

**AMENDMENT TO THE SENATE AMENDMENTS TO
H.R. 22
OFFERED BY MR. MULVANEY OF SOUTH
CAROLINA**

Page 1032, after line 4, insert the following:

1 **SEC. 95004. CERTIFICATION THAT BANK ASSISTANCE DOES**
2 **NOT COMPETE WITH THE PRIVATE SECTOR.**

3 Section 2 of the Export-Import Bank Act of 1945
4 (12 U.S.C. 635), as amended by section 95001 of this Act,
5 is amended by adding at the end the following:

6 “(1) RECIPIENTS OF BANK ASSISTANCE FOR A
7 TRANSACTION OF MORE THAN \$10,000,000 REQUIRED
8 TO CERTIFY INABILITY TO OBTAIN CREDIT ELSE-
9 WHERE.—The Bank shall not guarantee, insure, or extend
10 credit, or participate in an extension of credit, in connec-
11 tion with a transaction, with respect to which credit assist-
12 ance from the Bank is first sought after the effective date
13 of this paragraph, of more than \$10,000,000, to a person,
14 unless the person has—

15 “(1) certified to the Bank that the person has
16 sought, and has been unable to obtain, private sector
17 financing for the transaction without any Federal
18 Government support; and

1 “(2) provided the Bank with documentation
2 that at least 2 private financial institutions have de-
3 clined to provide financing for the transaction.”.

4 **SEC. 95005. FALSE CLAIMS ACT PROVISIONS.**

5 (a) **APPLICABILITY OF FALSE CLAIMS PROVISIONS**
6 **TO EXPORT-IMPORT BANK TRANSACTIONS.**—Section
7 3729(a) of title 31, United States Code, is amended—

8 (1) by redesignating paragraph (3) as para-
9 graph (4);

10 (2) by inserting after paragraph (2) the fol-
11 lowing:

12 “(3) **ADDITIONAL VIOLATIONS.**—Any person
13 who—

14 “(A) receives a loan or guarantee from the
15 Export Import Bank of the United States for
16 the purposes of supporting a project or venture,
17 without conducting reasonable diligence to de-
18 termine whether private sector financing would
19 have been available to support the project or
20 venture, whether or not the terms of the private
21 sector financing would have been substantially
22 different from the terms of the financing pro-
23 vided by the Export Import Bank of the United
24 States; or

1 95004 of this Act, is amended by adding at the end the
2 following:

3 “(m) EFFECTS OF FINDING BY INSPECTOR GENERAL
4 THAT CONTRACT RECIPIENT MADE INACCURATE REP-
5 RESENTATION ABOUT AVAILABILITY OF COMPETING FOR-
6 EIGN FINANCING OR PRIVATE SECTOR FINANCING.—

7 “(1) RESCISSION OF CONTRACT.—The Bank
8 may not enter into a contract under which the Bank
9 provides a loan or guarantee, unless the contract
10 provides that, if the Inspector General of the Bank
11 determines that a representation made by the recipi-
12 ent of the loan or guarantee about the availability of
13 competing foreign export financing or private sector
14 financing was inaccurate at the time the representa-
15 tion was made—

16 “(A) the contract shall be considered re-
17 scinded; and

18 “(B) the recipient shall immediately repay
19 to the Bank an amount equal to—

20 “(i) in the case of a loan, the amount
21 of the loan; or

22 “(ii) in the case of a guarantee, an
23 amount equal to the appraised value of the
24 guarantee.

1 “(2) INELIGIBILITY FOR FUTURE FINANCIAL
2 SUPPORT.—A person whose contract is rescinded
3 under paragraph (1) shall not be eligible for any fi-
4 nancial support from the Bank.”.

