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	"(l) 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	cline	ed to provide financing for the transaction.".
4	SEC. 9500	5. FALSE CLAIMS ACT PROVISIONS.
5	(a)	APPLICABILITY OF FALSE CLAIMS PROVISIONS
6	то Ехи	PORT-IMPORT BANK TRANSACTIONS.—Section
7	3729(a)	of title 31, United States Code, is amended—
8		(1) by redesignating paragraph (3) as para-
9	graj	oh (4);
10		(2) by inserting after paragraph (2) the fol-
11	lowi	ng:
12		"(3) Additional violations.—Any person
13	who	<u> </u>
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	"(B) receives a loan or guarantee from the
2	Export Import Bank of the United States for
3	the purposes of supporting a project or venture,
4	knowing that private sector financing would
5	have been available to support the project or
6	venture, whether or not the terms of the private
7	sector financing would have been substantially
8	different from financing provided by the Export
9	Import Bank of the United States,
10	is liable to the United States Government for the
11	face value or the appraised value of the loan or
12	guarantee, whichever amount is greater."; and
13	(3) in paragraph (2)(A), by striking "the viola-
14	tion of this subsection" and inserting "a violation
15	under paragraph (1)".
16	(b) Effective Date.—The amendments made by
17	subsection (a) shall apply to acts described in paragraph
18	(3) of section 3729(a) of title 31, United States Code, as
19	added by subsection (a)(2) of this section, that are com-
20	mitted on or after the date of the enactment of this Act.
21	SEC. 95006. STATUTORY REQUIREMENT FOR EXPORT-IM-
22	PORT BANK CONTRACTS.
23	Section 2 of the Export-Import Bank Act of 1945
24	(12 U.S.C. 635), as amended by sections 95001 and

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.".

