

114TH CONGRESS
2D SESSION

S. 3382

To amend title 31, United States Code, to provide for the issuance of Green Bonds and to establish the United States Green Bank, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22, 2016

Mr. MURPHY (for himself, Mr. BLUMENTHAL, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title 31, United States Code, to provide for the issuance of Green Bonds and to establish the United States Green Bank, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CAPITALIZATION, METHOD OF CAPITAL STOCK**
4 **PAYMENTS, ISSUANCE OF GREEN BONDS.**

5 Chapter 31 of title 31, United States Code, is amend-
6 ed by adding after section 3102 the following new section:

7 **“§ 3102A. Green Bonds**

8 **“(a) INITIAL CAPITALIZATION.—**The Secretary of the
9 Treasury shall issue bonds (in this section referred to as

1 ‘Green Bonds’) in the amount of \$10,000,000,000 on the
2 credit of the United States to acquire capital stock of the
3 United States Green Bank (established under section
4 9801 of this title). Stock certificates evidencing ownership
5 in the United States Green Bank shall be issued by the
6 Green Bank to the Secretary of the Treasury, to the ex-
7 tent of payments made for the capital stock of the Green
8 Bank.

9 “(b) FUTURE CAPITALIZATION.—Upon the request
10 of the United States Green Bank, the Secretary of the
11 Treasury shall issue additional Green Bonds on the credit
12 of the United States to acquire additional capital stock
13 of the United States Green Bank in an aggregate amount
14 not to exceed \$50,000,000,000 outstanding at any one
15 time.

16 “(c) DENOMINATIONS AND MATURITY.—Green
17 Bonds shall be in such forms and denominations, and shall
18 mature within such periods, as determined by the Sec-
19 retary of the Treasury.

20 “(d) INTEREST.—Green Bonds shall bear interest at
21 a rate not less than the current average yield on out-
22 standing market obligations of the United States of com-
23 parable maturity during the month preceding the issuance
24 of the obligation as determined by the Secretary of the
25 Treasury.

1 “(e) GUARANTEED.—Green Bonds shall be fully and
 2 unconditionally guaranteed both as to interest and prin-
 3 cipal by the United States, and such guaranty shall be
 4 expressed on the face of each bond.

5 “(f) LAWFUL INVESTMENTS.—Green Bonds shall be
 6 lawful investments, and may be accepted as security for
 7 all fiduciary, trust, and public funds, the investment or
 8 deposit of which shall be under the authority or control
 9 of the United States or any officer or officers thereof.”.

10 **SEC. 2. GREEN BANK.**

11 Title 31, United States Code, is amended by adding
 12 the following new chapter at the end thereof:

13 **“CHAPTER 98—GREEN BANK**

14 **“§ 9801. United States Green Bank**

15 “(a) SHORT TITLE.—This section may be cited as the
 16 ‘United States Green Bank Act of 2016’.

17 “(b) PURPOSES.—The purposes of this section are as
 18 follows:

19 “(1) To significantly increase the pace and
 20 amount of investment in clean energy and energy ef-
 21 ficiency projects at the State and local level.

22 “(2) To improve the standard of living for
 23 Americans by delivering clean electricity more effi-
 24 ciently and at lower cost and by funding projects
 25 that will create high-paying, long-term jobs.

1 “(3) To address the main impediment to invest-
2 ment at the State and local level—limited capital
3 and tight balance sheets—by establishing a national
4 Green Bank to capitalize legitimate Regional, State,
5 and Municipal Green Banks.

6 “(4) To facilitate—

7 “(A) efficient tax equity markets for quali-
8 fied clean energy projects; and

9 “(B) the financing of long-term clean en-
10 ergy purchasing by governmental and non-
11 governmental not-for-profit entities.

12 “(5) To foster—

13 “(A) the development and consistent appli-
14 cation of transparent underwriting standards,
15 standard contractual terms, and measurement
16 and verification protocols for qualified clean en-
17 ergy projects and qualified energy efficiency
18 projects;

19 “(B) the creation of performance data that
20 enables effective underwriting, risk manage-
21 ment, and pro forma modeling of financial per-
22 formance of qualified clean energy projects and
23 qualified energy efficiency projects to support
24 primary financing markets and stimulate devel-
25 opment of secondary investment markets for

1 clean energy projects and energy efficiency
2 projects; and

3 “(C) the level of financing support for
4 qualified clean energy projects and qualified en-
5 ergy efficiency projects necessary to advance
6 vital national objectives, including—

7 “(i) achieving energy independence
8 from foreign energy sources;

9 “(ii) abating climate change by in-
10 creasing zero or low carbon electricity gen-
11 eration and transportation capabilities;

12 “(iii) realizing energy efficiency poten-
13 tial in existing infrastructure;

14 “(iv) easing the economic effects of
15 transitioning from a carbon-based economy
16 to a clean energy economy;

17 “(v) achieving job creation through
18 the construction and operation of qualified
19 clean energy projects and qualified energy
20 efficiency projects;

21 “(vi) fostering long-term domestic
22 manufacturing capacity in the clean energy
23 and energy efficiency industries; and

24 “(vii) complementing and supplement-
25 ing other clean energy and energy effi-

1 ciency legislation at the regional, State,
2 municipal, and county level.

3 “(c) DEFINITIONS.—In this section:

4 “(1) BANK.—The term ‘Bank’ means the
5 United States Green Bank established under sub-
6 section (d).

7 “(2) BOARD.—The term ‘Board’ means the
8 Board of Directors of the Bank.

9 “(3) CLEAN ENERGY PROJECT.—The term
10 ‘clean energy project’ means any electricity genera-
11 tion, transmission, storage, heating, cooling, trans-
12 portation, distribution, industrial process, or manu-
13 facturing project whose primary purpose is the de-
14 ployment, development, or production of an energy
15 system or technology that avoids, reduces, or seques-
16 ters air pollutants or anthropogenic greenhouse
17 gases, including the following:

18 “(A) Solar.

19 “(B) Wind.

20 “(C) Geothermal.

21 “(D) Biomass.

22 “(E) Hydropower.

23 “(F) Ocean and hydrokinetic.

24 “(G) Fuel cell.

25 “(H) Advanced battery.

1 “(I) Carbon capture and sequestration.

2 “(J) Next generation biofuels from
3 nonfood feedstocks.

4 “(K) Alternative vehicle fuel infrastruc-
5 ture.

6 “(L) Alternative fuel vehicles.

7 “(4) ELIGIBLE CLEAN ENERGY FINANCING IN-
8 STITUTION.—The term ‘Eligible Clean Energy Fi-
9 nancing Institution’ means a not-for-profit, inde-
10 pendent entity, quasi-independent entity, or a gov-
11 ernmental entity within an agency or financing au-
12 thority, established or designated by a State, group
13 of States, the District of Columbia, or an Eligible
14 State Political Subdivision to—

15 “(A) provide low-cost or long-term financ-
16 ing support or credit enhancements, including
17 loan guarantees and loan loss reserves, for
18 Qualified Clean Energy Projects or Qualified
19 Energy Efficiency Projects; and

20 “(B) create liquid markets for these
21 projects including warehousing and securitiza-
22 tion, or take other steps to reduce financial bar-
23 riers to the deployment of existing and innova-
24 tive clean energy and energy efficiency projects.

25 Eligible Clean Energy Financing Institutions

1 may enter into partnerships with private enti-
2 ties.

3 “(5) ELIGIBLE STATE POLITICAL SUBDIVI-
4 SION.—The term ‘Eligible State Political Subdivi-
5 sion’ shall mean any municipality, county or other
6 political subdivision within a State that, based on
7 the population data from the most recent U.S. Cen-
8 sus Bureau, meets the following criteria—

9 “(A) a municipality with a population of
10 no less than 200,000 people;

11 “(B) a county, parish or borough with a
12 population of no less than 800,000 people; or

13 “(C) a municipality, county, parish, or bor-
14 ough with a population—

15 “(i) of no less than 84,000 people;

16 and

17 “(ii) that constitutes no less than 5
18 percent of that State’s total population.

19 “(6) ENERGY EFFICIENCY PROJECT.—The term
20 ‘energy efficiency project’ means any project, tech-
21 nology, function, or measure that results in the re-
22 duction of energy use required to achieve the same
23 level of service or output prior to the application of
24 such project, technology, function, or measure, or
25 substantially reduces greenhouse gas emissions rel-

1 ative to emissions that would have occurred prior to
2 the application of such project, technology, function,
3 or measure.

4 “(7) GREEN BOND.—The term ‘Green Bond’
5 means a bond issued pursuant to section 3102A of
6 this title.

7 “(8) QUALIFIED CLEAN ENERGY PROJECT.—
8 The term ‘qualified clean energy project’ means a
9 clean energy project that—

10 “(A) is a Clean Energy Project carried out
11 domestically within the territorial borders of the
12 United States;

13 “(B) stays current on interest and debt
14 payment obligations;

15 “(C) to the extent otherwise required by
16 law, pays wages in accordance with subchapter
17 IV of chapter 31 of title 40, United States Code
18 (commonly referred to as the Davis-Bacon Act);

19 “(D) if for nuclear power, is funded by the
20 Bank only after all other existing Federal fi-
21 nancial support has been expended;

22 “(E) if for Alternative fuel vehicles, is for
23 the purchase or lease of eligible vehicles and not
24 the design or manufacture thereof; and

1 “(F) satisfies any other conditions estab-
2 lished by the Bank and published in the Fed-
3 eral Register.

4 “(9) QUALIFIED ENERGY EFFICIENCY
5 PROJECT.—The term ‘qualified energy efficiency
6 project’ means an energy efficiency project, includ-
7 ing smart grid technologies and functions character-
8 ized in section 1301 of the Energy Independence
9 and Security Act of 2007 and end-use technologies
10 for efficiency gains in new construction and across
11 existing infrastructure that—

12 “(A) is an Energy Efficiency Project car-
13 ried out domestically within the territorial bor-
14 ders of the United States;

15 “(B) stays current on interest and debt
16 payment obligations;

17 “(C) to the extent otherwise required by
18 law, pays wages in accordance with subchapter
19 IV of chapter 31 of title 40, United States Code
20 (commonly referred to as the Davis-Bacon Act);
21 and

22 “(D) satisfies any other conditions estab-
23 lished by the Bank and published in the Fed-
24 eral Register.

25 “(d) GREEN BANK.—

1 “(1) ESTABLISHMENT OF CORPORATION.—

2 There is established a corporation to be known as
3 the United States Green Bank that shall be wholly
4 owned by the United States.

5 “(2) OVERSIGHT.—The Bank shall be subject
6 to the general supervision and direction of the Sec-
7 retary of the Treasury. The Bank shall be an instru-
8 mentality of the United States Government and shall
9 maintain such offices as may be necessary or appro-
10 priate in the conduct of its business.

11 “(3) CHARTER.—The Bank shall be chartered
12 for 20 years from the date of enactment of this sec-
13 tion.

14 “(4) GOVERNANCE.—

15 “(A) BOARD OF DIRECTORS OF THE
16 BANK.—

17 “(i) IN GENERAL.—The Bank shall be
18 under the direction of a Board of Directors
19 consisting of 7 members and be subject to
20 the general supervision and direction of the
21 Secretary of the Treasury as Chairman of
22 the Board.

23 “(ii) MEMBERSHIP.—The Board shall
24 consist of 7 members, as follows:

1 “(I) The Secretary of the Treas-
2 ury or the Secretary’s designee as
3 Chairman of the Board.

4 “(II) The Secretary of Energy or
5 the Secretary’s designee.

6 “(III) The Secretary of Trans-
7 portation or the Secretary’s designee.

8 “(IV) 4 members appointed by
9 the President of the United States in-
10 cluding a Chief Executive Officer, 1
11 member with expertise regarding re-
12 newable energy and/or energy effi-
13 ciency, 1 member with expertise re-
14 garding finance, 1 member with ex-
15 pertise regarding electric utilities, and
16 1 member with expertise regarding
17 sustainable transportation.

18 “(iii) QUORUM.—4 members of the
19 Board shall constitute a quorum.

20 “(iv) BYLAWS.—The Board shall
21 adopt, and may amend, such bylaws as are
22 necessary for the proper management and
23 functioning of the Bank, and shall, in such
24 bylaws, designate the vice presidents and

1 other officers of the Bank and prescribe
2 their duties.

3 “(v) TERMS.—The initial terms of the
4 members of the Board shall be 4 years.
5 For terms beginning after the first 4 years
6 following the date of the enactment of this
7 section, the Board shall create staggered
8 terms of 2, 3, and 4 years for members of
9 the Board.

10 “(vi) VACANCIES.—Any vacancy on
11 the Board shall be filled in the same man-
12 ner in which the original appointment was
13 made.

14 “(vii) INTERIM APPOINTMENTS.—Any
15 member appointed to fill a vacancy occur-
16 ring before the expiration of the term for
17 which such member’s predecessor was ap-
18 pointed shall be appointed only for the re-
19 mainder of such term.

20 “(viii) REAPPOINTMENT.—Members
21 of the Board may be reappointed for addi-
22 tional terms of service as members of the
23 Board.

24 “(ix) CONTINUATION OF SERVICE.—
25 Any member of the Board whose term has

1 expired may continue to serve on the
2 Board until the earlier of—

3 “(I) the date on which such
4 member’s successor is appointed; or

5 “(II) the end of the 6-month pe-
6 riod beginning on the date such mem-
7 ber’s term expires.

8 “(x) CHAIRMAN.—The Board shall se-
9 lect a Chairman from among its members.

10 “(B) EXECUTIVE VICE PRESIDENT.—The
11 Chief Executive Officer shall appoint an Execu-
12 tive Vice President who—

13 “(i) shall serve as Chief Executive Of-
14 ficer of the Bank during the absence or
15 disability of, or in the event of a vacancy
16 in the office, of Chief Executive Officer;
17 and

18 “(ii) shall at other times perform such
19 functions as the Chief Executive Officer
20 may prescribe.

21 “(C) POLICIES AND PROCEDURES.—At the
22 request of any 2 members of the Board, the
23 Chairman shall place an item pertaining to the
24 policies or procedures of the Bank on the agen-
25 da for discussion by the Board. Not later than

1 30 days after the date such a request is made,
2 the Chairman shall hold a meeting of the Board
3 at which such item shall be discussed.

4 “(D) CONFLICTS OF INTEREST.—No direc-
5 tor, officer, attorney, agent, or employee of the
6 Bank shall in any manner, directly or indi-
7 rectly, participate in the deliberation upon, or
8 the determination of, any question affecting
9 such individual’s personal interests, or the in-
10 terests of any corporation, partnership, or asso-
11 ciation in which such individual is directly or
12 indirectly personally interested.

13 “(5) HIRING AND CONTRACTING AUTHORITY.—

14 “(A) CONTRACTING.—The Bank may em-
15 ploy or otherwise contract with banks, credit
16 agencies, attorneys, and other third parties at
17 customary commercial rates.

18 “(B) HIRING.—Notwithstanding any oth-
19 erwise applicable Federal rules and regulations,
20 the Bank may employ and otherwise contract
21 with employees and provide compensation to
22 such employees at prevailing rates for com-
23 pensation for similar positions in private indus-
24 try.

25 “(6) SUNSET.—

1 “(A) EXPIRATION OF CHARTER.—The
2 Bank shall continue to exercise its functions
3 until all obligations and commitments of the
4 Bank are discharged, even after its charter has
5 expired.

6 “(B) PRIOR OBLIGATIONS.—No provisions
7 of this subsection shall be construed as pre-
8 venting the Bank from—

9 “(i) acquiring obligations prior to the
10 date of the expiration of its charter which
11 mature subsequent to such date;

12 “(ii) assuming, prior to the date of
13 the expiration of its charter, liability as
14 guarantor, endorser, or acceptor of obliga-
15 tions which mature subsequent to such
16 date;

17 “(iii) issuing, prior or subsequent to
18 the date of the expiration of its charter,
19 for purchase by the Secretary of the Treas-
20 ury or any other purchasers, its notes, de-
21 bentures, bonds, or other obligations which
22 mature subsequent to such date; or

23 “(iv) continuing as a corporation and
24 exercising any of its functions subsequent
25 to the date of the expiration of its charter

1 for purposes of orderly liquidation, includ-
2 ing the administration of its assets and the
3 collection of any obligations held by the
4 Bank.

5 “(e) GREEN BANK ESTABLISHMENT FUND.—

6 “(1) ESTABLISHMENT.—There is established in
7 the Treasury of the United States a revolving fund,
8 to be known as the ‘Green Bank Establishment
9 Fund’ (hereinafter referred to as the ‘Fund’), con-
10 sisting of—

11 “(A) such amounts as are deposited in the
12 Fund under this subtitle, including but not lim-
13 ited to proceeds from the Green Bonds issued
14 under section 3102A; and

15 “(B) such sums as may be appropriated to
16 supplement the Fund.

17 “(2) AUTHORIZATION OF APPROPRIATIONS.—

18 There are authorized to be appropriated to the Fund
19 such sums as are necessary to carry out this sub-
20 title.

21 “(3) EXPENDITURES FROM THE FUND.—

22 Amounts in the Fund shall be available to the Chief
23 Executive for obligation without fiscal year limita-
24 tion, to remain available until expended.

25 “(f) LENDING, FINANCING, EXPENDITURES.—

1 “(1) IN GENERAL.—The Bank shall establish a
2 program to provide, on a competitive basis loans,
3 loan guarantees or credit buy downs from the Fund,
4 as the Bank determines appropriate, solely to pro-
5 vide capitalization to an Eligible Clean Energy Fi-
6 nancing Institution for the establishment or con-
7 tinuing operation of that entity.

8 “(2) REQUIREMENTS.—The Bank may only
9 provide loans, loan guarantees or credit buy downs
10 under paragraph (1) if:

11 “(A) APPLICATION.—The applicant sub-
12 mits an application for loans, loan guarantees
13 or credit buy downs in accordance with applica-
14 tion criteria established by the Bank.

15 “(B) ELIGIBLE CLEAN ENERGY FINANCING
16 INSTITUTIONS.—An entity is eligible to receive
17 loans, loan guarantees or credit buy downs
18 under this section only if it—

19 “(i) meets the definition of Eligible
20 Clean Energy Financing Institution;

21 “(ii) uses the funding from the Bank
22 solely for the purposes described in this
23 section; and

1 “(iii) satisfies the capitalization and
2 funding requirements as described in this
3 section.

4 “(C) PROJECT FINANCE.—The Bank shall
5 not directly lend or otherwise provide financial
6 products to any individual projects, nor shall it
7 be required to examine individual projects for
8 the purposes of lending under paragraph (1)
9 other than as necessary to determine whether
10 an applicant meets the criteria for Eligible
11 Clean Energy Financing Institutions.

12 “(D) CAPITALIZATION AND CO-FUND-
13 ING.—The Eligible Clean Energy Financing In-
14 stitution—

15 “(i) must provide, at the time of re-
16 ceipt of any initial funding for capitaliza-
17 tion by the Bank, an amount from funding
18 sources other than the Bank equivalent to
19 no less than \$1,000,000 and no less than
20 20 percent of the total initial funding pro-
21 vided by the Bank; and

22 “(ii) may not receive any subsequent
23 funding for capitalization by the Bank, in
24 addition to any initial funding for capital-
25 ization provided by the Bank in accordance

1 with (i) above in, of amounts greater than
2 two times the amount of capital committed
3 for use by the Eligible Clean Energy Fi-
4 nancing Institution for Qualified Clean En-
5 ergy Projects and Qualified Energy Effi-
6 ciency Projects at the time of application.

7 “(3) REGULATIONS.—The Bank shall establish
8 regulations to carry out the activities and operations
9 set out in this chapter.

10 “(g) LENDING ACTIVITIES.—

11 “(1) FEES.—The Bank shall assess reasonable
12 fees on its activities so as to cover its reasonable
13 costs and expenses, consistent with the Federal
14 Credit Reform Act of 1990 (2 U.S.C. 661 et seq.),
15 provided the Bank operates as a not-for-profit enti-
16 ty.

17 “(2) APPROPRIATIONS AND RETENTION OF RE-
18 CEIPTS.—For purposes of the Federal Credit Re-
19 form Act, funds made available to the Green Bank
20 pursuant to section 3102A for carrying out this sec-
21 tion are appropriated to the Green Bank for the
22 purposes described in the section. Receipts collected
23 by the Green Bank, consistent with the Federal
24 Credit Reform Act, shall be considered to have been
25 provided in advance in an appropriations Act, and

1 shall remain available to the Green Bank until ex-
2 pended.

3 “(3) IMMUNITY FROM IMPAIRMENT, LIMITA-
4 TION, OR RESTRICTION.—

5 “(A) IN GENERAL.—All rights and rem-
6 edies of the Bank shall be immune from impair-
7 ment, limitation, or restrictions by or under—

8 “(i) any law (other than a law enacted
9 by Congress expressly in limitation of this
10 paragraph) that becomes effective after the
11 acquisition by the Bank of the subject or
12 property on, under, or with respect to
13 which the right or remedy arises or exists
14 or would so arise or exist in the absence of
15 the law; or

16 “(ii) any administrative or other ac-
17 tion that becomes effective after the acqui-
18 sition.

19 “(B) STATE LAW.—The Bank may con-
20 duct its business without regard to any quali-
21 fication or law of any State relating to incorpo-
22 ration.

23 “(4) TAXATION.—

24 “(A) IN GENERAL.—Subject to subpara-
25 graph (B), the Bank (including its activities,

1 capital, reserves, surplus and income) shall be
2 exempt from all taxation imposed by any State
3 or local political subdivision of a State.

4 “(B) REAL PROPERTY.—Any real property
5 of the Bank shall be subject to taxation by a
6 State or political subdivision of a State to the
7 same extent according to the value of the real
8 property as other real property is taxed.

9 “(5) POWER TO REMOVE; JURISDICTION.—Not-
10 withstanding any other provision of law, any civil ac-
11 tion, suit, or proceeding to which the Bank is a
12 party shall be deemed to arise under the laws of the
13 United States, and the United States district courts
14 shall have original jurisdiction. The Bank may, with-
15 out bond or security, remove any such action, suit,
16 or proceeding from a State court to a United States
17 district court or to the United States District Court
18 for the District of Columbia.

19 “(6) SPENDING SAFEGUARDS.—

20 “(A) IN GENERAL.—The Chief Executive
21 Officer of the Bank—

22 “(i) shall require any Eligible Clean
23 Energy Financing Institution receiving fi-
24 nancial support pursuant to this section to
25 report quarterly, in a format specified by

1 the Chief Executive Officer, on such enti-
2 ty's use of such support and its progress
3 fulfilling the objectives for which such sup-
4 port was granted, and the Chief Executive
5 Officer shall make these reports available
6 to the public;

7 “(ii) may establish additional report-
8 ing and information requirements for any
9 recipient of financing support made avail-
10 able pursuant to this section;

11 “(iii) shall establish appropriate mech-
12 anisms to ensure appropriate use and com-
13 pliance with all terms of any financing
14 support made available pursuant to this
15 section;

16 “(iv) may, in addition to and con-
17 sistent with any other authority under ap-
18 plicable law, deobligate financing support
19 made available pursuant to this section to
20 entities that demonstrate an insufficient
21 level of performance, or wasteful or fraud-
22 ulent spending, as defined in advance by
23 the Chief Executive Officer, and award
24 these funds competitively to new or exist-
25 ing applicants consistent with this section;

1 “(v) shall create and maintain a fully
2 searchable database, accessible on the
3 Internet (or successor protocol) at no cost
4 to the public, that contains at least—

5 “(I) a list of each entity that has
6 applied for loans, loan guarantees or
7 credit buy downs under this section;

8 “(II) a description of each appli-
9 cation;

10 “(III) the status of each such ap-
11 plication;

12 “(IV) the name of each entity re-
13 ceiving funds made available pursuant
14 to this section;

15 “(V) the purpose for which such
16 entity is receiving such funds;

17 “(VI) each quarterly report sub-
18 mitted by the entity pursuant to this
19 section; and

20 “(VII) information related to
21 Qualifying Clean Energy Projects and
22 Qualifying Energy Efficiency Projects
23 funded by Eligible Clean Energy Fi-
24 nancing Institutions using funding re-
25 ceived from the Bank;

1 “(vi) to the extent practicable, data
2 maintained under clause (v) shall be used
3 to inform private capital markets, includ-
4 ing the development of underwriting stand-
5 ards for the financing of clean energy
6 projects and energy efficiency projects;

7 “(vii) shall make all financing trans-
8 actions available for public inspection, in-
9 cluding formal annual reviews by both a
10 private auditor and the Comptroller Gen-
11 eral; and

12 “(viii) shall at all times be available to
13 receive public comment in writing on the
14 activities of the Bank.

15 “(B) PROTECTION OF CONFIDENTIAL
16 BUSINESS INFORMATION.—To the extent nec-
17 essary and appropriate, the Chief Executive Of-
18 ficer may redact any information regarding ap-
19 plicants and borrowers to protect confidential
20 business information.

21 “(7) GUARANTEE.—Except as provided in sec-
22 tion 3102A(e) with respect to Green Bonds, finan-
23 cial support provided by the Bank shall not be fully
24 and unconditionally guaranteed by the United
25 States.”.

1 **SEC. 3. CONFORMING AMENDMENTS.**

2 (a) **TAX EXEMPT STATUS.**—Section 501(l) of the In-
3 ternal Revenue Code of 1986 is amended by adding at the
4 end the following:

5 “(4) The Green Bank established under section
6 9801 of title 31, United States Code.”.

7 (b) **WHOLLY OWNED GOVERNMENT CORPORA-**
8 **TION.**—Section 9101(3) of title 31, United States Code,
9 is amended by adding at the end the following:

10 “(S) the Green Bank.”.

11 (c) **CLERICAL AMENDMENTS.**—

12 (1) The table of sections for chapter 31 of title
13 31, United States Code, is amended by inserting
14 after the item relating to section 3102 the following
15 new item:

“3102A. Green bonds.”.

16 (2) The table of chapters for subtitle VI of title
17 31, United States Code, is amended by adding at
18 the end the following new item:

“98. Green Bank 9801”.

19 **SEC. 4. DEFER DEDUCTION OF INTEREST EXPENSE RE-**
20 **LATED TO DEFERRED INCOME.**

21 (a) **IN GENERAL.**—Section 163 of the Internal Rev-
22 enue Code of 1986 is amended by redesignating subsection
23 (n) as subsection (o) and by inserting after subsection (m)
24 the following new subsection:

1 “(n) DEFERRAL OF DEDUCTION FOR INTEREST EX-
2 PENSE RELATED TO DEFERRED INCOME.—

3 “(1) GENERAL RULE.—In the case of any tax-
4 payer, the amount of foreign-related interest expense
5 allowed as a deduction under this chapter for any
6 taxable year shall not exceed an amount that bears
7 the same ratio to the sum of the foreign-related in-
8 terest expense for such year and the deferred for-
9 eign-related interest expense as the current inclusion
10 ratio.

11 “(2) TREATMENT OF DEFERRED DEDUC-
12 TIONS.—If, for any taxable year—

13 “(A) the amount that bears the same ratio
14 to the sum of the foreign-related interest ex-
15 pense for such year and the deferred foreign-re-
16 lated interest expense as the current inclusion
17 ratio, exceeds

18 “(B) the foreign-related interest expense
19 for such year, there shall be allowed as a deduc-
20 tion for such year an amount equal to the lesser
21 of such excess and the deferred foreign-related
22 interest expense.

23 “(3) DEFINITIONS AND SPECIAL RULE.—For
24 purposes of this subsection—

1 “(A) FOREIGN-RELATED INTEREST EX-
2 PENSE.—The term ‘foreign-related interest ex-
3 pense’ means, for any taxable year, an amount
4 of interest expense for such taxable year allo-
5 cated and apportioned under sections 861 and
6 864(e) to income from sources outside the
7 United States which bears the same proportion
8 to such interest expense as the value of all
9 stock held by the taxpayer in all section 902
10 corporations (as defined in section 909(d)(5))
11 with respect to which the taxpayer meets the
12 ownership requirements of subsection (a) or (b)
13 of section 902 bears to the value of all assets
14 of the taxpayer which generate gross income
15 from sources outside the United States.

16 “(B) DEFERRED FOREIGN-RELATED IN-
17 TEREST EXPENSE.—The term ‘deferred foreign-
18 related interest expense’ means the excess, if
19 any, of the aggregate foreign-related interest
20 expense for all prior taxable years, over the ag-
21 gregate amount allowed as a deduction under
22 paragraphs (1) and (2) for all prior taxable
23 years.

24 “(C) VALUE OF ASSETS.—Except as other-
25 wise provided by the Secretary, for purposes of

1 paragraph (3)(A)(i), the value of any asset shall
2 be the amount with respect to such asset used
3 as determined for purposes of allocating and
4 apportioning interest expense under sections
5 861 and 864(e).

6 “(D) CURRENT INCLUSION RATIO.—The
7 term ‘current inclusion ratio’ means, with re-
8 spect to any domestic corporation which meets
9 the ownership requirements of subsection (a) or
10 (b) of section 902 with respect to one or more
11 section 902 corporations for any taxable year,
12 the ratio (expressed as a percentage) of—

13 “(i) the sum of all dividends received
14 by the domestic corporation from a section
15 902 corporation during the taxable year
16 plus amounts includible in gross income
17 under section 951(a) from such section
18 902 corporation, in each case computed
19 without regard to section 78, divided by

20 “(ii) the aggregate amount of post-
21 1986 undistributed earnings for the tax-
22 able year.

23 “(E) AGGREGATE AMOUNT OF POST-1986
24 UNDISTRIBUTED EARNINGS.—The term ‘aggre-
25 gate amount of post-1986 undistributed earn-

1 ings’ means, with respect to any domestic cor-
2 poration which meets the ownership require-
3 ments of subsection (a) or (b) of section 902
4 with respect to one or more section 902 cor-
5 porations, the domestic corporation’s pro rata
6 share of the post-1986 undistributed earnings
7 (as defined in section 902(c)(1)) of all such sec-
8 tion 902 corporations.

9 “(F) FOREIGN CURRENCY CONVERSION.—

10 For purposes of determining the current inclu-
11 sion ratio, and except as otherwise provided by
12 the Secretary, the aggregate amount of post-
13 1986 undistributed earnings for the taxable
14 year shall be determined by translating each
15 section 902 corporation’s post-1986 undistrib-
16 uted earnings into dollars using the average ex-
17 change rate for such year.

18 “(4) TREATMENT OF AFFILIATED GROUPS.—

19 The current inclusion ratio of each member of an af-
20 filiated group (as defined in section 864(e)(5)(A))
21 shall be determined as if all members of such group
22 were a single corporation.

23 “(5) APPLICATION TO SEPARATE CATEGORIES

24 OF INCOME.—This subsection shall be applied sepa-

1 rately with respect to the categories of income speci-
2 fied in section 904(d)(1).

3 “(6) REGULATIONS.—The Secretary may pre-
4 scribe such regulations or other guidance as is nec-
5 essary or appropriate to carry out the purposes of
6 this subsection, including regulations or other guid-
7 ance providing—

8 “(A) for the proper application of this sub-
9 section with respect to changes in ownership of
10 a section 902 corporation,

11 “(B) that certain corporations that other-
12 wise would not be members of the affiliated
13 group will be treated as members of the affili-
14 ated group for purposes of this subsection,

15 “(C) for the proper application of this sub-
16 section with respect to the taxpayer’s share of
17 a deficit in earnings and profits of a section
18 902 corporation,

19 “(D) for appropriate adjustments to the
20 determination of the value of stock in any sec-
21 tion 902 corporation for purposes of this sub-
22 section or to the foreign-related interest expense
23 to account for income that is subject to tax
24 under section 882(a)(1), and

1 “(E) for the proper application of this sub-
2 section with respect to interest expense that is
3 directly allocable to income with respect to cer-
4 tain assets.”.

5 (b) **EFFECTIVE DATE.**—The amendments made by
6 this section shall apply to taxable years beginning on or
7 after January 1, 2017.

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