section, in addition to the notice requirements in subparagraph (A), the Corporation shall include, in each of the contracts and documents referred to in such subparagraph, a prominent statement providing notice that the United States is not an investor in the Corporation.

**(2) Corporate charter**

The Corporation’s charter shall be amended as necessary and without delay to conform to the requirements of this section.

**(3) Corporate name**

The name of the Corporation, or of any direct or indirect subsidiary thereof, may not contain the term “College Construction Loan Insurance Association”, or any substantially similar variation thereof.

**(4) Articles of incorporation**

The Corporation shall amend the Corporation’s articles of incorporation without delay to reflect that one of the purposes of the Corporation shall be to guarantee, insure, and reinsure bonds, leases, and other evidences of debt of educational institutions, including Historically Black Colleges and Universities and other academic institutions which are ranked in the lower investment grade category using a nationally recognized credit rating system.

**(5) Requirements until stock sale**

Notwithstanding subsection (d) of this section, the requirements of sections 1132f-3 and 1132f-9 of this title, as such sections were in effect on the day before September 30, 1996, shall continue to be effective until the day immediately following the date of closing of the purchase of the Secretary of Education's stock (or the date of closing of the final purchase, in the case of multiple transactions) pursuant to subsection (c)(1) of this Act.<sup>1</sup>

**(c) Sale of federally owned stock**

**(1) Purchase by the Corporation**

The Secretary of the Treasury shall sell and the Corporation shall purchase, within 90 days after September 30, 1996, the stock of the Corporation held by the Secretary of Education at a price determined by the binding, independent appraisal of a nationally recognized financial firm, except that the 90-day period may be extended by mutual agreement of the Secretary of the Treasury and the Corporation to not more than 150 days after September 30, 1996. The appraiser shall be jointly selected by the Secretary of the Treasury and the Corporation. In the event that the Secretary of the Treasury and the Corporation cannot agree on the appraiser, then the Secretary of the Treasury and the Corporation shall name an independent third party to select the appraiser.

**(2) Reimbursement of costs and expenses of sale**

The Secretary of the Treasury shall be reimbursed from the proceeds of the sale of the stock under this subsection for all reasonable costs and expenses related to such sale, except that one-half of all reasonable costs and expenses relating to the independent appraisal under paragraph (1) shall be borne by the Corporation.

**(3) Deposit into account**

Amounts collected from the sale of stock pursuant to this subsection that are not used to reimburse the Secretary of the Treasury pursuant to paragraph (2) shall be deposited into the account established under subsection (e) of this section.

**(4) Assistance by the Corporation**

The Corporation shall provide such assistance as the Secretary of the Treasury and the Secretary of Education may require to facilitate the sale of the stock under this subsection.

**(5) Report to Congress**

Not later than 6 months after September 30, 1996, the Secretary of the Treasury shall report to the appropriate committees of Congress on the completion and terms of the sale of stock of the Corporation pursuant to this subsection.

**(d) Omitted**

**(e) Establishment of account**

**(1) In general**

Notwithstanding any other provision of law, the District of Columbia Financial Responsibility and Management Assistance Authority shall establish an account to receive—

**(A)** amounts collected from the sale and proceeds resulting from the exercise of stock warrants pursuant to section 1087-3 (c)(9) of this title;

**(B)** amounts and proceeds remitted as compensation for the right to assign the "Sallie Mae" name as a trademark or service mark pursuant to section 1087-3 (e)(3) of this title; and

**(C)** amounts and proceeds collected from the sale of the stock of the Corporation and deposited pursuant to subsection (c)(3) of this section.

**(2) Amounts and proceeds**

**(A) Amounts and proceeds relating to Sallie Mae**

The amounts and proceeds described in subparagraphs (A) and (B) of paragraph (1) shall be used to finance public elementary and secondary school facility construction and repair within the District of Columbia or to carry out the District of Columbia School Reform Act of 1995.

**(B) Amounts and proceeds relating to Connie Lee**

The amounts and proceeds described in subparagraph (C) of paragraph (1) shall be used to finance public and public charter elementary and secondary school facility construction and repair within the District of Columbia. Of such amounts and proceeds, \$5,000,000 shall be set aside for a credit enhancement revolving fund for public charter schools in the District of Columbia, to be administered and disbursed in accordance with paragraph (3).

**(3) Credit enhancement revolving fund for public charter schools**

**(A) Distribution of amounts**

Of the amounts in the credit enhancement revolving fund established under paragraph (2)(B)—

- (i) 50 percent shall be used to make grants under subparagraph (B); and
- (ii) 50 percent shall be used to make grants under subparagraph (C).

**(B) Grants to eligible nonprofit corporations**

**(i) In general**

Using the amounts described in subparagraph (A)(i), the Mayor of the District of Columbia shall make and disburse grants to eligible nonprofit corporations to carry out the purposes described in subparagraph (E).

**(ii) Administration**

Subject to subparagraph (F), the Mayor shall administer the program of grants under this subparagraph, except that if the committee described in subparagraph (C)(iii) is in operation and is fully functional prior to the date the Mayor makes the grants, the Mayor may delegate the administration of the program to the committee.

**(C) Other grants**

**(i) In general**

Using the amounts described in subparagraph (A)(ii), the Mayor of the District of Columbia shall make grants to entities to carry out the purposes described in subparagraph (E).

**(ii) Participation of schools**

A public charter school in the District of Columbia may receive a grant under this subparagraph to carry out the purposes described in subparagraph (E) in the same manner as other entities receiving grants to carry out such activities.

**(iii) Administration through committee**

Subject to subparagraph (F), the Mayor shall carry out this subparagraph through the committee appointed by the Mayor under the second sentence of paragraph (2)(B) (as in effect prior to November 22, 2000). The committee may enter into an agreement with a third party to carry out its responsibilities under this subparagraph.

**(iv) Cap on administrative costs**

Not more than 5 percent of the funds available for grants under this subparagraph for a fiscal year may be used to cover the administrative costs of making grants under this subparagraph for the fiscal year.

**(D) Special rule regarding eligibility of nonprofit corporations**

In order to be eligible to receive a grant under this paragraph, a nonprofit corporation must provide appropriate certification to the Mayor or to the committee described in subparagraph (C)(iii) (as the case may be) that it is duly authorized by two or more public charter schools in the District of Columbia to act on their behalf in obtaining financing (or in assisting them in obtaining financing) to cover the costs of activities described in subparagraph (E)(i).

**(E) Purposes of grants**

**(i) In general**

The recipient of a grant under this paragraph shall use the funds provided under the grant to carry out activities to assist public charter schools in the District of Columbia in—

**(I)** obtaining financing to acquire interests in real property (including by purchase, lease, or donation), including financing to cover planning, development, and other incidental costs;

**(II)** obtaining financing for construction of facilities or the renovation, repair, or alteration of existing property or facilities (including the purchase or replacement of fixtures and equipment), including financing to cover planning, development, and other incidental costs;

**(III)** enhancing the availability of loans (including mortgages) and bonds; and

**(IV)** obtaining lease guarantees (in accordance with regulations promulgated by the Office of Public Charter School Financing).

**(ii) No direct funding for schools**

Funds provided under a grant under this subparagraph may not be used by a recipient to make direct loans or grants to public charter schools.

**(F) Role of Office of Public Charter School Financing and Support**

During fiscal year 2003 and each succeeding fiscal year, the Office of Public Charter School Financing and Support shall be responsible for receiving applications, making payments, and otherwise administering this paragraph, except that no grant may be made under this paragraph without the approval of the committee described in subparagraph (C)(iii).

**Footnotes**

<sup>1</sup> So in original. Probably should be “section.”

(Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 603], Sept. 30, 1996, 110 Stat. 3009–233, 3009–290; Pub. L. 106–113, div. A, title I, § 153, Nov. 29, 1999, 113 Stat. 1526; Pub. L. 106–522, § 161, Nov. 22, 2000, 114 Stat. 2483; Pub. L. 106–553, § 1(a)(1) [§ 161], Dec. 21, 2000, 114 Stat. 2762, 2762A–45; Pub. L. 106–554, § 1(a)(4) [div. A, § 406(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–189; Pub. L. 107–96, Dec. 21, 2001, 115 Stat. 936; Pub. L. 108–7, div. C, title III, § 143(c), Feb. 20, 2003, 117 Stat. 131; Pub. L. 108–199, div. C, title IV, § 434, Jan. 23, 2004, 118 Stat. 141; Pub. L. 108–335, title III, § 340(a), Oct. 18, 2004, 118 Stat. 1348; Pub. L. 108–447, div. J, title I, § 103(a)(2), Dec. 8, 2004, 118 Stat. 3341.)

**References in Text**

The District of Columbia Business Corporation Act, referred to in subsec. (a)(2), is act June 8, 1954, ch. 269, 68 Stat. 179, as amended, which is not classified to the Code.

Sections 1132f–3 and 1132f–9 of this title, referred to in subsecs. (a)(3)(A) and (b)(5), were repealed by subsec. (d) of this section.

The District of Columbia School Reform Act of 1995, referred to in subsec. (e)(2)(A), is Pub. L. 104–134, title I, § 101(b) [title II], Apr. 26, 1996, 110 Stat. 1321–77, 1321–107, as amended, which amended sections 6322, 6364, and 6365 of this title and enacted provisions set out as a note under section 6322 of this title. For complete classification of this Act to the Code, see Tables.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2012 (see <http://www.law.cornell.edu/uscode/uscript.html>).

## Codification

Section was formerly classified to section 1132f–10 of this title.

Section enacted as part of the Student Loan Marketing Association Reorganization Act of 1996, and not as part of the Higher Education Act of 1965 which comprises this chapter.

Section is comprised of section 101 (e) [title VI, § 603] of div. A of Pub. L. 104–208. Subsec. (d) of section 603 of title VI of section 101(e) of Pub. L. 104–208, repealed sections 1132f to 1132f–9 of this title.

## Amendments

2004—Subsec. (e)(3)(C)(iv). Pub. L. 108–199 inserted “for a fiscal year” after “this subparagraph” and “for the fiscal year” before period at end.

Subsec. (e)(3)(E)(i)(IV). Pub. L. 108–335, § 340, as amended by Pub. L. 108–447, which directed the amendment of subsec. (e)(3)(E) by adding subcl. (IV) at the end, was executed by adding subcl. (IV) at the end of cl. (i), to reflect the probable intent of Congress.

2003—Subsec. (e)(3)(B)(ii), (C)(iii). Pub. L. 108–7, § 143(c)(1), substituted “Subject to subparagraph (F), the Mayor” for “The Mayor”.

Subsec. (e)(3)(F). Pub. L. 108–7, § 143(c)(2), added subpar. (F).

2001—Subsec. (e)(2)(B). Pub. L. 107–96, par. (2), which directed amendment of section 161 of Pub. L. 106–522, by inserting “revolving” after “enhancement” in second sentence of par. (2)(B), was executed by revising the amendment by Pub. L. 106–522, § 161(1), which had amended the second sentence of subsec. (e)(2)(B) of this section, to reflect the probable intent of Congress. See 2000 Amendment note below.

Subsec. (e)(3). Pub. L. 107–96, pars. (1), (3), amended Pub. L. 106–522, § 161(2). See 2000 Amendment note below.

Pub. L. 107–96, par. (2), which directed amendment of section 161 of Pub. L. 106–522, by inserting “revolving” after “enhancement” in heading of par. (3) and in par. (3)(A), was executed by revising the amendment by Pub. L. 106–522, § 161(2), which had added subsec. (e)(3) to this section, to reflect the probable intent of Congress. See 2000 Amendment note below.

Subsec. (e)(3)(C)(iv). Pub. L. 107–96, proviso, which directed amendment of the cap on administrative costs as amended by Pub. L. 106–522, § 161, by substituting “5 percent” for “10 percent”, could not be executed because the words “10 percent” did not appear in this section after the amendment of Pub. L. 106–522, § 161(2), by Pub. L. 107–96, par. (3). See 2000 Amendment note below.

2000—Subsec. (e)(2)(B). Pub. L. 106–553, § 1(a)(1) [§ 161(1)], which directed amendment identical to amendment by Pub. L. 106–522, § 161(1), below, was repealed by Pub. L. 106–554, § 1(a)(4) [div. A, § 406(a)]. See Effective Date and Construction of 2000 Amendment note below.

Pub. L. 106–522, § 161(1), as amended by Pub. L. 107–96, par. (2), amended second sentence generally. Prior to amendment, second sentence read as follows: “Of such amounts and proceeds, \$5,000,000 shall be set aside for use as a credit enhancement fund for public charter schools in the District of Columbia, with the administration of the fund (including the making of loans) to be carried out by the Mayor through a committee consisting of three individuals appointed by the Mayor of the District of Columbia and two individuals appointed by the Public Charter School Board established under section 2214 of the District of Columbia School Reform Act of 1995.”

Subsec. (e)(3). Pub. L. 106–553, § 1(a)(1) [§ 161(2)], which directed amendment identical to amendment by Pub. L. 106–522, § 161(2), below, was repealed by Pub. L. 106–554, § 1(a)(4) [div. A, § 406(a)]. See Effective Date and Construction of 2000 Amendment note below.

Pub. L. 106–522, § 161(2), as amended by Pub. L. 107–96, pars. (1) to (3), added par. (3).

1999—Subsec. (e)(2)(B). Pub. L. 106–113 inserted “and public charter” after “public” and inserted at end “Of such amounts and proceeds, \$5,000,000 shall be set aside for use as a credit enhancement fund for public charter schools in the District of Columbia, with the administration of the fund (including the making of loans) to be carried out by the Mayor through a committee consisting of three individuals appointed by the Mayor of the District of Columbia and two individuals appointed by the Public Charter School Board established under section 2214 of the District of Columbia School Reform Act of 1995.”

## Effective Date of 2004 Amendment

Pub. L. 108–447, div. J, title I, § 103(b), Dec. 8, 2004, 118 Stat. 3343, provided that: “The amendments made by this section [amending this section] shall take effect as if included in the enactment of the District of Columbia Appropriations Act, 2005 [Pub. L. 108–335].”

*NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2012 (see <http://www.law.cornell.edu/uscode/uscpri.html>).*

### **Effective Date of 2001 Amendment**

Pub. L. 107-96, Dec. 21, 2001, 115 Stat. 936, provided that the amendments made by that act to section 161 of Pub. L. 106-522 are effective as if included in Pub. L. 106-522.

### **Effective Date and Construction of 2000 Amendment**

Pub. L. 106-554, § 1(a)(4) [div. A, § 406], Dec. 21, 2000, 114 Stat. 2763, 2763A-189, provided that:

“(a) The provisions of H.R. 5547 (as enacted into law by H.R. 4942 of the 106th Congress) [H.R. 5547 as enacted by section 1(a)(1) of Pub. L. 106-553, amending this section and enacting provisions set out as a note under section 6301 of Title 31, Money and Finance] are repealed and shall be deemed for all purposes (including 1(b) of H.R. 4942 [Pub. L. 106-553, 1 U.S.C. 112 note ]) to have never been enacted.

“(b) The repeal made by this section shall take effect as if included in H.R. 4942 of the 106th Congress [Pub. L. 106-553] on the date of its enactment [Dec. 21, 2000].”