

113TH CONGRESS  
1ST SESSION

# S. 281

To amend the Food Security Act of 1985 to restore integrity to and strengthen payment limitation rules for commodity payments and benefits.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 2013

Mr. GRASSLEY (for himself, Mr. JOHNSON of South Dakota, Mr. ENZI, and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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## A BILL

To amend the Food Security Act of 1985 to restore integrity to and strengthen payment limitation rules for commodity payments and benefits.

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. SHORT TITLE.**

4 This Act may be cited as the “Farm Program Integ-  
5 rity Act of 2013”.

6 **SEC. 2. PAYMENT LIMITATIONS.**

7 (a) IN GENERAL.—Section 1001 of the Food Security  
8 Act of 1985 (7 U.S.C. 1308) is amended—

1 (1) in subsection (a), by striking paragraph (3)  
2 and inserting the following:

3 “(3) LEGAL ENTITY.—

4 “(A) IN GENERAL.—The term ‘legal entity’  
5 means—

6 “(i) an organization that (subject to  
7 the requirements of this section and sec-  
8 tion 1001A) is eligible to receive a pay-  
9 ment under a provision of law referred to  
10 in subsection (b), (c), or (d);

11 “(ii) a corporation, joint stock com-  
12 pany, association, limited partnership, lim-  
13 ited liability company, limited liability  
14 partnership, charitable organization, es-  
15 tate, irrevocable trust, grantor of a rev-  
16 ocable trust, or other similar entity (as de-  
17 termined by the Secretary); and

18 “(iii) an organization that is partici-  
19 pating in a farming operation as a partner  
20 in a general partnership or as a participant  
21 in a joint venture.

22 “(B) EXCLUSION.—The term ‘legal entity’  
23 does not include a general partnership or joint  
24 venture.”;

1           (2) by striking subsections (b) through (d) and  
2           inserting the following:

3           “(b) LIMITATION ON PAYMENTS FOR COVERED COM-  
4           MODITIES AND PEANUTS.—The total amount of payments  
5           received, directly or indirectly, by a person or legal entity  
6           for any crop year for 1 or more covered commodities and  
7           peanuts under title I of the Food, Conservation, and En-  
8           ergy Act of 2008 (7 U.S.C. 8701 et seq.) (or a successor  
9           provision) may not exceed \$125,000, of which—

10           “(1) not more than \$75,000 may consist of  
11           marketing loan gains and loan deficiency payments  
12           under subtitle B or C of title I of the Food, Con-  
13           servation, and Energy Act of 2008 (7 U.S.C. 8731  
14           et seq.) (or a successor provision); and

15           “(2) not more than \$50,000 may consist of any  
16           other payments made for covered commodities and  
17           peanuts under title I of the Food, Conservation, and  
18           Energy Act of 2008 (7 U.S.C. 8702 et seq.) (or a  
19           successor provision).

20           “(c) SPOUSAL EQUITY.—

21           “(1) IN GENERAL.—Notwithstanding subsection  
22           (b), except as provided in paragraph (2), if a person  
23           and the spouse of the person are covered by para-  
24           graph (2) and receive, directly or indirectly, any pay-  
25           ment or gain covered by this section, the total

1 amount of payments or gains (as applicable) covered  
2 by this section that the person and spouse may  
3 jointly receive during any crop year may not exceed  
4 an amount equal to twice the applicable dollar  
5 amounts specified in subsection (b).

6 “(2) EXCEPTIONS.—

7 “(A) SEPARATE FARMING OPERATIONS.—

8 In the case of a married couple in which each  
9 spouse, before the marriage, was separately en-  
10 gaged in an unrelated farming operation, each  
11 spouse shall be treated as a separate person  
12 with respect to a farming operation brought  
13 into the marriage by a spouse, subject to the  
14 condition that the farming operation shall re-  
15 main a separate farming operation, as deter-  
16 mined by the Secretary.

17 “(B) ELECTION TO RECEIVE SEPARATE

18 PAYMENTS.—A married couple may elect to re-  
19 ceive payments separately in the name of each  
20 spouse if the total amount of payments and  
21 benefits described in subsection (b) that the  
22 married couple receives, directly or indirectly,  
23 does not exceed an amount equal to twice the  
24 applicable dollar amounts specified in those  
25 subsections.”;

1           (3) in paragraph (3)(B) of subsection (f), by  
2 adding at the end the following:

3                   “(iii) IRREVOCABLE TRUSTS.—In pro-  
4 mulgating regulations to define the term  
5 ‘legal entity’ as the term applies to irrev-  
6 ocable trusts, the Secretary shall ensure  
7 that irrevocable trusts are legitimate enti-  
8 ties that have not been created for the pur-  
9 pose of avoiding a payment limitation.”;  
10 and

11           (4) in subsection (h), in the second sentence, by  
12 striking “or other entity” and inserting “or legal en-  
13 tity”.

14 (b) CONFORMING AMENDMENTS.—

15           (1) Section 1001 of the Food Security Act of  
16 1985 (7 U.S.C. 1308) is amended—

17                   (A) in subsection (e), by striking “sub-  
18 sections (b) and (c)” each place it appears in  
19 paragraphs (1) and (3)(B) and inserting “sub-  
20 section (b)”;

21                   (B) in subsection (f)—

22                           (i) in paragraph (2), by striking  
23 “Subsections (b) and (c)” and inserting  
24 “Subsection (b)”;

- 1 (ii) in paragraph (4)(B), by striking  
2 “subsection (b) or (c)” and inserting “sub-  
3 section (b)”;
- 4 (iii) in paragraph (5)—
- 5 (I) in subparagraph (A), by strik-  
6 ing “subsection (d)”; and
- 7 (II) in subparagraph (B), by  
8 striking “subsection (b), (c), or (d)”  
9 and inserting “subsection (b)”; and
- 10 (iv) in paragraph (6)—
- 11 (I) in subparagraph (A), by strik-  
12 ing “Notwithstanding subsection (d),  
13 except as provided in subsection (g)”  
14 and inserting “Except as provided in  
15 subsection (f)”; and
- 16 (II) in subparagraph (B), by  
17 striking “subsections (b), (c), and  
18 (d)” and inserting “subsection (b)”;
- 19 (C) in subsection (g)—
- 20 (i) in paragraph (1)—
- 21 (I) by striking “subsection  
22 (f)(6)(A)” and inserting “subsection  
23 (e)(6)(A)”; and

1 (II) by striking “subsection (b)  
2 or (c)” and inserting “subsection (b)”;  
3 and

4 (ii) in paragraph (2)(A), by striking  
5 “subsections (b) and (c)” and inserting  
6 “subsection (b)”; and

7 (D) by redesignating subsections (e)  
8 through (h) as subsections (d) through (g), re-  
9 spectively.

10 (2) Section 1001A of the Food Security Act of  
11 1985 (7 U.S.C. 1308–1) is amended—

12 (A) in subsection (a), by striking “sub-  
13 sections (b) and (c) of section 1001” and in-  
14 serting “section 1001(b)”; and

15 (B) in subsection (b)(1), by striking “sub-  
16 section (b) or (c) of section 1001” and inserting  
17 “section 1001(b)”.

18 (3) Section 1001B(a) of the Food Security Act  
19 of 1985 (7 U.S.C. 1308–2(a)) is amended in the  
20 matter preceding paragraph (1) by striking “sub-  
21 sections (b) and (c) of section 1001” and inserting  
22 “section 1001(b)”.

23 (c) APPLICATION.—The amendments made by this  
24 section shall apply beginning with the 2014 crop year.

1 **SEC. 3. PAYMENTS LIMITED TO ACTIVE FARMERS.**

2 Section 1001A of the Food Security Act of 1985 (7  
3 U.S.C. 1308–1) is amended—

4 (1) in subsection (b)(2)—

5 (A) by striking “or active personal man-  
6 agement” each place it appears in subpara-  
7 graphs (A)(i)(II) and (B)(ii); and

8 (B) in subparagraph (C), by striking “, as  
9 applied to the legal entity, are met by the legal  
10 entity, the partners or members making a sig-  
11 nificant contribution of personal labor or active  
12 personal management” and inserting “are met  
13 by partners or members making a significant  
14 contribution of personal labor, those partners or  
15 members”; and

16 (2) in subsection (c)—

17 (A) in paragraph (1)—

18 (i) by striking subparagraph (A) and  
19 inserting the following:

20 “(A) the landowner share-rents the land at  
21 a rate that is usual and customary;”;

22 (ii) in subparagraph (B), by striking  
23 the period at the end and inserting “;  
24 and”; and

25 (iii) by adding at the end the fol-  
26 lowing:



1           “(C) the share of the payments received by  
2           the landowner is commensurate with the share  
3           of the crop or income received as rent.”;

4           (B) in paragraph (2)(A), by striking “ac-  
5           tive personal management or”;

6           (C) in paragraph (5)—

7           (i) by striking “(5)” and all that fol-  
8           lows through “(A) IN GENERAL.—A per-  
9           son” and inserting the following:

10          “(5) CUSTOM FARMING SERVICES.—A person”;

11          (ii) by inserting “under usual and  
12          customary terms” after “services”; and

13          (iii) by striking subparagraph (B);

14          and

15          (D) by adding at the end the following:

16          “(7) FARM MANAGERS.—A person who other-  
17          wise meets the requirements of this subsection other  
18          than (b)(2)(A)(i)(II) shall be considered to be ac-  
19          tively engaged in farming, as determined by the Sec-  
20          retary, with respect to the farming operation, includ-  
21          ing a farming operation that is a sole proprietorship,  
22          a legal entity such as a joint venture or general  
23          partnership, or a legal entity such as a corporation  
24          or limited partnership, if the person—

1           “(A) makes a significant contribution of  
2 management to the farming operation necessary  
3 for the farming operation, taking into ac-  
4 count—

5           “(i) the size and complexity of the  
6 farming operation; and

7           “(ii) the management requirements  
8 normally and customarily required by simi-  
9 lar farming operations;

10          “(B)(i) is the only person in the farming  
11 operation qualifying as actively engaged in  
12 farming by using the farm manager special  
13 class designation under this paragraph; and

14          “(ii) together with any other persons in the  
15 farming operation qualifying as actively en-  
16 gaged in farming under subsection (b)(2) or as  
17 part of a special class under this subsection,  
18 does not collectively receive, directly or indi-  
19 rectly, an amount equal to more than the appli-  
20 cable limits under section 1001(b);

21          “(C) does not use the management con-  
22 tribution under this paragraph to qualify as ac-  
23 tively engaged in more than 1 farming oper-  
24 ation; and

1           “(D) manages a farm operation that does  
2           not substantially share equipment, labor, or  
3           management with persons or legal entities that  
4           with the person collectively receive, directly or  
5           indirectly, an amount equal to more than the  
6           applicable limits under section 1001(b).”.

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