

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 3684
OFFERED BY MR. LYNCH OF MASSACHUSETTS**

At the end of subtitle F of title I of division B of the bill, add the following:

1 **SEC. ____ . FEDERAL REQUIREMENTS FOR TIFIA ELIGI-**
2 **BILITY AND PROJECT SELECTION.**

3 (a) IN GENERAL.—Section 602(c) of title 23, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 “(3) PAYMENT AND PERFORMANCE SECUR-
7 RITY.—

8 “(A) IN GENERAL.—The Secretary shall
9 ensure that the design and construction of a
10 project carried out with assistance under the
11 TIFIA program shall have appropriate payment
12 and performance security, regardless of whether
13 the obligor is a State, local government, agency
14 or instrumentality of a State or local govern-
15 ment, public authority, or private party.

16 “(B) WRITTEN DETERMINATION.—If pay-
17 ment and performance security is required to be
18 furnished by applicable statute or regulation,

1 the Secretary may accept such payment and
2 performance security requirements applicable to
3 the obligor if the Secretary has made a written
4 determination that the Federal interest with re-
5 spect to Federal funds and other project risk
6 related to design and construction is adequately
7 protected.

8 “(C) NO DETERMINATION OR APPLICABLE
9 REQUIREMENTS.—If a determination under this
10 paragraph has not been made or there are no
11 payment and performance security requirements
12 applicable to the obligor, the security under sec-
13 tion 3131(b) of title 40 shall be required.”.

14 (b) APPLICABILITY.—The amendments made by this
15 section shall apply with respect to any contract entered
16 into on or after the date of enactment of this Act.

