

# Improving WIFIA for Dam Safety and Flood Control Infrastructure Act

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Version 1.0

## A BILL

To amend the Water Infrastructure Finance and Innovation Act of 2014 with respect to improving oversight and effectiveness of certain amounts of financial assistance to dam safety and flood control infrastructure projects, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Improving WIFIA for Dam Safety and Flood Control Infrastructure Act”.

### SEC. 2. CLARIFICATION OF NON-FEDERAL BORROWER DEFINITION.

Section 5022 of the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3901) is amended by inserting the following:

#### “(16) Non-Federal borrower

The term “non-Federal borrower” means an obligor of a secured loan under section 3908 of this title that is:

- (A) not a Federal entity, agency, or instrumentality;
- (B) obligated to repay the principal and interest of the secured loan exclusively from non-Federal sources, and such sources are explicitly identified in rating opinion letters under section 3907 (a)(1)(D) of this title;
- (C) able to demonstrate that the measurable value it expects to receive from the non-Federal share of the project paid for by the proceeds of the secured loan is commensurate with the secured loan repayment obligation associated with that non-Federal share;
- (D) able to demonstrate that the decision to enter into an obligation to repay the secured loan was made (i) on an arms-length basis consistent with its normal procedures for financing major capital expenditures, (ii) independently of any Federal participant in the project, and (iii) with respect solely to the value it expects to receive from the project; and

(E) deemed to be consistent with the meaning of a “non-Federal borrower” as that term is used in the definition of a “direct loan” in Section 502 (1) of the Federal Credit Reform Act of 1990 (2 USC 661a).”

### **SEC. 3. CLARIFICATION OF NON-FEDERAL SHARE ELIGIBILITY**

Section 5029(b) of the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3908(b)) is amended by striking paragraph (8) and inserting the following:

#### **“(8) Non-Federal share**

The proceeds of a secured loan under this section may be used to pay any non-Federal share of project costs required if the Administrator or the Secretary, as applicable, determines that the obligor of the secured loan is a non-Federal borrower.”

### **SEC. 4. MATURITY DATE FOR DAM SAFETY AND FLOOD CONTROL INFRASTRUCTURE PROJECTS WITH A USEFUL LIFE OF MORE THAN 35 YEARS.**

Section 5029(b)(5) of the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3908(b)(5)) is amended—

(1) in subparagraph (B), by striking “The final maturity date” and inserting “Notwithstanding subparagraphs (A) and (B), the final maturity date”;

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

“Notwithstanding subparagraph (A), for a dam safety and flood control infrastructure projects with a useful life of more than 35 years (as determined by the Secretary or the Administrator, as applicable) the final maturity date of a secured loan under this section shall be not later than the earlier of –

“(i) the date that is 55 years after the date of substantial completion of the relevant project (as determined by the Secretary or the Administrator, as applicable); and

“(ii) if the useful life of the project is less than 55 years, the useful life of the project.”

## **Congressional Directive to Modify Criteria**

### **WATER INFRASTRUCTURE FINANCE AND INNOVATION PROGRAM ACCOUNT**

*...Provided further,* That the Administrator, together with the Secretary of the Army and the Director of the Office of Management and Budget, shall jointly review and modify the criteria published in the Federal Register on June 30, 2020 (85 FR 39189) pursuant to the fourth proviso under the heading “Water Infrastructure Finance and Innovation Program Account” in division D of the Further Consolidated Appropriations Act, 2020 (Public Law 116–94) to conform with amendments to the Water Infrastructure Finance and Innovation Act of 2014 enacted by this Act; and the Administrator, the Secretary and the Director shall, not later than 120 days after the date of enactment of this Act, publish such modified criteria in the Federal Register.

*...Provided further,* That, in reviewing and modifying the criteria, the Administrator, the Secretary, and the Director, shall consult with the Director of the Congressional Budget Office.

*...Provided further,* That the requirements of section 553 of title 5, United States Code, shall apply to the development and publication of such criteria.