

sions of this subchapter or under the Act of April 6, 1949, as amended, or the Act of August 31, 1954, and from the liquidation of any other assets acquired with money from the Emergency Credit Revolving Fund shall be added to and become a part of such fund.

(b) There are authorized to be appropriated to the Emergency Credit Revolving Fund such additional sums as the Congress shall from time to time determine to be necessary.

(Pub. L. 87-128, title III, §327, Aug. 8, 1961, 75 Stat. 312.)

REFERENCES IN TEXT

Act of April 6, 1949, as amended, referred to in subsec. (a), is act Apr. 6, 1949, ch. 49, 63 Stat. 43, as amended, which was classified to sections 1148a-1 to 1148a-3 of Title 12, Banks and Banking, was repealed by section 341(a) of Pub. L. 87-128, and is covered by this chapter.

Act of August 31, 1954, referred to in subsec. (a), is act Aug. 31, 1954, ch. 1145, 68 Stat. 999, which was classified as a note under section 1148a-1 of Title 12, was repealed by section 341(a) of Pub. L. 87-128, and is covered by this chapter.

ABOLITION OF EMERGENCY CREDIT REVOLVING FUND

The Emergency Credit Revolving Fund, referred to in this section and in section 1966 of this title, was abolished and its assets and liabilities transferred to the Agricultural Credit Insurance Fund by section 1929 of this title.

§ 1968. Repealed. Pub. L. 104-127, title VI, § 626, Apr. 4, 1996, 110 Stat. 1092

Section, Pub. L. 87-128, title III, §328, as added Pub. L. 92-173, Nov. 24, 1971, 85 Stat. 491; amended Pub. L. 93-24, §5, Apr. 20, 1973, 87 Stat. 25; Pub. L. 95-334, title I, §109(b), Aug. 4, 1978, 92 Stat. 423, related to insurance of loans.

§ 1969. Repealed. Pub. L. 93-24, § 1, Apr. 20, 1973, 87 Stat. 24

Section, Pub. L. 87-128, title III, §328, as added Pub. L. 92-385, §5, Aug. 16, 1972, 86 Stat. 557, provided for emergency loans for major and natural disasters occurring between June 30, 1971, and July 1, 1973, providing in: subsec. (a) for cancellation of existing loans and the considerations in making grants, loans, and refinancing of loans; subsec. (b) for loans for loss or damage to agricultural crops; subsec. (c) for amount of loans and interest rates; subsec. (d) for availability of benefits irrespective of age; subsec. (e) for availability of benefits irrespective of approval date; and subsec. (f) for report to Congress.

LOANS TO ELIGIBLE APPLICANTS IN AREAS DETERMINED AS NATURAL DISASTER AREAS AFTER JANUARY 1, 1972, AND BEFORE DECEMBER 27, 1972; TIME FOR ACCEPTANCE OF APPLICATIONS

Section 8 of Pub. L. 93-24 provided that: "Notwithstanding the repeal herein of section 5 of Public Law 92-385 [this section], and notwithstanding any other provision of law, the Secretary of Agriculture shall make loans in accordance with the provisions of section 5 of Public Law 92-385 [this section] to eligible applicants in natural disaster areas determined or designated by the Secretary of Agriculture where such determination or designation had been made after January 1, 1972 and prior to December 27, 1972. The authority to accept applications for such loans shall expire 18 days after the effective date of this Act [Apr. 20, 1973]."

CONTINUATION OF SECRETARY'S AUTHORITY WITH RESPECT TO NATURAL DISASTERS OCCURRING AFTER DECEMBER 26, 1972, AND PRIOR TO APRIL 20, 1973

Pub. L. 93-237, §4, Jan. 2, 1974, 87 Stat. 1024, provided that: "Notwithstanding the provisions of Public Law

93-24 [which repealed this section], the Secretary of Agriculture shall continue to exercise his authority with respect to natural disasters which occurred after December 26, 1972, but prior to April 20, 1973, in accordance with the provisions of section 5 of Public Law 92-385 [this section] as such section was in effect prior to April 20, 1973."

§ 1970. Eligibility for assistance based on production loss

The Secretary shall make financial assistance under this subchapter available to any applicant seeking assistance based on production losses if the applicant shows that a single enterprise which constitutes a basic part of the applicant's farming, ranching, or aquaculture operation has sustained at least a 30 per centum loss of normal per acre or per animal production, or such lesser per centum of loss as the Secretary may determine, as a result of the disaster based upon the average monthly price in effect for the previous year and the applicant otherwise meets the conditions of eligibility prescribed under this subchapter. Such loans shall be made available based upon 80 per centum, or such greater per centum as the Secretary may determine, of the total calculated actual production loss sustained by the applicant.

(Pub. L. 87-128, title III, §329, as added Pub. L. 94-68, §7, Aug. 5, 1975, 89 Stat. 382; amended Pub. L. 97-35, title I, §163, Aug. 13, 1981, 95 Stat. 378.)

AMENDMENTS

1981—Pub. L. 97-35 increased specific per centum loss from 20 to 30, and authorized a lesser per centum loss pursuant to determinations by the Secretary under applicable criteria.

§ 1971. Repealed. Pub. L. 99-198, title XIII, § 1308(d), Dec. 23, 1985, 99 Stat. 1523

Section, Pub. L. 87-128, title III, §330, as added Pub. L. 94-68, §8, Aug. 5, 1975, 89 Stat. 382; amended Pub. L. 96-438, §3(b)(2), Oct. 13, 1980, 94 Stat. 1875, authorized additional emergency loans.

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

§ 1981. Farmers Home Administration

(a) Appointment and compensation of Administrator; transfer of powers, duties, and assets pertaining to agricultural credit

In accordance with section 2006a of this title, for purposes of this chapter, and for the administration of assets under the jurisdiction of the Secretary of Agriculture pursuant to the Farmers Home Administration Act of 1946, as amended, the Bankhead-Jones Farm Tenant Act, as amended, the Act of August 28, 1937, as amended, the Act of April 6, 1949, as amended, the Act of August 31, 1954, as amended, and the powers and duties of the Secretary under any other Act authorizing agricultural credit, the Secretary may assign and transfer such powers, duties, and assets to such officers or agencies of the Department of Agriculture as the Secretary considers appropriate.

(b) Powers of Secretary of Agriculture

The Secretary may—

(1) administer his powers and duties through such national, area, State, or local offices and

employees in the United States as he determines to be necessary and may authorize an office to serve the area composed of two or more States if he determines that the volume of business in the area is not sufficient to justify separate State offices, and until January 1, 1975, make contracts for services incident to making, insuring, collecting, and servicing loans and property as determined by the Secretary to be necessary for carrying out the purposes of this chapter; (and the Secretary shall prior to June 30, 1974, report to the Congress through the President on the experience in using such contracts, together with recommendations for such legislation as he may see fit);

(2) accept and utilize voluntary and uncompensated services, and, with the consent of the agency concerned, utilize the officers, employees, equipment, and information of any agency of the Federal Government, or of any State, territory, or political subdivision;

(3) within the limits of appropriations made therefor, make necessary expenditures for purchase or hire of passenger vehicles, and such other facilities and services as he may from time to time find necessary for the proper administration of this chapter;

(4) compromise, adjust, reduce, or charge-off debts or claims (including debts and claims arising from loan guarantees), and adjust, modify, subordinate, or release the terms of security instruments, leases, contracts, and agreements entered into or administered by the Consolidated Farm Service Agency, Rural Utilities Service, Rural Housing Service, Rural Business-Cooperative Service, or a successor agency, or the Rural Development Administration, except for activities under the Housing Act of 1949 [42 U.S.C. 1441 et seq.]. In the case of a security instrument entered into under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), the Secretary shall notify the Attorney General of the intent of the Secretary to exercise the authority of the Secretary under this paragraph. The Secretary may not require liquidation of property securing any farmer program loan or acceleration of any payment required under any farmer program loan as a prerequisite to initiating an action authorized under this subsection. After consultation with a local or area county committee, the Secretary may release borrowers or others obligated on a debt, except for debt incurred under the Housing Act of 1949, from personal liability with or without payment of any consideration at the time of the compromise, adjustment, reduction, or charge-off of any claim, except that no compromise, adjustment, reduction, or charge-off of any claim may be made or carried out after the claim has been referred to the Attorney General, unless the Attorney General approves;

(5) except for activities conducted under the Housing Act of 1949 [42 U.S.C. 1441 et seq.], collect all claims and obligations administered by the Farmers Home Administration, or under any mortgage, lease, contract, or agreement entered into or administered by the Farmers Home Administration and, if in his judgment necessary and advisable, pursue the

same to final collection in any court having jurisdiction;

(6) release mortgage and other contract liens if it appears that they have no present or prospective value or that their enforcement likely would be ineffectual or uneconomical;

(7) obtain fidelity bonds protecting the Government against fraud and dishonesty of officers and employees of the Farmers Home Administration in lieu of faithful performance of duties bonds under section 14¹ of title 6, and regulations issued pursuant thereto, but otherwise in accordance with the provisions thereof;

(8) consent to (A) long-term leases of facilities financed under this subchapter notwithstanding the failure of the lessee to meet any of the requirements of this subchapter if such long-term leases are necessary to ensure the continuation of services for which financing was extended to the lessor, and (B) the transfer of property securing any loan or financed by any loan or grant made, insured, or held by the Secretary under this chapter, or the provisions of any other law administered by the Rural Development Administration under this chapter or by the Farmers Home Administration, upon such terms as he deems necessary to carry out the purpose of the loan or grant or to protect the financial interest of the Government, and shall document the consent of the Secretary for the transfer of the property of a borrower in the file of the borrower; and

(9) notwithstanding that an area ceases, or has ceased, to be "rural", in a "rural area", or an eligible area, make loans and grants, and approve transfers and assumptions, under this chapter on the same basis as though the area still was rural in connection with property securing any loan made, insured, or held by the Secretary under this chapter or in connection with any property held by the Secretary under this chapter.

(c) Delinquent claims and obligations

The Secretary may use for the prosecution or defense of any claim or obligation described in subsection (b)(5) of this section the Attorney General, the General Counsel of the Department of Agriculture, or a private attorney who has entered into a contract with the Secretary.

(Pub. L. 87-128, title III, §331, Aug. 8, 1961, 75 Stat. 312; Pub. L. 90-488, §11, Aug. 15, 1968, 82 Stat. 771; Pub. L. 92-419, title I, §124, Aug. 30, 1972, 86 Stat. 665; Pub. L. 95-334, title I, §121, Aug. 4, 1978, 92 Stat. 427; Pub. L. 97-98, title XVI, §1603, Dec. 22, 1981, 95 Stat. 1346; Pub. L. 99-198, title XIII, §1309, Dec. 23, 1985, 99 Stat. 1523; Pub. L. 100-233, title VI, §615(c), Jan. 6, 1988, 101 Stat. 1682; Pub. L. 101-624, title XVIII, §§1805, 1806, title XXIII, §§2303(a), 2388(d)(1), Nov. 28, 1990, 104 Stat. 3819, 3981, 4052; Pub. L. 102-237, title V, §501(c), title VII, §701(h)(1)(E), Dec. 13, 1991, 105 Stat. 1866, 1880; Pub. L. 103-248, §2, May 11, 1994, 108 Stat. 619; Pub. L. 103-354, title II, §226(h), Oct. 13, 1994, 108 Stat. 3216; Pub. L. 104-127, title VI, §§631, 632, title VII, §748, Apr. 4, 1996, 110 Stat. 1092, 1128; Pub. L. 107-171, title V, §§5303, 5304(a), May 13, 2002, 116 Stat. 345.)

¹ See References in Text note below.

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsecs. (a) and (b)(1), (3), (8), (9), see note set out under section 1921 of this title.

The Farmers Home Administration Act of 1946, as amended, referred to in subsec. (a), is act Aug. 14, 1946, ch. 964, 60 Stat. 1062, as amended, which was classified to sections 1001 to 1005, 1005a to 1005d, 1007, 1008, 1009, 1015 to 1029, 1030, and 1031 of this title, section 371 of Title 12, Banks and Banking, and section 82h of Title 31, Money and Finance, and in so far as it amended provisions of Title I, II, and IV of the Bankhead-Jones Farm Tenant Act, was repealed by section 341(a) of Pub. L. 87-128, and is covered by this chapter.

The Bankhead-Jones Farm Tenant Act, as amended, referred to in subsec. (a), is act July 22, 1937, ch. 517, 50 Stat. 522, as amended. Title III of act July 22, 1937, as amended, is classified to sections 1010 to 1012 and 1013a of this title. Titles I, II, and IV of act July 22, 1937, as amended, were formerly classified to sections 1001 to 1005, 1005a to 1005d, 1006, 1006c to 1006e, 1007, 1008, 1009, 1014 to 1025, 1026, and 1027 to 1029 of this title, respectively, were repealed by section 341(a) of Pub. L. 87-128, and are covered by this chapter.

Act of August 28, 1937, as amended, referred to in subsec. (a), is act Aug. 28, 1937, ch. 870, 50 Stat. 869, as amended, which was formerly classified to sections 590r to 590x-4 of Title 16, Conservation, was repealed by section 341(a) of Pub. L. 87-128, and is covered by this chapter.

Act of April 6, 1949, as amended, referred to in subsec. (a), is act Apr. 6, 1949, ch. 49, 63 Stat. 43, as amended, which was formerly classified to sections 1148a-1 to 1148a-3 of Title 12, Banks and Banking, was repealed by section 341(a) of Pub. L. 87-128, and is covered by this chapter.

Act of August 31, 1954, as amended, referred to in subsec. (a), is act Aug. 31, 1954, ch. 1145, 68 Stat. 999, which was formerly classified as a note under section 1148a-1 of Title 12, was repealed by section 341(a) of Pub. L. 87-128, and is covered by this chapter.

The Housing Act of 1949, as amended, referred to in subsec. (b)(4), (5), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, which is classified principally to chapter 8A (§1441 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42 and Tables.

The Rural Electrification Act of 1936, referred to in subsec. (b)(4), is act May 20, 1936, ch. 432, 49 Stat. 1363, as amended, which is classified generally to chapter 31 (§901 et seq.) of this title. For complete classification of this Act to the Code, see section 901 of this title and Tables.

Section 14 of title 6, referred to in subsec. (b)(7), was repealed by Pub. L. 92-310, title II, §203(1), June 6, 1972, 86 Stat. 202. For provisions relating to surety bonds of Federal personnel, see section 9301 et seq. of Title 31, Money and Finance.

AMENDMENTS

2002—Subsec. (b)(4). Pub. L. 107-171, §5303, substituted “After consultation with a local or area county committee, the Secretary may release” for “The Secretary may release” and “carried out after” for “carried out—

“(A) with respect to farmer program loans, on terms more favorable than those recommended by the appropriate county committee utilized pursuant to section 1982 of this title; or

“(B) after”.

Subsecs. (d), (e). Pub. L. 107-171, §5304(a), struck out subsecs. (d) and (e) which related to temporary authority to enter into contracts, and private collection agency, respectively.

1996—Subsec. (b)(4). Pub. L. 104-127, §748, inserted “(including debts and claims arising from loan guarantees)” after “debts or claims”, substituted “Consolidated Farm Service Agency, Rural Utilities Service, Rural Housing Service, Rural Business-Cooperative

Service, or a successor agency, or” for “Farmers Home Administration or”, and inserted “In the case of a security instrument entered into under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), the Secretary shall notify the Attorney General of the intent of the Secretary to exercise the authority of the Secretary under this paragraph.” after “activities under the Housing Act of 1949 [42 U.S.C. 1441 et seq.]”.

Subsec. (d). Pub. L. 104-127, §631, added subsec. (d).

Subsec. (e). Pub. L. 104-127, §632, added subsec. (e).

1994—Subsec. (a). Pub. L. 103-354 substituted “assets to such officers or agencies of the Department of Agriculture as the Secretary considers appropriate.” for “assets to the Farmers Home Administration, to be headed by an Administrator, appointed by the President, by and with the advice and consent of the Senate, without regard to the civil service laws or chapter 51 and subchapter III of chapter 53 of title 5, who shall receive basic compensation as provided by law for that office, or may assign and transfer such powers, duties, and assets to the Rural Development Administration as provided by law for that office.”

Subsec. (c). Pub. L. 103-248 added subsec. (c).

1991—Pub. L. 102-237, §501(c)(2)(B)(i), amended directory language of Pub. L. 101-624, §2388(d)(1). See 1990 Amendment note below.

Subsec. (b)(1), (2). Pub. L. 102-237, §501(c)(2)(B)(iii), (v), amended directory language of Pub. L. 101-624, §2388(d)(1)(A)(vi). See 1990 Amendment note below.

Subsec. (b)(3). Pub. L. 102-237, §701(h)(1)(E), substituted “this chapter” for “this Act”.

Pub. L. 102-237, §501(c)(2)(B)(iii), (v), amended directory language of Pub. L. 101-624, §2388(d)(1)(A)(vi). See 1990 Amendment note below.

Subsec. (b)(4). Pub. L. 102-237, §501(c)(2)(B)(iii), (v), amended directory language of Pub. L. 101-624, §2388(d)(1)(A)(vi). See 1990 Amendment note below.

Pub. L. 102-237, §501(c)(1), struck out “this chapter” after “activities under the Housing Act of 1949” and substituted “1949, from” for “1949 from”.

Subsec. (b)(4)(A). Pub. L. 102-237, §501(c)(2)(B)(iii), redesignated Pub. L. 101-624, §2388(d)(1)(A)(vi), as (v). See 1990 Amendment note below.

Subsec. (b)(4)(B). Pub. L. 102-237, §501(c)(2)(B)(iii), redesignated Pub. L. 101-624, §2388(d)(1)(A)(vi), as (v). See 1990 Amendment note below.

Subsec. (b)(5). Pub. L. 102-237, §501(c)(2)(B)(iii), (v), amended directory language of Pub. L. 101-624, §2388(d)(1)(A)(vi). See 1990 Amendment note below.

Subsec. (b)(6). Pub. L. 102-237, §501(c)(2)(B)(ii), (iii), (v), amended directory language of Pub. L. 101-624, §2388(d)(1)(A)(i), (vi). See 1990 Amendment note below.

Pub. L. 102-237, §501(c)(2)(A), repealed Pub. L. 101-624, §1805(c)(1), (2). See 1990 Amendment note below.

Subsec. (b)(7). Pub. L. 102-237, §501(c)(2)(B)(ii), (iii), (v), amended directory language of Pub. L. 101-624, §2388(d)(1)(A)(i), (vi). See 1990 Amendment note below.

Pub. L. 102-237, §501(c)(2)(A), repealed Pub. L. 101-624, §1805(c)(1), (3). See 1990 Amendment note below.

Subsec. (b)(8). Pub. L. 102-237, §501(c)(2)(B)(ii)-(v), amended directory language of Pub. L. 101-624, §2388(d)(1)(A)(i), (iv), (vi). See 1990 Amendment note below.

Pub. L. 102-237, §501(c)(2)(A), repealed Pub. L. 101-624, §1805(c)(1), (4). See 1990 Amendment note below.

Subsec. (b)(9). Pub. L. 102-237, §501(c)(2)(B)(iii), (v), amended directory language of Pub. L. 101-624, §2388(d)(1)(A)(vi). See 1990 Amendment note below.

Pars. (c) to (g). Pub. L. 102-237, §501(c)(2)(B)(iii), (v), amended directory language of Pub. L. 101-624, §2388(d)(1)(A)(vi). See 1990 Amendment note below.

Par. (h). Pub. L. 102-237, §501(c)(2)(B)(iii), repealed Pub. L. 101-624, §2388(d)(1)(A)(iv). See 1990 Amendment note below.

Pub. L. 102-237, §501(c)(2)(A), amended Pub. L. 101-624, §1805(b), and repealed Pub. L. 101-624, §1805(c)(5). See 1990 Amendment note below.

Pars. (i), (j). Pub. L. 102-237, §501(c)(2)(A), amended Pub. L. 101-624, §1805(b), and repealed Pub. L. 101-624, §1805(c)(5). See 1990 Amendment note below.

1990—Pub. L. 101-624, §2388(d)(1), was amended in its directory language by Pub. L. 102-237, §501(c)(2)(B)(i), resulting in no change in text.

Subsec. (a). Pub. L. 101-624, §§2303(a)(1), 2388(d)(1)(B), designated first undesignated par. as subsec. (a) and substituted “In accordance with section 2006a of this title, for purposes of this chapter, and” for “For the purposes of this chapter and”, and inserted before period at end “, or may assign and transfer such powers, duties, and assets to the Rural Development Administration as provided by law for that office”.

Subsec. (b). Pub. L. 101-624, §2388(d)(1)(B), designated second undesignated par. beginning “The Secretary may—” as subsec. (b).

Subsec. (b)(1) to (3). Pub. L. 101-624, §2388(d)(1)(A)(vi), formerly (vii), as redesignated and amended by Pub. L. 102-237, §501(c)(2)(B)(iii), (v), redesignated pars. (a) to (c) as (1) to (3), respectively, of subsec. (b).

Subsec. (b)(4). Pub. L. 101-624, §2388(d)(1)(A)(vi), formerly (vii), as redesignated and amended by Pub. L. 102-237, §501(c)(2)(B)(iii), (v), redesignated par. (d) as (4) of subsec. (b).

Pub. L. 101-624, §§1805(a)(1)(A), (B), 2303(a)(2), inserted “or the Rural Development Administration” after “Farmers Home Administration” in first sentence, substituted “, except for activities under the Housing Act of 1949” for “under any of its programs, as circumstances may require, to carry out” in first sentence, and substituted “, except for debt incurred under the Housing Act of 1949” for “incurred under this chapter” in third sentence.

Subsec. (b)(4)(A). Pub. L. 101-624, §2388(d)(1)(A)(v), formerly (vi), as redesignated by Pub. L. 102-237, §501(c)(2)(B)(iii), redesignated subpar. (1) as (A).

Pub. L. 101-624, §1805(a)(1)(C), inserted “with respect to farmer program loans,” before “on terms”.

Subsec. (b)(4)(B). Pub. L. 101-624, §2388(d)(1)(A)(v), formerly (vi), as redesignated by Pub. L. 102-237, §501(c)(2)(B)(iii), redesignated subpar. (2) as (B).

Subsec. (b)(5). Pub. L. 101-624, §2388(d)(1)(A)(vi), formerly (vii), as redesignated and amended by Pub. L. 102-237, §501(c)(2)(B)(iii), (v), redesignated par. (e) as (5) of subsec. (b).

Pub. L. 101-624, §1805(a)(2), inserted “except for activities conducted under the Housing Act of 1949,” before “collect”, struck out “arising or” after “obligations”, substituted “by the Farmers Home Administration” for “under this chapter” before “, or under any” and “by the Farmers Home Administration” for “pursuant to this chapter” before “and, if in his”.

Subsec. (b)(6). Pub. L. 101-624, §2388(d)(1)(A)(vi), formerly (vii), as redesignated and amended by Pub. L. 102-237, §501(c)(2)(B)(iii), (v), redesignated par. (f) as (6) of subsec. (b).

Pub. L. 101-624, §2388(d)(1)(A)(ii), substituted “release” for “Release”.

Pub. L. 101-624, §2388(d)(1)(A)(i), as amended by Pub. L. 102-237, §501(c)(2)(B)(ii), realigned margin.

Pub. L. 101-624, §1805(c)(1), (2), which made amendments identical to those by Pub. L. 101-624, §2388(d)(1)(A)(i), (ii), was repealed by Pub. L. 102-237, §501(c)(2)(A).

Subsec. (b)(7). Pub. L. 101-624, §2388(d)(1)(A)(vi), formerly (vii), as redesignated and amended by Pub. L. 102-237, §501(c)(2)(B)(iii), (v), redesignated par. (g) as (7) of subsec. (b).

Pub. L. 101-624, §2388(d)(1)(A)(iii), substituted “obtain” for “Obtain”.

Pub. L. 101-624, §2388(d)(1)(A)(i), as amended by Pub. L. 102-237, §501(c)(2)(B)(ii), realigned margin.

Pub. L. 101-624, §1805(c)(1), (3), which made amendments identical to those by Pub. L. 101-624, §2388(d)(1)(A)(i), (iii), was repealed by Pub. L. 102-237, §501(c)(2)(A).

Subsec. (b)(8). Pub. L. 101-624, §2388(d)(1)(A)(vi), formerly (vii), as redesignated and amended by Pub. L. 102-237, §501(c)(2)(B)(iii), (v), redesignated par. (h) [par. (i) prior to redesignation by Pub. L. 101-624, §1805(b), as amended] as (8) of subsec. (b).

Pub. L. 101-624, §2388(d)(1)(A)(iv)(II), formerly (v)(II), as redesignated and amended by Pub. L. 102-237,

§501(c)(2)(B)(iii), (iv), redesignated former subpars. (1) and (2) as (A) and (B), respectively.

Pub. L. 101-624, §2303(a)(3), inserted “Rural Development Administration under this chapter or by the” before “Farmers Home Administration”.

Pub. L. 101-624, §1806, inserted before semicolon at end “, and shall document the consent of the Secretary for the transfer of the property of a borrower in the file of the borrower”.

Pub. L. 101-624, §2388(d)(1)(A)(i), (iv)(I), formerly (v)(I), as redesignated and amended by Pub. L. 102-237, §501(c)(2)(B)(ii)-(iv), realigned margin and substituted “consent” for “Consent”.

Pub. L. 101-624, §1805(c)(1), (4), which made amendments identical to those by Pub. L. 101-624, §2388(d)(1)(A)(i), (iv)(I), was repealed by Pub. L. 102-237, §501(c)(2)(A).

Subsec. (b)(9). Pub. L. 101-624, §2388(d)(1)(A)(vi), formerly (vii), as redesignated and amended by Pub. L. 102-237, §501(c)(2)(B)(iii), (v), redesignated par. (i) [par. (j) prior to redesignation by Pub. L. 101-624, §1805(b), as amended] as (9) of subsec. (b).

Pars. (c) to (g). Pub. L. 101-624, §2388(d)(1)(A)(vi), formerly (vii), (B), as redesignated and amended by Pub. L. 102-237, §501(c)(2)(B)(iii), (v), redesignated former pars. (c) to (g) as (3) to (7), respectively, of subsec. (b). See above.

Par. (h). Pub. L. 101-624, §2388(d)(1)(A)(iv), which directed substitution of “not” for “Not” before “require”, was repealed by Pub. L. 102-237, §501(c)(2)(B)(iii).

Pub. L. 101-624, §1805(c)(5), which redesignated par. (i) as (h), was repealed by Pub. L. 102-237, §501(c)(2)(A).

Pub. L. 101-624, §1805(b), as amended by Pub. L. 102-237, §501(c)(2)(A), redesignated par. (i) as (h) and struck out par. (h) which read as follows: “Not require borrowers to pay interest accrued after December 31, 1972, on interest which is not more than 90 days overdue on any loan held or insured by the Farmers Home Administration;”.

Pars. (i), (j). Pub. L. 101-624, §1805(c)(5), which redesignated pars. (i) and (j) as (h) and (i), respectively, was repealed by Pub. L. 102-237, §501(c)(2)(A).

Pub. L. 101-624, §1805(b), as amended by Pub. L. 102-237, §501(c)(2)(A), redesignated pars. (i) and (j) as (h) and (i), respectively. Pars. (h) and (i) subsequently redesignated pars. (8) and (9) of subsec. (b). See above.

1988—Par. (d). Pub. L. 100-233 inserted “or debts” before “claims”, and inserted “The Secretary may not require liquidation of property securing any farmer program loan or acceleration of any payment required under any farmer program loan as a prerequisite to initiating an action authorized under this subsection.”

1985—Par. (d). Pub. L. 99-198, §1309, in amending par. (d) generally, substituted provisions authorizing the Secretary to compromise, adjust, reduce, or charge-off claims, and adjust, modify, subordinate, or release the terms of security instruments, leases, contracts, and agreements entered into or administered by the Farmers Home Administration to carry out this chapter for provisions which had authorized the Secretary to compromise, adjust, or reduce claims, and adjust and modify the terms of mortgages, leases, contracts and agreements entered into or administered by the Administration under any of its programs, but not in the event of claims of \$25,000 or more without the approval of the Administrator, substituted provisions authorizing the Secretary to release borrowers or others obligated on a debt incurred under this chapter from personal liability with or without consideration at the time of the compromise, adjustment, reduction or charge-off of any claim for provisions authorizing the Secretary to release from personal liability, with or without payment of any consideration at the time of adjustment of the claims, borrowers who transferred the security property to approved applicants, to other than approved applicants, or for amounts less than the indebtedness secured thereby, struck out provisions that compromise, adjustment, or reduction of the claim shall be based on the value of the security and a determination of the

debtor's reasonable ability to pay considering his other assets and income, and struck out provisions relating to any claim due and payable for five years or more and to partial releases and subordination of mortgages.

1981—Par. (i). Pub. L. 97-98 designated existing provisions following "consent to" as cl. (2) and added cl. (1). 1978—Pub. L. 95-334 in par. (a) struck out references to Puerto Rico and the Virgin Islands, in par. (d) substituted "\$25,000" for "\$15,000", and added par. (j).

1972—Par. (a). Pub. L. 92-419, §124(1), authorized the Secretary of Agriculture, until Jan. 1, 1975, to make contracts for services incident to making, insuring, collecting, and servicing loans and property as determined by the Secretary to be necessary for carrying out the purposes of this chapter, and required the Secretary, prior to June 30, 1974, to report to Congress through the President on the experience in using such contracts, together with recommendations for such legislation as he may see fit.

Pars. (d) to (i). Pub. L. 92-419, §124(2), substituted a semicolon for a period at end of lettered pars. (d), (e) and (f) and added pars. (g) to (i).

1968—Par. (f). Pub. L. 90-488 added par. (f).

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-171, title V, §5304(b), May 13, 2002, 116 Stat. 345, provided that: "The amendment made by subsection (a) [amending this section] shall not apply to a contract entered into before the effective date of this Act [May 13, 2002]."

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 501(c) of Pub. L. 102-237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101-624, to which the amendment relates, and amendment by section 701(h)(1)(E) of Pub. L. 102-237 to any provision specified therein effective as if included in act that added provision so specified at the time such act became law, see section 1101(b)(3), (c) of Pub. L. 102-237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97-98, set out as an Effective Date note under section 4301 of this title.

CONTINUATION OF SMALL FARMER TRAINING AND TECHNICAL ASSISTANCE PROGRAM

Section 1328 of Pub. L. 99-198 provided that: "The Secretary of Agriculture shall, during the period beginning on the date of enactment of this Act [Dec. 23, 1985] and ending on September 30, 1988, maintain at substantially current levels the small farmer training and technical assistance program in the office of the Administrator of the Farmers Home Administration."

REAMORTIZATION OF DISTRESSED FARMERS HOME ADMINISTRATION LOANS FROM REVENUES FROM SOFTWOOD TIMBER CROP PLANTINGS ON MARGINAL LAND

Pub. L. 98-258, title VI, §608, Apr. 10, 1984, 98 Stat. 140, as amended by Pub. L. 99-198, title XII, §1254, Dec. 23, 1985, 99 Stat. 1517, provided that:

"(a)(1) Notwithstanding any other provision of law, the Secretary of Agriculture (hereinafter in this section referred to as the 'Secretary') may implement a program, pursuant to the recommendations contained in the study mandated by section 608 of the Agricultural Programs Adjustment Act of 1984 (7 U.S.C. 1421 [1981] note), under which a distressed loan (as determined by the Secretary) made or insured under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), or a portion thereof, may be reamortized with the use of future revenue produced from the planting of softwood timber crops on marginal land (as determined by the Secretary) that—

"(A) was previously used to produce an agricultural commodity or as pasture; and

"(B) secures a loan made or insured under such Act.

"(2) Accrued interest on a loan reamortized under this section may be capitalized and interest charged on such interest.

"(3) All or a portion of the payments on such reamortized loan may be deferred until such softwood timber crop produces revenue or for a term of 45 years, whichever comes first.

"(4) Repayment of such reamortized loan shall be made not later than 50 years after the date of reamortization.

"(b) The interest rate on such reamortized loans shall be determined by the Secretary, but not in excess of the current average yield on outstanding marketable obligations of the United States with periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 percent, as determined by the Secretary and adjusted to the nearest one-eighth of 1 percent.

"(c) To be eligible for such program—

"(1) the borrower of such reamortized loan must place not less than 50 acres of such land in softwood timber production;

"(2) such land (including timber) may not have any lien against such land other than a lien for—

"(A) a loan made or insured under the Consolidated Farm and Rural Development Act [7 U.S.C. 1921 et seq.] to secure such reamortized loan; or

"(B) a loan made under this section, at the time of reamortization or thereafter, that is subject to a lien on such land (including timber) in favor of the Secretary; and

"(3) the total amount of loans secured by such land (including timber) may not exceed \$1,000 per acre.

"(d)(1) To assist such borrowers to place such land in softwood timber production, the Secretary may make loans to such borrowers for such purpose in an aggregate amount not to exceed the actual cost of tree planting for land placed in the program.

"(2) Any such loan shall be secured by the land (including timber) on which the trees are planted.

"(3) Such loans shall be made on the same terms and conditions as are provided in this section for reamortized loans.

"(e) The Secretary shall issue such rules as are necessary to carry out this section, including rules prescribing terms and conditions for—

"(1) reamortizing and making loans under this section;

"(2) entering into security instruments and agreements under this section; and

"(3) management and harvesting practices of the timber crop.

"(f) There are authorized to be appropriated such sums as are necessary to carry out this section.

"(g) No more than 50,000 acres may be placed in such program."

§ 1981a. Loan moratorium and policy on foreclosures

(a) In general

In addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this chapter, or under the provisions of any other law administered by the Farmers Home Administration or by the Rural Development Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the

borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided*, That if the security instrument securing such loan is foreclosed such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

(b) Moratorium

(1) In general

Subject to the other provisions of this subsection, effective beginning on the date of the enactment of this subsection, there shall be in effect a moratorium, with respect to farmer program loans made under subchapter I, II, or III, on all acceleration and foreclosure proceedings instituted by the Department of Agriculture against any farmer or rancher who—

(A) has pending against the Department a claim of program discrimination that is accepted by the Department as valid; or

(B) files a claim of program discrimination that is accepted by the Department as valid.

(2) Waiver of interest and offsets

During the period of the moratorium, the Secretary shall waive the accrual of interest and offsets on all farmer program loans made under subchapter I, II, or III for which loan acceleration or foreclosure proceedings have been suspended under paragraph (1).

(3) Termination of moratorium

The moratorium shall terminate with respect to a claim of discrimination by a farmer or rancher on the earlier of—

(A) the date the Secretary resolves the claim; or

(B) if the farmer or rancher appeals the decision of the Secretary on the claim to a court of competent jurisdiction, the date that the court renders a final decision on the claim.

(4) Failure to prevail

If a farmer or rancher does not prevail on a claim of discrimination described in paragraph (1), the farmer or rancher shall be liable for any interest and offsets that accrued during the period that loan acceleration or foreclosure proceedings have been suspended under paragraph (1).

(Pub. L. 87-128, title III, § 331A, as added Pub. L. 95-334, title I, § 122, Aug. 4, 1978, 92 Stat. 427; amended Pub. L. 101-624, title XXIII, § 2303(b), Nov. 28, 1990, 104 Stat. 3981; Pub. L. 110-234, title XIV, § 14002(a), May 22, 2008, 122 Stat. 1442; Pub. L. 110-246, § 4(a), title XIV, § 14002(a), June 18, 2008, 122 Stat. 1664, 2204.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsec. (a), see note set out under section 1921 of this title.

The date of the enactment of this subsection, referred to in subsec. (b)(1), is the date of enactment of Pub. L. 110-246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub.

L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:

Pub. L. 102-341, title III, Aug. 14, 1992, 106 Stat. 897.

Pub. L. 102-142, title III, Oct. 28, 1991, 105 Stat. 902.

Pub. L. 101-506, title II, Nov. 5, 1990, 104 Stat. 1333.

Pub. L. 101-161, title II, Nov. 21, 1989, 103 Stat. 969.

Pub. L. 100-460, title II, Oct. 1, 1988, 102 Stat. 2246.

Pub. L. 100-202, § 101(k) [title II], Dec. 22, 1987, 101 Stat. 1329-322, 1329-340.

Pub. L. 99-500, § 101(a) [title II], Oct. 18, 1986, 100 Stat. 1783, 1783-16, and Pub. L. 99-591, § 101(a) [title II], Oct. 30, 1986, 100 Stat. 3341, 3341-16.

Pub. L. 99-190, § 101(a) [H.R. 3037, title II], Dec. 19, 1985, 99 Stat. 1185; Pub. L. 100-202, § 106, Dec. 22, 1987, 101 Stat. 1329-433.

Pub. L. 97-370, title II, Dec. 18, 1982, 96 Stat. 1800.

AMENDMENTS

2008—Pub. L. 110-246, § 14002(a), designated existing provisions as subsec. (a) and added subsec. (b).

1990—Pub. L. 101-624 inserted “or by the Rural Development Administration” after “Farmers Home Administration”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

FORBEARANCE AND RESTRUCTURING FOR FARM LOANS

Pub. L. 100-387, title III, § 313(a), Aug. 11, 1988, 102 Stat. 949, provided that: “It is the sense of Congress that the Secretary of Agriculture should, with respect to farmers and ranchers who suffer major losses due to drought, hail, excessive moisture, or related condition in 1988—

“(1) exercise forbearance in the collection of interest and principal on direct farmer program loans under the Consolidated Farm and Rural Development Act [7 U.S.C. 1921 et seq.] outstanding for such farmers and ranchers;

“(2) expedite the use of credit restructuring and other credit relief mechanisms authorized under the Agricultural Credit Act of 1987 [Pub. L. 100-233, Jan. 6, 1988, 101 Stat. 1568, see Tables for classification] and similar provisions of law for such farmers and ranchers; and

“(3) encourage commercial lenders participating in guaranteed farmer lending programs under the Consolidated Farm and Rural Development Act to exercise forbearance before declaring loans to such farmers and ranchers under such programs in default.”

§ 1981b. Farm loan interest rates

Any loan for farm ownership purposes under subchapter I of this chapter, farm operating purposes under subchapter II of this chapter, or disaster emergency purposes under subchapter III of this chapter, other than a guaranteed loan, that is deferred, consolidated, rescheduled, or reamortized under this chapter shall, notwithstanding any other provision of this chapter, bear interest on the balance of the original loan and for the term of the original loan at a rate that is the lowest of—

(1) the rate of interest on the original loan;

(2) the rate being charged by the Secretary for loans, other than guaranteed loans, of the same type at the time at which the borrower applies for a deferral, consolidation, rescheduling, or reamortization; or

(3) the rate being charged by the Secretary for loans, other than guaranteed loans, of the same type at the time of the deferral, consolidation, rescheduling, or reamortization.

(Pub. L. 87-128, title III, § 331B, as added Pub. L. 98-258, title VI, § 605, Apr. 10, 1984, 98 Stat. 139; amended Pub. L. 107-171, title V, § 5305, May 13, 2002, 116 Stat. 345.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 1921 of this title.

AMENDMENTS

2002—Pub. L. 107-171 substituted “lowest of—” for “lower of”, realigned margins for pars., substituted “original loan;” for “original loan or (2) the”, added par. (2), and redesignated former par. (2) as (3).

ADJUSTMENT OF INTEREST RATES

Pub. L. 100-71, title I, July 11, 1987, 101 Stat. 428, provided that: “The Secretary may adjust interest rates on existing nonsubsidized loans if he determines such interest rates are excessive in relation to prevailing commercial rates for comparable loans: *Provided*, That such rate adjustments shall constitute a change in the loan agreement and not a new loan.”

§ 1981c. Oil and gas royalty payments on loans

(a) The Secretary shall permit a borrower of a loan made or insured under this chapter to make a prospective payment on such loan with proceeds from—

(1) the leasing of oil, gas, or other mineral rights to real property used to secure such loan; or

(2) the sale of oil, gas, or other minerals removed from real property used to secure such loan, if the value of the rights to such oil, gas, or other minerals has not been used to secure such loan.

(b) Subsection (a) of this section shall not apply to a borrower of a loan made or insured under this chapter with respect to which a liquidation or foreclosure proceeding is pending on December 23, 1985.

(Pub. L. 87-128, title III, § 331C, as added Pub. L. 99-198, title XIII, § 1310(a), Dec. 23, 1985, 99 Stat. 1523.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 1921 of this title.

§ 1981d. Notice of loan service programs

(a) Requirement

The Secretary shall provide notice by certified mail to each borrower who is at least 90 days past due on the payment of principal or interest on a loan made or insured under this chapter.

(b) Contents

The notice required under subsection (a) of this section shall—

(1) include a summary of all primary loan service programs, preservation loan service programs, debt settlement programs, and appeal procedures, including the eligibility criteria, and terms and conditions of such programs and procedures;

(2) include a summary of the manner in which the borrower may apply, and be consid-

ered, for all such programs, except that the Secretary shall not require the borrower to select among such programs or waive any right in order to be considered for any program carried out by the Secretary;

(3) advise the borrower regarding all filing requirements and any deadlines that must be met for requesting loan servicing;

(4) provide any relevant forms, including applicable response forms;

(5) advise the borrower that a copy of regulations is available on request; and

(6) be designed to be readable and understandable by the borrower.

(c) Contained in regulations

All notices required by this section shall be contained in the regulations implementing this chapter.

(d) Timing

The notice described in subsection (b) of this section shall be provided—

(1) at the time an application is made for participation in a loan service program;

(2) on written request of the borrower; and

(3) before the earliest of—

(A) initiating any liquidation;

(B) requesting the conveyance of security property;

(C) accelerating the loan;

(D) repossessing property;

(E) foreclosing on property; or

(F) taking any other collection action.

(e) Consideration of borrowers for loan service programs

The Secretary shall consider a farmer program borrower for all loan service programs if, within 60 days after receipt of the notice required in this section or, in extraordinary circumstances as determined by the applicable State director, after the 60-day period, the borrower requests such consideration in writing. In considering a borrower for loan service programs, the Secretary shall place the highest priority on the preservation of the borrower’s farming operations.

(Pub. L. 87-128, title III, § 331D, as added Pub. L. 100-233, title VI, § 605, Jan. 6, 1988, 101 Stat. 1666; amended Pub. L. 101-624, title XVIII, § 1807, Nov. 28, 1990, 104 Stat. 3819; Pub. L. 102-554, § 10, Oct. 28, 1992, 106 Stat. 4151; Pub. L. 104-127, title VI, § 633, Apr. 4, 1996, 110 Stat. 1092.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsecs. (a) and (c), see note set out under section 1921 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-127 substituted “90 days past due on” for “180 days delinquent in”.

1992—Subsec. (e). Pub. L. 102-554, which directed the insertion of “or, in extraordinary circumstances as determined by the applicable State director, after the 60-day period” after “not later than 60 days after receipt of the notice required in this section”, was executed by making the insertion after “within 60 days after receipt of the notice required in this section” to reflect the probable intent of Congress.

1990—Subsec. (b)(1). Pub. L. 101-624, § 1807(1), inserted “debt settlement programs,” after “preservation loan service programs”.

Subsec. (e). Pub. L. 101-624, §1807(2), substituted “60 days” for “45 days”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-127 effective 90 days after Apr. 4, 1996, see section 663(b) of Pub. L. 104-127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1807(1) of Pub. L. 101-624 effective 120 days after Nov. 28, 1990, see section 1861(b) of Pub. L. 101-624, set out as a note under section 2001 of this title.

§ 1981e. Planting and production history guidelines

(a) In general

The Secretary shall ensure that appropriate procedures, including to the extent practicable onsite inspections, or use of county or State yield averages, are used in calculating future yields for an applicant for a loan, when an accurate projection cannot be made because the applicant's past production history has been affected by natural disasters declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(b) Calculation of yields

(1) In general

For purposes of averaging past yields of the farm of a borrower or applicant over a period of crop years to calculate future yields for the farm under this chapter (except for loans under subchapter III of this chapter), the Secretary shall permit the borrower or applicant to exclude the crop year with the lowest actual or county average yield for the farm from the calculation, if the borrower or applicant was affected by a disaster during at least 2 of the crop years during the period.

(2) Affected by a disaster

For purposes of paragraph (1), a borrower or applicant was affected by a disaster if the Secretary finds that the borrower or applicant's farming operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), including a borrower or applicant who has a qualifying loss but is not located in a designated or declared disaster area.

(3) Application of subsection

Paragraph (1) shall apply to all actions taken by the Secretary to carry out this chapter (except for loans under subchapter III of this chapter) that involve the yields of a farm of a borrower or applicant, including making loans and loan guarantees, servicing loans, and making credit sales.

(Pub. L. 87-128, title III, §331E, as added Pub. L. 100-233, title VI, §606, Jan. 6, 1988, 101 Stat. 1667; amended Pub. L. 102-237, title V, §501(d)(1), Dec. 13, 1991, 105 Stat. 1866; Pub. L. 102-552, title V, §516(g)(1), Oct. 28, 1992, 106 Stat. 4138.)

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsecs. (a) and

(b)(2), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

For definition of “this chapter”, referred to in subsec. (b)(1), (3), see note set out under section 1921 of this title.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-552, §516(g)(1)(A), substituted “Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)” for “Disaster Relief Act of 1974”.

Subsec. (b)(2). Pub. L. 102-552, §516(g)(1)(B), inserted “Robert T. Stafford” before “Disaster Relief”.

1991—Pub. L. 102-237 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

EFFECTIVE DATE OF 1992 AMENDMENT

Section 516(g)(2) of Pub. L. 102-552 provided that: “The amendments made by paragraph (1) of this subsection [amending this section] shall take effect immediately after section 501(d) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102-237; 105 Stat. 1866) [amending this section and enacting provisions set out below] took effect.”

EFFECTIVE DATE OF 1991 AMENDMENT

Section 501(d)(3) of Pub. L. 102-237 provided that:

“(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) [amending this section] shall become effective on the date of publication of the interim regulations issued pursuant to paragraph (2)(A) [set out below].

“(B) EXCEPTION.—The amendment made by paragraph (1) shall apply to each primary loan servicing application submitted on or after the date of enactment of this Act [Dec. 13, 1991].”

REGULATIONS

Section 501(d)(2) of Pub. L. 102-237 provided that:

“(A) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code, as soon as practicable after the date of enactment of this Act [Dec. 13, 1991] and without a requirement for prior public notice and comment, the Secretary of Agriculture shall issue interim regulations that provide for the implementation of the amendment made by paragraph (1) [amending this section] beginning in crop year 1992.

“(B) FINAL REGULATIONS.—The Secretary of Agriculture shall provide for public notice and comment before the issuance of final regulations to implement the amendment made by paragraph (1).”

§ 1981f. Underwriting forms and standards

In the administration of this chapter, the Secretary shall, to the extent practicable, use underwriting forms, standards, practices, and terminology similar to the forms, standards, practices, and terminology used by lenders in the private sector.

(Pub. L. 87-128, title III, §331F, as added Pub. L. 101-624, title XVIII, §1808(a), Nov. 28, 1990, 104 Stat. 3820.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 1921 of this title.

REGULATIONS

Section 1808(b) of Pub. L. 101-624 provided that: “The Secretary of Agriculture shall not issue final regulations providing for the use of ratios and standards for determining the degree of potential loan risk under

section 331F of the Consolidated Farm and Rural Development Act [7 U.S.C. 1981f] (as added by subsection (a) of this section), prior to the submission of the study and report on the effects of the regulations required by section 621 of the Agricultural Credit Act of 1987 (7 U.S.C. 1989 note)."

§ 1982. Relief for mobilized military reservists from certain agricultural loan obligations

(a) Definition of mobilized military reservist

In this section, the term "mobilized military reservist" means an individual who—

(1) is on active duty under section 688, 12301(a), 12301(g), 12302, 12304, 12306, or 12406, or chapter 15 of title 10, or any other provision of law during a war or during a national emergency declared by the President or Congress, regardless of the location at which the active duty service is performed; or

(2) in the case of a member of the National Guard, is on full-time National Guard duty (as defined in section 101(d)(5) of title 10) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32 for purposes of responding to a national emergency declared by the President and supported by Federal funds.

(b) Forgiveness of interest payments due while borrower is a mobilized military reservist

Any requirement that a borrower of a direct loan made under this chapter make any interest payment on the loan that would otherwise be required to be made while the borrower is a mobilized military reservist is rescinded.

(c) Deferral of principal payments due while or after borrower is a mobilized military reservist

The due date of any payment of principal on a direct loan made to a borrower under this chapter that would otherwise be required to be made while or after the borrower is a mobilized military reservist is deferred for a period equal in length to the period for which the borrower is a mobilized military reservist.

(d) Nonaccrual of interest

Interest on a direct loan made to a borrower described in this section shall not accrue during the period the borrower is a mobilized military reservist.

(e) Borrower not considered to be delinquent or receiving debt forgiveness

Notwithstanding section 2008h of this title or any other provision of this chapter, a borrower who receives assistance under this section shall not, as a result of the assistance, be considered to be delinquent or receiving debt forgiveness for purposes of receiving a direct or guaranteed loan under this chapter.

(Pub. L. 87-128, title III, § 332, as added Pub. L. 108-375, div. A, title VI, § 664, Oct. 28, 2004, 118 Stat. 1974.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b), (c), and (e), was in the original "this title", meaning title III of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 307, as amended, known as the Consolidated Farm and Rural Develop-

ment Act. For complete classification of title III to the Code, see Short Title note set out under section 1921 of this title and Tables.

PRIOR PROVISIONS

A prior section 1982, Pub. L. 87-128, title III, § 332, Aug. 8, 1961, 75 Stat. 314; Pub. L. 99-198, title XIII, § 1311, Dec. 23, 1985, 99 Stat. 1524; Pub. L. 100-233, title VI, § 607, Jan. 6, 1988, 101 Stat. 1667; Pub. L. 101-624, title XVIII, § 1809, Nov. 28, 1990, 104 Stat. 3820; Pub. L. 102-554, § 11, Oct. 28, 1992, 106 Stat. 4151, related to county committees, prior to repeal by Pub. L. 103-354, title II, § 227(b)(1), Oct. 13, 1994, 108 Stat. 3218.

§ 1983. Special conditions and limitations on loans

In connection with loans made or insured under this chapter, the Secretary shall require—

(1) the applicant (A) to certify in writing, and the Secretary shall determine, that he is unable to obtain sufficient credit elsewhere to finance his actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time, and (B) to furnish an appropriate written financial statement;

(2) except with respect to a loan under section 1926, 1932, or 1944 of this title—

(A) an annual review of the credit history and business operation of the borrower; and
(B) an annual review of the continued eligibility of the borrower for the loan;

(3) except for guaranteed loans, an agreement by the borrower that if at any time it shall appear to the Secretary that the borrower may be able to obtain a loan from a production credit association, a Federal land bank, or other responsible cooperative or private credit source (or, in the case of a borrower under section 1934 of this title, the borrower may be able to obtain a loan under section 1922 of this title), at reasonable rates and terms for loans for similar purposes and periods of time, the borrower will, upon request by the Secretary, apply for and accept such loan in sufficient amount to repay the Secretary or the insured lender, or both, and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan;

(4) such provision for supervision of the borrower's operations as the Secretary shall deem necessary to achieve the objectives of the loan and protect the interests of the United States; and

(5) the application of a person who is a veteran of any war, as defined in section 101(12) of title 38, for a loan under subchapter I or II of this chapter to be given preference over a similar application from a person who is not a veteran of any war, if the applications are on file in a county or area office at the same time.

(Pub. L. 87-128, title III, § 333, Aug. 8, 1961, 75 Stat. 314; Pub. L. 90-488, § 12, Aug. 15, 1968, 82 Stat. 771; Pub. L. 91-620, § 3, Dec. 31, 1970, 84 Stat. 1862; Pub. L. 92-419, title I, §§ 118(b), 125, 126, Aug. 30, 1972, 86 Stat. 664, 666; Pub. L. 95-334, title I, § 123, Aug. 4, 1978, 92 Stat. 428; Pub. L. 96-438,

§ 3(c), Oct. 13, 1980, 94 Stat. 1875; Pub. L. 97-98, title XVI, § 1604, Dec. 22, 1981, 95 Stat. 1346; Pub. L. 101-624, title XVIII, § 1810, title XXIII, § 2388(e), Nov. 28, 1990, 104 Stat. 3820, 4053; Pub. L. 102-237, title V, § 501(e), Dec. 13, 1991, 105 Stat. 1867; Pub. L. 102-554, § 12, Oct. 28, 1992, 106 Stat. 4151; Pub. L. 103-354, title II, § 227(b)(2), Oct. 13, 1994, 108 Stat. 3218; Pub. L. 104-127, title VI, §§ 634, 635(a), 636, Apr. 4, 1996, 110 Stat. 1093; Pub. L. 107-171, title V, § 5306, May 13, 2002, 116 Stat. 345.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in introductory provisions, see note set out under section 1921 of this title.

AMENDMENTS

2002—Par. (2). Pub. L. 107-171 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “except with respect to a loan under section 1926, 1932, or 1944 of this title, the county or area committee established under section 590h(b)(5)(B) of title 16 to certify in writing—

“(A) that an annual review of the credit history and business operation of the borrower has been conducted; and

“(B) that a review of the continued eligibility of the borrower for the loan has been conducted;”.

1996—Par. (1)(B). Pub. L. 104-127, § 634, substituted “an appropriate written financial statement” for “a written statement showing the applicant’s net worth”.

Pars. (2) to (4). Pub. L. 104-127, § 635(a), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively. Former par. (4) redesignated (5).

Par. (5). Pub. L. 104-127, § 636, added par. (5) and struck out former par. (5) which read as follows: “the applications of veterans for loans under subchapter I or II of this chapter to be given preference over similar applications of nonveterans on file in any county or area office at the same time. Veterans as used herein shall mean persons who served in the Armed Forces of the United States during any war between the United States and any other nation, during the Korean conflict or the Vietnam era and who were discharged or released therefrom under conditions other than dishonorable.”

Pub. L. 104-127, § 635(a)(1), redesignated par. (4) as (5).

1994—Pars. (2) to (5). Pub. L. 103-354 redesignated pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2) relating to certification by county committee of applicant’s eligibility for loan.

1992—Par. (2)(A)(iii). Pub. L. 102-554 substituted “5 years” for “2 years”.

1991—Par. (2)(A). Pub. L. 102-237 redesignated cls. (1) to (3) as (i) to (iii), respectively.

1990—Pub. L. 101-624, § 2388(e), redesignated pars. (a) to (e) as (1) to (5), respectively, and in par. (1) redesignated subpars. (1) and (2) as (A) and (B), respectively; in par. (2) redesignated subpars. (1) and (2) as (A) and (B), respectively, and in subpar. (A) redesignated cls. (A) to (C) as (1) to (3), respectively; in par. (3) made technical amendments to references to sections 1934 and 1922 of this title involving original act and requiring no change in text; and in par. (5) made technical amendments to reference to subchapter I or II of this chapter involving original act and requiring no change in text.

Pub. L. 101-624, § 1810, amended par. (b) generally. Prior to amendment, par. (b) read as follows: “except for loans under sections 1926, 1932, 1944 and 1961(a)(2) of this title, the county committee to certify in writing that the applicant meets the eligibility requirements for the loan, and has the character, industry, and ability to carry out the proposed operations, and will, in the opinion of the committee, honestly endeavor to carry out his undertakings and obligations; and for loans under section 1961(a)(2) of this title, the Secretary shall require the recommendation of the county

committee as to the making or insuring of the loan: *Provided*, That the Secretary may provide a procedure for appeal and review of any determination relating to a certification or recommendation required to be made by the county committee, and for reversal or modification thereof should the facts warrant such action;”.

1981—Par. (a). Pub. L. 97-98 designated existing provisions after “the applicant” as cl. (1), and added cl. (2). 1980—Par. (b). Pub. L. 96-438 substituted “section 1961(a)(2)” for “section 1961(b)(2)” in two places.

1978—Par. (b). Pub. L. 95-334, § 123(1), inserted proviso relating to appeal and review procedure for any determination regarding a certification, etc.

Par. (c). Pub. L. 95-334, § 123(2), (3), inserted provisions excepting guaranteed loans and provisions relating to borrowers under section 1934 of this title obtaining loans under section 1922 of this title.

1972—Par. (a). Pub. L. 92-419, § 125, inserted “, and the Secretary shall determine,” after “in writing”.

Par. (b). Pub. L. 92-419, §§ 118(b), 126, inserted reference to section 1932 of this title and substituted “section 1961(b)(2) of this title” for “said sections”, respectively.

1970—Pub. L. 91-620 included persons who served during the Vietnam era within the definition of “Veterans” in par. (e).

1968—Par. (b). Pub. L. 90-488 struck out “farming” from phrase “proposed farming operations”.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101-624, to which the amendment relates, see section 1101(b)(3) of Pub. L. 102-237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97-98, set out as an Effective Date note under section 4301 of this title.

§ 1983a. Prompt approval of loans and loan guarantees

(a) Applications; time for action by Secretary; notice; statement of reasons

(1) The Secretary shall approve or disapprove an application for a loan or loan guarantee made under this chapter, and notify the applicant of such action, not later than 60 days after the Secretary has received a complete application for such loan or loan guarantee.

(2)(A) If an application for a loan or loan guarantee under this chapter (other than under subchapter II of this chapter) is incomplete, the Secretary shall inform the applicant of the reasons such application is incomplete not later than 20 days after the Secretary has received such application.

(B)(i) Not later than 10 calendar days after the Secretary receives an application for an operating loan or loan guarantee under subchapter II of this chapter, the Secretary shall notify the applicant of any information required before a decision may be made on the application. On receipt of an application, the Secretary shall request from other parties such information as may be needed in connection with the application.

(ii) Not later than 15 calendar days after the date an agency of the Department of Agriculture receives a request for information made pursuant to clause (i), the agency shall provide the Secretary with the requested information.

(iii) If, not later than 20 calendar days after the date a request is made pursuant to clause (i)

with respect to an application, the Secretary has not received the information requested, the Secretary shall notify the applicant and the district office of the Farmers Home Administration, in writing, of the outstanding information.

(iv) A county office shall notify the district office of the Farmers Home Administration of each application for an operating loan or loan guarantee under subchapter II of this chapter that is pending more than 45 days after receipt, and the reasons the application is pending.

(v) A district office that receives a notice provided under clause (iv) with respect to an application shall immediately take steps to ensure that final action is taken on the application not later than 15 days after the date of the receipt of the notice.

(vi) The district office shall report to the State office of the Farmers Home Administration on each application for an operating loan or loan guarantee under subchapter II of this chapter that is pending more than 45 days after receipt by the county committee, and the reasons the application is pending.

(vii) Each month, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on a State-by-State basis, as to each application for an operating loan or loan guarantee under subchapter II of this chapter on which final action had not been taken within 60 calendar days after receipt by the Secretary, and the reasons final action had not been taken.

(3) If an application for a loan or loan guarantee under this chapter is disapproved by the Secretary, the Secretary shall state the reasons for the disapproval in the notice required under paragraph (1).

(4)(A) Notwithstanding paragraph (1), each application for a loan or loan guarantee under section 1932(a) of this title, or for a loan under section 1926(a) of this title, that is to be disapproved by the Secretary solely because the Secretary lacks the necessary amount of funds to make the loan or guarantee shall not be disapproved but shall be placed in pending status.

(B) The Secretary shall retain the pending application and reconsider the application beginning on the date that sufficient funds become available.

(C) Not later than 60 days after funds become available regarding each pending application, the Secretary shall notify the applicant of the approval or disapproval of funding for the application.

(b) Loan proceeds; time for receipt

(1) Except as provided in paragraph (2), if an application for an insured loan under this chapter is approved by the Secretary, the Secretary shall provide the loan proceeds to the applicant not later than 15 days (or such longer period as the applicant may approve) after the application for the loan is approved by the Secretary.

(2) If the Secretary is unable to provide the loan proceeds to the applicant within such 15-day period because sufficient funds are not available to the Secretary for such purpose, the Secretary shall provide the loan proceeds to the applicant as soon as practicable (but in no event

later than 15 days unless the applicant agrees to a longer period) after sufficient funds for such purpose become available to the Secretary.

(c) Reconsideration of applications; time for action by Secretary

If an application for a loan or loan guarantee under this chapter is disapproved by the Secretary, but such action is subsequently reversed or revised as the result of an appeal within the Department of Agriculture or to the courts of the United States and the application is returned to the Secretary for further consideration, the Secretary shall act on the application and provide the applicant with notice of the action within 15 days after return of the application to the Secretary.

(d) Approved lender designation applications; time for decision by Secretary

In carrying out the approved lender program established by exhibit A to subpart B of part 1980 of title 7, Code of Federal Regulations, the Secretary shall ensure that each request of a lending institution for designation as an approved lender under such program is reviewed, and a decision made on the application, not later than 15 days after the Secretary has received a complete application for such designation.

(e) Processing loan applications; personnel and other resources made available; use of authorities of law

(1) As soon as practicable after December 23, 1985, the Secretary shall take such steps as are necessary to make personnel, including the payment of overtime for such personnel, and other resources of the Department of Agriculture available to the Farmers Home Administration as are sufficient to enable the Farmers Home Administration to expeditiously process loan applications that are submitted by farmers and ranchers.

(2) In carrying out paragraph (1), the Secretary may use any authority of law provided to the Secretary, including—

(A) the Agricultural Credit Insurance Fund established under section 1929 of this title; and

(B) the employment procedures used in connection with the emergency loan program established under subchapter III of this chapter.

(f) Graduation of seasoned direct loan borrowers to loan guarantee program

(1) As used in this subsection:

(A) The term “approved lender” means a lender approved prior to October 28, 1992, by the Secretary under the approved lender program established by exhibit A to subpart B of part 1980 of title 7, Code of Federal Regulations (as in effect on January 1, 1991), or a lender certified under section 1989¹ of this title.

(B) The term “seasoned direct loan borrower” means a borrower receiving a direct loan under this chapter who has been classified as “commercial” or “standard” under subpart W of part 2006 of the Instruction Manual (as in effect on January 1, 1991).

¹ See References in Text note below.

(2) The Secretary, or a contracting third party, shall annually review under section 2006b of this title the loans of each seasoned loan borrower. If, based on the review, it is determined that a borrower would be able to obtain a loan, guaranteed by the Secretary, from a commercial or cooperative lender at reasonable rates and terms for loans for similar purposes and periods of time, the Secretary shall assist the borrower in applying for the commercial or cooperative loan.

(3) In accordance with section 2006d of this title, the Secretary shall prepare a prospectus on each seasoned direct loan borrower determined eligible to obtain a guaranteed loan. The prospectus shall contain a description of the amounts of loan guarantee and interest assistance that the Secretary will provide to the seasoned direct loan borrower to enable the seasoned direct loan borrower to carry out a financially viable farming plan if a guaranteed loan is made.

(4) **VERIFICATION.**—

(A) **IN GENERAL.**—The Secretary shall provide a prospectus of a seasoned direct loan borrower to each approved lender whose lending area includes the location of the seasoned direct loan borrower.

(B) **NOTIFICATION.**—The Secretary shall notify each borrower of a loan that a prospectus has been provided to a lender under subparagraph (A).

(C) **CREDIT EXTENDED.**—If the Secretary receives an offer from an approved lender to extend credit to the seasoned direct loan borrower under terms and conditions contained in the prospectus, the seasoned direct loan borrower shall not be eligible for an insured loan from the Secretary under subchapter I or II of this chapter, except as otherwise provided in this subsection.

(5) If the Secretary is unable to provide loan guarantees and, if necessary, interest assistance to the seasoned direct loan borrower under this subsection in amounts sufficient to enable the seasoned direct loan borrower to borrow from commercial sources the amount required to carry out a financially viable farming plan, or if the Secretary does not receive an offer from an approved lender to extend credit to a seasoned direct loan borrower under the terms and conditions contained in the prospectus, the Secretary shall make an insured loan to the seasoned direct loan borrower under subchapter I or II of this chapter, whichever is applicable.

(6) To the extent necessary for the borrower to obtain a loan, guaranteed by the Secretary, from a commercial or cooperative lender, the Secretary shall provide interest rate reductions as provided for under section 1999 of this title.

(g) Simplified application forms for loan guarantees

(1) In general

The Secretary shall provide to lenders a short, simplified application form for guarantees under this chapter of—

(A) farmer program loans the principal amount of which is \$125,000 or less; and

(B) business and industry guaranteed loans under section 1932(a)(2)(A) of this title the principal amount of which is—

(i) in the case of a loan guarantee made during fiscal year 2002 or 2003, \$400,000 or less; and

(ii) in the case of a loan guarantee made during any subsequent fiscal year—

(I) \$400,000 or less; or

(II) if the Secretary determines that there is not a significant increased risk of a default on the loan, \$600,000 or less.

(2) Water and waste disposal grants and loans

The Secretary shall develop an application process that accelerates, to the maximum extent practicable, the processing of applications for water and waste disposal grants or direct or guaranteed loans under paragraph (1) or (2) of section 1926(a) of this title the grant award amount or principal loan amount, respectively, of which is \$300,000 or less.

(3) Administration

In developing an application under this subsection, the Secretary shall—

(A) consult with commercial and cooperative lenders; and

(B) ensure that—

(i) the form can be completed manually or electronically, at the option of the lender;

(ii) the form minimizes the documentation required to accompany the form;

(iii) the cost of completing and processing the form is minimal; and

(iv) the form can be completed and processed in an expeditious manner.

(Pub. L. 87-128, title III, §333A, as added Pub. L. 99-198, title XIII, §1312(a), Dec. 23, 1985, 99 Stat. 1524; amended Pub. L. 101-624, title XVIII, §1811, title XXIII, §2388(f), Nov. 28, 1990, 104 Stat. 3821, 4053; Pub. L. 102-554, §§13-15, Oct. 28, 1992, 106 Stat. 4152, 4153; Pub. L. 104-127, title VI, §637, Apr. 4, 1996, 110 Stat. 1093; Pub. L. 107-171, title V, §5307, title VI, §6019, May 13, 2002, 116 Stat. 345, 362; Pub. L. 110-234, title VI, §6012(b)(3), May 22, 2008, 122 Stat. 1165; Pub. L. 110-246, §4(a), title VI, §6012(b)(3), June 18, 2008, 122 Stat. 1664, 1927.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsecs. (a), (b)(1), (c), (f)(1)(B), and (g)(1), see note set out under section 1921 of this title.

Section 1989 of this title, referred to in subsec. (f)(1)(A), was in the original “section 114”, and was translated as meaning section 339 of Pub. L. 87-128, which is classified to section 1989 of this title, to reflect the probable intent of Congress, because Pub. L. 87-128 does not contain a section 114 and section 1989 provides for a lender certification program.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsec. (g)(1)(B). Pub. L. 110-246, §6012(b)(3), substituted “1932(a)(2)(A)” for “1932(a)(1)” in introductory provisions.

2002—Subsec. (g). Pub. L. 107-171, §6019, added subsec. (g) and struck out former subsec. (g) which read as follows:

“(1) The Secretary shall provide to lenders a short, simplified application form for guarantees under this

chapter of loans the principal amount of which is \$125,000 or less.

“(2) In developing the application, the Secretary shall—

“(A) consult with commercial and cooperative lenders; and

“(B) ensure that—

“(i) the form can be completed manually or electronically, at the option of the lender;

“(ii) the form minimizes the documentation required to accompany the form;

“(iii) the cost of completing and processing the form is minimal; and

“(iv) the form can be completed and processed in an expeditious manner.”

Subsec. (g)(1). Pub. L. 107-171, § 5307, substituted “\$125,000” for “\$50,000”.

1996—Subsec. (f)(4). Pub. L. 104-127, § 637(1), inserted heading.

Subsec. (f)(4)(A). Pub. L. 104-127, § 637(1), designated first sentence of par. (4) as subpar. (A), inserted heading, and directed the substitution of “The Secretary shall provide a prospectus of a seasoned” for “With” and all that follows through “seasoned”, which was executed by making the substitution for all that follows through “seasoned” the first place appearing resulting in making the substitution for “With the approval of the borrower, the Secretary shall provide the prospectus of the seasoned”, to reflect the probable intent of Congress.

Subsec. (f)(4)(B), (C). Pub. L. 104-127, § 637(2), added subpar. (B), designated second sentence of par. (4) as subpar. (C), and inserted heading.

1992—Subsec. (a)(2). Pub. L. 102-554, § 13, designated existing provisions as subpar. (A), inserted “(other than under subchapter II of this chapter)” after “under this chapter”, and added subpar. (B).

Subsec. (f). Pub. L. 102-554, § 14, added subsec. (f).

Subsec. (g). Pub. L. 102-554, § 15, added subsec. (g).

1990—Subsec. (a)(4). Pub. L. 101-624, § 1811, added par. (4).

Subsec. (c). Pub. L. 101-624, § 2388(f), substituted “If” for “In”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

EFFECTIVE DATE

Section 1312(b) of Pub. L. 99-198 provided that: “The amendment made by subsection (a) [enacting this section] shall be effective with respect to applications for loans or loan guarantees under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) received by the Secretary of Agriculture after the date of enactment of this Act [Dec. 23, 1985].”

§ 1983b. Beginning farmer and rancher individual development accounts pilot program

(a) Definitions

In this section:

(1) Demonstration program

The term “demonstration program” means a demonstration program carried out by a qualified entity under the pilot program established in subsection (b)(1).

(2) Eligible participant

The term “eligible participant” means a qualified beginning farmer or rancher that—

(A) lacks significant financial resources or assets; and

(B) has an income that is less than—

(i) 80 percent of the median income of the State in which the farmer or rancher resides; or

(ii) 200 percent of the most recent annual Federal Poverty Income Guidelines published by the Department of Health and Human Services for the State.

(3) Individual development account

The term “individual development account” means a savings account described in subsection (b)(4)(A).

(4) Qualified entity

(A) In general

The term “qualified entity” means—

(i) 1 or more organizations—

(I) described in section 501(c)(3) of title 26; and

(II) exempt from taxation under section 501(a) of such title; or

(ii) a State, local, or tribal government submitting an application jointly with an organization described in clause (i).

(B) No prohibition on collaboration

An organization described in subparagraph (A)(i) may collaborate with a financial institution or for-profit community development corporation to carry out the purposes of this section.

(b) Pilot program

(1) In general

The Secretary shall establish a pilot program to be known as the “New Farmer Individual Development Accounts Pilot Program” under which the Secretary shall work through qualified entities to establish demonstration programs—

(A) of at least 5 years in duration; and

(B) in at least 15 States.

(2) Coordination

The Secretary shall operate the pilot program through, and in coordination with the farm loan programs of, the Farm Service Agency.

(3) Reserve funds

(A) In general

A qualified entity carrying out a demonstration program under this section shall establish a reserve fund consisting of a non-Federal match of 50 percent of the total amount of the grant awarded to the demonstration program under this section.

(B) Federal funds

After the qualified entity has deposited the non-Federal matching funds described in subparagraph (A) in the reserve fund, the Secretary shall provide the total amount of the grant awarded under this section to the demonstration program for deposit in the reserve fund.

(C) Use of funds

Of the funds deposited under subparagraph (B) in the reserve fund established for a demonstration program, the qualified entity carrying out the demonstration program—

(i) may use up to 10 percent for administrative expenses; and

(ii) shall use the remainder in making matching awards described in paragraph (4)(B)(ii)(I).

(D) Interest

Any interest earned on amounts in a reserve fund established under subparagraph (A) may be used by the qualified entity as additional matching funds for, or to administer, the demonstration program.

(E) Guidance

The Secretary shall issue guidance regarding the investment requirements of reserve funds established under this paragraph.

(F) Reversion

On the date on which all funds remaining in any individual development account established by a qualified entity have reverted under paragraph (5)(B)(ii) to the reserve fund established by the qualified entity, there shall revert to the Treasury of the United States a percentage of the amount (if any) in the reserve fund equal to—

(i) the amount of Federal funds deposited in the reserve fund under subparagraph (B) that were not used for administrative expenses; divided by

(ii) the total amount of funds deposited in the reserve fund.

(4) Individual development accounts

(A) In general

A qualified entity receiving a grant under this section shall establish and administer individual development accounts for eligible participants.

(B) Contract requirements

To be eligible to receive funds under this section from a qualified entity, an eligible participant shall enter into a contract with only 1 qualified entity under which—

(i) the eligible participant agrees—

(I) to deposit a certain amount of funds of the eligible participant in a personal savings account, as prescribed by the contractual agreement between the eligible participant and the qualified entity;

(II) to use the funds described in subclause (I) only for 1 or more eligible expenditures described in paragraph (5)(A); and

(III) to complete financial training; and

(ii) the qualified entity agrees—

(I) to deposit, not later than 1 month after an amount is deposited pursuant to clause (i)(I), at least a 100-percent, and up to a 200-percent, match of that amount into the individual development account established for the eligible participant; and

(II) with uses of funds proposed by the eligible participant.

(C) Limitation

(i) In general

A qualified entity administering a demonstration program under this section may

provide not more than \$6,000 for each fiscal year in matching funds to the individual development account established by the qualified entity for an eligible participant.

(ii) Treatment of amount

An amount provided under clause (i) shall not be considered to be a gift or loan for mortgage purposes.

(5) Eligible expenditures

(A) In general

An eligible expenditure described in this subparagraph is an expenditure—

(i) to purchase farmland or make a down payment on an accepted purchase offer for farmland;

(ii) to make mortgage payments on farmland purchased pursuant to clause (i), for up to 180 days after the date of the purchase;

(iii) to purchase breeding stock, fruit or nut trees, or trees to harvest for timber; and

(iv) for other similar expenditures, as determined by the Secretary.

(B) Timing

(i) In general

An eligible participant may make an eligible expenditure at any time during the 2-year period beginning on the date on which the last matching funds are provided under paragraph (4)(B)(ii)(I) to the individual development account established for the eligible participant.

(ii) Unexpended funds

At the end of the period described in clause (i), any funds remaining in an individual development account established for an eligible participant shall revert to the reserve fund of the demonstration program under which the account was established.

(c) Applications

(1) In general

A qualified entity that seeks to carry out a demonstration program under this section may submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may prescribe.

(2) Criteria

In considering whether to approve an application to carry out a demonstration program under this section, the Secretary shall assess—

(A) the degree to which the demonstration program described in the application is likely to aid eligible participants in successfully pursuing new farming opportunities;

(B) the experience and ability of the qualified entity to responsibly administer the demonstration program;

(C) the experience and ability of the qualified entity in recruiting, educating, and assisting eligible participants to increase economic independence and pursue or advance farming opportunities;

(D) the aggregate amount of direct funds from non-Federal public sector and private

sources that are formally committed to the demonstration program as matching contributions;

(E) the adequacy of the plan of the qualified entity to provide information relevant to an evaluation of the demonstration program; and

(F) such other factors as the Secretary considers to be appropriate.

(3) Preferences

In considering an application to conduct a demonstration program under this section, the Secretary shall give preference to an application from a qualified entity that demonstrates—

(A) a track record of serving clients targeted by the program, including, as appropriate, socially disadvantaged farmers or ranchers (as defined in section 2003(e)(2) of this title); and

(B) expertise in dealing with financial management aspects of farming.

(4) Approval

Not later than 1 year after the date of enactment of this section, in accordance with this section, the Secretary shall, on a competitive basis, approve such applications to conduct demonstration programs as the Secretary considers appropriate.

(5) Term of authority

If the Secretary approves an application to carry out a demonstration program, the Secretary shall authorize the applicant to carry out the project for a period of 5 years, plus an additional 2 years to make eligible expenditures in accordance with subsection (b)(5)(B).

(d) Grant authority

(1) In general

The Secretary shall make a grant to a qualified entity authorized to carry out a demonstration program under this section.

(2) Maximum amount of grants

The aggregate amount of grant funds provided to a demonstration program carried out under this section shall not exceed \$250,000.

(3) Timing of grant payments

The Secretary shall pay the amounts awarded under a grant made under this section—

(A) on the awarding of the grant; or

(B) pursuant to such payment plan as the qualified entity may specify.

(e) Reports

(1) Annual progress reports

(A) In general

Not later than 60 days after the end of the calendar year in which the Secretary authorizes a qualified entity to carry out a demonstration program under this section, and annually thereafter until the conclusion of the demonstration program, the qualified entity shall prepare an annual report that includes, for the period covered by the report—

(i) an evaluation of the progress of the demonstration program;

(ii) information about the demonstration program, including the eligible participants and the individual development accounts that have been established; and

(iii) such other information as the Secretary may require.

(B) Submission of reports

A qualified entity shall submit each report required under subparagraph (A) to the Secretary.

(2) Reports by the Secretary

Not later than 1 year after the date on which all demonstration programs under this section are concluded, the Secretary shall submit to Congress a final report that describes the results and findings of all reports and evaluations carried out under this section.

(f) Annual review

The Secretary may conduct an annual review of the financial records of a qualified entity—

(1) to assess the financial soundness of the qualified entity; and

(2) to determine the use of grant funds made available to the qualified entity under this section.

(g) Regulations

In carrying out this section, the Secretary may promulgate regulations to ensure that the program includes provisions for—

(1) the termination of demonstration programs;

(2) control of the reserve funds in the case of such a termination;

(3) transfer of demonstration programs to other qualified entities; and

(4) remissions from a reserve fund to the Secretary in a case in which a demonstration program is terminated without transfer to a new qualified entity.

(h) Authorization of appropriations

There is authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2008 through 2012.

(Pub. L. 87-128, title III, §333B, as added Pub. L. 110-234, title V, §5301, May 22, 2008, 122 Stat. 1147, and Pub. L. 110-246, §4(a), title V, §5301, June 18, 2008, 122 Stat. 1664, 1908.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (c)(4), is the date of enactment of Pub. L. 110-246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 1983b, Pub. L. 87-128, title III, §333B, as added Pub. L. 99-198, title XIII, §1313(a), Dec. 23, 1985, 99 Stat. 1525; amended Pub. L. 100-233, title VI, §608, Jan. 6, 1988, 101 Stat. 1667; Pub. L. 101-624, title XVIII, §1812, Nov. 28, 1990, 104 Stat. 3821, related to appeals from adverse decisions under the Consolidated Farm and Rural Development Act, prior to repeal by Pub. L. 103-354, title II, §281(c), Oct. 13, 1994, 108 Stat. 3233. See section 6991 et seq. of this title.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the

date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of this title.

§ 1983c. Provision of information to borrowers

(a) In general

On request of a farm borrower of a farmer program loan, the Secretary shall make available to the borrower the following:

- (1) One copy of each document signed by the borrower.
- (2) One copy of each appraisal performed with respect to the loan.
- (3) All documents that the Secretary otherwise is required to provide to the borrower under any law or rule of law in effect on the date of such request.

(b) Construction of section

Subsection (a) of this section shall not be construed to supersede any duty imposed on the Secretary by any law or rule of law in effect immediately before January 6, 1988, unless such duty is in direct conflict with any duty imposed by subsection (a) of this section.

(Pub. L. 87-128, title III, § 333C, as added Pub. L. 100-233, title VI, § 609, Jan. 6, 1988, 101 Stat. 1668.)

§ 1984. Taxation

All property subject to a lien held by the United States or the title to which is acquired or held by the Secretary under this chapter other than property used for administrative purposes shall be subject to taxation by State, territory, district, and local political subdivisions in the same manner and to the same extent as other property is taxed: *Provided, however,* That no tax shall be imposed or collected on or with respect to any instrument if the tax is based on—

- (1) the value of any notes or mortgages or other lien instruments held by or transferred to the Secretary;
- (2) any notes or lien instruments administered under this chapter which are made, assigned, or held by a person otherwise liable for such tax; or
- (3) the value of any property conveyed or transferred to the Secretary,

whether as a tax on the instrument, the privilege of conveying or transferring or the recordation thereof; nor shall the failure to pay or collect any such tax be a ground for refusal to record or file such instruments, or for failure to impart notice, or prevent the enforcement of its provisions in any State or Federal court.

(Pub. L. 87-128, title III, § 334, Aug. 8, 1961, 75 Stat. 315.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 1921 of this title.

§ 1985. Security servicing

(a) Preservation and protection of security, lien, or priority of lien securing loan

The Secretary is authorized and empowered to make advances, without regard to any loan or total indebtedness limitation, to preserve and

protect the security for or the lien or priority of the lien securing any loan or other indebtedness owing to, insured by, or acquired by the Secretary under this chapter or under any other programs administered by the Farmers Home Administration or the Rural Development Administration; to bid for and purchase at any execution, foreclosure, or other sale or otherwise to acquire property upon which the United States has a lien by reason of a judgment or execution arising from, or which is pledged, mortgaged, conveyed, attached, or levied upon to secure the payment of, any such indebtedness whether or not such property is subject to other liens, to accept title to any property so purchased or acquired; and to sell, manage, or otherwise dispose of such property as hereinafter provided.

(b) Operation or lease of realty

Except as provided in subsections (c) and (e) of this section, real property administered under the provisions of this chapter may be operated or leased by the Secretary for such period or periods as the Secretary may deem necessary to protect the Government's investment therein.

(c) Sale of property

(1) In general

Subject to this subsection and subsection (e)(1)(A) of this section, the Secretary shall offer to sell real property that is acquired by the Secretary under this chapter using the following order and method of sale:

(A) Advertisement

Not later than 15 days after acquiring real property, the Secretary shall publicly advertise the property for sale.

(B) Beginning farmer or rancher; socially disadvantaged farmer or rancher

(i) In general

Not later than 135 days after acquiring real property, the Secretary shall offer to sell the property to a qualified beginning farmer or rancher or a socially disadvantaged farmer or rancher at current market value based on a current appraisal.

(ii) Random selection

If more than 1 qualified beginning farmer or rancher or socially disadvantaged farmer or rancher offers to purchase the property, the Secretary shall select between the qualified applicants on a random basis.

(iii) Appeal of random selection

A random selection or denial by the Secretary of a beginning farmer or rancher or a socially disadvantaged farmer or rancher for farm inventory property under this subparagraph shall be final and not administratively appealable.

(iv) Combining and dividing of property

To the maximum extent practicable, the Secretary shall maximize the opportunity for beginning farmers or ranchers and socially disadvantaged farmers or ranchers to purchase real property acquired by the Secretary under this chapter by combining or dividing inventory parcels of the prop-

erty in such manner as the Secretary determines to be appropriate.

(C) Public sale

If no acceptable offer is received from a qualified beginning farmer or rancher or a socially disadvantaged farmer or rancher under subparagraph (B) not later than 135 days after acquiring the real property, the Secretary shall, not later than 30 days after the 135-day period, sell the property after public notice at a public sale, and, if no acceptable bid is received, by negotiated sale, at the best price obtainable.

(2) Previous lease

In the case of real property acquired before April 4, 1996, that the Secretary leased before April 4, 1996, not later than 60 days after the lease expires, the Secretary shall offer to sell the property in accordance with paragraph (1).

(3) Interest

(A) In general

Subject to subparagraph (B), any conveyance of real property under this subsection shall include all of the interest of the United States in the property, including mineral rights.

(B) Conservation

The Secretary may for conservation purposes grant or sell an easement, restriction, development right, or similar legal right to real property to a State, a political subdivision of a State, or a private nonprofit organization separately from the underlying fee or other rights to the property owned by the United States.

(4) Other law

Chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 shall not apply to any exercise of authority under this chapter.

(5) Lease of property

(A) In general

Subject to subparagraph (B), the Secretary may not lease any real property acquired under this chapter.

(B) Exception

(i) Beginning farmer or rancher; socially disadvantaged farmer or rancher

The Secretary may lease or contract to sell to a beginning farmer or rancher or a socially disadvantaged farmer or rancher a farm or ranch acquired by the Secretary under this chapter if the beginning farmer or rancher or the socially disadvantaged farmer or rancher qualifies for a credit sale or direct farm ownership loan under subchapter I of this chapter but credit sale authority for loans or direct farm ownership loan funds, respectively, are not available.

(ii) Term

The term of a lease or contract to sell to a beginning farmer or rancher or a socially disadvantaged farmer or rancher under clause (i) shall be until the earlier of—

(I) the date that is 18 months after the date of the lease or sale; or

(II) the date that direct farm ownership loan funds or credit sale authority for loans becomes available to the beginning farmer or rancher or the socially disadvantaged farmer or rancher.

(iii) Income-producing capability

In determining the rental rate on real property leased under this subparagraph, the Secretary shall consider the income-producing capability of the property during the term that the property is leased.

(6) Expedited determination

(A) In general

On the request of an applicant, not later than 30 days after denial of the applicant's application, the appropriate State director shall provide an expedited review and determination of whether the applicant is a beginning farmer or rancher or a socially disadvantaged farmer or rancher for the purpose of acquiring farm inventory property.

(B) Appeal

The determination of a State Director under subparagraph (A) shall be final and not administratively appealable.

(C) Effects of determinations

(i) In general

The Secretary shall maintain statistical data on the number and results of determinations made under subparagraph (A) and the effect of the determinations on—

(I) selling farm inventory property to beginning farmers or ranchers and socially disadvantaged farmers or ranchers; and

(II) disposing of real property in inventory.

(ii) Notification

The Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate if the Secretary determines that the review process under subparagraph (A) is adversely affecting the selling of farm inventory property to beginning farmers or ranchers or socially disadvantaged farmers or ranchers or the disposing of real property in inventory.

(d) Easements; condemnations

With respect to any real property administered under this chapter, the Secretary is authorized to grant or sell easements or rights-of-way for roads, utilities, and other appurtenances not inconsistent with the public interest. With respect to any rights-of-way over land on which the United States has a lien administered under this chapter, the Secretary may release said lien upon payment to the United States of adequate consideration, and the interest of the United States arising under any such lien may be acquired for highway purposes by any State or political subdivision thereof in condemnation proceedings under State law by service by certified

mail upon the United States attorney for the district, the State Director of the Farmers Home Administration for the State in which the farm is located, and the Attorney General of the United States: *Provided, however,* That the United States shall not be required to appear, answer, or respond to any notice or writ sooner than ninety days from the time such notice or writ is returnable or purports to be effective, and the taking or vesting of title to the interest of the United States shall not become final under any proceeding, order, or decree until adequate compensation and damages have been finally determined and paid to the United States or into the registry of the court.

(e) Real property located within Indian reservation; conservation practices; adverse effects prohibition

(1)(A)(i) Except as provided in subparagraph (D), if—

(I) the Secretary acquires property under this chapter that is located within an Indian reservation; and

(II) the borrower-owner is the Indian tribe that has jurisdiction over the reservation in which the real property is located or the borrower-owner is a member of such Indian tribe;

the Secretary shall dispose of or administer the property only as provided for in this subparagraph.

(ii) For purposes of this subparagraph, the term “Indian reservation” means all land located within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; trust or restricted land located within the boundaries of a former reservation of a federally recognized Indian tribe in the State of Oklahoma; or all Indian allotments the Indian titles to which have not been extinguished if such allotments are subject to the jurisdiction of a federally recognized Indian tribe.

(iii) Not later than 90 days after acquiring the property, the Secretary shall afford an opportunity to purchase or lease the real property in accordance with the order of priority established under clause (iv) by the Indian tribe having jurisdiction over the Indian reservation within which the real property is located or, if no order of priority is established by such Indian tribe under clause (iv), in the following order:

(I) to an Indian member of the Indian tribe that has jurisdiction over the reservation within which the real property is located;

(II) to an Indian corporate entity;

(III) to such Indian tribe.

(iv) The governing body of any Indian tribe having jurisdiction over an Indian reservation may revise the order of priority provided in clause (iii) under which lands located within such reservation shall be offered for purchase or lease by the Secretary under clause (iii) and may restrict the eligibility for such purchase or lease to—

(I) persons who are members of such Indian tribe,

(II) Indian corporate entities that are authorized by such Indian tribe to lease or pur-

chase lands within the boundaries of such reservation, or

(III) such Indian tribe itself.

(v) If real property described in clause (i) is not purchased or leased under clause (iii) and the Indian tribe having jurisdiction over the reservation within which the real property is located is unable to purchase or lease the real property, the Secretary shall transfer the real property to the Secretary of the Interior who shall administer the real property as if the real property were held in trust by the United States for the benefit of such Indian tribe. From the rental income derived from the lease of the transferred real property, and all other income generated from the transferred real property, the Secretary of the Interior shall pay those State, county, municipal, or other local taxes to which the transferred real property was subject at the time of acquisition by the Secretary, until the earlier of—

(I) the expiration of the 4-year period beginning on the date on which the real property is so transferred, or

(II) such time as the lands are transferred into trust pursuant to clause (viii).

(vi) At any time any real property is transferred to the Secretary of the Interior under clause (v), the Secretary of Agriculture shall be deemed to have no further responsibility under this Act for collection of any amounts with regard to the farm program loan which had been secured by such real property, nor with regard to any lien arising out of such loan transaction, nor for repayments of any amount with regard to such loan transactions or liens to the Treasury of the United States, and the Secretary of the Interior shall be deemed to have succeeded to all right, title and interest of the Secretary of Agriculture in such real estate arising from the farm program loan transaction, including the obligation to remit to the Treasury of the United States, in repayment of the original loan, those amounts provided in clause (vii).

(vii) After the payment of any taxes which are required to be paid under clause (v), all remaining rental income derived from the lease of the real property transferred to the Secretary of the Interior under clause (v), and all other income generated from the real property transferred to the Secretary of the Interior under clause (v), shall be deposited as miscellaneous receipts in the Treasury of the United States until the amount deposited is equal to the lesser of—

(I) the amount of the outstanding lien of the United States against such real property, as of the date the real property was acquired by the Secretary;

(II) the fair market value of the real property, as of the date of the transfer to the Secretary of the Interior; or

(III) the capitalized value of the real property, as of the date of the transfer to the Secretary of the Interior.

(viii) When the total amount that is required to be deposited under clause (vii) with respect to any real property has been deposited into the Treasury of the United States, title to the real property shall be held in trust by the United States for the benefit of the Indian tribe having

jurisdiction over the Indian reservation within which the real property is located.

(ix) Notwithstanding any other clause of this subparagraph, the Indian tribe having jurisdiction over the Indian reservation within which the real property described in clause (i) is located may, at any time after the real property has been transferred to the Secretary of the Interior under clause (v), offer to pay the remaining amount on the lien, or the fair market value of the real property, whichever is less. Upon payment of such amount, title to such real property shall be held by the United States in trust for the tribe and such trust or restricted lands that have been acquired by the Secretary under foreclosure or voluntary transfer under a loan made or insured under this chapter and transferred to an Indian person, entity, or tribe under the provisions of this subparagraph shall be deemed to have never lost trust or restricted status.

(x) This subparagraph shall apply to all lands in the land inventory established under this chapter (as of November 28, 1990) that were (immediately prior to November 28, 1990) owned by an Indian borrower-owner described in clause (i) and that are situated within an Indian reservation (as defined in clause (ii)), regardless of the date of foreclosure or acquisition by the Secretary. The Secretary shall afford an opportunity to a tribal member, an Indian corporate entity, or the tribe to purchase or lease the real property as provided in clause (iii). If the right is not exercised or no expression of intent to exercise such right is received within 180 days after November 28, 1990, the Secretary shall transfer the real property to the Secretary of the Interior as provided in clause (v).

(B) The rights provided in this subsection shall be in addition to any such right of first refusal under the law of the State in which the property is located.

(C) As used in this paragraph, the term "borrower-owner" means—

(i) a borrower from whom the Secretary acquired real farm or ranch property (including the principal residence of the borrower) used to secure any loan made to the borrower under this chapter; or

(ii) in any case in which an owner of property pledged the property to secure the loan and the owner is different than the borrower, the owner.

(D)(i) If—

(I) the real property described in subparagraph (A)(i) is located within an Indian reservation;

(II) the borrower-owner is an Indian tribe that has jurisdiction over the reservation in which the real property is located or the borrower-owner is a member of an Indian tribe;

(III) the borrower-owner has obtained a loan made, insured, or guaranteed under this chapter; and

(IV) the borrower-owner and the Secretary have exhausted all of the procedures provided for in this chapter to permit a borrower-owner to retain title to the real property, such that it is necessary for the borrower-owner to relinquish title,

the Secretary shall dispose of or administer the property only as provided in subparagraph (A), as modified by this subparagraph.

(ii) The Secretary shall provide the borrower-owner of real property that is described in clause (i) with written notice of—

(I) the right of the borrower-owner to voluntarily convey the real property to the Secretary; and

(II) the fact that real property so conveyed will be placed in the inventory of the Secretary.

(iii) The Secretary shall provide the borrower-owner of the real property with written notice of the rights and protections provided under this chapter to the borrower-owner, and the Indian tribe that has jurisdiction over the reservation in which the real property is located, from foreclosure or liquidation of the real property, including written notice of—

(I) the provisions of subparagraph (A), this subparagraph, and subsection (g)(6)¹ of this section;

(II) if the borrower-owner does not voluntarily convey the real property to the Secretary, that—

(aa) the Secretary may foreclose on the property;

(bb) in the event of foreclosure, the property will be offered for sale;

(cc) the Secretary must offer a bid for the property that is equal to the fair market value of the property or the outstanding principal and interest of the loan, whichever is higher;

(dd) the property may be purchased by another party; and

(ee) if the property is purchased by another party, the property will not be placed in the inventory of the Secretary and the borrower-owner will forfeit the rights and protections provided under this chapter; and

(III) the opportunity of the borrower-owner to consult with the Indian tribe that has jurisdiction over the reservation in which the real property is located or counsel to determine if State or tribal law provides rights and protections that are more beneficial than those provided the borrower-owner under this chapter.

(iv)(I) Except as provided in subclause (II), the Secretary shall accept the voluntary conveyance of real property described in clause (i).

(II) If a hazardous substance (as defined in section 9601(14) of title 42) is located on the property and the Secretary takes remedial action to protect human health or the environment if the property is taken into inventory, the Secretary shall accept the voluntary conveyance of the property only if the Secretary determines that it is in the best interests of the Federal Government.

(v) FORECLOSURE PROCEDURES.—

(I) NOTICE TO BORROWER.—If an Indian borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), not less than 30 days before a foreclosure sale of the property, the Secretary shall provide the Indian borrower-owner with the option of—

¹ See References in Text note below.

(aa) requiring the Secretary to assign the loan and security instruments to the Secretary of the Interior, if the Secretary of the Interior agrees to an assignment releasing the Secretary of Agriculture from all further responsibility for collection of any amounts with regard to the loan secured by the real property; or

(bb) requiring the Secretary to assign the loan and security instruments to the tribe having jurisdiction over the reservation in which the real property is located, if the tribe agrees to the assignment.

(II) NOTICE TO TRIBE.—If an Indian borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), not less than 30 days before a foreclosure sale of the property, the Secretary shall provide written notice to the Indian tribe that has jurisdiction over the reservation in which the real property is located of—

(aa) the sale;

(bb) the fair market value of the property; and

(cc) the requirements of this subparagraph.

(III) ASSUMED LOANS.—If an Indian tribe assumes a loan under subclause (I)—

(aa) the Secretary shall not foreclose the loan because of any default that occurred prior to the date of the assumption;

(bb) the loan shall be for the lesser of the outstanding principal and interest of the loan or the fair market value of the property; and

(cc) the loan shall be treated as though the loan was made under sections 488 to 494 of title 25.

(vi)(I) Except as provided in subclause (II), at a foreclosure sale of real property described in clause (i), the Secretary shall offer a bid for the property that is equal to the higher of—

(aa) the fair market value of the property; or

(bb) the outstanding principal and interest of the loan.

(II) If a hazardous substance (as defined in section 9601(14) of title 42) is located on the property and the Secretary takes remedial action to protect human health or the environment if the property is taken into inventory, subclause (I) shall apply only if the Secretary determines that it is in the best interests of the Federal Government.

(2) The Secretary shall not offer for sale or sell any such farmland if the placing of such farmland on the market will have a detrimental effect on the value of farmland in the area.

(3)(A) The Secretary may sell farmland administered under this chapter through an installment sale or similar device that contains such terms as the Secretary considers necessary to protect the investment of the Federal Government in such land.

(B) The Secretary may subsequently sell any contract entered into to carry out subparagraph (A).

(4) In the case of farmland administered under this chapter that is highly erodible land (as defined in section 3801 of title 16), the Secretary

may require the use of specified conservation practices on such land as a condition of the sale or lease of such land.

(5) Notwithstanding any other provisions of law, compliance by the Secretary with this subsection shall not cause any acreage allotment, marketing quota, or acreage base assigned to such property to lapse, terminate, be reduced, or otherwise be adversely affected.

(6) In the event of any conflict between any provision of this subsection and any provision of the law of any State providing a right of first refusal to the owner of farmland or the operator of a farm before the sale or lease of land to any other person, such provision of State law shall prevail.

(f) Normal security income

(1) As used in this subsection, the term “normal income security” means all security not considered basic security, including crops, livestock, poultry products, Agricultural Stabilization and Conservation Service payments and Commodity Credit Corporation payments, and other property covered by Farmers Home Administration liens that is sold in conjunction with the operation of a farm or other business, but shall not include any equipment (including fixtures in States that have adopted the Uniform Commercial Code), or foundation herd or flock, that is the basis of the farming or other operation, and is the basic security for a Farmers Home Administration farmer program loan.

(2) The Secretary shall release from the normal income security provided for such loan an amount sufficient to pay for the essential household and farm operating expenses of the borrower, until such time as the Secretary accelerates such loan.

(3) A borrower whose account was accelerated on or after November 1, 1985, and on or before May 7, 1987, but not thereafter foreclosed on or liquidated, shall be entitled to the release of security income for a period of 12 months, to pay the essential household and farm operating expenses of such borrower in an amount not to exceed \$18,000 over 12 months, if such borrower—

(A) as of October 30, 1987, continued to be actively engaged in the farming operations for which the Secretary had made the farmer program loan; and

(B) as of the deadline for responding to the notice provided for under paragraph (5), requests restructuring of such loans pursuant to section 2001 of this title.

(4) The county committee in the county in which borrower's land is located shall determine whether the borrower has complied with the requirements of paragraph (3)(A).

(5)(A) Within 45 days after January 6, 1988, the Secretary shall provide to the borrowers described in paragraph (3) notice by certified mail of the right of such borrowers to apply for the benefits under such paragraph.

(B) Releases under such paragraph shall be made to qualified borrowers who have responded to the notice within 30 days after receipt.

(C) Within 12 months after a borrower has requested restructuring under section 2001 of this title, the Secretary shall make a final determination on the request. Notwithstanding the

12-month limitation provided for in paragraph (3), releases shall continue to be made to the borrower until a denial or dismissal of the application of the borrower for restructuring under section 2001 of this title is made. The amount of essential household and farm operating expenses which may be released to any borrower eligible for such releases after 12 months may exceed \$18,000, by an amount proportionate to the period of time beyond 12 months before a final determination is made by the Secretary.

(6) If a borrower is required to plan for or to report on how proceeds from the sale of collateral property will be used, the Secretary shall—

(A) notify the borrower of such requirement; and

(B) notify the borrower of the right to the release of funds under this section and the means by which a request for the funds may be made.

(7) The Secretary shall issue regulations consistent with this section that—

(A) ensure the release of funds to each borrower; and

(B) establish guidelines for releases under paragraph (3), including a list of expenditures for which funds will normally be released.

(g) Easements on inventoried property

(1) In general

Subject to paragraph (2), in the disposal of real property under this section, the Secretary shall establish perpetual wetland conservation easements to protect and restore wetlands or converted wetlands that exist on inventoried property.

(2) Limitation

The Secretary shall not establish a wetland conservation easement on an inventoried property that—

(A) was cropland on the date the property entered the inventory of the Secretary; or

(B) was used for farming at any time during the period beginning on the date 5 years before the property entered the inventory of the Secretary and ending on the date the property entered the inventory of the Secretary.

(3) Notification

The Secretary shall provide prior written notification to a borrower considering preservation loan servicing that a wetlands conservation easement may be placed on land for which the borrower is negotiating a lease option.

(4) Appraised value

The appraised value of the farm shall reflect the value of the land due to the placement of wetland conservation easements.

(Pub. L. 87-128, title III, §335, Aug. 8, 1961, 75 Stat. 315; Pub. L. 92-419, title I, §127, Aug. 30, 1972, 86 Stat. 666; Pub. L. 99-198, title XIII, §1314(a), 1315, 1318(b)(1), Dec. 23, 1985, 99 Stat. 1526, 1528, 1531; Pub. L. 100-233, title VI, §§610, 611, Jan. 6, 1988, 101 Stat. 1669, 1673; Pub. L. 101-624, title XVIII, §§1813(a)–(h)(1), 1816(e), title XXIII, §§2303(c), 2388(g), Nov. 28, 1990, 104 Stat. 3821–3823, 3827, 3981, 4053; Pub. L. 102-237, title V,

§501(f), Dec. 13, 1991, 105 Stat. 1867; Pub. L. 102-552, title V, §516(h)(1), Oct. 28, 1992, 106 Stat. 4138; Pub. L. 102-554, §§16, 17, Oct. 28, 1992, 106 Stat. 4154; Pub. L. 104-127, title VI, §§638, 639, Apr. 4, 1996, 110 Stat. 1093, 1097; Pub. L. 107-171, title V, §5308, May 13, 2002, 116 Stat. 345; Pub. L. 110-234, title V, §5302(a), May 22, 2008, 122 Stat. 1151; Pub. L. 110-246, §4(a), title V, §5302(a), June 18, 2008, 122 Stat. 1664, 1913.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 1921 of this title.

This Act, referred to in subsec. (e)(1)(A)(vi), refers to the Agricultural Act of 1961, Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 294, as amended. For classification of this Act to the Code, see Short Title note set out under section 1911 of this title and Tables. However, the reference was probably intended to be “this title” meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128, as amended, which is classified principally to this chapter. For classification of this title to the Code, see Short Title note set out under section 1921 of this title and Tables.

Subsection (g)(6) of this section, referred to in subsec. (e)(1)(D)(iii)(I), was redesignated subsection (g)(3) of this section by Pub. L. 104-127, title VI, §639(4), Apr. 4, 1996, 110 Stat. 1097.

CODIFICATION

In subsec. (c)(4), “Chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” substituted for “The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)” on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsec. (c)(1)(B). Pub. L. 110-246, §5302(a)(1)(A), in heading, inserted “; socially disadvantaged farmer or rancher” at end, in cls. (i) and (iii), inserted “or a socially disadvantaged farmer or rancher” after “beginning farmer or rancher”, in cl. (ii), inserted “or socially disadvantaged farmer or rancher” after “beginning farmer or rancher”, and, in cl. (iv), substituted “beginning farmers or ranchers and socially disadvantaged farmers or ranchers” for “beginning farmers and ranchers”.

Subsec. (c)(1)(C). Pub. L. 110-246, §5302(a)(1)(B), inserted “or a socially disadvantaged farmer or rancher” after “beginning farmer or rancher”.

Subsec. (c)(5)(B)(i). Pub. L. 110-246, §5302(a)(2)(A), in heading, inserted “; socially disadvantaged farmer or rancher” at end and, in text, inserted “or a socially disadvantaged farmer or rancher” after “a beginning farmer or rancher” and “or the socially disadvantaged farmer or rancher” after “the beginning farmer or rancher”.

Subsec. (c)(5)(B)(ii). Pub. L. 110-246, §5302(a)(2)(B), in introductory provisions, inserted “or a socially disadvantaged farmer or rancher” after “a beginning farmer or rancher” and, in subcl. (II), inserted “or the socially disadvantaged farmer or rancher” after “the beginning farmer or rancher”.

Subsec. (c)(6)(A). Pub. L. 110-246, §5302(a)(3)(A), inserted “or a socially disadvantaged farmer or rancher” after “beginning farmer or rancher”.

Subsec. (c)(6)(C). Pub. L. 110-246, §5302(a)(3)(B), in cl. (i)(I), substituted “beginning farmers or ranchers and socially disadvantaged farmers or ranchers” for “beginning farmers and ranchers” and, in cl. (ii), inserted “or

socially disadvantaged farmers or ranchers” after “beginning farmers or ranchers”.

2002—Subsec. (c)(1)(B)(i). Pub. L. 107-171, § 5308(1)(A)(i), substituted “135 days” for “75 days”.

Subsec. (c)(1)(B)(iv). Pub. L. 107-171, § 5308(1)(A)(ii), added cl. (iv).

Subsec. (c)(1)(C). Pub. L. 107-171, § 5308(1)(B), substituted “135 days” for “75 days” and “135-day period” for “75-day period”.

Subsec. (c)(2). Pub. L. 107-171, § 5308(2), added par. (2) and struck out heading and text of former par. (2). Text read as follows:

“(A) PREVIOUS LEASE.—In the case of real property acquired prior to April 4, 1996, that the Secretary leased prior to April 4, 1996, not later than 60 days after the lease expires, the Secretary shall offer to sell the property in accordance with paragraph (1).

“(B) PREVIOUSLY IN INVENTORY.—In the case of real property acquired prior to April 4, 1996, that the Secretary has not leased, not later than 60 days after April 4, 1996, the Secretary shall offer to sell the property in accordance with paragraph (1).”

1996—Subsec. (b). Pub. L. 104-127, § 638(1), substituted “subsections (c) and (e)” for “subsection (e)”.

Subsec. (c). Pub. L. 104-127, § 638(2), added subsec. (c) and struck out former subsec. (c) which authorized Secretary to determine whether real property administered under this chapter was suitable for disposition to persons eligible for assistance under provisions of any law administered by Farmers Home Administration or Rural Development Administration.

Subsec. (e)(1)(A). Pub. L. 104-127, § 638(3)(A)(i)–(iii), redesignated subpar. (D) as (A), in cl. (i), substituted “(D)” for “(G)” in introductory provisions, added subcl. (I) and struck out former subcl. (I) which read as follows: “the real property described in subparagraph (A)(i) is located within an Indian reservation.”, in subcl. (II), substituted a semicolon for “, and” at end, and struck out subcl. (III) which read as follows: “the period in which the right to purchase or lease such real property provided in clauses (i) and (ii) of subparagraph (A) has expired.”, in cl. (iii), substituted “Not later than 90 days after acquiring the property, the Secretary shall” for “The Secretary shall, within 90 days after the expiration of the period for which the right to purchase or lease real property described in clause (i) is provided in clauses (i) and (ii) of subparagraph (A).”, and struck out former subpar. (A) which authorized the Secretary, during 180-day period beginning on date of acquisition, or during applicable period under State law, to allow borrower-owner to purchase or lease property, if such borrower-owner had acted in good faith with the Secretary.

Subsec. (e)(1)(B). Pub. L. 104-127, § 638(3)(A)(i), (ii), redesignated subpar. (E) as (B) and struck out former subpar. (B) which read as follows: “Any purchase or lease under subparagraph (A) shall be on such terms and conditions as are established in regulations promulgated by the Secretary.”

Subsec. (e)(1)(C). Pub. L. 104-127, § 638(3)(A)(i), (ii), redesignated subpar. (F) as (C) and struck out former subpar. (C) which authorized Secretary to give preference in sale or lease, with option to purchase, of property that had been foreclosed, purchased, redeemed, or otherwise acquired by the Secretary to persons in specified order.

Subsec. (e)(1)(D). Pub. L. 104-127, § 638(3)(A)(ii), (iv), redesignated subpar. (G) as (D), in cl. (i), substituted “(A)” for “(D)” in concluding provisions, in cl. (iii)(I), substituted “subparagraph (A)” for “subparagraphs (C)(i), (C)(ii), and (D)”, and added cl. (v) and struck out former cl. (v) which read as follows: “If a borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), at least 30 days before a foreclosure sale of the property, the Secretary shall provide written notice to the Indian tribe that has jurisdiction over the reservation in which the real property is located of—

“(I) the sale;

“(II) the fair market value of the property; and

“(III) the requirements of this subparagraph.”

Former subpar. (D) redesignated (A).

Subsec. (e)(1)(E) to (G). Pub. L. 104-127, § 638(3)(A)(ii), redesignated subpars. (E) to (G) as (B) to (D), respectively.

Subsec. (e)(3). Pub. L. 104-127, § 638(3)(B), (C), (E), redesignated par. (4) as (3), struck out “(i)” before “The Secretary may sell”, redesignated cl. (ii) of subpar. (A) as subpar. (B) and substituted “subparagraph (A)” for “clause (i)”, struck out former subpar. (B) which read as follows: “If two or more qualified operators of not larger than family-size farms desire to purchase, or lease with an option to purchase, such land, the appropriate county committee shall randomly select the operator who may purchase such land, on such basis as the Secretary may prescribe by regulation, in accordance with subsection (c)(2)(B)(iii) of this section.”, and struck out former par. (3) which directed the Secretary to issue regulations providing for leasing of real property, or leasing such property with option to purchase, on fair and equitable basis.

Subsec. (e)(4). Pub. L. 104-127, § 638(3)(E), redesignated par. (7) as (4). Former par. (4) redesignated (3).

Subsec. (e)(5). Pub. L. 104-127, § 638(3)(D), (E), redesignated par. (8) as (5) and struck out former par. (5) which read as follows:

“(5)(A) If the Secretary determines that farmland administered under this chapter is not suitable for sale or lease to persons eligible for a loan made or insured under subchapter I of this chapter because such farmland is in a tract or tracts that the Secretary determines to be larger than that necessary for such eligible persons, the Secretary shall, to the greatest extent practicable, subdivide such land into tracts suitable for sale under subsection (c) of this section. Such land shall be subdivided into parcels of land the shape and size of which are suitable for farming, the value of which shall not exceed the individual loan limits as prescribed under section 1925 of this title.

“(B) The Secretary shall dispose of such subdivided farmland in accordance with this subsection.”

Subsec. (e)(6). Pub. L. 104-127, § 638(3)(D), (E), redesignated par. (10) as (6) and struck out former par. (6) which read as follows: “If suitable farmland is available for disposition under this subsection, the Secretary shall—

“(A) publish an announcement of the availability of such farmland in at least one newspaper that is widely circulated in the county in which the farmland is located;

“(B) post an announcement of the availability of such farmland in a prominent place in the local office of the Farmers Home Administration that serves the county in which the farmland is located; and

“(C) provide written notice reasonably calculated to inform the immediate previous owner or immediate previous family-size farm operator of such farmland, of the availability of such farmland.”

Subsec. (e)(7), (8). Pub. L. 104-127, § 638(3)(E), redesignated pars. (7) and (8) as (4) and (5), respectively.

Subsec. (e)(9). Pub. L. 104-127, § 638(3)(D), struck out par. (9) which read as follows: “Denials of applications for or disputes over terms and conditions of a lease or purchase agreement under this section are appealable under section 1983b of this title.”

Subsec. (e)(10). Pub. L. 104-127, § 638(3)(E), redesignated par. (10) as (6).

Subsec. (g). Pub. L. 104-127, § 639(1)(A), inserted heading.

Subsec. (g)(1). Pub. L. 104-127, § 639(1), inserted heading, substituted “Subject to paragraph (2)” for “Subject to paragraphs (2) through (5)”, and struck out “, as determined by the Secretary in accordance with title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.)” after “inventoried property”.

Subsec. (g)(2). Pub. L. 104-127, § 639(2), added par. (2) and struck out former par. (2) which read as follows: “In establishing the wetland conservation easements on land that is considered to be cropland as of November 28, 1990, the Secretary shall avoid, to the extent

practicable, an adverse impact on the productivity of the croplands, as provided in this subsection.”

Subsec. (g)(3). Pub. L. 104-127, §639(3), (4), redesignated par. (6) as (3), inserted heading, and struck out former par. (3) which read as follows: “In order to avoid the adverse impact, the Secretary shall—

“(A) not establish the wetland conservation easements with respect to wetlands that were converted prior to December 23, 1985, and that have been in cropland use, as determined by the Secretary, in excess of 10 percent of the existing cropland available for production of agricultural commodities on the particular parcel of inventoried property;

“(B) not establish the wetland conservation easements with respect to wetlands that have been frequently planted to agricultural commodities and wetlands described in subparagraph (A), in excess of 20 percent of the existing cropland available for production of agricultural commodities on the particular parcel of inventoried property;

“(C) ensure that the buffer area adjacent to the wetland is generally not more than 100 feet in average width; and

“(D) ensure that access to other portions of the property for farming and other uses is provided.”

Subsec. (g)(4). Pub. L. 104-127, §639(3), (5), redesignated par. (7) as (4), inserted heading, and struck out former par. (4) which read as follows: “The wetland conservation easements shall be placed on wetlands that have a history of haying and grazing, as determined by the Secretary, except that in no case shall the quantity of the wetland subject to the easements exceed 50 percent of the existing forage lands on the parcel of inventoried property. All haying and grazing practices on the wetlands (including the timing and intensity of haying and grazing) shall conform to forage management standards designed to protect wetlands.”

Subsec. (g)(5). Pub. L. 104-127, §639(3), struck out par. (5) which read as follows: “If, despite the limitations contained in paragraph (3), wetland conservation easements established under paragraph (1) would prevent a particular parcel of inventoried property that is to be sold or leased to a borrower described in clause (i), (ii), or (iii) of subsection (e)(1)(C) of this section, or to a borrower who is a beginning farmer or rancher, from being a marketable agricultural production unit that is comparable to the parcel as acquired, the Secretary may—

“(A) establish wetland conservation easements on wetland that was converted prior to December 23, 1985, in a quantity that is less than 10 percent of the existing croplands available for production of agricultural commodities on the particular parcel; and

“(B) if the reduction provided in subparagraph (A) is not applicable, or is not sufficient to ensure that the particular parcel would be a marketable agricultural production unit, amend the wetland conservation easements established on the wetlands that have been frequently planted to agricultural commodities to permit the production of agricultural commodities (consistent with title XII of the Food Security Act of 1985) on the wetlands, to the extent necessary to maintain the parcel as a marketable agricultural production unit.”

Subsec. (g)(6), (7). Pub. L. 104-127, §639(4), (5), redesignated pars. (6) and (7) as (3) and (4), respectively.

Subsec. (g)(8). Pub. L. 104-127, §639(3), struck out par. (8) which read as follows: “Notwithstanding the limitations described under paragraphs (3) and (4), the limitations may be voluntarily, knowingly waived by any person with respect to real property described in paragraph (3) or (4).”

1992—Subsec. (c)(1). Pub. L. 102-554, §16, in fourth sentence, inserted “(A)” after “shall be” and “or (B) leased to persons eligible for assistance under the provisions of any law administered by the Farmers Home Administration or the Rural Development Administration under an annual lease or a lease with an option to purchase, with a preference for sale” before period at end.

Subsec. (e)(1)(A)(i). Pub. L. 102-552, which, in amending directory language of Pub. L. 102-237, §501(f)(1), di-

rected the substitution of “the borrower-owner (as defined in subparagraph (F))” for “borrower-owner (as defined in subparagraph (F))”, was executed by making the substitution in text which did not contain a closing parenthesis after “(F)”, to reflect the probable intent of Congress. See 1991 Amendment note below.

Subsec. (e)(1)(D)(i). Pub. L. 102-554, §17(1), substituted “Except as provided in subparagraph (G), if” for “If”.

Subsec. (e)(1)(G). Pub. L. 102-554, §17(2), added subpar. (G).

1991—Subsec. (e)(1)(A)(i). Pub. L. 102-237, §501(f)(1), as amended by Pub. L. 102-552, substituted “the borrower-owner (as defined in subparagraph (F))” for “the borrower from whom the Secretary acquired real farm or ranch property (including the principal residence of the borrower) used to secure any loan made to the borrower under this chapter (hereinafter referred to in this paragraph as the ‘borrower-owner’)”. See 1992 Amendment note above.

Subsec. (e)(1)(F). Pub. L. 102-237, §501(f)(2), added subpar. (F).

1990—Subsec. (a). Pub. L. 101-624, §§1813(a), 2303(c)(1), inserted “or the Rural Development Administration” after “Farmers Home Administration” and substituted “12 months from the date first published under paragraph (2)(D)” for “three years from the date of acquisition”.

Subsec. (c)(1). Pub. L. 101-624, §2303(c)(2), inserted “or the Rural Development Administration” after “Farmers Home Administration”.

Subsec. (c)(2)(A), (B). Pub. L. 101-624, §1813(e)(1), added subpar. (A) and subpar. (B) introductory provisions, redesignated former subpars. (A) through (D) as cls. (i) through (iv), respectively, of subpar. (B), and struck out former introductory provisions which read as follows: “Notwithstanding any other provision of law, the Secretary shall sell suitable farmland administered under this subchapter to operators (as of the time immediately after such contract for sale or lease is entered into) of not larger than family sized farms, as determined by the county committee. In selling such land, the county committee shall—”.

Subsec. (c)(2)(B)(ii). Pub. L. 101-624, §1813(g)(1), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “offer suitable land at a price not greater than that which reflects the appraised market value of such land;”.

Subsec. (c)(2)(B)(iii). Pub. L. 101-624, §1813(b)(1), inserted before semicolon “, except that if the committee determines that two or more applicants meet the loan eligibility criteria, the committee shall select between the qualified applicants on a random basis”.

Subsec. (c)(2)(B)(iv). Pub. L. 101-624, §2388(g), substituted “cause” for “caused”.

Subsec. (e)(1)(A)(i). Pub. L. 101-624, §1813(c), substituted “real farm or ranch property (including the principal residence of the borrower)” for “real property”.

Pub. L. 101-624, §1816(e)(1), inserted before period at end “, if such borrower-owner has acted in good faith with the Secretary, as defined in regulations issued by the Secretary, in connection with such loan”.

Subsec. (e)(1)(A)(iv). Pub. L. 101-624, §1813(d), added cl. (iv).

Subsec. (e)(1)(C)(i). Pub. L. 101-624, §1816(e)(2), inserted before period at end “, if such borrower-owner has acted in good faith with the Secretary, as defined in regulations issued by the Secretary, in connection with the loan of such borrower-owner for which such property served as security”.

Subsec. (e)(1)(C)(iv), (v). Pub. L. 101-624, §1813(e)(2), added cl. (iv) and redesignated former cl. (iv) as (v).

Subsec. (e)(1)(D)(x). Pub. L. 101-624, §1813(f), added cl. (x).

Subsec. (e)(4)(B). Pub. L. 101-624, §1813(g)(2), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: “The Secretary shall offer such land for sale to operators of not larger than family-size farms at a price that reflects the average annual income that may be reasonably anticipated to be generated from farming such land.”

Subsec. (e)(4)(C). Pub. L. 101-624, §1813(g)(2), redesignated former subpar. (C) as (B).

Pub. L. 101-624, §1813(b)(2), substituted “shall randomly” for “shall, by majority vote,” and inserted “, in accordance with subsection (c)(2)(B)(iii) of this section”.

Subsec. (g). Pub. L. 101-624, §1813(h)(1), added subsec. (g).

1988—Subsec. (c). Pub. L. 100-233, §610(a), designated existing provisions as par. (1), inserted provisions requiring the County Committee to classify or reclassify real property that is farmland, as being suitable for farming operation for such disposition unless property cannot be used to meet any of the purposes of section 1923 of this title, and added par. (2).

Subsec. (e)(1). Pub. L. 100-233, §610(b)(1), added par. (1) and struck out former par. (1) which read as follows: “The Secretary shall to the extent practicable sell or lease farmland administered under this chapter in the following order of priority:

“(A) Sale of such farmland to operators (as of the time immediately before such sale) of not larger than family-size farms.

“(B) Lease of such farmland to operators (as of the time immediately before such lease is entered into) of not larger than family-size farms.”

Subsec. (e)(3). Pub. L. 100-233, §610(b)(2), redesignated subpars. (B) to (D) as (A) to (C), respectively, in subpar. (B) substituted “Secretary shall determine if the lessee” for “Secretary shall give special consideration to a previous owner or operator of such land if such owner or operator”, added subpar. (D), and struck out former subpar. (A) which read as follows: “The Secretary shall consider granting, and may grant, to an operator of not larger than a family-size farm, in conjunction with paragraph (3), a lease with an option to purchase farmland administered under this chapter.”

Subsec. (e)(5)(A). Pub. L. 100-233, §610(b)(3), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “If the Secretary determines that farmland administered under this chapter is not suitable for sale or lease to an operator of not larger than a family-size farm because such farmland is in a tract or tracts that the Secretary determines to be larger than that necessary for family-size farms, the Secretary shall subdivide such land into tracts suitable for such operator.”

Subsec. (e)(6)(C). Pub. L. 100-233, §610(b)(4), added subpar. (C).

Subsec. (e)(9), (10). Pub. L. 100-233, §610(b)(5), added pars. (9) and (10).

Subsec. (f). Pub. L. 100-233, §611, amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows:

“(1) As used in this subsection, the term ‘normal income security’ has the same meaning given such term in section 1962.17(b) of title 7, Code of Federal Regulations (as of January 1, 1985).

“(2) Until such time as the Secretary accelerates a loan made or insured under this chapter, the Secretary shall release from the normal income security provided for such loan an amount sufficient to pay the essential household and farm operating expenses of the borrower, as determined by the Secretary.”

1985—Subsec. (b). Pub. L. 99-198, §1314(a)(1), substituted “Except as provided in subsection (e) of this section, real property” for “Real property”.

Subsec. (c). Pub. L. 99-198, §1314(a)(2), substituted “Except as provided in subsection (e) of this section, the Secretary” for “The Secretary” and inserted sentence at end providing that notwithstanding the preceding sentence, the Secretary may for conservation purposes grant or sell an easement, restriction, development rights, or the equivalent thereof, to a unit of local or State government or a private nonprofit organization separately from the underlying fee or sum of all other rights possessed by the United States.

Pub. L. 99-198, §1318(b)(1), which directed insertion of “, other than easements acquired under section 1997 of this title” at end of last sentence, was executed to fifth

sentence of subsec. (c), and not to sixth and last sentence as added by section 1314(a)(2)(B) of Pub. L. 99-198, to reflect the probable intent of Congress.

Subsec. (e). Pub. L. 99-198, §1314(a)(3), added subsec. (e).

Subsec. (f). Pub. L. 99-198, §1315, added subsec. (f).

1972—Subsec. (c). Pub. L. 92-419 substituted “the provisions of any law administered by the Farmers Home Administration” for “subchapter I of this chapter” in first sentence and “such provisions” for “the provisions of subchapter I of this chapter” in second sentence, struck out from fourth sentence initial minimum 20 per centum downpayment requirement and provision for payment of remainder in not more than five annual installments, and provided in such fourth sentence for interest rates and terms not more favorable than legally permissible for eligible borrowers.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 638 of Pub. L. 104-127 effective Apr. 4, 1996, but not applicable with respect to complete application to acquire inventory property submitted prior to Apr. 4, 1996, and amendment by section 639 of Pub. L. 104-127 effective Apr. 4, 1996, see section 663(a), (c) of Pub. L. 104-127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 516(h)(2) of Pub. L. 102-552 provided that: “The amendments made by paragraph (1) of this subsection [amending section 501(f) of Pub. L. 102-237, see 1992 Amendment note above] shall take effect immediately after section 501(f) of the Food, Agriculture, Conservation, and Trade Act of 1990 [probably should be Food, Agriculture, Conservation, and Trade Act Amendments of 1991 [Pub. L. 102-237]] took effect.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1816 of Pub. L. 101-624 applicable to new applications submitted under section 2001 of this title on or after Nov. 28, 1990, see section 1861 of Pub. L. 101-624, set out as a note under section 2001 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1314(b) of Pub. L. 99-198 provided that: “The Secretary of Agriculture shall implement the amendments made by this section [amending this section] not later than 90 days after the date of enactment of this Act [Dec. 23, 1985].”

COMPLETION OF SALES OF FARMERS HOME ADMINISTRATION INVENTORY FARMS

Pub. L. 102-142, title VII, §740, Oct. 28, 1991, 105 Stat. 915, provided that: “Hereafter, the Secretary shall complete the sales of Farmers Home Administration inventory farms, in accordance with the law and regulations in effect before November 28, 1990, in situations in which a County Committee, acting pursuant to section 335 of the Consolidated Farm and Rural Development Act [7 U.S.C. 1985], had made its initial selection of a buyer before November 28, 1990. Such sales shall be completed as soon as the selection decision is administratively final and all terms and conditions have been agreed to. In carrying out sales of inventory property, priority shall be given to the former owner and members of the immediate family.”

FARM OWNERSHIP OUTREACH PROGRAM TO SOCIALLY DISADVANTAGED INDIVIDUALS

Section 623 of Pub. L. 100-233, as amended by Pub. L. 101-624, title XVIII, §1852, Nov. 28, 1990, 104 Stat. 3837, provided that:

“(a) IN GENERAL.—The Secretary of Agriculture, in coordination with the limited resource farmers’ initiative in the office of the Director of the Office of Advocacy and Enterprise, shall establish a farm ownership outreach program for persons who are members of any group with respect to which an individual may be identified as a socially disadvantaged individual under section 8(a)(5) of the Small Business Act (15 U.S.C. 637(a)(5)) to encourage the acquisition of inventory farmland of the Farmers Home Administration by—

“(1) informing persons eligible for assistance under any other provision of this Act [see Short Title of 1988 Amendment note set out under section 2001 of Title 12, Banks and Banking] of—

“(A) the possibility [sic] of acquiring such inventory farmland; and

“(B) various farm ownership loan programs; and

“(2) providing technical assistance to such persons in the acquisition of such inventory farmland.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$2,500,000 for each of the fiscal years 1991 through 1995.”

§ 1986. Conflicts of interests

(a) Acceptance of fees, commissions, gifts, or other considerations prohibited

No officer, attorney, or other employee of the Secretary shall, directly or indirectly, be the beneficiary of or receive any fee, commission, gift, or other consideration for or in connection with any transaction or business under this chapter other than such salary, fee, or other compensation as he may receive as such officer, attorney, or employee.

(b) Acquisition of interest in land by certain officers or employees of Department of Agriculture prohibited; 3-year period

Except as otherwise provided in this subsection, no officer or employee of the Department of Agriculture who acts on or reviews an application made by any person under this chapter for a loan to purchase land may acquire, directly or indirectly, any interest in such land for a period of three years after the date on which such action is taken or such review is made. This prohibition shall not apply to a former member of a county committee upon a determination by the Secretary, prior to the acquisition of such interest, that such former member acted in good faith when acting on or reviewing such application.

(c) Certifications on loans to family members prohibited

No member of a county committee shall knowingly make or join in making any certification with respect to a loan to purchase any land in which he or any person related to him within the second degree of consanguinity or affinity has or may acquire any interest or with respect to any applicant related to him within the second degree of consanguinity or affinity.

(d) Penalties

Any persons violating any provision of this section shall, upon conviction thereof, be punished by a fine of not more than \$2,000 or imprisonment for not more than two years, or both.

(Pub. L. 87-128, title III, §336, Aug. 8, 1961, 75 Stat. 316; Pub. L. 98-258, title VI, §606, Apr. 10, 1984, 98 Stat. 140; Pub. L. 107-171, title V, §5501(b), May 13, 2002, 116 Stat. 351.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsecs. (a) and (b), see note set out under section 1921 of this title.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107-171 struck out “provided for in section 1982 of this title” after “former member of a county committee”.

1984—Pub. L. 98-258 designated first, second, and third sentences of existing provisions as subsecs. (a), (c), and (d), respectively, and added subsec. (b).

§ 1987. Debt adjustment and credit counseling; “summary period” defined; loan summary statements

(a) The Secretary may provide voluntary debt adjustment assistance between farmers and their creditors and may cooperate with State, territorial, and local agencies and committees engaged in such debt adjustment, and may give credit counseling.

(b)(1) As used in this subsection, the term “summary period” means—

(A) the period beginning on December 23, 1985, and ending on the date on which the first loan summary statement is issued after December 23, 1985; or

(B) the period beginning on the date of issuance of the preceding loan summary statement and ending on the date of issuance of the current loan summary statement.

(2) On the request of a borrower of a loan made or insured (but not guaranteed) under this chapter, the Secretary shall issue to such borrower a loan summary statement that reflects the account activity during the summary period for each loan made or insured under this chapter to such borrower, including—

(A) the outstanding amount of principal due on each such loan at the beginning of the summary period;

(B) the interest rate charged on each such loan;

(C) the amount of payments made on and their application to each such loan during the summary period and an explanation of the basis for the application of such payments;

(D) the amount of principal and interest due on each such loan at the end of the summary period;

(E) the total amount of unpaid principal and interest on all such loans at the end of the summary period;

(F) any delinquency in the repayment of any such loan;

(G) a schedule of the amount and date of payments due on each such loan; and

(H) the procedure the borrower may use to obtain more information concerning the status of such loans.

(Pub. L. 87-128, title III, §337, Aug. 8, 1961, 75 Stat. 316; Pub. L. 99-198, title XIII, §1316, Dec. 23, 1985, 99 Stat. 1528.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsec. (b)(2), see note set out under section 1921 of this title.

AMENDMENTS

1985—Pub. L. 99-198 designated existing provisions as subsec. (a) and added subsec. (b).

§ 1988. Appropriations**(a) Authorization**

There is authorized to be appropriated to the Secretary such sums as the Congress may from time to time determine to be necessary to enable the Secretary to carry out the purposes of this chapter and for the administration of assets transferred to the Farmers Home Administration or the Rural Development Administration.

(b) Sale by lender and any holder of guaranteed portion of loan pursuant to regulations governing such sales; limitations; issuance of pool certificates representing ownership of guaranteed portion of guaranteed loan; terms and conditions, etc.; reporting requirements

(1)(A) The guaranteed portion of any loan made under this chapter may be sold by the lender, and by any subsequent holder, in accordance with regulations governing such sales as the Secretary shall establish, subject to the following limitations:

(i) All fees due the Secretary with respect to a guaranteed loan are to be paid in full before any sale.

(ii) The loan is to have been fully disbursed to the borrower before the sale.

(B) After a loan is sold in the secondary market, the lender shall remain obligated under its guarantee agreement with the Secretary, and shall continue to service the loan in accordance with the terms and conditions of such agreement.

(C) The Secretary shall develop such procedures as are necessary for the facilitation, administration, and promotion of secondary market operations, and for determining the increase of farmers' access to capital at reasonable rates and terms as a result of secondary market operations.

(D) This subsection shall not be interpreted to impede or extinguish the right of the borrower or the successor in interest to such borrower to prepay (in whole or in part) any loan made under this chapter, or to impede or extinguish the rights of any party under any provision of this chapter.

(2)(A) The Secretary may, directly or through a market maker approved by the Secretary, issue pool certificates representing ownership of part or all of the guaranteed portion of any loan guaranteed by the Secretary under this chapter. Such certificates shall be based on and backed by a pool established or approved by the Secretary and composed solely of the entire guaranteed portion of such loans.

(B) The Secretary may, on such terms and conditions as the Secretary deems appropriate, guarantee the timely payment of the principal and interest on pool certificates issued on behalf of the Secretary by approved market makers for purposes of this subsection. Such guarantee shall be limited to the extent of principal and interest on the guaranteed portions of loans that compose the pool. If a loan in such pool is prepaid, either voluntarily or by reason of default, the guarantee of timely payment of principal and interest on the pool certificates shall be reduced in proportion to the amount of prin-

cipal and interest such prepaid loan represents in the pool. Interest on prepaid or defaulted loans shall accrue and be guaranteed by the Secretary only through the date of payment on the guarantee. During the term of the pool certificate, the certificate may be called for redemption due to prepayment or default of all loans constituting the pool.

(C) The full faith and credit of the United States is pledged to the payment of all amounts that may be required to be paid under any guarantee of such pool certificates issued by approved market makers under this subsection. The Secretary may expend amounts in the Agricultural Credit Insurance Fund to make payments on such guarantees.

(D) The Secretary shall not collect any fee for any guarantee under this subsection. The preceding sentence shall not preclude the Secretary from collecting a fee for the functions described in paragraph (3).

(E) Within 30 days after a borrower of a guaranteed loan is in default of any principal or interest payment due for 60 days or more, the Secretary shall—

(i) purchase the pool certificates representing ownership of the guaranteed portion of the loan; and

(ii) pay the registered holder of the certificates an amount equal to the guaranteed portion of the loan represented by the certificate.

(F)(i) If the Secretary pays a claim under a guarantee issued under this subsection, the claim shall be subrogated fully to the rights satisfied by such payment, as may be provided by the Secretary.

(ii) No State or local law, and no Federal law, shall preclude or limit the exercise by the Secretary of the Secretary's ownership rights in the portions of loans constituting the pool against which the certificates are issued.

(3) On the adoption of final rules and regulations, the Secretary shall do the following:

(A) Provide for the central collection of registration information from all participating market makers for all loans and pool certificates sold under paragraphs (1) and (2). Such information shall include, with respect to each original sale and any subsequent sale, identification of the interest rate paid by the borrower to the lender, the lender's servicing fee, whether interest on the loan is at a fixed or variable rate, identification of each purchaser of a pool certificate, the interest rate paid on the certificate, and such other information as the Secretary deems appropriate.

(B) Before any sale, require the seller to disclose to each prospective purchaser of the portion of a loan guaranteed under this chapter and to each prospective purchaser of a pool certificate issued under paragraph (2), information on the terms, conditions, and yield of such instrument. As used in this subparagraph, if the instrument being sold is a loan, the term "seller" does not include (i) the person who made the loan or (ii) any person who sells three or fewer guaranteed loans per year.

(C) Provide for adequate custody of any pooled guaranteed loans.

(D) Take such actions as are necessary, in restructuring pools of the guaranteed portion

of loans, to minimize the estimated costs of paying claims under guarantees issued under this subsection.

(E) Require each market maker—

(i) to service all pools formed, and participations sold, by the market maker; and

(ii) to provide the Secretary with information relating to the collection and disbursement of all periodic payments, prepayments, and default funds from lenders, to or from the reserve fund that the Secretary shall establish to enable the timely payment guarantee to be self-funding, and from all beneficial holders.

(F) Regulate market makers in pool certificates sold under this subsection.

(4) The Secretary may contract for goods and services to be used for the purposes of this subsection without regard to the provisions of titles 5, 40, and 41, and any regulations issued thereunder.

(Pub. L. 87-128, title III, § 338, Aug. 8, 1961, 75 Stat. 316; Pub. L. 89-429, § 5, May 24, 1966, 80 Stat. 167; Pub. L. 100-233, title VII, § 711(a), Jan. 6, 1988, 101 Stat. 1707; Pub. L. 100-399, title VI, § 605, Aug. 17, 1988, 102 Stat. 1006; Pub. L. 101-624, title XXIII, § 2303(d), Nov. 28, 1990, 104 Stat. 3981; Pub. L. 104-127, title VII, § 749(a), Apr. 4, 1996, 110 Stat. 1129; Pub. L. 105-362, title I, § 101(a), Nov. 10, 1998, 112 Stat. 3281.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 1921 of this title.

AMENDMENTS

1998—Subsec. (b)(4), (5). Pub. L. 105-362 redesignated par. (5) as (4) and struck out former par. (4) which provided that not later than March 31 of each year, Secretary was to transmit to Congress a report on secondary market operations under subsec. (b) during preceding calendar year, and described contents of reports.

1996—Subsecs. (b) to (f). Pub. L. 104-127 redesignated subsec. (f) as (b) and struck out former subsecs. (b) to (e) which provided for: in subsec. (b), form and denomination of notes to obtain funds for making direct loans under this chapter as well as maturities, terms and conditions, interest rate, purchase by Treasury, and public debt transaction; in subsec. (c), establishment of Farmers Home Administration direct loan account as well as deposits into account, liabilities, obligations, expenditures, and net expenditure basis of budgeting; in subsec. (d), sale of notes and mortgages; and in subsec. (e), distribution of real estate loans among States.

1990—Subsec. (a). Pub. L. 101-624 inserted “or the Rural Development Administration” after “Farmers Home Administration”.

1988—Subsec. (f)(5). Pub. L. 100-399 added par. (5).

Subsec. (f). Pub. L. 100-233 added subsec. (f).

1966—Subsec. (c). Pub. L. 89-429 inserted references to section 8 of the Watershed Protection and Flood Prevention Act, as amended, and section 32(e) of the Bankhead-Jones Farm Tenant Act, as amended.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-399 effective as if enacted immediately after enactment of Pub. L. 100-233, which was approved Jan. 6, 1988, see section 1001(a) of Pub. L. 100-399, set out as a note under section 2002 of Title 12, Banks and Banking.

REGULATIONS

Section 711(b) of Pub. L. 100-233 provided that: “Within 180 days after the date of the enactment of this Act

[Jan. 6, 1988], the Secretary shall develop and promulgate final regulations to implement this section and the amendment made by this section [amending this section and enacting provisions set out below].”

POOL CERTIFICATES NOT TO BE ISSUED UNTIL FINAL REGULATIONS TAKE EFFECT

Section 711(c) of Pub. L. 100-233 provided that: “The Secretary of Agriculture shall not implement paragraph (2) of section 338(f) [now 338(b)] of the Consolidated Farm and Rural Development Act [7 U.S.C. 1988(f) [now 1988(b)]], as added by subsection (a), until the final regulations governing the administration of such paragraph take effect.”

LOANS TO INDIANS

Authority of the Secretary of Agriculture to make loans to Indian tribes and tribal corporations to acquire land within reservations, see sections 488 to 492 of Title 25, Indians.

§ 1989. Rules and regulations

(a) In general

The Secretary is authorized to make such rules and regulations, prescribe the terms and conditions for making or insuring loans, security instruments and agreements, except as otherwise specified herein, and make such delegations of authority as he deems necessary to carry out this chapter.

(b) Debt service margin requirements

Notwithstanding subsection (a) of this section, in providing farmer program loan guarantees under this chapter, the Secretary shall consider the income of the borrower adequate if the income is equal to or greater than the income necessary—

(1) to make principal and interest payments on all debt obligations of the borrower, in a timely manner;

(2) to cover the necessary living expenses of the family of the borrower; and

(3) to pay all other obligations and expenses of the borrower not financed through debt obligations referred to in paragraph (1).

(c) Certified Lenders Program

(1) In general

The Secretary shall establish a program under which the Secretary shall guarantee loans for any purpose specified in subchapter II of this chapter that are made by lending institutions certified by the Secretary.

(2) Certification requirements

The Secretary shall certify a lending institution that meets such criteria as the Secretary may prescribe in regulations, including the ability of the institution to properly make, service, and liquidate the loans of the institution.

(3) Condition of certification

As a condition of the certification, the Secretary shall require the institution to undertake to service the loans guaranteed by the Secretary under this subsection, using standards that are not less stringent than generally accepted banking standards concerning loan servicing employed by prudent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of

each certified lender to ensure that the conditions of the certification are being met.

(4) Effect of certification

Notwithstanding any other provision of law:

(A) The Secretary shall guarantee 80 percent of a loan made under this subsection by a certified lending institution as described in paragraph (1), subject to county committee certification that the borrower of the loan meets the eligibility requirements and such other criteria as may be applicable to loans guaranteed by the Secretary under other provisions of this chapter.

(B) With respect to loans to be guaranteed by the Secretary under this subsection, the Secretary shall permit certified lending institutions to make appropriate certifications (as provided by regulations issued by the Secretary)—

(i) relating to issues such as creditworthiness, repayment ability, adequacy of collateral, and feasibility of farm operation; and

(ii) that the borrower is in compliance with all requirements of law, including regulations issued by the Secretary.

(C) The Secretary shall approve or disapprove a guarantee not later than 14 calendar days after the date that the lending institution applied to the Secretary for the guarantee. If the Secretary rejects the loan application within the 14-day period, the Secretary shall state, in writing, all of the reasons the application was rejected.

(5) Relationship to other requirements

Neither this subsection nor subsection (d) of this section shall affect the responsibility of the Secretary to certify eligibility, review financial information, and otherwise assess an application.

(d) Preferred Certified Lenders Program

(1) In general

Commencing not later than two years after October 28, 1992, the Secretary shall establish a Preferred Certified Lenders Program for lenders who establish their—

(A) knowledge of, and experience under, the program established under subsection (c) of this section;

(B) knowledge of the regulations concerning the guaranteed loan program; and

(C) proficiency related to the certified lender program requirements.

The Secretary shall certify any lending institution as a Preferred Certified Lender that meets such criteria as the Secretary may prescribe by regulation.

(2) Revocation of designation

The designation of a lender as a Preferred Certified Lender shall be revoked at any time that the Secretary determines that such lender is not adhering to the rules and regulations applicable to the program or if the loss experiences of a Preferred Certified Lender are excessive as compared to other Preferred Certified Lenders, except that such suspension or revocation shall not affect any outstanding guarantee.

(3) Condition of certification

As a condition of such preferred certification, the Secretary shall require the institution to undertake to service the loans guaranteed by the Secretary under this subsection using generally accepted banking standards concerning loan servicing employed by prudent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of each preferred certified lender to ensure that the conditions of such certification are being met.

(4) Effect of preferred lender certification

Notwithstanding any other provision of law, the Secretary shall—

(A) guarantee 80 percent of an approved loan made by a certified lending institution as described in this subsection, subject to county committee certification that the borrower meets the eligibility requirements or such other criteria as may be applicable to loans guaranteed by the Secretary under other provisions of this chapter;

(B) permit certified lending institutions to make all decisions, with respect to loans to be guaranteed by the Secretary under this subsection relating to credit worthiness, the closing, monitoring, collection and liquidation of loans, and to accept appropriate certifications, as provided by regulations issued by the Secretary, that the borrower is in compliance with all requirements of law or regulations promulgated by the Secretary; and

(C) be deemed to have guaranteed 80 percent of a loan made by a preferred certified lending institution as described in paragraph (1), if the Secretary fails to approve or reject the application of such institution within 14 calendar days after the date that the lending institution presented the application to the Secretary. If the Secretary rejects the application within the 14-day period, the Secretary shall state, in writing, the reasons the application was rejected.

(e) Administration of Certified Lenders and Preferred Certified Lenders programs

The Secretary may administer the loan guarantee programs under subsections (c) and (d) of this section through central offices established in States or in multi-State areas.

(Pub. L. 87-128, title III, §339, Aug. 8, 1961, 75 Stat. 318; Pub. L. 102-554, §18, Oct. 28, 1992, 106 Stat. 4155; Pub. L. 106-31, title III, §3019(a), May 21, 1999, 113 Stat. 99; Pub. L. 107-171, title V, §5309, May 13, 2002, 116 Stat. 346.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 1921 of this title.

AMENDMENTS

2002—Subsec. (e). Pub. L. 107-171 added subsec. (e).

1999—Subsec. (b)(3). Pub. L. 106-31 struck out “, including expenses of replacing capital items (determined after taking into account depreciation of the items)” after “paragraph (1)”.

1992—Pub. L. 102-554, inserted section catchline, designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) to (d).

REGULATIONS

Section 23 of Pub. L. 102-554 provided that:

“(a) INTERIM REGULATIONS.—Not later than 180 days after the date of enactment of this Act [Oct. 28, 1992], the Secretary of Agriculture shall issue such interim regulations as are necessary to implement this Act [see Short Title of 1992 Amendment note set out under section 1921 of this title] and the amendments made by this Act.

“(b) FINAL REGULATIONS.—Not later than October 1, 1993, the Secretary of Agriculture shall issue such final regulations as are necessary to implement this Act and the amendments made by this Act.”

Pub. L. 100-233, title VI, §624, Jan. 6, 1988, 101 Stat. 1685, provided that: “Within 150 days after the date of the enactment of this title [Jan. 6, 1988], and after considering public comment obtained under section 553 of title 5, United States Code, the Secretary shall issue final regulations to carry out the amendments made by this title [enacting sections 1981d, 1981e, 1983c, and 2001 to 2005 of this title, amending sections 1927, 1927a, 1981, 1982, 1983b, 1985, 1991, 1997, 1999, and 2000 of this title, and amending provisions set out as a note under section 1999 of this title].”

STUDY AND REPORT TO CONGRESS BEFORE ISSUANCE OF CERTAIN FINAL REGULATIONS

Pub. L. 100-233, title VI, §621, Jan. 6, 1988, 101 Stat. 1684, provided that: “Not later than 60 days before the Secretary of Agriculture issues final regulations providing for the use of ratios and standards as part of loan applications or preapplications, for determining the degree of potential loan risk on loans insured or guaranteed under the Consolidated Farm and Rural Development Act [7 U.S.C. 1921 et seq.], the Secretary shall complete a study and report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives on the effects of such regulations on a representative sample of persons who, as of the date of the enactment of this Act [Jan. 6, 1988], are borrowers or potential borrowers of such loans, and shall demonstrate in such study that the implementation of such final regulations will not result in a portfolio of borrowers that is inconsistent with the purposes of the Consolidated Farm and Rural Development Act.”

AVAILABILITY OF FUNDS FOR CONTINUING ASSISTANCE TO DELINQUENT BORROWERS; PROHIBITION ON USE OF FUNDS

Pub. L. 100-71, title I, July 11, 1987, 101 Stat. 429, provided in part that:

“Hereafter, funds appropriated or available to the Farmers Home Administration under this or any other Act to make or to service farm loans shall be available for continuing assistance to delinquent borrowers on the basis of the policies contained in Farmers Home Administration Announcement Number 1113-1960, dated November 30, 1984.

“Hereafter, none of the funds appropriated or made available by this or any other Act, or otherwise made available to the Secretary of Agriculture or the Farmers Home Administration, may be used to implement section 1944.16(c)(1) of title 7, Code of Federal Regulations, as published in 52 Federal Register 11983 (April 14, 1987) or any other regulation that would have the same effect as such regulation.”

COORDINATED FINANCIAL STATEMENTS; USE OF SUBMISSION REQUIREMENT PROHIBITED

Pub. L. 99-198, title XIII, §1325, Dec. 23, 1985, 99 Stat. 1540, provided that: “The Secretary of Agriculture shall not use or require the submission of the coordinated financial statement referred to in the proposed regulations of the Farmers Home Administration published in the Federal Register of November 8, 1983 (48 F.R. 51312-51317) in connection with an application submitted on or after the date of the enactment of this Act [Dec. 23, 1985] for any loan under any program of the

Department of Agriculture carried out by the Farmers Home Administration.”

§ 1990. Transfer of lands to Secretary

The President may at any time in his discretion transfer to the Secretary any right, interest, or title held by the United States in any lands acquired in the program of national defense and no longer needed therefor, which the President shall find suitable for the purposes of this chapter, and the Secretary shall dispose of such lands in the manner and subject to the terms and conditions of the chapter.

(Pub. L. 87-128, title III, §340, Aug. 8, 1961, 75 Stat. 318.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 1921 of this title.

DELEGATION OF FUNCTIONS

Authority of President under this section in his discretion to transfer to Secretary of Agriculture any right, interest or title held by United States in any lands acquired in program of national defense and no longer needed for that program, and to determine suitability of lands to be transferred, for purposes referred to in this section, delegated to Administrator of General Services, provided, that exercise by Administrator of authority delegated to him herein shall require concurrence of Secretary of Defense as to absence of further need of lands for national defense program, see section 1(15) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 1991. Definitions

(a) As used in this chapter:

(1) The term “farmer” includes a person who is engaged in, or who, with assistance afforded under this chapter, intends to engage in, fish farming.

(2) The term “farming” shall be deemed to include fish farming.

(3) The term “owner-operator” shall include in the State of Hawaii the lessee-operator of real property in any case in which the Secretary determines that such real property cannot be acquired in fee simple by such lessee-operator, that adequate security is provided for the loan with respect to such real property for which such lessee-operator applies under this chapter, and that there is a reasonable probability of accomplishing the objectives and repayment of such loan.

(4) The word “insure” as used in this chapter includes guarantee, which means to guarantee the payment of a loan originated, held, and serviced by a private financial agency or other lender approved by the Secretary.

(5) The term “contract of insurance” includes a contract of guarantee.

(6) The terms “United States” and “State” shall include each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and, to the extent the Secretary determines it to be feasible and appropriate, the Trust Territory of the Pacific Islands.

(7) The term “joint operation” means a joint farming operation in which two or more farm-

ers work together sharing equally or unequally land, labor, equipment, expenses, and income.

(8) The term “beginning farmer or rancher” means such term as defined by the Secretary.

(9) The term “direct loan” means a loan made or insured from funds in the account created by section 1929 of this title.

(10) The term “farmer program loan” means a farm ownership loan (FO) under section 1923 of this title, operating loan (OL) under section 1942 of this title, soil and water loan (SW) under section 1924 of this title, emergency loan (EM) under section 1961 of this title, economic emergency loan (EE) under section 202 of the Emergency Agricultural Credit Adjustment Act (title II of Public Law 95-334), economic opportunity loan (EO) under the Economic Opportunity Act of 1961 (42 U.S.C. 2942), softwood timber loan (ST) under section 1254 of the Food Security Act of 1985, or rural housing loan for farm service buildings (RHF) under section 1472 of title 42.

(11) The term “qualified beginning farmer or rancher” means an applicant, regardless of whether the applicant is participating in a program under section 1935 of this title—

(A) who is eligible for assistance under this chapter;

(B) who has not operated a farm or ranch, or who has operated a farm or ranch for not more than 10 years;

(C) in the case of a cooperative, corporation, partnership, or joint operation, who has members, stockholders, partners, or joint operators who are all related to one another by blood or marriage;

(D)(i) in the case of an owner and operator of a farm or ranch, who—

(I) in the case of a loan made to an individual, individually or with the immediate family of the applicant—

(aa) materially and substantially participates in the operation of the farm or ranch; and

(bb) provides substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the State or county in which the farm or ranch is located; or

(II)(aa) in the case of a loan made to a cooperative, corporation, partnership, or joint operation, has members, stockholders, partners, or joint operators, materially and substantially participate in the operation of the farm or ranch; and

(bb) in the case of a loan made to a corporation, has stockholders, all of whom are qualified beginning farmers or ranchers; and

(ii) in the case of an applicant seeking to own and operate a farm or ranch, who—

(I) in the case of a loan made to an individual, individually or with the immediate family of the applicant, will—

(aa) materially and substantially participate in the operation of the farm or ranch; and

(bb) provide substantial day-to-day labor and management of the farm or

ranch, consistent with the practices in the State or county in which the farm or ranch is located; or

(II)(aa) in the case of a loan made to a cooperative, corporation, partnership, or joint operation, will have members, stockholders, partners, or joint operators, materially and substantially participate in the operation of the farm or ranch; and

(bb) in the case of a loan made to a corporation, has stockholders, all of whom are qualified beginning farmers or ranchers;

(E) who agrees to participate in such loan assessment, borrower training, and financial management programs as the Secretary may require;

(F) who does not own land or who, directly or through interests in family farm corporations, owns land, the aggregate acreage of which does not exceed 30 percent of the median acreage of the farms or ranches, as the case may be, in the county in which the farm or ranch operations of the applicant are located, as reported in the most recent census of agriculture, except that this subparagraph shall not apply to a loan made or guaranteed under subchapter II of this chapter; and

(G) who demonstrates that the available resources of the applicant and spouse (if any) of the applicant are not sufficient to enable the applicant to continue farming or ranching on a viable scale.

(12) DEBT FORGIVENESS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term “debt forgiveness” means reducing or terminating a farmer program loan made or guaranteed under this chapter, in a manner that results in a loss to the Secretary, through—

(i) writing down or writing off a loan under section 2001 of this title;

(ii) compromising, adjusting, reducing, or charging-off a debt or claim under section 1981 of this title;

(iii) paying a loss on a guaranteed loan under section 2005 of this title; or

(iv) discharging a debt as a result of bankruptcy.

(B) EXCEPTIONS.—The term “debt forgiveness” does not include—

(i) consolidation, rescheduling, reamortization, or deferral of a loan; or

(ii) any write-down provided as part of a resolution of a discrimination complaint against the Secretary.

(13) RURAL AND RURAL AREA.—

(A) IN GENERAL.—Subject to subparagraphs (B) through (G), the terms “rural” and “rural area” mean any area other than—

(i) a city or town that has a population of greater than 50,000 inhabitants; and

(ii) any urbanized area contiguous and adjacent to a city or town described in clause (i).

(B) WATER AND WASTE DISPOSAL GRANTS AND DIRECT AND GUARANTEED LOANS.—For the

purpose of water and waste disposal grants and direct and guaranteed loans provided under paragraphs (1), (2), and (24) of section 1926(a) of this title, the terms “rural” and “rural area” mean a city, town, or unincorporated area that has a population of no more than 10,000 inhabitants.

(C) COMMUNITY FACILITY LOANS AND GRANTS.—For the purpose of community facility direct and guaranteed loans and grants under paragraphs (1), (19), (20), (21), and (24) of section 1926(a) of this title, the terms “rural” and “rural area” mean any area other than a city, town, or unincorporated area that has a population of greater than 20,000 inhabitants.

(D) AREAS RURAL IN CHARACTER.—

(i) APPLICATION.—This subparagraph applies to—

(I) an urbanized area described in subparagraphs (A)(ii) and (F) that—

(aa) has 2 points on its boundary that are at least 40 miles apart; and

(bb) is not contiguous or adjacent to a city or town that has a population of greater than 150,000 inhabitants or an urbanized area of such city or town; and

(II) an area within an urbanized area described in subparagraphs (A)(ii) and (F) that is within $\frac{1}{4}$ -mile of a rural area described in subparagraph (A).

(ii) DETERMINATION.—Notwithstanding any other provision of this paragraph, on the petition of a unit of local government in an area described in clause (i) or on the initiative of the Under Secretary for Rural Development, the Under Secretary may determine that a part of an area described in clause (i) is a rural area for the purposes of this paragraph, if the Under Secretary finds that the part is rural in character, as determined by the Under Secretary.

(iii) ADMINISTRATION.—In carrying out this subparagraph, the Under Secretary for Rural Development shall—

(I) not delegate the authority to carry out this subparagraph;

(II) consult with the applicable rural development State or regional director of the Department of Agriculture and the governor of the respective State;

(III) provide to the petitioner an opportunity to appeal to the Under Secretary a determination made under this subparagraph;

(IV) release to the public notice of a petition filed or initiative of the Under Secretary under this subparagraph not later than 30 days after receipt of the petition or the commencement of the initiative, as appropriate;

(V) make a determination under this subparagraph not less than 15 days, and not more than 60 days, after the release of the notice under subclause (IV);

(VI) submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an

annual report on actions taken to carry out this subparagraph; and

(VII) terminate a determination under this subparagraph that part of an area is a rural area on the date that data is available for the next decennial census conducted under section 141(a) of title 13.

(E) EXCLUSIONS.—Notwithstanding any other provision of this paragraph, in determining which census blocks in an urbanized area are not in a rural area (as defined in this paragraph), the Secretary shall exclude any cluster of census blocks that would otherwise be considered not in a rural area only because the cluster is adjacent to not more than 2 census blocks that are otherwise considered not in a rural area under this paragraph.

(F) URBAN AREA GROWTH.—

(i) APPLICATION.—This subparagraph applies to—

(I) any area that—

(aa) is a collection of census blocks that are contiguous to each other;

(bb) has a housing density that the Secretary estimates is greater than 200 housing units per square mile; and

(cc) is contiguous or adjacent to an existing boundary of a rural area; and

(II) any urbanized area contiguous and adjacent to a city or town described in subparagraph (A)(i).

(ii) ADJUSTMENTS.—The Secretary may, by regulation only, consider—

(I) an area described in clause (i)(I) not to be a rural area for purposes of subparagraphs (A) and (C); and

(II) an area described in clause (i)(II) not to be a rural area for purposes of subparagraph (C).

(iii) APPEALS.—A program applicant may appeal an estimate made under clause (i)(I) based on appropriate data for an area, as determined by the Secretary.

(G) HAWAII AND PUERTO RICO.—Notwithstanding any other provision of this paragraph, within the areas of the County of Honolulu, Hawaii, and the Commonwealth of Puerto Rico, the Secretary may designate any part of the areas as a rural area if the Secretary determines that the part is not urban in character, other than any area included in the Honolulu Census Designated Place or the San Juan Census Designated Place.

(b) As used in sections 1927(e), 1981d, 1985(e) and (f), 1988(b), 2000(b) and (c), 2001, and 2005 of this title:

(1) The term “borrower” means any farm borrower who has outstanding obligations to the Secretary under any farmer program loan, without regard to whether the loan has been accelerated, but does not include any farm borrower all of whose loans and accounts have been foreclosed on or liquidated, voluntarily or otherwise.

(2) The term “loan service program” means, with respect to a farmer program borrower, a

primary loan service program or a preservation loan service program.

(3) The term “primary loan service program” means—

(A) loan consolidation, rescheduling, or reamortization;

(B) interest rate reduction, including the use of the limited resource program;

(C) loan restructuring, including deferral, set aside, or writing down of the principal or accumulated interest charges, or both, of the loan; or

(D) any combination of actions described in subparagraphs (A), (B), and (C).

(4) PRESERVATION LOAN SERVICE PROGRAM.—The term “preservation loan service program” means homestead retention as authorized under section 2000 of this title.

(Pub. L. 87–128, title III, §343, as added Pub. L. 87–703, title IV, §401(5), Sept. 27, 1962, 76 Stat. 632; amended Pub. L. 89–586, Sept. 19, 1966, 80 Stat. 809; Pub. L. 92–419, title I, §128(a), Aug. 30, 1972, 86 Stat. 666; Pub. L. 95–334, title I, §124, Aug. 4, 1978, 92 Stat. 428; Pub. L. 96–438, §2(2), Oct. 13, 1980, 94 Stat. 1872; Pub. L. 99–198, title XIII, §1301(b), Dec. 23, 1985, 99 Stat. 1519; Pub. L. 100–233, title VI, §602, Jan. 6, 1988, 101 Stat. 1665; Pub. L. 101–624, title XVIII, §1814, title XXIII, §2388(h), Nov. 28, 1990, 104 Stat. 3824, 4053; Pub. L. 102–237, title VII, §702(h)(1), Dec. 13, 1991, 105 Stat. 1880; Pub. L. 102–554, §19, Oct. 28, 1992, 106 Stat. 4158; Pub. L. 104–127, title VI, §§640, 661(h), title VII, §749(b)(2), Apr. 4, 1996, 110 Stat. 1098, 1107, 1129; Pub. L. 105–113, §3(c), Nov. 21, 1997, 111 Stat. 2275; Pub. L. 107–171, title V, §5310, title VI, §6020(a), May 13, 2002, 116 Stat. 346, 362; Pub. L. 110–234, title VI, §6018(a), May 22, 2008, 122 Stat. 1170; Pub. L. 110–246, §4(a), title VI, §6018(a), June 18, 2008, 122 Stat. 1664, 1931.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsec. (a), see note set out under section 1921 of this title.

Section 202 of the Emergency Agricultural Credit Adjustment Act, referred to in subsec. (a)(10), is section 202 of Pub. L. 95–334, title II, Aug. 4, 1978, 92 Stat. 429, as amended, which was set out in a note preceding section 1961 of this title prior to repeal by Pub. L. 101–624, title XVIII, §1851, Nov. 28, 1990, 104 Stat. 3837.

The Economic Opportunity Act of 1961, referred to in subsec. (a)(10), probably means the Economic Opportunity Act of 1964, Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508, as amended, which was classified generally to chapter 34 (§2701 et seq.) of Title 42, The Public Health and Welfare, prior to repeal, except for titles VIII and X, by Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519. Titles VIII and X of the Act are classified generally to subchapters VIII (§2991 et seq.) and X (§2996 et seq.) of chapter 34 of Title 42. For complete classification of this Act to the Code, see Tables.

Section 1254 of the Food Security Act of 1985, referred to in subsec. (a)(10), is section 1254 of Pub. L. 99–198, title XII, Dec. 23, 1985, 99 Stat. 1517, which amended Pub. L. 98–258, §608, set out as a note under section 1981 of this title.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

Subsec. (a)(13). Pub. L. 110–246, §6018(a), amended par. (13) generally, substituting provisions defining “rural”

and “rural area”, provisions defining such terms for the purpose of water and waste disposal grants and direct and guaranteed loans and community facility loans and grants, and provisions relating to areas rural in character, exclusions, urban area growth, and designations in Hawaii and Puerto Rico, for provisions defining “rural” and “rural area” and defining such terms for the purpose of water and waste disposal grants and direct and guaranteed loans, community facility loans and grants, multijurisdictional regional planning organizations, and the rural business investment program.

2002—Subsec. (a)(11)(F). Pub. L. 107–171, §5310(a), substituted “30 percent” for “25 percent”.

Subsec. (a)(12)(B). Pub. L. 107–171, §5310(b), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: “The term ‘debt forgiveness’ does not include consolidation, rescheduling, reamortization, or deferral.”

Subsec. (a)(13). Pub. L. 107–171, §6020(a), added par. (13).

1997—Subsec. (a)(11)(F). Pub. L. 105–113 struck out “taken under section 142 of title 13” after “census of agriculture”.

1996—Subsec. (a)(10). Pub. L. 104–127, §661(h)(1), struck out “recreation loan (RL) under section 1924 of this title,” before “emergency loan (EM)”.

Subsec. (a)(11). Pub. L. 104–127, §640(1)(A), in introductory provisions, substituted “applicant, regardless of whether the applicant is participating in a program under section 1935 of this title” for “applicant”.

Subsec. (a)(11)(F). Pub. L. 104–127, §640(1)(B), substituted “25 percent” for “15 percent” and inserted before semicolon at end “, except that this subparagraph shall not apply to a loan made or guaranteed under subchapter II of this chapter”.

Subsec. (a)(12). Pub. L. 104–127, §640(2), added par. (12).

Subsec. (b). Pub. L. 104–127, §§661(h)(2)(A), 749(b)(2), in introductory provisions, substituted “1988(b), 2000(b) and (c)” for “1988(f), 1999(h), 2000(b) and (c)”.

Subsec. (b)(4). Pub. L. 104–127, §661(h)(2)(B), added par. (4) and struck out former par. (4) which read as follows:

“The term ‘preservation loan service program’ means—

“(A) homestead retention as authorized under section 2000 of this title; and

“(B) a leaseback or buyback of farmland authorized under section 1985 of this title.”

1992—Subsec. (a). Pub. L. 102–554 substituted “this chapter:” and par. (1) for “this chapter (1) the term ‘farmers’ shall be deemed to include persons who are engaged in, or who, with assistance afforded under this chapter, intend to engage in, fish farming,” in pars. (2) to (8), realigned margins and substituted “The” for “the” first place appearing in each par. and a period for a comma at end of each par., in par. (9), realigned margin and substituted “The” for “the” first place appearing and a period for “,” and at end, in par. (10), realigned margin and substituted “The” for “the” first place appearing, and added par. (11).

1991—Subsec. (a)(1), (3). Pub. L. 102–237, §702(h)(1)(A), (B), made technical amendment to directory language of Pub. L. 101–624, §2388(h)(1), (2). See 1990 Amendment note below.

Subsec. (a)(5). Pub. L. 102–237, §702(h)(1)(C), repealed Pub. L. 101–624, §2388(h)(3). See 1990 Amendment note below.

1990—Subsec. (a)(1), (3). Pub. L. 101–624, §2388(h)(1), (2), as amended by Pub. L. 102–237, §702(h)(1)(A), (B), struck out “and” after “fish farming,” in par. (1), and “and” after “such loan,” in par. (3).

Subsec. (a)(5). Pub. L. 101–624, §2388(h)(3), which directed substitution of “contract of insurance” for “contract of insurance”, was repealed by Pub. L. 102–237, §702(h)(1)(C). See Construction of 1990 Amendment note below.

Subsec. (a)(8) to (10). Pub. L. 101–624, §1814, added pars. (8) to (10).

1988—Pub. L. 100–233 designated existing provisions as subsec. (a) and added subsec. (b).

1985—Pub. L. 99–198 added cl. (7).

1980—Pub. L. 96-438 added cl. (3). For termination of former cl. (3) as added by Pub. L. 89-586, see Effective and Termination Date of 1966 Amendment note below.

1978—Pub. L. 95-334 added cl. (6).

1972—Pub. L. 92-419 added cls. (4) and (5).

1966—Pub. L. 89-586 struck out “and” before “(2)” and inserted cl. (3) defining “owner-operator”. See Effective and Termination Date of 1966 Amendment note below.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 3(d) of Pub. L. 104-113 provided that: “This section [amending this section and repealing section 142 of Title 13, Census] and the amendments made by this section shall take effect October 1, 1998.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 640(1) of Pub. L. 104-127 effective 90 days after Apr. 4, 1996, and amendment by sections 640(2) and 661(h) of Pub. L. 104-127 effective Apr. 4, 1996, see section 663(a), (b) of Pub. L. 104-127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101-624, to which the amendment relates, see section 1101(b)(7) of Pub. L. 102-237, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATE OF 1966 AMENDMENT

Pub. L. 89-586, as amended by Pub. L. 90-426, July 26, 1968, 82 Stat. 445, provided in part that the amendment made by Pub. L. 89-586 is effective only for the period of time commencing with Sept. 19, 1966, and ending on June 30, 1970.

CONSTRUCTION OF 1990 AMENDMENT

Section 702(h)(2) of Pub. L. 102-237, as amended by Pub. L. 102-552, title V, § 516(k), Oct. 28, 1992, 106 Stat. 4139, provided that: “The Consolidated Farm and Rural Development Act [see Short Title note set out under section 1921 of this title] shall be applied and administered as if the amendment made by section 2388(h)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 [Pub. L. 101-624, amending this section] had never been enacted.”

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 1992. Loan limitations

No loan (other than one to a public body or nonprofit association (including Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups) for community facilities or one of a type authorized by section 1926(a)(1) of this title prior to its amendment by the Rural Development Act of 1972) shall be made by the Secretary either for sale as an insured loan or otherwise under sections 1926(a)(1), 1932, or 1942(c) of this title unless the Secretary shall have determined that no other lender is willing to make such loan and assume 10 per centum of any loss sustained thereon. No contract guaranteeing any such loan by such

other lender shall require the Secretary to guarantee more than 90 per centum of the principal and interest on such loan.

(Pub. L. 87-128, title III, § 344, as added Pub. L. 92-419, title I, § 129, Aug. 30, 1972, 86 Stat. 666; amended Pub. L. 94-35, § 2, June 16, 1975, 89 Stat. 214; Pub. L. 104-127, title VI, § 661(i), Apr. 4, 1996, 110 Stat. 1107.)

REFERENCES IN TEXT

For statutory changes to section 1926(a)(1) of this title by the Rural Development Act of 1972, referred to in text, see 1972 Amendment note for section 104 of Pub. L. 92-419, set out under section 1926 of this title. For complete classification of Rural Development Act of 1972 to the Code, see Short Title of 1972 Amendment note set out under section 1921 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104-127 substituted “1926(a)(1), 1932, or 1942(c) of this title” for “1924(b), 1926(a)(1), 1932, 1942(b), or 1942(c) of this title”.

1975—Pub. L. 94-35 substituted “guaranteed more than 90 per centum of the principal and interest on such loan” for “participate in more than 90 per centum of any loss sustained thereon”.

§ 1993. Transition to private commercial or other sources of credit

(a) In general

In making or insuring a farm loan under subchapter I or II, the Secretary shall establish a plan and promulgate regulations (including performance criteria) that promote the goal of transitioning borrowers to private commercial credit and other sources of credit in the shortest period of time practicable.

(b) Coordination

In carrying out this section, the Secretary shall integrate and coordinate the transition policy described in subsection (a) with—

- (1) the borrower training program established by section 2006a of this title;
- (2) the loan assessment process established by section 2006b of this title;
- (3) the supervised credit requirement established by section 2006c of this title;
- (4) the market placement program established by section 2006d of this title; and
- (5) other appropriate programs and authorities, as determined by the Secretary.

(Pub. L. 87-128, title III, § 345, as added Pub. L. 110-234, title V, § 5304, May 22, 2008, 110 Stat. 1153, and Pub. L. 110-246, § 4(a), title V, § 5304, June 18, 2008, 122 Stat. 1664, 1914.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 1993, Pub. L. 87-128, title III, § 345, as added Pub. L. 94-68, § 9, Aug. 5, 1975, 89 Stat. 382; amended Pub. L. 103-437, § 4(a)(7), Nov. 2, 1994, 108 Stat. 4582, related to testimony by Secretary of Agriculture before congressional committees, prior to repeal by Pub. L. 104-127, title VII, § 750, Apr. 4, 1996, 110 Stat. 1129.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the

date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of this title.

§ 1994. Maximum amounts for loans authorized; long-term cost projections

(a) Maximum aggregate principal amounts for loans authorized

Effective October 1, 1979, the aggregate principal amount of loans under the programs authorized under each subchapter of this chapter during each three-year period thereafter shall not exceed such amounts as may be authorized by law after August 4, 1978. There shall be two amounts so established for each of such programs and for any maximum levels provided in appropriation Acts for the programs authorized under this chapter, one against which direct and insured loans shall be charged and the other against which guaranteed loans shall be charged.¹

(b) Authorization for loans

(1) In general

The Secretary may make or guarantee loans under subchapters I and II of this chapter from the Agricultural Credit Insurance Fund provided for in section 1929 of this title for not more than \$4,226,000,000 for each of fiscal years 2008 through 2012, of which, for each fiscal year—

(A) \$1,200,000,000 shall be for direct loans, of which—

(i) \$350,000,000 shall be for farm ownership loans under subchapter I of this chapter; and

(ii) \$850,000,000 shall be for operating loans under subchapter II of this chapter; and

(B) \$3,026,000,000 shall be for guaranteed loans, of which—

(i) \$1,000,000,000 shall be for guarantees of farm ownership loans under subchapter I of this chapter; and

(ii) \$2,026,000,000 shall be for guarantees of operating loans under subchapter II of this chapter.

(2) Beginning farmers and ranchers

(A) Direct loans

(i) Farm ownership loans

(I) In general

Of the amounts made available under paragraph (1) for direct farm ownership loans, the Secretary shall reserve an amount that is not less than 75 percent of the total amount for qualified beginning farmers and ranchers.

(II) Down payment loans; joint financing arrangements

Of the amounts reserved for a fiscal year under subclause (I), the Secretary shall reserve an amount not less than ⅓ of the amount for the down payment loan program under section 1935 of this title and joint financing arrangements

under section 1927(a)(3)(D) of this title until April 1 of the fiscal year.

(ii) Operating loans

Of the amounts made available under paragraph (1) for direct operating loans, the Secretary shall reserve for qualified beginning farmers and ranchers—

(I) for each of fiscal years 1996 through 1998, 25 percent;

(II) for fiscal year 1999, 30 percent; and

(III) for each of fiscal years 2008 through 2012, an amount that is not less than 50 percent of the total amount.

(iii) Funds reserved until September 1

Except as provided in clause (i)(II), funds reserved for qualified beginning farmers or ranchers under this subparagraph for a fiscal year shall be reserved only until September 1 of the fiscal year.

(B) Guaranteed loans

(i) Farm ownership loans

Of the amounts made available under paragraph (1) for guarantees of farm ownership loans, the Secretary shall reserve an amount that is not less than 40 percent of the total amount for qualified beginning farmers and ranchers.

(ii) Operating loans

Of the amounts made available under paragraph (1) for guarantees of operating loans, the Secretary shall reserve 40 percent for qualified beginning farmers and ranchers.

(iii) Funds reserved until April 1

Funds reserved for qualified beginning farmers or ranchers under this subparagraph for a fiscal year shall be reserved only until April 1 of the fiscal year.

(C) Reserved funds for all qualified beginning farmers and ranchers

If a qualified beginning farmer or rancher meets the eligibility criteria for receiving a direct or guaranteed loan under section 1922, 1935, or 1941 of this title, the Secretary shall make or guarantee the loan if sufficient funds reserved under this paragraph are available to make or guarantee the loan.

(3) Transfer for down payment loans

(A) In general

Notwithstanding subsection (a) of this section, subject to subparagraph (B)—

(i) beginning on August 1 of each fiscal year, the Secretary shall use available unsubsidized guaranteed farm operating loan funds to provide direct farm ownership loans approved by the Secretary to qualified beginning farmers and ranchers under the down payment loan program established under section 1935 of this title, if sufficient direct farm ownership loan funds are not otherwise available; and

(ii) beginning on September 1 of each fiscal year, the Secretary shall use available unsubsidized guaranteed farm operating loan funds to provide direct farm ownership loans approved by the Secretary to

¹ So in original.

qualified beginning farmers and ranchers, if sufficient direct farm ownership loan funds are not otherwise available.

(B) Limitation

The Secretary shall limit the transfer of funds under subparagraph (A) so that all guaranteed farm operating loans that have been approved, or will be approved, by the Secretary during the fiscal year will be made to the extent of available amounts.

(4) Transfer for credit sales of farm inventory property

(A) In general

Notwithstanding subsection (a) of this section, subject to subparagraphs (B) and (C), beginning on September 1 of each fiscal year, the Secretary may use available funds made available under subchapter III of this chapter for the fiscal year to fund the credit sale of farm real estate in the inventory of the Secretary.

(B) Supplemental appropriations

The transfer authority provided under subparagraph (A) shall not apply to any funds made available to the Secretary for any fiscal year under an Act making supplemental appropriations.

(C) Limitation

The Secretary shall limit the transfer of funds under subparagraph (A) so that all emergency disaster loans that have been approved, or will be approved, by the Secretary during the fiscal year will be made to the extent of available amounts.

(c) Development of long-term cost projections for loan program authorizations

The Secretary shall develop long-term cost projections for loan program authorizations required under subsection (a) of this section. Each such projection shall include analyses of (1) the long-term costs of the lending levels that the Secretary requests to be authorized under subsection (a) of this section and (2) the long-term costs for increases in lending levels beyond those requested to be authorized, based on increments of \$10,000,000 or such other levels as the Secretary deems appropriate. Long-term cost projections for the three-year period beginning with fiscal year 1983 and each three-year period thereafter shall be submitted to the House Committee on Agriculture, the House Committee on Appropriations, the Senate Committee on Agriculture, Nutrition, and Forestry, and the Senate Committee on Appropriations at the time the requests for authorizations for those periods are submitted to Congress. Not later than fifteen days after October 13, 1980, the Secretary shall submit to such committees long-term cost projections covering authorized lending levels for the loan programs for fiscal years 1981 and 1982.

(d) Low-income, limited-resource borrowers

(1) Notwithstanding any other provision of law, not less than 25 per centum of the loans for farm ownership purposes under subchapter I of this chapter, and not less than 25 per centum of the loans for farm operating purposes under subchapter II of this chapter, authorized to be in-

sured, or made to be sold and insured, from the Agricultural Credit Insurance Fund during each fiscal year shall be for low-income, limited-resource borrowers.

(2) The Secretary shall provide notification to farm borrowers under this chapter, as soon as practicable after April 10, 1984, and in the normal course of loan making and loan servicing operations, of the provisions of this chapter relating to low-income, limited-resource borrowers and the procedures by which persons may apply for loans under the low-income, limited-resource borrower program.

(Pub. L. 87-128, title III, § 346, as added Pub. L. 95-334, title I, § 125, Aug. 4, 1978, 92 Stat. 428; amended Pub. L. 96-438, § 4, Oct. 13, 1980, 94 Stat. 1876; Pub. L. 97-35, title I, § 164, Aug. 13, 1981, 95 Stat. 379; Pub. L. 98-258, title VI, § 607, Apr. 10, 1984, 98 Stat. 140; Pub. L. 99-198, title XIII, § 1317, Dec. 23, 1985, 99 Stat. 1529; Pub. L. 101-508, title I, § 1202(a), Nov. 5, 1990, 104 Stat. 1388-9; Pub. L. 101-624, title XXIII, § 2388(i), Nov. 28, 1990, 104 Stat. 4053; Pub. L. 102-237, title VII, § 701(h)(1)(F), 702(i), Dec. 13, 1991, 105 Stat. 1880, 1881; Pub. L. 102-554, § 20, Oct. 28, 1992, 106 Stat. 4159; Pub. L. 104-127, title VI, § 641, Apr. 4, 1996, 110 Stat. 1098; Pub. L. 107-171, title V, §§ 5311, 5312, May 13, 2002, 116 Stat. 346, 347; Pub. L. 110-234, title V, §§ 5302(b), 5303, May 22, 2008, 122 Stat. 1152; Pub. L. 110-246, § 4(a), title V, §§ 5302(b), 5303, June 18, 2008, 122 Stat. 1664, 1913, 1914.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsecs. (a) and (d)(2), see note set out under section 1921 of this title.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsec. (b)(1). Pub. L. 110-246, § 5303(1), substituted “\$4,226,000,000 for each of fiscal years 2008 through 2012” for “\$3,796,000,000 for each of fiscal years 2003 through 2007” in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 110-246, § 5303(2), in introductory provisions, substituted “\$1,200,000,000” for “\$770,000,000”, in cl. (i), substituted “\$350,000,000” for “\$205,000,000”, and, in cl. (ii), substituted “\$850,000,000” for “\$565,000,000”.

Subsec. (b)(2)(A)(i). Pub. L. 110-246, § 5302(b)(1)(A), in subcl. (I), substituted “an amount that is not less than 75 percent of the total amount” for “70 percent” and, in subcl. (II), inserted “; joint financing arrangements” at end of heading and, in text, substituted “an amount not less than ¾ of the amount” for “60 percent” and inserted “and joint financing arrangements under section 1927(a)(3)(D) of this title” after “section 1935 of this title”.

Subsec. (b)(2)(A)(ii)(III). Pub. L. 110-246, § 5302(b)(1)(B), substituted “2008 through 2012, an amount that is not less than 50 percent of the total amount” for “2003 through 2007, 35 percent”.

Subsec. (b)(2)(B)(i). Pub. L. 110-246, § 5302(b)(2), substituted “an amount that is not less than 40 percent of the total amount” for “25 percent”.

2002—Subsec. (b)(1). Pub. L. 107-171, § 5311, reenacted heading without change and amended text generally. Prior to amendment, text related to guaranteed loans under subchapters I and II of this chapter from the Agricultural Credit Insurance Fund provided for in section 1929 of this title for fiscal years 1996 to 2002.

Subsec. (b)(2)(A)(ii)(III). Pub. L. 107-171, §5312, substituted “2003 through 2007” for “2000 through 2002”.

1996—Subsec. (a). Pub. L. 104-127, §641(1), in second sentence, struck out “with or without authority for the Secretary to transfer amounts between such categories within a given program for more effective administration” before period at end.

Subsec. (b). Pub. L. 104-127, §641(2), added subsec. (b) and struck out former subsec. (b), which set forth maximum amounts for direct and guaranteed loans under the Agricultural Credit Insurance Fund for fiscal years 1991 to 1995.

1992—Subsec. (b)(2). Pub. L. 102-554, §20(b), inserted sentence at end.

Subsec. (b)(3)(D) to (G). Pub. L. 102-554, §20(c), (d), added subpars. (D) to (G).

Subsec. (b)(5), (6). Pub. L. 102-554, §20(a), (e), added pars. (5) and (6).

1991—Subsec. (b). Pub. L. 102-237, §702(i), repealed Pub. L. 101-624, §2388(i). See 1990 Amendment note below.

Subsec. (b)(3)(C). Pub. L. 102-237, §701(h)(1)(F), substituted “this chapter” for “this Act” in two places.

1990—Subsec. (b). Pub. L. 101-624, §2388(i), which amended subsec. (b), in par. (1)(B), by striking “subparagraph (C)” and inserting “paragraph (3)”; in par. (1)(C), by striking “subparagraph (A)” and inserting “paragraph (1)”; by redesignating pars. (1)(A), (B), (C), (D)(i), and (E) as (1), (2), (3), (4), and (5), respectively; in par. (2), by redesignating cls. (i), (ii), and (iii) as subpars. (A), (B), and (C), respectively; in subpars. (A) to (C) of par. (2), by redesignating subcls. (I) and (II) as cls. (i) and (ii), respectively; and in par. (5), by redesignating cls. (i), (ii), and (iii) as subpars. (A), (B), and (C), respectively, was repealed by Pub. L. 102-237, §702(i). See Construction of 1990 Amendment note below.

Pub. L. 101-508, §1202(a), amended subsec. (b) generally, substituting present provisions for provisions relating to maximum amounts for loans under the Agricultural Credit Insurance Fund and the Rural Development Insurance Fund for fiscal years 1986 through 1988.

1985—Subsec. (b). Pub. L. 99-198, §1317(a), amended subsec. (b) generally, substituting provisions setting maximum amounts for loans under the Agricultural Credit Insurance Fund and the Rural Development Insurance Fund for each of fiscal years ending September 30, 1986, through September 30, 1988, for provisions setting such amounts for each of fiscal years 1980, 1981, and 1982.

Subsecs. (d), (e). Pub. L. 99-198, §1317, struck out subsec. (d) which authorized special amounts for fiscal year 1982, redesignated subsec. (e) as (d), and in par. (1) substituted “25 per centum” for “20 per centum” wherever appearing and “each fiscal year” for “fiscal year 1984”.

1984—Subsec. (e). Pub. L. 98-258 added subsec. (e).

1981—Subsec. (d). Pub. L. 97-35 added subsec. (d).

1980—Pub. L. 96-438 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 701(h)(1)(F) of Pub. L. 102-237 to any provision specified therein effective as if included in act that added provision so specified at the time such act became law, and amendment by section 702(i) of Pub. L. 102-237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101-624, to which the amendment relates, see section 1101(b)(7), (c) of Pub. L. 102-237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101-508, set out as an Effective Date note under section 940d of this title.

CONSTRUCTION OF 1990 AMENDMENT

Section 702(i) of Pub. L. 102-237 provided that: “Subsection (i) of section 2388 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4053) [Pub. L. 101-624, amending this section] is hereby repealed and the Consolidated Farm and Rural Development Act [see Short Title note set out under section 1921 of this title] shall be applied and administered as if the amendments made by such subsection had never been enacted.”

NULLIFICATION OF RESERVATION OF FUNDS DURING FISCAL YEAR 1999 FOR GUARANTEED LOANS FOR QUALIFIED BEGINNING FARMERS AND RANCHERS

Pub. L. 106-2, §1, Mar. 15, 1999, 113 Stat. 5, provided that: “Amounts shall be made available pursuant to section 346(b)(1)(D) of the Consolidated Farm and Rural Development Act [7 U.S.C. 1994(b)(1)(D)] for guaranteed loans, without regard to any reservation under section 346(b)(2)(B) of such Act.”

§ 1995. Participation and financial and technical assistance by other Federal departments, etc., to program participants

Notwithstanding any other provision of law, other departments, agencies, and executive establishments of the Federal Government may participate and provide financial and technical assistance jointly with the Secretary to any applicant to whom assistance is being provided under any program administered by the Farmers Home Administration. Participation by any other department, agency, or executive establishment shall be only to the extent authorized for, and subject to the authorities of, such other department, agency, or executive establishment, except that any limitation on joint participation is superseded by this section.

(Pub. L. 87-128, title III, §347, as added Pub. L. 95-334, title I, §125, Aug. 4, 1978, 92 Stat. 429.)

§ 1996. Loans to resident aliens

Notwithstanding the provisions of this chapter limiting the making and insuring of loans to citizens of the United States, the Secretary may make and insure loans under this chapter to aliens lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.]: *Provided*, That no loans may be made or insured under this chapter to such aliens until the Secretary issues regulations establishing the terms and conditions under which such aliens may receive loans: *Provided further*, That the Secretary shall submit the regulations to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate at least thirty days prior to the date the regulations are published in the Federal Register.

(Pub. L. 87-128, title III, §348, as added Pub. L. 96-438, §2(3), Oct. 13, 1980, 94 Stat. 1872.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 1921 of this title.

The Immigration and Nationality Act, referred to in text, is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

§ 1997. Conservation easements**(a) Definitions**

For purposes of this section:

(1) The term “governmental entity” means any agency of the United States, a State, or a unit of local government of a State.

(2) The terms “highly erodible land” and “wetland” have the meanings, respectively, that such terms are given in section 3801 of title 16.

(3) The term “wildlife” means fish or wildlife as defined in section 3371(a) of title 16.

(4) The term “recreational purposes” includes hunting.

(b) Contracts on loan security properties

Subject to subsection (c) of this section, the Secretary may enter into a contract related to real property for conservation, recreation, or wildlife purposes.

(c) Limitations

The Secretary may enter into a contract under subsection (b) of this section if—

(1) such property is wetland, upland, or highly erodible land;

(2) such property is determined by the Secretary to be suitable for the purposes involved; and

(3)(A) such property secures any loan made under any law administered by the Secretary and held by the Secretary; and

(B) such contract better enables a qualified borrower to repay the loan in a timely manner, as determined by the Secretary.

(d) Terms and conditions

The terms and conditions specified in each such contract shall—

(1) specify the purposes for which such real property may be used;

(2) identify the conservation measures to be taken, and the recreational and wildlife uses to be allowed, with respect to such real property; and

(3) require such owner to permit the Secretary, and any person or governmental entity designated by the Secretary, to have access to such real property for the purpose of monitoring compliance with such contract.

(e) Purchase; limitation upon cancellation or prepayment

(1) Subject to paragraph (2), the Secretary may reduce or forgive the outstanding debt of a borrower—

(A) in the case of a borrower to whom the Secretary has made one or more outstanding loans under laws administered by the Secretary, by canceling that part of the aggregate amount of such outstanding loans that bears the same ratio to such aggregate amount as the number of acres of the real property of the borrower that are subject to the contract bears to the aggregate number of acres securing such loans; or

(B) in any other case, by treating as prepaid that part of the principal amount of a new loan to the borrower issued and held by the Secretary under a law administered by the Secretary that bears the same ratio to such

principal amount as the number of acres of the real property of the borrower that are subject to the contract bears to the aggregate number of acres securing the new loan.

(2) The amount so canceled or treated as prepaid pursuant to paragraph (1) shall not exceed—

(A) in the case of a delinquent loan, the value of the land on which the contract is entered into or the difference between the amount of the outstanding loan secured by the land and the value of the land, whichever is greater; or

(B) in the case of a nondelinquent loan, 33 percent of the amount of the loan secured by the land.

(f) Consultations with Director of Fish and Wildlife Service

If the Secretary elects to use the authority provided by this section, the Secretary shall consult with the Director of the Fish and Wildlife Service for purposes of—

(1) selecting real property in which the Secretary may enter into contracts under this section;

(2) formulating the terms and conditions of such contracts; and

(3) enforcing such contracts.

(g) Enforcement

The Secretary, and any person or governmental entity designated by the Secretary, may enforce a contract entered into by the Secretary under this section.

(Pub. L. 87-128, title III, §349, as added Pub. L. 99-198, title XIII, §1318(a), Dec. 23, 1985, 99 Stat. 1530; amended Pub. L. 100-233, title VI, §612, Jan. 6, 1988, 101 Stat. 1674; Pub. L. 101-624, title XVIII, §1815, title XXIII, §2388(j), Nov. 28, 1990, 104 Stat. 3825, 4053; Pub. L. 104-127, title VI, §642, Apr. 4, 1996, 110 Stat. 1102.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-127, §642(1), added subsec. (b) and struck out former subsec. (b) which read as follows: “Subject to subsection (c) of this section, the Secretary may acquire and retain an easement in real property, for a term of not less than 50 years, for conservation, recreational, and wildlife purposes.”

Subsec. (c). Pub. L. 104-127, §642(2)(A), inserted heading and substituted “The Secretary may enter into a contract under subsection (b) of this section if” for “Such easement may be acquired or retained for real property if”.

Subsec. (c)(2). Pub. L. 104-127, §642(2)(B), inserted “and” at end.

Subsec. (c)(3). Pub. L. 104-127, §642(2)(C), struck out “(i)” after “(3)(A)”, substituted “administered by the Secretary” for “administered by the Farmers Home Administration”, redesignated cl. (ii) of subpar. (A) as subpar. (B), substituted “such contract” for “such easement” and a period for “; or” at end, and struck out former subpar. (B) which read as follows: “such property is administered under this chapter by the Secretary; and”.

Subsec. (c)(4). Pub. L. 104-127, §642(2)(D), struck out par. (4) which read as follows: “such property was (except in the case of wetland and other wildlife habitat) row cropped each year of the 3-year period ending on December 23, 1985.”

Subsec. (d). Pub. L. 104-127, §642(3), substituted “contract” for “easement” in introductory provisions and par. (3).

Subsec. (e). Pub. L. 104-127, §642(4), in par. (1), substituted “reduce or forgive the outstanding debt of a

borrower” for “purchase any such easement from the borrower” in introductory provisions, in subpars. (A) and (B), substituted “administered by the Secretary” for “administered by the Farmers Home Administration” and “contract bears” for “easement bears”, and in par. (2)(A), substituted “contract is entered into” for “easement is acquired”.

Subsec. (f). Pub. L. 104-127, §642(5), in par. (1), substituted “enter into contracts” for “acquire easements” and in pars. (2) and (3), substituted “contracts” for “easements”.

Subsec. (g). Pub. L. 104-127, §642(6), substituted “a contract entered into” for “an easement acquired”.

1990—Subsec. (a)(4), (5). Pub. L. 101-624, §2388(j), redesignated par. (5) as (4).

Subsec. (c). Pub. L. 101-624, §1815(1)(A)–(D), (F), (G), in introductory provision, struck out “such property” after “real property if”, and inserted “such property” after par. (1), (2), (3)(A)(i), (3)(B), and (4) designations.

Subsec. (c)(3)(A)(ii). Pub. L. 101-624, §1815(1)(E), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “the borrower of such loan is unable, as determined by the Secretary, to repay such loan in a timely manner; or”.

Subsec. (e). Pub. L. 101-624, §1815(2), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “Any such easement acquired by the Secretary shall be purchased from the borrower involved by canceling that part of the aggregate amount of such outstanding loans of the borrower held by the Secretary under laws administered by the Farmers Home Administration that bears the same ratio to the aggregate amount of the outstanding loans of such borrower held by the Secretary under all such laws as the number of acres of the real property of such borrower that are subject to such easement bears to the aggregate number of acres securing such loans. In no case shall the amount so cancelled exceed the value of the land on which the easement is acquired or the difference between the amount of the outstanding loan secured by the land and the current value of the land, whichever is greater.”

Subsec. (h). Pub. L. 101-624, §1815(9), struck out subsec. (h) which read as follows: “This section shall not apply with respect to the cancellation of any part of any loan that was made after December 25, 1985.”

1988—Subsec. (c)(4). Pub. L. 100-233, §612(1), inserted “and other wildlife habitat” after “wetland”.

Subsec. (e). Pub. L. 100-233, §612(2), inserted “or the difference between the amount of the outstanding loan secured by the land and the current value of the land, whichever is greater” at end of second sentence.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-127 effective 90 days after Apr. 4, 1996, see section 663(b) of Pub. L. 104-127, set out as a note under section 1922 of this title.

§ 1998. Guaranteed farm loan programs

Notwithstanding any other provision of this chapter, the Secretary shall ensure that farm loan guarantee programs carried out under this chapter are designed so as to be responsive to borrower and lender needs and to include provisions under reasonable terms and conditions for advances, before completion of the liquidation process, of guarantee proceeds on loans in default.

(Pub. L. 87-128, title III, §350, as added Pub. L. 99-198, title XIII, §1319, Dec. 23, 1985, 99 Stat. 1531.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 1921 of this title.

§ 1999. Interest rate reduction program

(a) Establishment of program

The Secretary shall establish and carry out in accordance with this section an interest rate reduction program for loans guaranteed under this chapter.

(b) Contracts with lenders

Under such program, the Secretary shall enter into a contract with, and make payments to, a legally organized institution to reduce during the term of such contract the interest rate paid by a borrower on a guaranteed loan made by such institution if—

(1) the borrower—

(A) is unable to obtain sufficient credit elsewhere to finance the actual needs of the borrower at reasonable rates and terms, taking into consideration private and cooperative rates and terms for a loan for a similar purpose and period of time in the community in or near which the borrower resides;

(B) is otherwise unable to make payments on such loan in a timely manner; and

(C) has a total estimated cash income during the 24-month period beginning on the date such contract is entered into (including all farm and nonfarm income) that will equal or exceed the total estimated cash expenses to be incurred by the borrower during such period (including all farm and nonfarm expenses); and

(2) the lender reduces during the term of such contract the annual rate of interest payable on such loan by a minimum percentage specified in such contract.

(c) Payments to lenders

In return for a contract entered into by a lender under subsection (b) of this section for the reduction of the interest rate paid on a loan, the Secretary shall make payments to the lender in an amount equal to not more than 100 percent of the cost of reducing the annual rate of interest payable on such loan, except that such payments may not exceed the cost of reducing such rate by more than 4 percent.

(d) Duration of contracts

The term of a contract entered into under this section to reduce the interest rate on a guaranteed loan may not exceed the outstanding term of such loan.

(e) Agricultural Credit Insurance Fund use limitation

(1) Notwithstanding any other provision of this chapter, the Agricultural Credit Insurance Fund established under section 1929 of this title may be used by the Secretary to carry out this section.

(2) MAXIMUM AMOUNT OF FUNDS.—

(A) IN GENERAL.—The total amount of funds used by the Secretary to carry out this section for a fiscal year shall not exceed \$750,000,000.

(B) BEGINNING FARMERS AND RANCHERS.—

(i) IN GENERAL.—The Secretary shall reserve not less than 15 percent of the funds used by the Secretary under subparagraph (A) to make payments for guaranteed loans made to beginning farmers and ranchers.

(ii) DURATION OF RESERVATION OF FUNDS.—Funds reserved for beginning farmers or ranchers under clause (i) for a fiscal year shall be reserved only until March 1 of the fiscal year.

(f) List of lender participants in guaranteed loan program

The Secretary shall make available to farmers, on request, a list of lenders in the area that participate in guaranteed farm loan programs and other lenders in the area that express a desire to participate in such programs and that request inclusion in the list.

(g) Foreclosure action provision in farm loan guarantees

Notwithstanding any other provision of law, each contract of guarantee on a farm loan entered into under this chapter after January 6, 1988, shall contain a condition that the lender of the guaranteed loan may not initiate foreclosure action on the loan until 60 days after a determination is made with respect to the eligibility of the borrower thereof to participate in the program under this section.

(Pub. L. 87-128, title III, §351, as added Pub. L. 99-198, title XIII, §1320, Dec. 23, 1985, 99 Stat. 1532; amended Pub. L. 100-233, title VI, §613(b), (c), Jan. 6, 1988, 101 Stat. 1674; Pub. L. 101-508, title I, §1202(b)(1), (c), Nov. 5, 1990, 104 Stat. 1388-10, 1388-11; Pub. L. 104-105, title II, §220, Feb. 10, 1996, 110 Stat. 184; Pub. L. 104-127, title VI, §643(a), Apr. 4, 1996, 110 Stat. 1102; Pub. L. 107-171, title V, §5313, May 13, 2002, 116 Stat. 347.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsecs. (a)(1), (e)(1), and (g), see note set out under section 1921 of this title.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-171, §5313(1), struck out par. (1) designation and heading and struck out heading and text of par. (2). Text read as follows: “The authority provided by this subsection shall terminate on September 30, 2002.”

Subsec. (e)(2). Pub. L. 107-171, §5313(2), added par. (2) and struck out former par. (2) which read as follows: “The total amount of funds used by the Secretary to carry out this section may not exceed \$490,000,000.”

1996—Subsec. (a). Pub. L. 104-105 inserted heading, designated existing provisions as par. (1) and inserted heading, and added par. (2).

Subsec. (f). Pub. L. 104-127, §643(a)(1), substituted “The Secretary” for “Each Farmers Home Administration county supervisor” and “list of lenders” for “list of approved lenders” and struck out “the Farmers Home Administration” before “guaranteed farm loan programs”.

Subsec. (h). Pub. L. 104-127, §643(a)(2), struck out subsec. (h) which established a demonstration project during 4-year period beginning Jan. 6, 1988, for purchase of Farm Credit System land.

1990—Subsec. (c). Pub. L. 101-508, §1202(b)(1)(A), substituted “100 percent” for “50 percent” and “4 percent” for “2 percent”.

Subsec. (d). Pub. L. 101-508, §1202(b)(1)(B), struck out “, or 3 years, whichever is less” after “term of such loan”.

Subsec. (h)(1). Pub. L. 101-508, §1202(c), substituted “4-year” for “3-year”.

1988—Subsec. (b)(1)(C). Pub. L. 100-233, §613(b)(1), substituted “24-month” for “12-month”.

Subsecs. (f), (g). Pub. L. 100-233, §613(b)(2), added subsecs. (f) and (g).

Subsec. (h). Pub. L. 100-233, §613(c), added subsec. (h).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101-508, set out as an Effective Date note under section 940d of this title.

EFFECTIVE AND TERMINATION DATES

That part of section 1320 of Pub. L. 99-198, as amended by Pub. L. 100-233, title VI, §613(a), Jan. 6, 1988, 101 Stat. 1674; Pub. L. 101-508, title I, §1202(b)(2), Nov. 5, 1990, 104 Stat. 1388-11, which provided that this section was effective only for the period beginning Dec. 23, 1985, and ending Sept. 30, 1995, was repealed by Pub. L. 104-127, title VI, §643(b), Apr. 4, 1996, 110 Stat. 1103.

§ 2000. Homestead protection

(a) Definitions

As used in this section:

(1) The term “Administrator” means the Administrator of the Small Business Administration.

(2) The term “borrower-owner” means—

(A) a borrower of a loan made or insured by the Secretary or the Administrator who meets the eligibility requirements of subsection (c)(1) of this section; or

(B) in any case in which an owner of homestead property pledged the property to secure the loan and the owner is different than the borrower, the owner.

(3) The term “farm program loan” means any loan made by the Administrator under the Small Business Act (15 U.S.C. 631 et seq.) for any of the purposes authorized for loans under subchapters¹ I or II of this chapter.

(4) The term “homestead property” means the principal residence and adjoining property possessed and occupied by a borrower-owner specified in paragraph (2) of this subsection, including a reasonable number of farm outbuildings located on the adjoining land that are useful to the occupants of the homestead, and no more than 10 acres of adjoining land that is used to maintain the family of the individual.

(5) The term “Secretary” means the Secretary of Agriculture.

(b) Occupancy of homestead upon foreclosure, bankruptcy, or liquidation; appraisal; period of occupancy

(1) The Secretary or the Administrator shall, on application by a borrower-owner who meets the eligibility requirements of subsection (c)(1) of this section, permit the borrower-owner to retain possession and occupancy of homestead property under the terms set forth, and until the action described in this section has been completed, if—

(A) the Secretary forecloses, holds in inventory on January 6, 1988, or takes into inventory, property securing a loan made or insured under this chapter;

(B) the Administrator forecloses, holds in inventory on January 6, 1988, or takes into inventory, property securing a farm program loan made under the Small Business Act (15 U.S.C. 631 et seq.); or

¹ So in original. Probably should be “subchapter”.

(C) the borrower-owner of a loan made or insured by the Secretary or the Administrator files a petition in bankruptcy that results in the conveyance of the homestead property to the Secretary or the Administrator, or agrees to voluntarily liquidate or convey such property in whole or in part.

(2) The value of the homestead property shall be determined insofar as possible by an independent appraisal made within six months from the date of the borrower-owner's application to retain possession and occupancy of the homestead property.

(3) The period of occupancy of homestead property under this subsection may not exceed five years, but in no case shall the Secretary or the Administrator grant a period of occupancy less than three years, subject to compliance with the requirements of subsection (c) of this section.

(c) Terms and conditions

(1) To be eligible to occupy homestead property, a borrower-owner of a loan made or insured by the Secretary or the Administrator shall—

(A) apply for such occupancy not later than 30 days after the property is acquired by the Secretary or Administrator, or for property in inventory on January 6, 1988, the borrower-owner shall apply for occupancy not later than 30 days after January 6, 1988;

(B) have received from farming or ranching operations gross farm income reasonably commensurate with—

(i) the size and location of the farming unit of the borrower-owner; and

(ii) local agricultural conditions (including natural and economic conditions), in at least 2 calendar years during the 6-year period preceding the calendar year in which the application is made;

(C) have received from farming or ranching operations at least 60 percent of the gross annual income of the borrower-owner and any spouse of the borrower-owner in at least 2 calendar years during any 6-year period described in subparagraph (B);

(D) have continuously occupied the homestead property during the 6-year period described in subparagraph (B), except that such requirement may be waived if a borrower-owner has, due to circumstances beyond the control of the borrower-owner, had to leave the homestead property for a period of time not to exceed 12 months during the 6-year period;

(E) during the period of the occupancy of the homestead property, pay a reasonable sum as rent for such property to the Secretary or the Administrator in an amount substantially equivalent to rents charged for similar residential properties in the area in which the homestead property is located;

(F) during the period of the occupancy of the homestead property, maintain the property in good condition; and

(G) meet such other reasonable and necessary terms and conditions as the Secretary may require consistent with this section.

(2) For purposes of subparagraphs (B) and (C) of paragraph (1), the term “farming or ranching

operations” shall include rent paid by lessees of agricultural land during any period in which the borrower-owner, due to circumstances beyond the control of the borrower-owner, is unable to actively farm such land.

(3) For the purposes of paragraph (1)(E), the failure of the borrower-owner to make timely rental payments shall constitute cause for the termination of all rights of such borrower-owner to possession and occupancy of the homestead property under this section. In effecting any such termination, the Secretary shall afford the borrower-owner or lessee the notice and hearing procedural rights described in section 1983b² of this title and shall comply with all applicable State and local laws governing eviction from residential property.

(4)(A) The period of occupancy allowed the prior owner of homestead property under this section shall be the period requested in writing by the prior owner, except that such period shall not exceed 5 years.

(B) At any time during the period of occupancy of a borrower-owner who is a socially disadvantaged farmer or rancher (as defined in section 2003(e)(2) of this title), the borrower-owner or a member of the immediate family of the borrower-owner shall have a right of first refusal to reacquire the homestead property on such terms and conditions as the Secretary shall determine, except that the Secretary may not demand a payment for the homestead property that is in excess of the current market value of the homestead property as established by an independent appraisal. The independent appraisal shall be conducted by an appraiser selected by the borrower-owner or immediate family member, as the case may be, from a list of three appraisers approved by the county supervisor.

(5) No rights of a borrower-owner under this section, and no agreement entered into between the borrower-owner and the Secretary for occupancy of the homestead property, shall be transferable or assignable by the borrower-owner or by operation of any law, except that in the case of death or incompetency of such borrower-owner, such rights and agreements shall be transferable to the spouse of the borrower-owner if the spouse agrees to comply with the terms and conditions thereof.

(6) Not later than the date of acquisition of the property securing a loan made under this chapter (or, in the case of real property in inventory on April 4, 1996, not later than 5 days after April 4, 1996), the Secretary shall notify the borrower-owner from whom the property was acquired of the availability of homestead protection rights under this section.

(d) First right of refusal of reacquisition

At the end of the period of occupancy described in subsection (c) of this section, the Secretary or the Administrator shall grant to the borrower-owner a first right of refusal to reacquire the homestead property on such terms and conditions (which may include payment of principal in installments) as the Secretary or the Administrator shall determine. Such terms and conditions shall not be less favorable than those intended to be offered to any other buyer.

² See References in Text note below.

(e) Value as measure of reacquisition payment of principal

At the time any reacquisition agreement is entered into, the Secretary or the Administrator may not demand a total payment of principal that is in excess of the value of the homestead property as established under subsection (b)(2) of this section.

(f) Contract authority

The Secretary may enter into contracts authorized by this section before the Secretary acquires title to the homestead property.

(g) Conflict between Federal and State law

In the event of any conflict between this section and any provision of the law of any State relating to the right of a borrower-owner to designate for separate sale or redeem part or all of the real property securing a loan foreclosed on by the lender thereof, such provision of State law shall prevail.

(Pub. L. 87-128, title III, §352, as added Pub. L. 99-198, title XIII, §1321, Dec. 23, 1985, 99 Stat. 1532; amended Pub. L. 100-233, title VI, §614, Jan. 6, 1988, 101 Stat. 1675; Pub. L. 102-237, title V, §501(g), title VII, §701(h)(2), Dec. 13, 1991, 105 Stat. 1867, 1880; Pub. L. 102-552, title V, §516(i), (j)(1), Oct. 28, 1992, 106 Stat. 4138; Pub. L. 104-127, title VI, §644, Apr. 4, 1996, 110 Stat. 1103; Pub. L. 110-234, title V, §5305, May 22, 2008, 122 Stat. 1153; Pub. L. 110-246, §4(a), title V, §5305, June 18, 2008, 122 Stat. 1664, 1915.)

REFERENCES IN TEXT

The Small Business Act, referred to in subsections (a)(3) and (b)(1)(B), is Pub. L. 85-536, §2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

For definition of “this chapter”, referred to in subsections (b)(1)(A) and (c)(6), see note set out under section 1921 of this title.

Section 1983b of this title, referred to in subsection (c)(3), was repealed by Pub. L. 103-354, title II, §281(c), Oct. 13, 1994, 108 Stat. 3233.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsec. (c)(4)(B). Pub. L. 110-246, §5305, substituted “period of occupancy of a borrower-owner who is a socially disadvantaged farmer or rancher (as defined in section 2003(e)(2) of this title), the borrower-owner or a member of the immediate family of the borrower-owner” for “period of occupancy, the borrower-owner” and inserted “or immediate family member, as the case may be,” after “selected by the borrower-owner”.

1996—Subsec. (c)(1)(A). Pub. L. 104-127, §644(1), substituted “30” for “90” in two places.

Subsec. (c)(6). Pub. L. 104-127, §644(2), substituted “Not later than the date of acquisition of the property securing a loan made under this chapter (or, in the case of real property in inventory on April 4, 1996, not later than 5 days after April 4, 1996),” for “Within 30 days of the acquisition of the homestead property securing a loan made or insured under this chapter,” and struck out at end “For property in inventory on January 6,

1988, the Secretary shall make a good faith effort to notify the borrower-owner of the availability of homestead protection rights under this section within 60 days after January 6, 1988.”

1992—Subsec. (a)(4), (5). Pub. L. 102-552, §516(i), redesignated par. (4), defining “Secretary”, as (5).

Subsec. (b)(2). Pub. L. 102-552, §516(j)(1), substituted “borrower-owner’s” for “borrower’s”.

1991—Subsec. (a)(2) to (4). Pub. L. 102-237, §501(g), added par. (2), redesignated former pars. (2) and (3) as (3) and (4), respectively, and substituted “borrower-owner” for “borrower” in redesignated par. (4).

Subsec. (b)(1). Pub. L. 102-237, §501(g)(2), substituted “borrower-owner” for “borrower” wherever appearing.

Subsec. (b)(3). Pub. L. 102-237, §701(h)(2), struck out “be” after “shall”.

Subsecs. (c), (d), (g). Pub. L. 102-237, §501(g)(2), substituted “borrower-owner” for “borrower” wherever appearing.

1988—Subsec. (a)(3). Pub. L. 100-233, §614(1), inserted “, including a reasonable number of farm outbuildings located on the adjoining land that are useful to the occupants of the homestead, and no more than 10 acres of adjoining land that is used to maintain the family of the individual”.

Subsec. (b)(1). Pub. L. 100-233, §614(2), added par. (1) and struck out former par. (1) which read as follows: “If the Secretary forecloses a loan made or insured under this chapter, the Administrator forecloses a farm program loan made under the Small Business Act (15 U.S.C. 631 et seq.), or a borrower of a loan made or insured by either agency declares bankruptcy or goes into voluntary liquidation to avoid foreclosure or bankruptcy, the Secretary or Administrator may upon application by the borrower, permit the borrower to retain possession and occupancy of any principal residence of the borrower, and a reasonable amount of adjoining land for the purpose of family maintenance.”

Subsec. (c). Pub. L. 100-233, §614(3), completely revised and restated subsec. (c), substituting pars. (1) to (6) for former pars. (1) to (8).

Subsec. (d). Pub. L. 100-233, §614(3), inserted at end “Such terms and conditions shall not be less favorable than those intended to be offered to any other buyer.”

Subsecs. (f), (g). Pub. L. 100-233, §614(4), added subsecs. (f) and (g).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-127 effective Apr. 4, 1996, but not applicable with respect to complete application to acquire inventory property submitted prior to Apr. 4, 1996, see section 663(a), (c) of Pub. L. 104-127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 516(j)(2) of Pub. L. 102-552 provided that: “The amendment made by paragraph (1) of this subsection [amending this section] shall take effect at the same time as the amendments made by section 501(f) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102-237; 105 Stat. 1867) [amending section 1985 of this title] took effect.”

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 701(h)(2) of Pub. L. 102-237 to any provision specified therein effective as if included in act that added provision so specified at the time such act became law, see section 1101(c) of Pub. L. 102-237, set out as a note under section 1421 of this title.

§ 2001. Debt restructuring and loan servicing

(a) In general

The Secretary shall modify delinquent farmer program loans made or insured under this chap-

ter, or purchased from the lender or the Federal Deposit Insurance Corporation under section 1929b of this title, to the maximum extent possible—

(1) to avoid losses to the Secretary on such loans, with priority consideration being placed on writing-down the loan principal and interest (subject to subsections (d) and (e) of this section), and debt set-aside (subject to subsection (e) of this section), whenever these procedures would facilitate keeping the borrower on the farm or ranch, or otherwise through the use of primary loan service programs as provided in this section; and

(2) to ensure that borrowers are able to continue farming or ranching operations.

(b) Eligibility

To be eligible to obtain assistance under subsection (a) of this section—

(1) the delinquency must be due to circumstances beyond the control of the borrower, as defined in regulations issued by the Secretary, except that the regulations shall require that, if the value of the assets calculated under subsection (c)(2)(A)(ii) of this section that may be realized through liquidation or other methods would produce enough income to make the delinquent loan current, the borrower shall not be eligible for assistance under subsection (a) of this section;

(2) the borrower must have acted in good faith with the Secretary in connection with the loan as defined in regulations issued by the Secretary;

(3) the borrower must present a preliminary plan to the Secretary that contains reasonable assumptions that demonstrate that the borrower will be able to—

(A) meet the necessary family living and farm operating expenses; and

(B) service all debts, including those of the loans restructured; and

(4) the loan, if restructured, must result in a net recovery to the Federal Government, during the term of the loan as restructured, that would be more than or equal to the net recovery to the Federal Government from an involuntary liquidation or foreclosure on the property securing the loan.

(c) Restructuring determinations

(1) Determination of net recovery

In determining the net recovery from the involuntary liquidation of a loan under this section, the Secretary shall calculate—

(A) the recovery value of the collateral securing the loan, in accordance with paragraph (2); and

(B) the value of the restructured loan, in accordance with paragraph (3).

(2) Recovery value

For the purpose of paragraph (1), the recovery value of the collateral securing the loan shall be based on—

(A)(i) the amount of the current appraised value of the interests of the borrower in the property securing the loan; plus

(ii) the value of the interests of the borrower in all other assets that are—

(I) not essential for necessary family living expenses;

(II) not essential to the operation of the farm; and

(III) not exempt from judgment creditors or in a bankruptcy action under Federal or State law; less

(B) the estimated administrative, legal, and other expenses associated with the liquidation and disposition of the loan and collateral, including—

(i) the payment of prior liens;

(ii) taxes and assessments, depreciation, management costs, the yearly percentage decrease or increase in the value of the property, and lost interest income, each calculated for the average holding period for the type of property involved;

(iii) resale expenses, such as repairs, commissions, and advertising; and

(iv) other administrative and attorney's costs; plus

(C) the value, as determined by the Secretary, of any property not included in subparagraph (A)(i) if the property is specified in any security agreement with respect to such loan and the Secretary determines that the value of such property should be included for purposes of this section.

(3) Value of the restructured loan

(A) In general

For the purpose of paragraph (1), the value of the restructured loan shall be based on the present value of payments that the borrower would make to the Federal Government if the terms of such loan were modified under any combination of primary loan service programs to ensure that the borrower is able to meet such obligations and continue farming operations.

(B) Present value

For the purpose of calculating the present value referred to in subparagraph (A), the Secretary shall use a discount rate of not more than the current rate on 90-day Treasury bills.

(C) Cash flow margin

For the purpose of assessing under subparagraph (A) the ability of a borrower to meet debt obligations and continue farming operations, the Secretary shall assume that the borrower needs up to 110 percent of the amount indicated for payment of farm operating expenses, debt service obligations, and family living expenses.

(4) Notification

Within 90 days after receipt of a written request for restructuring from the borrower, the Secretary shall—

(A) make the calculations specified in paragraphs (2) and (3);

(B) notify the borrower in writing of the results of such calculations; and

(C) provide documentation for the calculations.

(5) Restructuring of loans

If the value of the restructured loan is greater than or equal to the recovery value, the

Secretary shall, within 45 days after notifying the borrower of such calculations, offer to restructure the loan obligations of the borrower under this chapter through primary loan service programs that would enable the borrower to meet the obligations (as modified) under the loan and to continue the farming operations of the borrower. If the borrower accepts such offer, within 45 days after receipt of notice of acceptance, the Secretary shall restructure the loan accordingly.

(6) Termination of loan obligations

The obligations of a borrower to the Secretary under a loan shall terminate if—

(A) the borrower satisfies the requirements of paragraphs (1) and (2) of subsection (b) of this section;

(B) the value of the restructured loan is less than the recovery value; and

(C) not later than 90 days after receipt of the notification described in paragraph (4)(B), the borrower pays (or obtains third-party financing to pay) the Secretary an amount equal to the current market value.

(7) Negotiation of appraisal

(A) In general

In making a determination concerning restructuring under this subsection, the Secretary, at the request of the borrower, shall enter into negotiations concerning appraisals required under this subsection with the borrower.

(B) Independent appraisal

If the borrower, based on a separate current appraisal, objects to the decision of the Secretary regarding an appraisal, the borrower and the Secretary shall mutually agree, to the extent practicable, on an independent appraiser who shall conduct another appraisal of the borrower's property. The average of the two appraisals that are closest in value shall become the final appraisal under this paragraph. The borrower and the Secretary shall each pay one-half of the cost of the independent appraisal.

(d) Principal and interest write-down

(1) In general

(A) Priority consideration

In selecting the restructuring alternatives to be used in the case of a borrower who has requested restructuring under this section, the Secretary shall give priority consideration to the use of principal and interest write-down, except that this procedure shall not be given first priority in the case of a borrower unless other creditors of such borrower (other than those creditors who are fully collateralized) representing a substantial portion of the total debt of the borrower held by such creditors, agree to participate in the development of the restructuring plan or agree to participate in a State mediation program.

(B) Failure of creditors to agree

Failure of creditors to agree to participate in the restructuring plan or mediation program shall not preclude the use of principal

and interest write-down by the Secretary if the Secretary determines that this restructuring alternative results in the least cost to the Secretary.

(2) Participation of creditors

Before eliminating the option to use debt write-down in the case of a borrower, the Secretary shall make a reasonable effort to contact the creditors of such borrower, either directly or through the borrower, and encourage such creditors to participate with the Secretary in the development of a restructuring plan for the borrower.

(e) Shared appreciation arrangements

(1) In general

As a condition of restructuring a loan in accordance with this section, the borrower of the loan may be required to enter into a shared appreciation arrangement that requires the repayment of amounts written off or set aside.

(2) Terms

Shared appreciation agreements shall have a term not to exceed 10 years, and shall provide for recapture based on the difference between the appraised values of the real security property at the time of restructuring and at the time of recapture.

(3) Percentage of recapture

The amount of the appreciation to be recaptured by the Secretary shall be 75 percent of the appreciation in the value of such real security property if the recapture occurs within 4 years of the restructuring, and 50 percent if the recapture occurs during the remainder of the term of the agreement.

(4) Time of recapture

Recapture shall take place at the end of the term of the agreement, or sooner—

(A) on the conveyance of the real security property;

(B) on the repayment of the loans; or

(C) if the borrower ceases farming operations.

(5) Transfer of title

Transfer of title to the spouse of a borrower on the death of such borrower shall not be treated as a conveyance for the purpose of paragraph (4).

(6) Notice of recapture

Beginning with fiscal year 2000 not later than 12 months before the end of the term of a shared appreciation arrangement, the Secretary shall notify the borrower involved of the provisions of the arrangement.

(7) Financing of recapture payment

(A) In general

The Secretary may amortize a recapture payment owed to the Secretary under this subsection.

(B) Term

The term of an amortization under this paragraph may not exceed 25 years.

(C) Interest rate

(i) In general

The interest rate applicable to an amortization under this paragraph may not ex-

ceed the rate applicable to a loan to reacquire homestead property less 100 basis points.

(ii) Existing amortizations and loans

The interest rate applicable to an amortization or loan made by the Secretary before October 28, 2000, to finance a recapture payment owed to the Secretary under this subsection may not exceed the rate applicable to a loan to reacquire homestead property less 100 basis points.

(D) Reamortization

(i) In general

The Secretary may modify the amortization of a recapture payment referred to in subparagraph (A) of this paragraph on which a payment has become delinquent by using loan service tools under section 1991(b)(3) of this title if—

- (I) the default is due to circumstances beyond the control of the borrower; and
- (II) the borrower acted in good faith (as determined by the Secretary) in attempting to repay the recapture amount.

(ii) Limitations

(I) Term of reamortization

The term of a reamortization under this subparagraph may not exceed 25 years from the date of the original amortization agreement.

(II) No reduction or principal or unpaid interest due

A reamortization of a recapture payment under this subparagraph may not provide for reducing the outstanding principal or unpaid interest due on the recapture payment.

(f) Determination to restructure

If the appeal process results in a determination that a loan is eligible for restructuring, the Secretary shall restructure the loan in the manner consistent with this section, taking into consideration the restructuring recommendations, if any, of the appeals officer.

(g) Prerequisites to foreclosure or liquidation

No foreclosure or other similar actions shall be taken to liquidate any loan determined to be ineligible for restructuring by the Secretary under this section—

- (1) until the borrower has been given the opportunity to appeal such decision; and
- (2) if the borrower appeals, the appeals process has been completed, and a determination has been made that the loan is ineligible for restructuring.

(h) Time limits for restructuring

Once an appeal has been filed under section 1983b¹ of this title, a decision shall be made at each level in the appeals process within 45 days after the receipt of the appeal or request for further review.

(i) Notice of ineligibility for restructuring

(1) In general

A notice of ineligibility for restructuring shall be sent to the borrower by registered or

certified mail within 15 days after such determination.

(2) Contents

The notice required under paragraph (1) shall contain—

- (A) the determination and the reasons for the determination;
- (B) the computations used to make the determination, including the calculation of the recovery value of the collateral securing the loan; and
- (C) a statement of the right of the borrower to appeal the decision to the appeals division, and to appear before a hearing officer.

(j) Independent appraisals

An appeal filed with the appeals division under section 1983b of this title may include a request by the borrower for an independent appraisal of any property securing the loan. On such request, the appeals division shall present the borrower with a list of three appraisers approved by the county supervisor, from which the borrower shall select an appraiser to conduct the appraisal, the cost of which shall be borne by the borrower. The results of such appraisal shall be considered in any final determination concerning the loan. A copy of any appraisal made under this paragraph shall be provided to the borrower.

(k) Partial liquidations

If partial liquidations are performed (with the prior consent of the Secretary) as part of loan servicing by a guaranteed lender under this chapter, the Secretary shall not require full liquidation of a delinquent loan in order for the lender to be eligible to receive payment on losses.

(l) Disposition of normal income security

For purposes of subsection (b)(2) of this section, if a borrower—

- (1) disposed of normal income security prior to October 14, 1988, without the consent of the Secretary; and
- (2) demonstrates that—
 - (A) the proceeds were utilized to pay essential household and farm operating expenses; and
 - (B) the borrower would have been entitled to a release of income proceeds by the Secretary if the regulations in effect on November 28, 1990, had been in effect at the time of the disposition,

the Secretary shall not consider the borrower to have acted without good faith to the extent of the disposition.

(m) Only 1 write-down or net recovery buy-out per borrower for loan made after January 6, 1988

(1) In general

The Secretary may provide for any one borrower not more than 1 write-down or net recovery buy-out under this section with respect to all loans made to the borrower after January 6, 1988.

(2) Special rule

For purposes of paragraph (1), the Secretary shall treat any loan made on or before Janu-

¹ See References in Text note below.

ary 6, 1988, with respect to which a restructuring, write-down, or net recovery buy-out is provided under this section after such date, as a loan made after such date.

(n) Liquidation of assets

The Secretary may not use the authority provided by this section to reduce or terminate any portion of the debt of the borrower that the borrower could pay through the liquidation of assets (or through the payment of the loan value of the assets, if the loan value is greater than the liquidation value) described in subsection (c)(2)(A)(ii) of this section.

(o) Lifetime limitation on debt forgiveness per borrower

The Secretary may provide not more than \$300,000 in principal and interest forgiveness under this section per borrower.

(Pub. L. 87-128, title III, §353, as added Pub. L. 100-233, title VI, §615(a), Jan. 6, 1988, 101 Stat. 1678; amended Pub. L. 101-624, title XVIII, §1816(a)-(d), (f)-(h), Nov. 28, 1990, 104 Stat. 3826-3828; Pub. L. 102-237, title V, §501(h), Dec. 13, 1991, 105 Stat. 1868; Pub. L. 104-127, title VI, §§645, 661(j), Apr. 4, 1996, 110 Stat. 1103, 1107; Pub. L. 105-277, div. A, §101(a) [title VIII, §§807, 808], Oct. 21, 1998, 112 Stat. 2681, 2681-40; Pub. L. 106-31, title III, §3019(b), May 21, 1999, 113 Stat. 99; Pub. L. 106-387, §1(a) [title VIII, §818(a)], Oct. 28, 2000, 114 Stat. 1549, 1549A-58; Pub. L. 107-171, title V, §5314, May 13, 2002, 116 Stat. 347.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsecs. (a), (c)(5), and (k), see note set out under section 1921 of this title.

Section 1983b of this title, referred to in subsec. (h), was repealed by Pub. L. 103-354, title II, §281(c), Oct. 13, 1994, 108 Stat. 3233.

AMENDMENTS

2002—Subsec. (e)(7)(D). Pub. L. 107-171 added subpar. (D).

2000—Subsec. (e)(7). Pub. L. 106-387 added par. (7).

1999—Subsec. (c)(3)(C). Pub. L. 106-31 substituted “110 percent” for “100 percent”.

1998—Subsec. (c)(3)(C). Pub. L. 105-277, §101(a) [title VIII, §808], substituted “100 percent” for “110 percent”.

Subsec. (e)(6). Pub. L. 105-277, §101(a) [title VIII, §807], added par. (6).

1996—Subsec. (c)(3)(C). Pub. L. 104-127, §645(1)(A), added subpar. (C) and struck out heading and text of former subpar. (C). Text read as follows:

“(i) ASSUMPTION.—For the purpose of assessing under subparagraph (A) the ability of a borrower to meet debt obligations and continue farming operations, the Secretary shall assume that the borrower needs up to 105 percent of the amount indicated for payment of debt obligations.

“(ii) AVAILABLE INCOME.—If an amount up to 105 percent of the debt payments of the borrower has been earmarked for such payments, the Secretary shall consider the income of the borrower to be adequate to meet the debt obligations of the borrower.”

Subsec. (c)(6). Pub. L. 104-127, §645(1)(B), added par. (6) and struck out former par. (6), which specified required conditions for termination of loan obligations, limited applicability of good faith requirement, authorized recapture by requiring borrower to enter into agreement before terminating loan obligations, and provided for limitation on recapture amount and treatment of intrafamily transfers.

Subsec. (k). Pub. L. 104-127, §645(2), (3), redesignated subsec. (l) as (k) and struck out heading and text of

former subsec. (k). Text read as follows: “The creditworthiness of, or the adequacy of collateral offered by, any borrower whose loan obligations are restructured under this section shall be determined without regard to such restructuring.”

Subsec. (l). Pub. L. 104-127, §661(j), struck out “and subparagraphs (A)(i) and (C)(i) of section 1985(e)(1) of this title,” before “if a borrower” in introductory provisions.

Pub. L. 104-127, §645(3), redesignated subsec. (m) as (l). Subsecs. (m) to (p). Pub. L. 104-127, §645(3), redesignated subsecs. (m) to (p) as (l) to (o), respectively.

1991—Subsec. (c)(6)(A)(ii). Pub. L. 102-237, §501(h)(1), substituted “November 28, 1990” for “the date of enactment of this paragraph”.

Subsec. (m). Pub. L. 102-237, §501(h)(2), substituted “section 1985(e)(1)” for “section 1985(e)(1)(A)”.

1990—Subsec. (b)(1). Pub. L. 101-624, §1816(a), inserted before semicolon at end “, except that the regulations shall require that, if the value of the assets calculated under subsection (c)(2)(A)(ii) of this section that may be realized through liquidation or other methods would produce enough income to make the delinquent loan current, the borrower shall not be eligible for assistance under subsection (a) of this section”.

Subsec. (c)(2)(A). Pub. L. 101-624, §1816(b)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the amount of the current appraised value of the property securing the loan; less”.

Subsec. (c)(2)(B)(iv). Pub. L. 101-624, §1816(b)(2)(A), substituted “costs; plus” for “costs.”

Subsec. (c)(2)(C). Pub. L. 101-624, §1816(b)(2)(B), added subpar. (C).

Subsec. (c)(3)(C). Pub. L. 101-624, §1816(c), added subpar. (C).

Subsec. (c)(4). Pub. L. 101-624, §1816(d), substituted “90” for “60” in introductory provisions.

Subsec. (c)(6). Pub. L. 101-624, §1816(f), amended par. (6) generally. Prior to amendment, par. (6) read as follows: “If the value of the restructured loan is less than the recovery value and if, within 45 days after receipt of the notification described in paragraph (4)(B), the borrower pays (or obtains third-party financing to pay) the Secretary an amount equal to the recovery value, the obligations of the borrower to the Secretary under the loan shall terminate, except that the Secretary may require, as a condition of such termination of loan obligations, that the borrower enter into an agreement with the Secretary if the borrower sells or otherwise conveys the real property used to secure such loan within 2 years after the date of such agreement. Any such agreement shall provide for the recapture of part or all of the difference between the recovery value of the loan and the fair market value (on the date of such agreement) of the property securing the loan if the borrower realizes a gain on the sale or conveyance over the amount of the recovery value of the loan. In no event shall any such agreement provide for recapture of an amount that exceeds the difference between such recovery value and the fair market value of the property securing the loan on the date of such agreement.”

Subsec. (c)(7). Pub. L. 101-624, §1816(g), added par. (7).

Subsecs. (l) to (p). Pub. L. 101-624, §1816(h), added subsecs. (l) to (p).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 645(1) of Pub. L. 104-127 effective 90 days after Apr. 4, 1996, and amendment by sections 645(2), (3) and 661(j) of Pub. L. 104-127 effective Apr. 4, 1996, see section 663(a), (b) of Pub. L. 104-127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101-624, to which the amendment relates, see section 1101(b)(3) of Pub. L. 102-237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 1861 of title XVIII of Pub. L. 101-624 provided that:

“(a) IN GENERAL.—Except as otherwise provided in this title, this title and the amendments made by this title [enacting sections 1981f and 2006a to 2006e of this title, section 2076a of Title 12, Banks and Banking, and section 494 of Title 25, Indians, amending this section, sections 1924, 1927, 1933, 1934, 1942, 1946, 1981, 1981d, 1982, 1983, 1983a, 1983b, 1985, 1991, 1997, 2003, and 5106 of this title, section 3132 of Title 5, Government Organization and Employees, sections 2019, 2075, 2077, 2218, 2252, 2254, 2277a–5, 2277a–9, 2277a–10, 2277a–14, 2278a–6, 2279aa, and 2279aa–11 of Title 12, and section 492 of Title 25, enacting provisions set out as notes under section 1981f of this title and section 2001 of Title 12, amending provisions set out as a note under section 1985 of this title, and repealing provisions set out as a note preceding section 1961 of this title] shall become effective on the date of enactment of this Act [Nov. 28, 1990].

“(b) NOTICE OF DEBT SETTLEMENT PROGRAMS.—The amendment made by section 1807(1) of this Act [amending section 1981d(b)(1) of this title] shall become effective 120 days after the date of enactment of this Act [Nov. 28, 1990].

“(c) DEBT RESTRUCTURING AND LOAN SERVICING.—

“(1) IN GENERAL.—Except as provided in section 353(c)(6)(A)(ii) of the Consolidated Farm and Rural Development Act [7 U.S.C. 2001(c)(6)(A)(iii)] (as added by section 1816(f) of this Act) and in paragraph (3) of this subsection, section 1816 of this Act and the amendments made by such section 1816 [amending this section and section 1985 of this title] shall apply to new applications submitted under section 353 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001) on or after the date of enactment of this Act [Nov. 28, 1990].

“(2) DEFINITION OF NEW APPLICATION.—As used in paragraph (1), the term ‘new application’ means an application submitted by a borrower to initiate a debt restructuring consideration and not an application reconsidered after an appeal or revision of the original application.

“(3) LIQUIDATION OF ASSETS.—Section 353(o) of the Consolidated Farm and Rural Development Act [7 U.S.C. 2001(o)] (as added by section 1816(h) of this Act) shall not apply until the Secretary of Agriculture has issued final regulations to carry out such section 353(o).

“(d) RESTORATION OF FIRST LIEN ON STOCK.—The amendment made by section 1833 of this Act [enacting section 2076a of Title 12 and amending section 2077 of Title 12] shall be effective as of January 7, 1988.

“(e) REGULATIONS.—As soon as practicable after the date of enactment of this Act [Nov. 28, 1990]—

“(1) the Secretary of Agriculture shall issue such regulations as are necessary to carry out subtitles A and C of this Act [probably means subtitles A (§§1801–1824) and C (§§1851–1854) of title XVIII of Pub. L. 101–624, enacting sections 1981f and 2006a to 2006e of this title and section 494 of Title 25, amending this section, sections 1924, 1927, 1933, 1934, 1942, 1946, 1981, 1981d, 1982, 1983, 1983a, 1983b, 1985, 1991, 1997, 2003, and 5106 of this title and section 492 of Title 25, enacting provisions set out as a note under section 1981f of this title, amending provisions set out as a note under section 1985 of this title, and repealing provisions set out as a note preceding section 1961 of this title] and the amendments made by such subtitles; and

“(2) the Farm Credit Administration shall issue such regulations as are necessary to carry out subtitle B of this Act [probably means subtitle B (§§1831–1843) of title XVIII of Pub. L. 101–624, enacting section 2076a of Title 12, amending section 3132 of Title 5 and sections 2019, 2075, 2077, 2218, 2252, 2254, 2277a–5, 2277a–9, 2277a–10, 2277a–14, 2278a–6, 2279aa, and 2279aa–11 of Title 12, and enacting provisions set out as a note under section 2001 of Title 12] and the amendments made by such subtitle.”

SUSPENSION OF COLLECTION ACTIVITIES DURING TRANSITION PERIOD

Section 615(d) of Pub. L. 100–233 provided that: “The Secretary of Agriculture shall not initiate any accel-

eration, foreclosure, or liquidation in connection with any delinquent farmer program loan before the date the Secretary has issued final regulations to carry out the amendments made by this section [enacting section 2001 of this title and amending sections 1927a and 1981 of this title]. The preceding sentence shall not prohibit the Secretary from taking any action with respect to waste, fraud, or abuse by the borrower.”

§ 2001a. Debt restructuring and loan servicing for community facility loans

The Secretary shall establish and implement a program that is similar to the program established under section 2001 of this title, except that the debt restructuring and loan servicing procedures shall apply to delinquent community facility program loans (rather than delinquent farmer program loans) made by the Farmers Home Administration to a hospital or health care facility under section 1926(a) of this title.

(Pub. L. 87–128, title III, §353A, as added Pub. L. 101–624, title XXIII, §2384(a), Nov. 28, 1990, 104 Stat. 4050.)

REGULATIONS

Section 2384(b) of Pub. L. 101–624 provided that: “Not later than 120 days after the date of enactment of this Act [Nov. 28, 1990], the Secretary shall promulgate regulations, modeled after those promulgated under such section 353 [7 U.S.C. 2001], that implement the program established under section 353A of the Consolidated Farm and Rural Development Act [7 U.S.C. 2001a].”

§ 2002. Transfer of inventory lands

(a) In general

Subject to subsection (b) of this section, the Secretary may transfer to any Federal or State agency, for conservation purposes any real property, or interest therein, administered by the Secretary under this Act—

(1) with respect to which the rights of all prior owners and operators have expired;

(2) that is eligible to be disposed of in accordance with section 1985 of this title; and

(3) that—

(A) has marginal value for agricultural production;

(B) is environmentally sensitive; or

(C) has special management importance.

(b) Conditions

The Secretary may not transfer any property or interest in property under subsection (a) of this section unless—

(1) at least 2 public notices are given of the transfer;

(2) if requested, at least 1 public meeting is held prior to the transfer; and

(3) the Governor and at least 1 elected county official of the State and county where the property is located are consulted prior to the transfer.

(Pub. L. 87–128, title III, §354, as added Pub. L. 100–233, title VI, §616, Jan. 6, 1988, 101 Stat. 1682; amended Pub. L. 104–127, title VI, §646, Apr. 4, 1996, 110 Stat. 1103.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), refers to the Agricultural Act of 1961, Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 294, as amended. For classification of this Act to the

Code, see Short Title note set out under section 1911 of this title and Tables. However, the reference was probably intended to be “this title” meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128, as amended, which is classified principally to this chapter. For classification of this title to the Code, see Short Title note set out under section 1921 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104-127 designated existing provisions as subsec. (a), inserted heading, substituted “Subject to subsection (b) of this section, the Secretary” for “The Secretary, without reimbursement,” in introductory provisions, added par. (2) and struck out former par. (2) which read as follows: “that is determined by the Secretary to be suitable or surplus; and”, and added subsec. (b).

§ 2003. Target participation rates

(a) Establishment

(1) In general

The Secretary shall establish annual target participation rates, on a county wide basis, that shall ensure that members of socially disadvantaged groups will receive loans made or insured under subchapter I of this chapter and will have the opportunity to purchase or lease inventory farmland.

(2) Group population

Except as provided in paragraph (3), in establishing such target rates the Secretary shall take into consideration the portion of the population of the county made up of such groups, and the availability of inventory farmland in such county.

(3) Gender

With respect to gender, target participation rates shall take into consideration the number of current and potential socially disadvantaged farmers and ranchers in a State in proportion to the total number of farmers and ranchers in the State.

(b) Reservation and allocation

(1) Reservation

The Secretary shall, to the greatest extent practicable, reserve sufficient loan funds made available under subchapter I of this chapter, for use by members of socially disadvantaged groups identified under target participation rates established under subsection (a) of this section.

(2) Allocation

The Secretary shall allocate such loans on the basis of the proportion of members of socially disadvantaged groups in a county and the availability of inventory farmland, with the greatest amount of loan funds being distributed in the county with the greatest proportion of socially disadvantaged group members and the greatest amount of available inventory farmland.

(3) Indian reservations

In distributing loan funds in counties within the boundaries of an Indian reservation, the Secretary shall allocate the funds on a reservation-wide basis.

(c) Operating loans

(1) Establishment

The Secretary shall establish annual target participation rates, that shall ensure that socially disadvantaged farmers or ranchers will receive loans made or insured under subchapter II of this chapter. In establishing such target rates, the Secretary shall consider the number of socially disadvantaged farmers and ranchers in a State in proportion to the total number of farmers and ranchers in that State.

(2) Reservation and allocation

The Secretary shall, to the greatest extent practicable, reserve and allocate the proportion of each State's loan funds made available under subchapter II of this chapter that is equal to that State's target participation rate for use by the socially disadvantaged farmers or ranchers in that State. The Secretary shall, to the extent practicable, distribute the total so derived on a county by county basis according to the number of socially disadvantaged farmers or ranchers in the county. Any funds reserved and allocated under this paragraph but not used within a State shall, to the extent necessary to satisfy pending applications under this chapter, be available for use by socially disadvantaged farmers and ranchers in other States, as determined by the Secretary, and any remaining funds shall be reallocated within the State.

(d) Report

The Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that describes the annual target participation rates and the success in meeting such rates.

(e) Definitions

(1) Socially disadvantaged group

As used in this section, the term “socially disadvantaged group” means a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities.

(2) Socially disadvantaged farmer or rancher

As used in this section, the term “socially disadvantaged farmer or rancher” means a farmer or rancher who is a member of a socially disadvantaged group.

(f) Implementation consistent with Supreme Court holding

Not later than 180 days after April 4, 1996, the Secretary shall ensure that the implementation of this section is consistent with the holding of the Supreme Court in *Adarand Constructors, Inc. v. Federico Pena*, Secretary of Transportation, 115 S. Ct. 2097 (1995).

(Pub. L. 87-128, title III, §355, as added Pub. L. 100-233, title VI, §617, Jan. 6, 1988, 101 Stat. 1682; amended Pub. L. 101-624, title XVIII, §1817, title XXV, §2501(f), Nov. 28, 1990, 104 Stat. 3829, 4065; Pub. L. 102-554, §21(a), (b), Oct. 28, 1992, 106 Stat. 4161; Pub. L. 104-127, title VI, §647, Apr. 4, 1996, 110 Stat. 1104; Pub. L. 107-171, title V, §5315, May 13, 2002, 116 Stat. 348.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsecs. (c)(2), see note set out under section 1921 of this title.

AMENDMENTS

2002—Subsec. (c)(2). Pub. L. 107-171 substituted “Any funds reserved and allocated under this paragraph but not used within a State shall, to the extent necessary to satisfy pending applications under this chapter, be available for use by socially disadvantaged farmers and ranchers in other States, as determined by the Secretary, and any remaining funds shall be reallocated within the State.” for “Any funds reserved and allocated for purposes of this paragraph, but not used shall be reallocated within such State.”

1996—Subsec. (f). Pub. L. 104-127 added subsec. (f).

1992—Subsec. (a)(2). Pub. L. 102-554, §21(a)(1), substituted “Except as provided in paragraph (3), in establishing” for “In establishing”.

Subsec. (a)(3). Pub. L. 102-554, §21(a)(2), added par. (3).

Subsec. (e)(1). Pub. L. 102-554, §21(b), substituted “, ethnic, or gender” for “or ethnic”.

1990—Subsec. (b)(3). Pub. L. 101-624, §1817, added par. (3).

Subsecs. (c), (d). Pub. L. 101-624, §2501(f)(1)–(3), added subsec. (c), redesignated former subsec. (c) as (d), and struck out former subsec. (d) which read as follows: “As used in this section, the term ‘socially disadvantaged group’ means a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities.”

Subsec. (e). Pub. L. 101-624, §2501(f)(4), added subsec. (e).

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which the report required by subsec. (d) of this section is listed on page 44), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§ 2004. Expedited clearing of title to inventory property

The Farmers Home Administration may employ local attorneys, on a case-by-case basis, to process all legal procedures necessary to clear the title to foreclosed properties in the inventory of the Farmers Home Administration. Such attorneys shall be compensated at not more than their usual and customary charges for such work.

(Pub. L. 87-128, title III, §356, as added Pub. L. 100-233, title VI, §618, Jan. 6, 1988, 101 Stat. 1683.)

§ 2005. Payment of losses on guaranteed loans

(a) Payments to lenders

(1) Requirement

Within 3 months after a court of competent jurisdiction confirms a plan of reorganization under chapter 12 of title 11, for any borrower to whom a lender has made a loan guaranteed under this chapter, the Secretary shall pay the lender an amount estimated by the Secretary to be equal to the loss incurred by the lender for purposes of the guarantee.

(2) Payment toward loan guarantee

Any amount paid to a lender under this subsection with respect to a loan guaranteed under this chapter shall be treated as payment towards satisfaction of the loan guarantee.

(b) Administration

(1) Loss by lender

If the lender of a guaranteed farmer program loan takes any action described in section 1981(b)(4) of this title with respect to the loan and the Secretary approves such action, then, for purposes of the guarantee, the lender shall be treated as having sustained a loss equal to the amount by which—

(A) the outstanding balance of the loan immediately before such action, exceeds

(B) the outstanding balance of the loan immediately after such action.

(2) Net present value of loan

The Secretary shall approve the taking of an action described in section 1981(b)(4) of this title by the lender of a guaranteed farmer program loan with respect to the loan if such action reduces the net present value of the loan to an amount equal to not less than the greater of—

(A) the greatest net present value of a loan the borrower could reasonably be expected to repay; and

(B) the greatest amount that the lender of the loan could reasonably expect to recover from the borrower through bankruptcy, or liquidation of the property securing the loan, less all reasonable and necessary costs and expenses that the lender of the loan could reasonably expect to incur to preserve or dispose of such property (including all associated legal and property management costs) in the course of such a bankruptcy or liquidation.

(3) Construction of subsection

This subsection shall not be construed to limit the authority of the Secretary to enter into a shared appreciation arrangement with a borrower, or the terms and conditions which shall be required of a borrower, under section 2001(e) of this title.

(Pub. L. 87-128, title III, §357, as added Pub. L. 100-233, title VI, §619, Jan. 6, 1988, 101 Stat. 1683; amended Pub. L. 101-624, title XXIII, §2388(d)(2), Nov. 28, 1990, 104 Stat. 4053.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsec. (a), see note set out under section 1921 of this title.

AMENDMENTS

1990—Subsec. (b)(1), (2). Pub. L. 101-624 substituted “1981(b)(4)” for “1981(d)”.

§ 2006. Waiver of mediation rights by borrowers

The Secretary may not make, insure, or guarantee any farmer program loan to a farm borrower on the condition that the borrower waive any right under the mediation program of any State.

(Pub. L. 87-128, title III, §358, as added Pub. L. 100-233, title V, §512, Jan. 6, 1988, 101 Stat. 1664; amended Pub. L. 103-354, title II, §282(f)(3), Oct. 13, 1994, 108 Stat. 3235.)

AMENDMENTS

1994—Pub. L. 103-354 struck out “agricultural loan” before “mediation program”.

§ 2006a. Borrower training**(a) In general**

The Secretary shall enter into contracts to provide educational training to all borrowers of farmer program direct loans made under this chapter in financial and farm management concepts associated with commercial farming.

(b) Contract**(1) In general**

The Secretary may contract with State or private providers of farm management and credit counseling services (including a community college, the extension service of a State, a State department of agriculture, or a nonprofit organization) to carry out this section.

(2) Consultation

The Secretary may consult with the chief executive officer of a State concerning the identity of the contracting organization and the process for contracting.

(c) Eligibility for loans**(1) In general**

Subject to paragraph (2), to be eligible to obtain a direct loan under this chapter, a borrower must obtain management assistance under this section, appropriate to the management ability of the borrower (as determined by the appropriate county committee during the determination of eligibility for the loan).

(2) Loan conditions

The need of a borrower who satisfies the criteria set out in section 1922(a)(2) or 1941(a)(2) of this title for management assistance under this section shall not be cause for denial of eligibility of the borrower for a direct loan under this chapter.

(d) Guidelines and curriculum

The Secretary shall issue regulations establishing guidelines and curriculum for the borrower training program established under this section.

(e) Payment

A borrower shall pay for training received under this section, and may use funds from operating loans made under subchapter II of this chapter to pay for the training.

(f) Waivers**(1) In general**

The Secretary may waive the requirements of this section for an individual borrower if the Secretary determines that the borrower demonstrates adequate knowledge in areas described in this section.

(2) Criteria

The Secretary shall establish criteria providing for the application of paragraph (1) consistently in all counties nationwide.

(Pub. L. 87–128, title III, §359, as added Pub. L. 101–624, title XVIII, §1818(a), Nov. 28, 1990, 104 Stat. 3829; amended Pub. L. 105–277, div. A, §101(a) [title VIII, §805(3)], Oct. 21, 1998, 112 Stat. 2681, 2681–39; Pub. L. 107–171, title V, §§5316, 5501(c), May 13, 2002, 116 Stat. 348, 351.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsecs. (a) and (c), see note set out under section 1921 of this title.

AMENDMENTS

2002—Subsec. (c)(1). Pub. L. 107–171, §5501(c), struck out “established pursuant to section 1982 of this title,” after “appropriate county committee”.

Subsec. (f). Pub. L. 107–171, §5316, added subsec. (f) and struck out heading and text of former subsec. (f). Text read as follows: “The Secretary may waive the requirements of this section for an individual borrower on a determination by the county committee that the borrower demonstrates adequate knowledge in areas described in this section.”

1998—Subsec. (a). Pub. L. 105–277, §101(a) [title VIII, §805(3)(A)], struck out “and guaranteed” after “direct”.

Subsec. (c). Pub. L. 105–277, §101(a) [title VIII, §805(3)(B)], struck out “or guaranteed” after “direct” in pars. (1) and (2).

§ 2006b. Loan assessments**(a) In general**

The Secretary shall evaluate, in accordance with regulations issued by the Secretary, the farming plan and financial situation of each qualified farmer or rancher applicant.

(b) Determinations

In evaluating the farming plan and financial situation of an applicant under this section, the Secretary shall determine—

(1) the amount that the applicant will need to borrow to carry out the proposed farming plan;

(2) the rate of interest that the applicant would need to be able to cover expenses and build an adequate equity base;

(3) the goals of the proposed farming plan of the applicant;

(4) the financial viability of the plan and any changes that are necessary to make the plan viable; and

(5) whether assistance is necessary under this chapter and, if so, the amount of the assistance.

(c) Contract

The Secretary may contract with a third party (including those entities eligible to provide borrower training under section 2006a(b) of this title) to conduct loan assessments under this section.

(d) Review of loans**(1) In general**

Loan assessments conducted under this section shall include annual review of direct loans, and periodic review (as determined necessary by the Secretary) of guaranteed loans, made under this chapter to assess the progress of a borrower in meeting the goals for the farm or ranch operation.

(2) Contracts

The Secretary may contract with an entity that is eligible to provide borrower training under section 2006a(b) of this title to conduct loan reviews under paragraph (1).

(3) Problem assessments

If a borrower is delinquent in payments on a direct or guaranteed loan made under this

chapter, the Secretary or the contracting entity shall determine the cause of, and action necessary to correct, the delinquency.

(e) Guidelines

The Secretary shall issue regulations providing guidelines for loan assessments conducted under this section.

(Pub. L. 87-128, title III, §360, as added Pub. L. 101-624, title XVIII, §1819, Nov. 28, 1990, 104 Stat. 3830; amended Pub. L. 107-171, title V, §§5317, 5318, May 13, 2002, 116 Stat. 348.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsecs. (a), (b)(5), and (d)(1), (3), see note set out under section 1921 of this title.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-171, §5317, substituted “The Secretary” for “After an applicant is determined eligible for assistance under this chapter by the appropriate county committee established pursuant to section 1982 of this title, the Secretary”.

Subsec. (d)(1). Pub. L. 107-171, §5318, substituted “annual review” for “biannual review”.

§ 2006c. Supervised credit

The Secretary shall provide adequate training to employees of the Farmers Home Administration on credit analysis and financial and farm management to—

- (1) better acquaint the employees with what constitutes adequate financial data on which to base a direct or guaranteed loan approval decision; and
- (2) ensure proper supervision of farmer program loans.

(Pub. L. 87-128, title III, §361, as added Pub. L. 101-624, title XVIII, §1820, Nov. 28, 1990, 104 Stat. 3830.)

§ 2006d. Market placement

The Secretary shall establish a market placement program for qualified beginning farmers and ranchers and other borrowers of farmer program loans that the Secretary believes have a reasonable chance of qualifying for commercial credit with a guarantee provided under this chapter.

(Pub. L. 87-128, title III, §362, as added Pub. L. 101-624, title XVIII, §1821, Nov. 28, 1990, 104 Stat. 3831.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 1921 of this title.

§ 2006e. Prohibition on use of loans for certain purposes

The Secretary shall not approve any loan under this chapter to drain, dredge, fill, level, or otherwise manipulate a wetland (as defined in section 3801(a)(16)¹ of title 16), or to engage in any activity that results in impairing or reducing the flow, circulation, or reach of water, except in the case of activity related to the maintenance of previously converted wetlands, or in

the case of such activity that is already commenced before November 28, 1990. This section shall not apply to a loan made or guaranteed under this chapter for a utility line.

(Pub. L. 87-128, title III, §363, as added Pub. L. 101-624, title XVIII, §1824, Nov. 28, 1990, 104 Stat. 3831; amended Pub. L. 102-237, title V, §501(i), Dec. 13, 1991, 105 Stat. 1868; Pub. L. 104-127, title VII, §751, Apr. 4, 1996, 110 Stat. 1129.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 1921 of this title.

Section 3801(a) of title 16, referred to in text, was subsequently amended, and section 3801(a)(16) no longer defines the term “wetland”. However, such term is defined elsewhere in that section.

AMENDMENTS

1996—Pub. L. 104-127 inserted at end “This section shall not apply to a loan made or guaranteed under this chapter for a utility line.”

1991—Pub. L. 102-237 inserted a closing parenthesis after “3801(a)(16) of title 16” and substituted “before November 28, 1990” for “prior to the date of enactment of this section”.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101-624, to which the amendment relates, see section 1101(b)(3) of Pub. L. 102-237, set out as a note under section 1421 of this title.

§ 2006f. Rural development certified lenders program

(a) Certified lenders program

(1) In general

The Secretary may establish a program under which the Secretary may guarantee a loan for any rural development program that is made by a lender certified by the Secretary.

(2) Certification requirements

The Secretary may certify a lender if the lender meets such criteria as the Secretary may prescribe in regulations, including the ability of the lender to properly make, service, and liquidate the guaranteed loans of the lender.

(3) Condition of certification

As a condition of certification, the Secretary may require the lender to undertake to service the guaranteed loan using standards that are not less stringent than generally accepted banking standards concerning loan servicing that are used by prudent commercial or cooperative lenders.

(4) Guarantee

Notwithstanding any other provision of law, the Secretary may guarantee not more than 80 percent of a loan made by a certified lender described in paragraph (1), if the borrower of the loan meets the eligibility requirements and such other criteria for the loan guarantee that are established by the Secretary.

(5) Certifications

With respect to loans to be guaranteed, the Secretary may permit a certified lender to make appropriate certifications (as provided in regulations issued by the Secretary)—

¹ See References in Text note below.

(A) relating to issues such as creditworthiness, repayment ability, adequacy of collateral, and feasibility of the operation; and

(B) that the borrower is in compliance with all requirements of law, including regulations issued by the Secretary.

(6) Relationship to other requirements

This subsection shall not affect the responsibility of the Secretary to determine eligibility, review financial information, and otherwise assess an application.

(b) Preferred certified lenders program

(1) In general

The Secretary may establish a preferred certified lenders program for lenders who establish their—

(A) knowledge of, and experience under, the program established under subsection (a) of this section;

(B) knowledge of the regulations concerning the particular guaranteed loan program; and

(C) proficiency related to the certified lender program requirements.

(2) Additional lending institutions

The Secretary may certify any lending institution as a preferred certified lender if the institution meets such additional criteria as the Secretary may prescribe by regulation.

(3) Revocation of designation

The designation of a lender as a preferred certified lender shall be revoked if the Secretary determines that the lender is not adhering to the rules and regulations applicable to the program or if the loss experiences of the preferred certified lender are greater than other preferred certified lenders, except that the suspension or revocation shall not affect any outstanding guarantee.

(4) Condition of certification

As a condition of the preferred certification, the Secretary shall require the lender to undertake to service the loan guaranteed by the Secretary under this subsection using generally accepted banking standards concerning loan servicing employed by prudent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of each preferred certified lender to ensure that the conditions of the certification are being met.

(5) Effect of preferred lender certification

Notwithstanding any other provision of law, the Secretary may—

(A) guarantee not more than 80 percent of any approved loan made by a preferred certified lender as described in this subsection, if the borrower meets the eligibility requirements and such other criteria as may be applicable to loans guaranteed by the Secretary; and

(B) permit preferred certified lenders to make all decisions, with respect to loans to be guaranteed by the Secretary under this subsection relating to creditworthiness, the closing, monitoring, collection, and liquidation of loans, and to accept appropriate cer-

tifications, as provided in regulations issued by the Secretary, that the borrower is in compliance with all requirements of law and regulations issued by the Secretary.

(Pub. L. 87-128, title III, §364, as added Pub. L. 104-127, title VII, §752, Apr. 4, 1996, 110 Stat. 1129.)

PRIOR PROVISIONS

A prior section 2006f, Pub. L. 87-128, title III, §364, as added Pub. L. 101-624, title XXIII, §2302(a)(1), Nov. 28, 1990, 104 Stat. 3979; amended Pub. L. 102-237, title VII, §701(d), Dec. 13, 1991, 105 Stat. 1879; Pub. L. 103-129, §4, Nov. 1, 1993, 107 Stat. 1366, established Rural Development Administration in Department of Agriculture and provided for the performance of specified functions, prior to repeal by Pub. L. 103-354, title II, §231(f)(3), Oct. 13, 1994, 108 Stat. 3219. See section 6911 et seq. of this title.

§§ 2007 to 2007e. Repealed. Pub. L. 104-127, title VII, §701, Apr. 4, 1996, 110 Stat. 1108

Section 2007, Pub. L. 101-624, title XXIII, §2310, Nov. 28, 1990, 104 Stat. 3982, related to general provisions for programs under former sections 2007a to 2007e and 2008 to 2008c of this title, including applications, selection of States, duration of projects, and effective dates.

Section 2007a, Pub. L. 101-624, title XXIII, §2311, Nov. 28, 1990, 104 Stat. 3982; Pub. L. 102-237, title VII, §702(b), Dec. 13, 1991, 105 Stat. 1880, defined terms for purposes of former sections 2007a to 2007e of this title.

Section 2007b, Pub. L. 101-624, title XXIII, §2312, Nov. 28, 1990, 104 Stat. 3984, related to establishment and powers of Rural Partnerships Investment Board.

Section 2007c, Pub. L. 101-624, title XXIII, §2313, Nov. 28, 1990, 104 Stat. 3986; Pub. L. 102-237, title VII, §702(c), Dec. 13, 1991, 105 Stat. 1880, established Rural Business Investment Fund.

Section 2007d, Pub. L. 101-624, title XXIII, §2314, Nov. 28, 1990, 104 Stat. 3991; Pub. L. 102-237, title VII, §702(d), Dec. 13, 1991, 105 Stat. 1880, related to establishment of local revolving funds.

Section 2007e, Pub. L. 101-624, title XXIII, §2315, Nov. 28, 1990, 104 Stat. 3994; Pub. L. 102-237, title VII, §702(e), Dec. 13, 1991, 105 Stat. 1880, related to compliance with and enforcement of former sections 2007a to 2007e of this title and regulations promulgated thereunder.

§ 2008. Rural development and farm loan program activities

The Secretary may not complete a study of, or enter into a contract with a private party to carry out, without specific authorization in a subsequent Act of Congress, a competitive sourcing activity of the Secretary, including support personnel of the Department of Agriculture, relating to rural development or farm loan programs.

(Pub. L. 87-128, title III, §365, as added Pub. L. 110-234, title V, §5306, May 22, 2008, 122 Stat. 1153, and Pub. L. 110-246, §4(a), title V, §5306, June 18, 2008, 122 Stat. 1664, 1915.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 2008, Pub. L. 87-128, title III, §365, as added Pub. L. 101-624, title XXIII, §2316(a), Nov. 28, 1990, 104 Stat. 4000; amended Pub. L. 102-237, title VII, §701(e), Dec. 13, 1991, 105 Stat. 1879, related to system for delivery of certain rural development programs,

prior to repeal by Pub. L. 104-127, title VII, §753(a), Apr. 4, 1996, 110 Stat. 1131.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of this title.

§§ 2008a to 2008c. Repealed. Pub. L. 104-127, title VII, §§ 754-756, Apr. 4, 1996, 110 Stat. 1131

Section 2008a, Pub. L. 87-128, title III, §366, as added Pub. L. 101-624, title XXIII, §2316(a), Nov. 28, 1990, 104 Stat. 4004; amended Pub. L. 102-237, title VII, §701(f), Dec. 13, 1991, 105 Stat. 1879, related to State rural economic development review panel.

Section 2008b, Pub. L. 87-128, title III, §367, as added Pub. L. 101-624, title XXIII, §2317, Nov. 28, 1990, 104 Stat. 4008; amended Pub. L. 102-237, title VII, §701(g), Dec. 13, 1991, 105 Stat. 1879, related to limited transfer authority of loan amounts.

Section 2008c, Pub. L. 87-128, title III, §368, as added Pub. L. 101-624, title XXIII, §2317, Nov. 28, 1990, 104 Stat. 4009, related to allocation and transfer of loan guarantee authority.

§ 2008d. Recordkeeping of loans by borrower's gender

The Secretary shall classify, by gender, records of applicants for loans and loan guarantees under this chapter.

(Pub. L. 87-128, title III, §369, as added Pub. L. 102-554, §21(c), Oct. 28, 1992, 106 Stat. 4161.)

REFERENCES IN TEXT

For definition of "this chapter", referred to in text, see note set out under section 1921 of this title.

§ 2008e. Prohibition under rural development programs

(a) Prohibition

Assistance under any rural development program administered by the Rural Development Administration, the Farmers Home Administration, the Rural Electrification Administration, or any other agency of the Department of Agriculture shall not be conditioned on any requirement that the recipient of such assistance accept or receive electric service from any particular utility, supplier, or cooperative.

(b) Ensuring compliance

The Secretary shall establish, by regulation, adequate safeguards to ensure that assistance under such rural development programs is not subject to such a condition. Such safeguards shall include periodic certifications and audits, and appropriate measures and sanctions against any person violating, or attempting to violate, the prohibition in subsection (a) of this section.

(c) Regulations

Not later than 6 months after November 1, 1993, the Secretary shall issue interim final regulations to ensure compliance with subsection (a) of this section.

(Pub. L. 87-128, title III, §370, as added Pub. L. 103-129, §5, Nov. 1, 1993, 107 Stat. 1366.)

§ 2008f. Crop insurance requirement

(a) In general

As a condition of obtaining any benefit (including a direct loan, loan guarantee, or pay-

ment) described in subsection (b) of this section, a borrower must obtain at least catastrophic risk protection insurance coverage under section 1508 of this title for the crop and crop year for which the benefit is sought, if the coverage is offered by the Corporation.

(b) Applicable benefits

Subsection (a) of this section shall apply to—

- (1) a farm ownership loan (FO) under section 1923 of this title;
- (2) an operating loan (OL) under section 1942 of this title; and
- (3) an emergency loan (EM) under section 1961 of this title.

(Pub. L. 87-128, title III, §371, as added Pub. L. 103-354, title I, §119(b), Oct. 13, 1994, 108 Stat. 3208.)

EFFECTIVE DATE

Section effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103-354, set out as an Effective Date of 1994 Amendment note under section 1502 of this title.

§ 2008g. Payment of interest as condition of loan servicing for borrowers

The Secretary may not reschedule or reamortize a loan for a borrower under this chapter who has not requested consideration under section 1981d(e) of this title unless the borrower pays a portion, as determined by the Secretary, of the interest due on the loan.

(Pub. L. 87-128, title III, §372, as added Pub. L. 104-127, title VI, §648(a), Apr. 4, 1996, 110 Stat. 1104.)

REFERENCES IN TEXT

For definition of "this chapter", referred to in text, see note set out under section 1921 of this title.

EFFECTIVE DATE

Section effective 90 days after Apr. 4, 1996, see section 663(b) of Pub. L. 104-127, set out as an Effective Date of 1996 Amendment note under section 1922 of this title.

§ 2008h. Loan and loan servicing limitations

(a) Delinquent borrowers prohibited from obtaining direct operating loans

The Secretary may not make a direct operating loan under subchapter II of this chapter to a borrower who is delinquent on any loan made or guaranteed under this chapter.

(b) Prohibition of loans for borrowers that have received debt forgiveness

(1) Prohibitions

Except as provided in paragraph (2)—

(A) the Secretary may not make a loan under this chapter to a borrower that has received debt forgiveness on a loan made or guaranteed under this chapter; and

(B) the Secretary may not guarantee a loan under this chapter to a borrower that has received—

- (i) debt forgiveness after April 4, 1996, on a loan made or guaranteed under this chapter; or

(ii) received debt forgiveness on more than 3 occasions on or before April 4, 1996.

(2) Exceptions

(A) In general

The Secretary may make a direct or guaranteed farm operating loan for paying annual farm or ranch operating expenses of a borrower who—

(i) was restructured with a write-down under section 2001 of this title;

(ii) is current on payments under a confirmed reorganization plan under chapters¹ 11, 12, or 13 of title 11; or

(iii) received debt forgiveness on not more than 1 occasion resulting directly and primarily from a major disaster or emergency designated by the President on or after April 4, 1996, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(B) Emergency loans

The Secretary may make an emergency loan under section 1961 of this title to a borrower that—

(i) on or before April 4, 1996, received not more than 1 debt forgiveness on a loan made or guaranteed under this chapter; and

(ii) after April 4, 1996, has not received debt forgiveness on a loan made or guaranteed under this chapter.

(c) No more than 1 debt forgiveness for borrower on direct loan

The Secretary may not provide to a borrower debt forgiveness on a direct loan made under this chapter if the borrower has received debt forgiveness on another direct loan made under this chapter.

(Pub. L. 87-128, title III, §373, as added Pub. L. 104-127, title VI, §648(b), Apr. 4, 1996, 110 Stat. 1104; amended Pub. L. 105-277, div. A, §101(a) [title VIII, §801], Oct. 21, 1998, 112 Stat. 2681, 2681-37; Pub. L. 107-171, title V, §5319, May 13, 2002, 116 Stat. 348.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 1921 of this title.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (b)(2)(A)(iii), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

2002—Subsec. (b)(2)(A)(iii). Pub. L. 107-171 added cl. (iii).

1998—Subsec. (b). Pub. L. 105-277 added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows:

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may not make or guarantee a loan under this chapter to a borrower who received debt forgiveness on a loan made or guaranteed under this chapter.

“(2) EXCEPTION.—The Secretary may make a direct or guaranteed farm operating loan for paying annual farm

or ranch operating expenses of a borrower who was restructured with a write-down under section 2001 of this title.”

§ 2008i. Short form certification of farm program borrower compliance

The Secretary shall develop and utilize a consolidated short form for farm program borrowers to use in certifying compliance with any applicable provision of law (including a regulation) that serves as an eligibility prerequisite for a loan made under this chapter.

(Pub. L. 87-128, title III, §374, as added Pub. L. 104-127, title VI, §649, Apr. 4, 1996, 110 Stat. 1105.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 1921 of this title.

EFFECTIVE DATE

Section effective 90 days after Apr. 4, 1996, see section 663(b) of Pub. L. 104-127, set out as an Effective Date of 1996 Amendment note under section 1922 of this title.

§ 2008j. National Sheep Industry Improvement Center

(a) Definitions

In this section:

(1) Board

The term “Board” means the Board of Directors established under subsection (f) of this section.

(2) Center

The term “Center” means the National Sheep Industry Improvement Center established under subsection (b) of this section.

(3) Eligible entity

The term “eligible entity” means an entity that promotes the betterment of the United States sheep or goat industries and that is—

(A) a public, private, or cooperative organization;

(B) an association, including a corporation not operated for profit;

(C) a federally recognized Indian Tribe; or

(D) a public or quasi-public agency.

(4) Fund

The term “Fund” means the National Sheep Industry Improvement Center Revolving Fund established under subsection (e) of this section.

(5) Intermediary

The term “intermediary” means a financial institution receiving Center funds for establishing a revolving fund and relending to an eligible entity.

(b) Establishment of Center

The Secretary shall establish a National Sheep Industry Improvement Center.

(c) Purposes

The purposes of the Center shall be to—

(1) promote strategic development activities and collaborative efforts by private and State entities to maximize the impact of Federal assistance to strengthen and enhance production and marketing of sheep or goat products in the United States;

¹ So in original. Probably should be “chapter”.

(2) optimize the use of available human capital and resources within the sheep or goat industries;

(3) provide assistance to meet the needs of the sheep or goat industry for infrastructure development, business development, production, resource development, and market and environmental research;

(4) advance activities that empower and build the capacity of the United States sheep or goat industry to design unique responses to the special needs of the sheep or goat industries on both a regional and national basis; and

(5) adopt flexible and innovative approaches to solving the long-term needs of the United States sheep or goat industry.

(d) Strategic plan

(1) In general

The Center shall submit to the Secretary an annual strategic plan for the delivery of financial assistance provided by the Center.

(2) Requirements

A strategic plan shall identify—

(A) goals, methods, and a benchmark for measuring the success of carrying out the plan and how the plan relates to the national and regional goals of the Center;

(B) the amount and sources of Federal and non-Federal funds that are available for carrying out the plan;

(C) funding priorities;

(D) selection criteria for funding; and

(E) a method of distributing funding.

(e) Revolving Fund

(1) Establishment

There is established in the Treasury the National Sheep Industry Improvement Center Revolving Fund. The Fund shall be available to the Center, without fiscal year limitation, to carry out the authorized programs and activities of the Center under this section.

(2) Contents of Fund

There shall be deposited in the Fund—

(A) such amounts as may be appropriated, transferred, or otherwise made available to support programs and activities of the Center;

(B) payments received from any source for products, services, or property furnished in connection with the activities of the Center;

(C) fees and royalties collected by the Center from licensing or other arrangements relating to commercialization of products developed through projects funded, in whole or part, by grants, contracts, or cooperative agreements executed by the Center;

(D) proceeds from the sale of assets, loans, and equity interests made in furtherance of the purposes of the Center;

(E) donations or contributions accepted by the Center to support authorized programs and activities; and

(F) any other funds acquired by the Center.

(3) Use of Fund

(A) In general

The Center may use amounts in the Fund to make direct loans, loan guarantees, coop-

erative agreements, equity interests, investments, repayable grants, and grants to eligible entities, either directly or through an intermediary, in accordance with a strategic plan submitted under subsection (d) of this section.

(B) Continued existence

The Center shall manage the Fund in a manner that ensures that sufficient amounts are available in the Fund to carry out subsection (c) of this section. The Fund is intended to furnish the initial capital for a revolving fund that will eventually be privatized for the purposes of assisting the United States sheep and goat industries.

(C) Diverse area

The Center shall, to the maximum extent practicable, use the Fund to serve broad geographic areas and regions of diverse production.

(D) Administration

The Center may not use more than 3 percent of the amounts in the portfolio of the Center for each fiscal year for the administration of the Center. The portfolio shall be calculated at the beginning of each fiscal year and shall include a total of—

(i) all outstanding loan balances;

(ii) the Fund balance;

(iii) the outstanding balance to intermediaries; and

(iv) the amount the Center paid for all equity interests.

(E) Influencing legislation

None of the amounts in the Fund may be used to influence legislation.

(F) Accounting

To be eligible to receive amounts from the Fund, an entity must agree to account for the amounts using generally accepted accounting principles.

(G) Uses of Fund

The Center may use amounts in the Fund to—

(i) participate with Federal and State agencies in financing activities that are in accordance with a strategic plan submitted under subsection (d) of this section, including participation with several States in a regional effort;

(ii) participate with other public and private funding sources in financing activities that are in accordance with the strategic plan, including participation in a regional effort;

(iii) provide security for, or make principal or interest payments on, revenue or general obligation bonds issued by a State, if the proceeds from the sale of the bonds are deposited in the Fund;

(iv) accrue interest;

(v) guarantee or purchase insurance for local obligations to improve credit market access or reduce interest rates for a project that is in accordance with the strategic plan;

(vi) sell assets, loans, and equity interests acquired in connection with the fi-

nancing of projects funded by the Center;
or

(vii) purchase equity interests.

(4) Loans

(A) Rate

A loan from the Fund may be made at an interest rate that is below the market rate or may be interest free.

(B) Term

The term of a loan may not exceed the shorter of—

- (i) the useful life of the activity financed; or
- (ii) 40 years.

(C) Source of repayment

The Center may not make a loan from the Fund unless the recipient establishes an assured source of repayment.

(D) Proceeds

All payments of principal and interest on a loan made from the Fund shall be deposited into the Fund.

(5) Maintenance of effort

The Center shall use the Fund only to supplement and not to supplant Federal, State, and private funds expended for rural development.

(6) Funding

(A) Deposit of funds

All Federal and non-Federal amounts received by the Center to carry out this section shall be deposited in the Fund.

(B) Mandatory funding

Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section \$1,000,000 for fiscal year 2008, to remain available until expended.

(C) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section \$10,000,000 for each of fiscal years 2008 through 2012.

(f) Board of Directors

(1) In general

The management of the Center shall be vested in a Board of Directors.

(2) Powers

The Board shall—

- (A) be responsible for the general supervision of the Center;
- (B) review any contract, direct loan, loan guarantee, cooperative agreement, equity interest, investment, repayable grant, and grant to be made or entered into by the Center and any financial assistance provided to the Center;
- (C) make the final decision, by majority vote, on whether and how to provide assistance to an applicant; and
- (D) develop and establish a budget plan and a long-term operating plan to carry out the goals of the Center.

(3) Composition

The Board shall be composed of—

(A) 7 voting members, of whom—

- (i) 4 members shall be active producers of sheep or goats in the United States;
- (ii) 2 members shall have expertise in finance and management; and
- (iii) 1 member shall have expertise in lamb, wool, goat, or goat product marketing; and

(B) 2 nonvoting members, of whom—

- (i) 1 member shall be the Under Secretary of Agriculture for Rural Development; and
- (ii) 1 member shall be the Under Secretary of Agriculture for Research, Education, and Economics.

(4) Nomination

(A) Nominating body

The Secretary shall appoint the voting members of the Board from nominations submitted by organizations described in subparagraph (B).

(B) National organizations

A national organization is described in this subparagraph if the organization—

- (i) consists primarily of active sheep or goat producers in the United States; and
- (ii) has as the primary interest of the organization the production of sheep or goats in the United States.

(5) Term of office

(A) In general

Subject to subparagraph (B), the term of office of a voting member of the Board shall be 3 years.

(B) Staggered initial terms

The initial voting members of the Board (other than the chairperson of the initially established Board) shall serve for staggered terms of 1, 2, and 3 years, as determined by the Secretary.

(C) Reappointment

A voting member may be reappointed for not more than one additional term.

(6) Vacancy

(A) In general

A vacancy on the Board shall be filled in the same manner as the original Board.

(B) Reappointment

A voting member appointed to fill a vacancy for an unexpired term may be reappointed for one full term.

(7) Chairperson

(A) In general

The Board shall select a chairperson from among the voting members of the Board.

(B) Term

The term of office of the chairperson shall be 2 years.

(8) Annual meeting

(A) In general

The Board shall meet not less than once each fiscal year at the call of the chair-

person or at the request of the executive director appointed under subsection (g)(1) of this section.

(B) Location

The location of a meeting of the Board shall be established by the Board.

(9) Voting

(A) Quorum

A quorum of the Board shall consist of a majority of the voting members.

(B) Majority vote

A decision of the Board shall be made by a majority of the voting members of the Board.

(10) Conflicts of interest

(A) In general

Except as provided in subparagraph (D), a member of the Board shall not vote on any matter respecting any application, contract, claim, or other particular matter pending before the Board in which, to the knowledge of the member, an interest is held by—

- (i) the member;
- (ii) any spouse of the member;
- (iii) any child of the member;
- (iv) any partner of the member;
- (v) any organization in which the member is serving as an officer, director, trustee, partner, or employee; or
- (vi) any person with whom the member is negotiating or has any arrangement concerning prospective employment or with whom the member has a financial interest.

(B) Removal

Any action by a member of the Board that violates subparagraph (A) shall be cause for removal from the Board.

(C) Validity of action

An action by a member of the Board that violates subparagraph (A) shall not impair or otherwise affect the validity of any otherwise lawful action by the Board.

(D) Disclosure

(i) In general

If a member of the Board makes a full disclosure of an interest and, prior to any participation by the member, the Board determines, by majority vote, that the interest is too remote or too inconsequential to affect the integrity of any participation by the member, the member may participate in the matter relating to the interest, except as provided in subparagraph (E)(iii).

(ii) Vote

A member that discloses an interest under clause (i) shall not vote on a determination of whether the member may participate in the matter relating to the interest.

(E) Remands

(i) In general

The Secretary may vacate and remand to the Board for reconsideration any deci-

sion made pursuant to subsection (e)(3)(H) of this section if the Secretary determines that there has been a violation of this paragraph or any conflict of interest provision of the bylaws of the Board with respect to the decision.

(ii) Reasons

In the case of any violation and remand of a funding decision to the Board under clause (i), the Secretary shall inform the Board of the reasons for the remand.

(iii) Conflicted members not to vote on remanded decisions

If a decision with respect to a matter is remanded to the Board by reason of a conflict of interest faced by a Board member, the member may not participate in any subsequent decision with respect to the matter.

(11) Compensation

(A) In general

A member of the Board shall not receive any compensation by reason of service on the Board.

(B) Expenses

A member of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by the member in the performance of a duty of the member.

(12) Bylaws

The Board shall adopt, and may from time to time amend, any bylaw that is necessary for the proper management and functioning of the Center.

(13) Public hearings

Not later than 1 year after April 4, 1996, the Board shall hold public hearings on policy objectives of the program established under this section.

(14) Organizational system

The Board shall provide a system of organization to fix responsibility and promote efficiency in carrying out the functions of the Board.

(15) Use of Department of Agriculture

The Board may, with the consent of the Secretary, utilize the facilities of and the services of employees of the Department of Agriculture, without cost to the Center.

(g) Officers and employees

(1) Executive director

(A) In general

The Board shall appoint an executive director to be the chief executive officer of the Center.

(B) Tenure

The executive director shall serve at the pleasure of the Board.

(C) Compensation

Compensation for the executive director shall be established by the Board.

(2) Other officers and employees

The Board may select and appoint officers, attorneys, employees, and agents who shall be

vested with such powers and duties as the Board may determine.

(3) Delegation

The Board may, by resolution, delegate to the chairperson, the executive director, or any other officer or employee any function, power, or duty of the Board other than voting on a grant, loan, contract, agreement, budget, or annual strategic plan.

(h) Consultation

To carry out this section, the Board may consult with—

- (1) State departments of agriculture;
- (2) Federal departments and agencies;
- (3) nonprofit development corporations;
- (4) colleges and universities;
- (5) banking and other credit-related agencies;
- (6) agriculture and agribusiness organizations; and
- (7) regional planning and development organizations.

(i) Oversight

(1) In general

The Secretary shall review and monitor compliance by the Board and the Center with this section.

(2) Sanctions

If, following notice and opportunity for a hearing, the Secretary finds that the Board or the Center is not in compliance with this section, the Secretary may—

- (A) cease making deposits to the Fund;
- (B) suspend the authority of the Center to withdraw funds from the Fund; or
- (C) impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this Act and disqualification from receipt of financial assistance under this section.

(3) Rescission of sanctions

The Secretary shall rescind sanctions imposed under paragraph (2) on a finding by the Secretary that there is no longer any failure by the Board or the Center to comply with this section or that the noncompliance will be promptly corrected.

(Pub. L. 87-128, title III, §375, as added Pub. L. 104-127, title VII, §759, Apr. 4, 1996, 110 Stat. 1132; amended Pub. L. 106-78, title VIII, §816, Oct. 22, 1999, 113 Stat. 1182; Pub. L. 106-387, §1(a) [title VII, §756], Oct. 28, 2000, 114 Stat. 1549, 1549A-43; Pub. L. 107-76, title VII, §731, Nov. 28, 2001, 115 Stat. 736; Pub. L. 108-7, div. A, title VII, §728, Feb. 20, 2003, 117 Stat. 42; Pub. L. 108-199, div. A, title VII, §726, Jan. 23, 2004, 118 Stat. 35; Pub. L. 108-447, div. A, title VII, §725, Dec. 8, 2004, 118 Stat. 2842; Pub. L. 110-234, title XI, §11009(a), (b)(1), May 22, 2008, 122 Stat. 1359; Pub. L. 110-246, §4(a), title XI, §11009(a), (b)(1), June 18, 2008, 122 Stat. 1664, 2120, 2121.)

REFERENCES IN TEXT

This Act, referred to in subsec. (i)(2)(C), refers to the Agricultural Act of 1961, Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 294. For classification of this Act to the Code, see

Short Title note set out under section 1911 of this title and Tables. However, the reference was probably intended to be “this title” meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128, which is classified principally to this chapter. For classification of this title to the Code, see Short Title note set out under section 1921 of this title and Tables.

CODIFICATION

A former subsec. (j)(7) of this section provided for the repeal of this section on the date the Secretary published notice in the Federal Register that the transition plan to privatize the National Sheep Industry Improvement Center had been completed. Although such notice was published in the Federal Register on May 23, 2007, at 72 F.R. 28945, repeal of this section did not take effect because of amendment by Pub. L. 110-246, §11009(b), repealing subsec. (j) of this section, effective May 1, 2007. See 2008 Amendment and Effective Date of 2008 Amendment notes below.

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsec. (e)(6)(B), (C). Pub. L. 110-246, §11009(a), added subpars. (B) and (C) and struck out former subpar. (B) which provided for \$27,998,000 out of moneys in the Treasury not otherwise appropriated to carry out this section and former subpar. (C) which authorized appropriation of an additional \$30,000,000.

Subsec. (j). Pub. L. 110-246, §11009(b)(1), struck out subsec. (j) which related to privatization of the National Sheep Industry Improvement Center and repeal of this section on the date that the Secretary published notice in the Federal Register that the transition plan for such privatization had been completed.

2004—Subsec. (e)(6)(B). Pub. L. 108-447 substituted “\$27,998,000” for “\$26,998,000”.

Pub. L. 108-199 substituted “\$26,998,000” for “\$26,499,000”.

2003—Subsec. (e)(6)(B). Pub. L. 108-7 substituted “\$26,499,000” for “\$26,000,000”.

2001—Subsec. (e)(6)(B). Pub. L. 107-76 substituted “\$26,000,000” for “\$25,000,000”.

2000—Subsec. (e)(6)(B). Pub. L. 106-387 substituted “\$25,000,000” for “\$20,000,000”.

1999—Subsec. (a)(5). Pub. L. 106-78, §816(a), added par. (5).

Subsec. (e)(3)(A). Pub. L. 106-78, §816(b)(1)(A), added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: “The Center may use amounts in the Fund to make grants and loans to eligible entities in accordance with a strategic plan submitted under subsection (d) of this section.”

Subsec. (e)(3)(B). Pub. L. 106-78, §816(b)(1)(B), inserted at end “The Fund is intended to furnish the initial capital for a revolving fund that will eventually be privatized for the purposes of assisting the United States sheep and goat industries.”

Subsec. (e)(3)(D). Pub. L. 106-78, §816(b)(1)(C), (F), redesignated subpar. (E) as (D) and struck out heading and text of former subpar. (D). Text read as follows: “The Center shall, to the maximum extent practicable, use the Fund to provide a variety of grants and intermediate- and long-term loans.”

Subsec. (e)(3)(E). Pub. L. 106-78, §816(b)(1)(F), redesignated subpar. (F) as (E). Former subpar. (E) redesignated (D).

Pub. L. 106-78, §816(b)(1)(D), added subpar. (E) and struck out heading and text of former subpar. (E). Text read as follows: “The Center may not use more than 3 percent of the amounts in the Fund for a fiscal year for the administration of the Center.”

Subsec. (e)(3)(F) to (H). Pub. L. 106-78, §816(b)(1)(F), redesignated subpars. (G) and (H) as (F) and (G), respectively. Former subpar. (F) redesignated (E).

Subsec. (e)(3)(H)(vii). Pub. L. 106-78, §816(b)(1)(E), added cl. (vii).

Subsec. (e)(6)(D). Pub. L. 106-78, §816(b)(2), struck out heading and text of subpar. (D). Text read as follows: “No additional Federal funds shall be used to carry out this section beginning on the earlier of—

“(i) the date that is 10 years after April 4, 1996; or
“(ii) the day after a total of \$50,000,000 has been made available under subparagraphs (B) and (C) to carry out this section.”

Subsec. (f)(2)(B). Pub. L. 106-78, §816(c)(1), added subpar. (B) and struck out former subpar. (B) which read as follows: “review any grant, loan, contract, or cooperative agreement to be made or entered into by the Center and any financial assistance provided to the Center;”.

Subsec. (f)(5)(C). Pub. L. 106-78, §816(c)(2), added subpar. (C) and struck out heading and text of former subpar. (C). Text read as follows: “A voting member may be reelected for not more than 1 additional term.”

Subsec. (f)(6)(B). Pub. L. 106-78, §816(c)(3), added subpar. (B) and struck out heading and text of former subpar. (B). Text read as follows: “A member elected to fill a vacancy for an unexpired term may be reelected for 1 full term.”

Subsec. (j). Pub. L. 106-78, §816(d), added subsec. (j).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

Pub. L. 110-234, title XI, §11009(b)(2), May 22, 2008, 122 Stat. 1359, and Pub. L. 110-246, §4(a), title XI, §11009(b)(2), June 18, 2008, 122 Stat. 1664, 2121, provided that: “The amendment made by paragraph (1) [amending this section] takes effect on May 1, 2007.”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of this title.]

§ 2008k. Making and servicing of loans by personnel of State, county, or area committees

The Secretary shall use personnel of a State, county or area committee established under section 590h(b)(5) of title 16 to make and service loans under this chapter to the extent the personnel have been trained to do so.

(Pub. L. 87-128, title III, §376, as added Pub. L. 107-171, title V, §5320, May 13, 2002, 116 Stat. 349.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 1921 of this title.

§ 2008l. Eligibility of employees of State, county, or area committee for loans and loan guarantees

(a) In general

The Secretary shall not prohibit an employee of a State, county or area committee established under section 590h(b)(5) of title 16 or an employee of the Department of Agriculture from obtaining a loan or loan guarantee under subchapter I, II or III of this chapter.

(b) Approvals

(1) County or area office

In the case of a loan application from an employee in a county or area office, the Farm Service Agency State office shall be respon-

sible for reviewing and approving the application.

(2) State office

In the case of a loan application from an employee of a State office, the Farm Service Agency national office shall be responsible for reviewing and approving the application.

(Pub. L. 87-128, title III, §377, as added Pub. L. 107-171, title V, §5321, May 13, 2002, 116 Stat. 349.)

§ 2008m. National Rural Development Partnership

(a) Definitions

In this section:

(1) Agency with rural responsibilities

The term “agency with rural responsibilities” means any executive agency (as defined in section 105 of title 5) that implements a Federal law, or administers a program, targeted at or having a significant impact on rural areas.

(2) Coordinating Committee

The term “Coordinating Committee” means the National Rural Development Coordinating Committee established by subsection (c) of this section.

(3) Partnership

The term “Partnership” means the National Rural Development Partnership continued by subsection (b) of this section.

(4) State rural development council

The term “State rural development council” means a State rural development council that meets the requirements of subsection (d) of this section.

(b) Partnership

(1) In general

The Secretary shall continue the National Rural Development Partnership composed of—

- (A) the Coordinating Committee; and
- (B) State rural development councils.

(2) Purposes

The purposes of the Partnership are to empower and build the capacity of States and rural communities to design flexible and innovative responses to their own special rural development needs, with local determinations of progress and selection of projects and activities.

(3) Governing panel

(A) In general

A panel consisting of representatives of the Coordinating Committee and State rural development councils shall be established to lead and coordinate the strategic operation, policies, and practices of the Partnership.

(B) Annual reports

In conjunction with the Coordinating Committee and State rural development councils, the panel shall prepare and submit to Congress an annual report on the activities of the Partnership.

(4) Role of Federal Government

The role of the Federal Government in the Partnership may be that of a partner and facilitator, with Federal agencies authorized—

(A) to cooperate with States to implement the Partnership;

(B) to provide States with the technical and administrative support necessary to plan and implement tailored rural development strategies to meet local needs;

(C) to ensure that the head of each agency with rural responsibilities designates a senior-level agency official to represent the agency on the Coordinating Committee and directs appropriate field staff to participate fully with the State rural development council within the jurisdiction of the field staff; and

(D) to enter into cooperative agreements with, and to provide grants and other assistance to, the Coordinating Committee and State rural development councils.

(c) National Rural Development Coordinating Committee

(1) Establishment

The Secretary shall establish a National Rural Development Coordinating Committee within the Department of Agriculture.

(2) Composition

The Coordinating Committee shall be composed of—

(A) 1 representative of each agency with rural responsibilities; and

(B) representatives, approved by the Secretary, of—

(i) national associations of State, regional, local, and tribal governments and intergovernmental and multijurisdictional agencies and organizations;

(ii) national public interest groups;

(iii) other national nonprofit organizations that elect to participate in the activities of the Coordinating Committee; and

(iv) the private sector.

(3) Duties

The Coordinating Committee shall—

(A) support the work of the State rural development councils;

(B) facilitate coordination of rural development policies, programs, and activities among Federal agencies and with those of State, local, and tribal governments, the private sector, and nonprofit organizations;

(C) review and comment on policies, regulations, and proposed legislation that affect or would affect rural areas and gather and provide related information;

(D) develop and facilitate strategies to reduce or eliminate administrative and regulatory impediments; and

(E) require each State rural development council receiving funds under this section to submit an annual report on the use of the funds, including a description of strategic plans, goals, performance measures, and outcomes for the State rural development council of the State.

(4) Federal participation in Coordinating Committee

(A) In general

A Federal employee shall fully participate in the governance and operations of the Co-

ordinating Committee, including activities related to grants, contracts, and other agreements, in accordance with this section.

(B) Conflicts

Participation by a Federal employee in the Coordinating Committee in accordance with this paragraph shall not constitute a violation of section 205 or 208 of title 18.

(5) Administrative support

The Secretary may provide such administrative support for the Coordinating Committee as the Secretary determines is necessary to carry out the duties of the Coordinating Committee.

(6) Procedures

The Secretary may prescribe such regulations, bylaws, or other procedures as are necessary for the operation of the Coordinating Committee.

(d) State rural development councils

(1) Establishment

Notwithstanding chapter 63 of title 31, each State may elect to participate in the Partnership by entering into an agreement with the Secretary to recognize a State rural development council.

(2) Composition

A State rural development council shall—

(A) be composed of representatives of Federal, State, local, and tribal governments, nonprofit organizations, regional organizations, the private sector, and other entities committed to rural advancement; and

(B) have a nonpartisan and nondiscriminatory membership that—

(i) is broad and representative of the economic, social, and political diversity of the State; and

(ii) shall be responsible for the governance and operations of the State rural development council.

(3) Duties

A State rural development council shall—

(A) facilitate collaboration among Federal, State, local, and tribal governments and the private and nonprofit sectors in the planning and implementation of programs and policies that have an impact on rural areas of the State;

(B) monitor, report, and comment on policies and programs that address, or fail to address, the needs of the rural areas of the State;

(C) as part of the Partnership, in conjunction with the Coordinating Committee, facilitate the development of strategies to reduce or eliminate conflicting or duplicative administrative or regulatory requirements of Federal, State, local, and tribal governments; and

(D)(i) provide to the Coordinating Committee an annual plan with goals and performance measures; and

(ii) submit to the Coordinating Committee an annual report on the progress of the State rural development council in meeting the goals and measures.

(4) Federal participation in State rural development councils

(A) In general

A State Director for Rural Development of the Department of Agriculture, other employees of the Department, and employees of other Federal agencies with rural responsibilities shall fully participate as voting members in the governance and operations of State rural development councils (including activities related to grants, contracts, and other agreements in accordance with this section) on an equal basis with other members of the State rural development councils.

(B) Conflicts

Participation by a Federal employee in a State rural development council in accordance with this paragraph shall not constitute a violation of section 205 or 208 of title 18.

(e) Administrative support of the Partnership

(1) Detail of employees

(A) In general

In order to provide experience in intergovernmental collaboration, the head of an agency with rural responsibilities that elects to participate in the Partnership may, and is encouraged to, detail to the Secretary for the support of the Partnership 1 or more employees of the agency with rural responsibilities without reimbursement for a period of up to 1 year.

(B) Civil service status

The detail shall be without interruption or loss of civil service status or privilege.

(2) Additional support

The Secretary may provide for any additional support staff to the Partnership as the Secretary determines to be necessary to carry out the duties of the Partnership.

(3) Intermediaries

The Secretary may enter into a contract with a qualified intermediary under which the intermediary shall be responsible for providing administrative and technical assistance to a State rural development council, including administering the financial assistance available to the State rural development council.

(f) Matching requirements for State rural development councils

(1) In general

Except as provided in paragraph (2), a State rural development council shall provide matching funds, or in-kind goods or services, to support the activities of the State rural development council in an amount that is not less than 33 percent of the amount of Federal funds received from a Federal agency under subsection (g)(2) of this section.

(2) Exceptions to matching requirement for certain Federal funds

Paragraph (1) shall not apply to funds, grants, funds provided under contracts or cooperative agreements, gifts, contributions, or

technical assistance received by a State rural development council from a Federal agency that are used—

(A) to support 1 or more specific program or project activities; or

(B) to reimburse the State rural development council for services provided to the Federal agency providing the funds, grants, funds provided under contracts or cooperative agreements, gifts, contributions, or technical assistance.

(3) Department's share

The Secretary shall develop a plan to decrease, over time, the share of the Department of Agriculture of the cost of the core operations of State rural development councils.

(g) Funding

(1) Authorization of appropriations

There is authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 2008 through 2012.

(2) Federal agencies

(A) In general

Notwithstanding any other provision of law limiting the ability of an agency, along with other agencies, to provide funds to the Coordinating Committee or a State rural development council in order to carry out the purposes of this section, a Federal agency may make grants, gifts, or contributions to, provide technical assistance to, or enter into contracts or cooperative agreements with, the Coordinating Committee or a State rural development council.

(B) Assistance

Federal agencies are encouraged to use funds made available for programs that have an impact on rural areas to provide assistance to, and enter into contracts with, the Coordinating Committee or a State rural development council, as described in subparagraph (A).

(3) Contributions

The Coordinating Committee and a State rural development council may accept private contributions.

(h) Termination

The authority provided under this section shall terminate on September 30, 2012.

(Pub. L. 87-128, title III, §378, as added Pub. L. 107-171, title VI, §6021, May 13, 2002, 116 Stat. 363; amended Pub. L. 110-234, title VI, §6019, May 22, 2008, 122 Stat. 1172; Pub. L. 110-246, §4(a), title VI, §6019, June 18, 2008, 122 Stat. 1664, 1933.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsec. (g)(1). Pub. L. 110-246, §6019(1), substituted “2008 through 2012” for “2003 through 2007”.

Subsec. (h). Pub. L. 110-246, §6019(2), substituted “September 30, 2012” for “the date that is 5 years after May 13, 2002”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

§ 2008n. Rural telework**(a) Definitions**

In this section:

(1) Eligible organization

The term “eligible organization” means a nonprofit entity, an educational institution, an Indian tribe (as defined in section 450b of title 25), or any other organization, in a rural area (except for the institute), that meets the requirements of this section and such other requirements as are established by the Secretary.

(2) Institute

The term “institute” means a rural telework institute established using a grant under subsection (b) of this section.

(3) Telework

The term “telework” means the use of telecommunications to perform work functions at a rural work center located outside the place of business of an employer.

(b) Rural telework institute**(1) In general**

The Secretary shall make 1 or more grants to an eligible organization to pay the Federal share of the cost of establishing and operating a national rural telework institute to carry out projects described in paragraph (2).

(2) Projects

The institute shall use grant funds received under this subsection to carry out a 5-year project—

(A) to serve as a clearinghouse for telework research and development;

(B) to conduct outreach to rural communities and rural workers;

(C) to develop and share best practices in rural telework throughout the United States;

(D) to develop innovative, market-driven telework projects and joint ventures with the private sector that employ workers in rural areas in jobs that promote economic self-sufficiency;

(E) to share information about the design and implementation of telework arrangements;

(F) to support private sector businesses that are transitioning to telework;

(G) to support and assist telework projects and individuals at the State and local level; and

(H) to perform such other functions as the Secretary considers appropriate.

(3) Non-Federal share**(A) In general**

As a condition of receiving a grant under this subsection, an eligible organization shall agree to obtain, after the application

of the eligible organization has been approved and notice of award has been issued, contributions from non-Federal sources that are equal to—

(i) during each of the first, second, and third years of a project, 30 percent of the amount of the grant; and

(ii) during each of the fourth and fifth years of the project, 50 percent of the amount of the grant.

(B) Indian tribes

Notwithstanding subparagraph (A), an Indian tribe may use any Federal funds made available to the Indian tribe for self-governance to pay the non-Federal contributions required under subparagraph (A).

(C) Form

The non-Federal contributions required under subparagraph (A) may be in the form of in-kind contributions, including office equipment, office space, computer software, consultant services, computer networking equipment, and related services.

(c) Telework grants**(1) In general**

Subject to paragraphs (2) through (5), the Secretary shall make grants to eligible organizations to pay the Federal share of the cost of—

(A) obtaining equipment and facilities to establish or expand telework locations in rural areas; and

(B) operating telework locations in rural areas.

(2) Applications

To be eligible to receive a grant under this subsection, an eligible organization shall submit to the Secretary, and receive the approval of the Secretary of, an application for the grant that demonstrates that the eligible organization has adequate resources and capabilities to establish or expand a telework location in a rural area.

(3) Non-Federal share**(A) In general**

As a condition of receiving a grant under this subsection, an eligible organization shall agree to obtain, after the application of the eligible organization has been approved and notice of award has been issued, contributions from non-Federal sources that are equal to 50 percent of the amount of the grant.

(B) Indian tribes

Notwithstanding subparagraph (A), an Indian tribe may use Federal funds made available to the tribe for self-governance to pay the non-Federal contributions required under subparagraph (A).

(C) Sources

The non-Federal contributions required under subparagraph (A)—

(i) may be in the form of in-kind contributions, including office equipment, office space, computer software, consultant services, computer networking equipment, and related services; and

(ii) may not be made from funds made available for community development block grants under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(4) Duration

The Secretary may not provide a grant under this subsection to expand or operate a telework location in a rural area after the date that is 3 years after the establishment of the telework location.

(5) Amount

The amount of a grant provided to an eligible organization under this subsection shall be not less than \$1,000,000 and not more than \$2,000,000.

(d) Applicability of certain Federal law

An eligible organization that receives funds under this section shall be subject to the provisions of Federal law (including regulations) administered by the Secretary of Labor or the Equal Employment Opportunity Commission that govern the responsibilities of employers to employees.

(e) Regulations

Not later than 180 days after May 13, 2002, the Secretary shall promulgate regulations to carry out this section.

(f) Authorization of appropriation

There is authorized to be appropriated to carry out this section \$30,000,000 for each of fiscal years 2002 through 2007, of which \$5,000,000 shall be provided to establish and support an institute under subsection (b) of this section.

(Pub. L. 87-128, title III, §379, as added Pub. L. 107-171, title VI, §6022, May 13, 2002, 116 Stat. 368.)

REFERENCES IN TEXT

The Housing and Community Development Act of 1974, referred to in subsec. (c)(3)(C)(ii), is Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, as amended. Title I of the Act is classified principally to chapter 69 (§5301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 42 and Tables.

§ 2008o. Historic barn preservation

(a) Definitions

In this section:

(1) Barn

The term “barn” means a building (other than a dwelling) on a farm, ranch, or other agricultural operation for—

- (A) housing animals;
- (B) storing or processing crops;
- (C) storing and maintaining agricultural equipment; or
- (D) serving an essential or useful purpose related to agricultural activities conducted on the adjacent land.

(2) Eligible applicant

The term “eligible applicant” means—

- (A) a State department of agriculture (or a designee);
- (B) a national or State nonprofit organization that—

(i) is described in section 501(c)(3) of title 26 and exempt from taxation under section 501(a) of title 26; and

(ii) has experience or expertise, as determined by the Secretary, in the identification, evaluation, rehabilitation, preservation, or protection of historic barns; and

(C) a State historic preservation office.

(3) Historic barn

The term “historic barn” means a barn that—

- (A) is at least 50 years old;
- (B) retains sufficient integrity of design, materials, and construction to clearly identify the barn as an agricultural building; and
- (C) meets the criteria for listing on National, State, or local registers or inventories of historic structures.

(4) Secretary

The term “Secretary” means the Secretary, acting through the Under Secretary of Rural Development.

(b) Program

The Secretary shall establish a historic barn preservation program—

- (1) to assist States in developing a list of historic barns;
- (2) to collect and disseminate information on historic barns;
- (3) to foster educational programs relating to the history, construction techniques, rehabilitation, and contribution to society of historic barns; and
- (4) to sponsor and conduct research on—
 - (A) the history of barns; and
 - (B) best practices to protect and rehabilitate historic barns from the effects of decay, fire, arson, and natural disasters.

(c) Grants

(1) In general

The Secretary may make grants to, or enter into contracts or cooperative agreements with, eligible applicants to carry out an eligible project under paragraph (2).

(2) Eligible projects

A grant under this subsection may be made to an eligible applicant for a project—

- (A) to rehabilitate or repair historic barns;
- (B) to preserve historic barns through—
 - (i) the installation of a fire protection system, including fireproofing or fire detection system and sprinklers; and
 - (ii) the installation of a system to prevent vandalism; and
- (C) to identify, document, and conduct research on historic barns (including surveys) to develop and evaluate appropriate techniques or best practices for protecting historic barns.

(3) Priority

In making grants under this subsection, the Secretary shall give the highest priority to funding projects described in paragraph (2)(C).

(4) Requirements

An eligible applicant that receives a grant for a project under this subsection shall com-

ply with any standards established by the Secretary of the Interior for historic preservation projects.

(5) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

(Pub. L. 87-128, title III, § 379A, as added Pub. L. 107-171, title VI, § 6023, May 13, 2002, 116 Stat. 370; amended Pub. L. 110-234, title VI, § 6020, May 22, 2008, 122 Stat. 1172; Pub. L. 110-246, § 4(a), title VI, § 6020, June 18, 2008, 122 Stat. 1664, 1934.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsec. (c)(2)(A), (B). Pub. L. 110-246, § 6020(a)(1)(A), substituted “historic barns” for “a historic barn”.

Subsec. (c)(2)(C). Pub. L. 110-246, § 6020(a)(1)(B), substituted “on historic barns (including surveys)” for “on a historic barn”.

Subsec. (c)(3) to (5). Pub. L. 110-246, § 6020(a)(2), (3), (b), added par. (3), redesignated former pars. (3) and (4) as (4) and (5), respectively, and, in par. (5), substituted “2008 through 2012” for “2002 through 2007”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

§ 2008p. Grants for NOAA weather radio transmitters

(a) In general

The Secretary, acting through the Administrator of the Rural Utilities Service, may make grants to public and nonprofit entities, and borrowers of loans made by the Rural Utilities Service, for the Federal share of the cost of acquiring radio transmitters to increase coverage of rural areas by the all hazards weather radio broadcast system of the National Oceanic and Atmospheric Administration.

(b) Eligibility

To be eligible for a grant under this section, an applicant shall provide to the Secretary—

- (1) a binding commitment from a tower owner to place the transmitter on a tower; and
- (2) a description of how the tower placement will increase coverage of a rural area by the all hazards weather radio broadcast system of the National Oceanic and Atmospheric Administration.

(c) Federal share

A grant provided under this section shall be not more than 75 percent of the total cost of acquiring a radio transmitter, as described in subsection (a) of this section.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

(Pub. L. 87-128, title III, § 379B, as added Pub. L. 107-171, title VI, § 6024, May 13, 2002, 116 Stat. 371; amended Pub. L. 110-234, title VI, § 6021, May 22, 2008, 122 Stat. 1172; Pub. L. 110-246, § 4(a), title VI, § 6021, June 18, 2008, 122 Stat. 1664, 1934.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsec. (d). Pub. L. 110-246, § 6021, substituted “2008 through 2012” for “2002 through 2007”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

§ 2008q. Grants to train farm workers in new technologies and to train farm workers in specialized skills necessary for higher value crops

(a) In general

The Secretary shall make grants to nonprofit organizations, or to a consortium of nonprofit organizations, agribusinesses, State and local governments, agricultural labor organizations, farmer or rancher cooperatives, and community-based organizations with the capacity to train farm workers.

(b) Use of funds

An entity to which a grant is made under this section shall use the grant to train farm workers to use new technologies and develop specialized skills for agricultural development.

(c) Authorization of appropriations

There is authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 2002 through 2007.

(Pub. L. 87-128, title III, § 379C, as added Pub. L. 107-171, title VI, § 6025, May 13, 2002, 116 Stat. 372.)

§ 2008q-1. Grants to improve supply, stability, safety, and training of agricultural labor force

(a) Definition of eligible entity

In this section, the term “eligible entity” means an entity described in section 2008q(a) of this title.

(b) Grants

(1) In general

To assist agricultural employers and farmworkers by improving the supply, stability, safety, and training of the agricultural labor force, the Secretary may provide grants to eligible entities for use in providing services to assist farmworkers who are citizens or otherwise legally present in the United States in securing, retaining, upgrading, or returning from agricultural jobs.

(2) Eligible services

The services referred to in paragraph (1) include—

- (A) agricultural labor skills development;
- (B) the provision of agricultural labor market information;
- (C) transportation;
- (D) short-term housing while in transit to an agricultural worksite;
- (E) workplace literacy and assistance with English as a second language;
- (F) health and safety instruction, including ways of safeguarding the food supply of the United States; and
- (G) such other services as the Secretary determines to be appropriate.

(c) Limitation on administrative expenses

Not more than 15 percent of the funds made available to carry out this section for a fiscal year may be used to pay for administrative expenses.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

(Pub. L. 110-234, title XIV, §14204, May 22, 2008, 122 Stat. 1459; Pub. L. 110-246, §4(a), title XIV, §14204, June 18, 2008, 122 Stat. 1664, 2221.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

Section was enacted as part of the Food, Conservation, and Energy Act of 2008, and not as part of the Consolidated Farm and Rural Development Act which comprises this chapter.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of this title.

DEFINITION OF “SECRETARY”

“Secretary” as meaning the Secretary of Agriculture, see section 8701 of this title.

§ 2008r. Delta region agricultural economic development

(a) In general

The Secretary may make grants to assist in the development of state-of-the-art technology in animal nutrition (including research and development of the technology) and value-added manufacturing to promote an economic platform for the Delta region (as defined in section 2009aa of this title) to relieve severe economic conditions.

(b) Authorization of appropriations

There are authorized to be appropriated to carry out this section \$7,000,000 for each of fiscal years 2002 through 2007.

(Pub. L. 87-128, title III, §379D, as added Pub. L. 107-171, title VI, §6027(i), May 13, 2002, 116 Stat. 374.)

§ 2008s. Rural microentrepreneur assistance program

(a) Definitions

In this section:

(1) Indian tribe

The term “Indian tribe” has the meaning given the term in section 450b of title 25.

(2) Microentrepreneur

The term “microentrepreneur” means an owner and operator, or prospective owner and operator, of a rural microenterprise who is unable to obtain sufficient training, technical assistance, or credit other than under this section, as determined by the Secretary.

(3) Microenterprise development organization

The term “microenterprise development organization” means an organization that—

- (A) is—
 - (i) a nonprofit entity;
 - (ii) an Indian tribe, the tribal government of which certifies to the Secretary that—
 - (I) no microenterprise development organization serves the Indian tribe; and
 - (II) no rural microentrepreneur assistance program exists under the jurisdiction of the Indian tribe; or
 - (iii) a public institution of higher education;

(B) provides training and technical assistance to rural microentrepreneurs;

(C) facilitates access to capital or another service described in subsection (b) for rural microenterprises; and

(D) has a demonstrated record of delivering services to rural microentrepreneurs, or an effective plan to develop a program to deliver services to rural microentrepreneurs, as determined by the Secretary.

(4) Microloan

The term “microloan” means a business loan of not more than \$50,000 that is provided to a rural microenterprise.

(5) Program

The term “program” means the rural microentrepreneur assistance program established under subsection (b).

(6) Rural microenterprise

The term “rural microenterprise” means—

(A) a sole proprietorship located in a rural area; or

(B) a business entity with not more than 10 full-time-equivalent employees located in a rural area.

(b) Rural microentrepreneur assistance program

(1) Establishment

The Secretary shall establish a rural microentrepreneur assistance program to provide loans and grants to support microentrepreneurs in the development and ongoing success of rural microenterprises.

(2) Purpose

The purpose of the program is to provide microentrepreneurs with—

(A) the skills necessary to establish new rural microenterprises; and

(B) continuing technical and financial assistance related to the successful operation of rural microenterprises.

(3) Loans**(A) In general**

The Secretary shall make loans to microenterprise development organizations for the purpose of providing fixed interest rate microloans to microentrepreneurs for start-up and growing rural microenterprises.

(B) Loan terms

A loan made by the Secretary to a microenterprise development organization under this paragraph shall—

- (i) be for a term not to exceed 20 years; and
- (ii) bear an annual interest rate of at least 1 percent.

(C) Loan loss reserve fund

The Secretary shall require each microenterprise development organization that receives a loan under this paragraph to—

- (i) establish a loan loss reserve fund; and
- (ii) maintain the reserve fund in an amount equal to at least 5 percent of the outstanding balance of such loans owed by the microenterprise development organization, until all obligations owed to the Secretary under this paragraph are repaid.

(D) Deferral of interest and principal

The Secretary may permit the deferral of payments on principal and interest due on a loan to a microenterprise development organization made under this paragraph for a 2-year period beginning on the date the loan is made.

(4) Grants**(A) Grants to support rural microenterprise development****(i) In general**

The Secretary shall make grants to microenterprise development organizations to—

- (I) provide training, operational support, business planning, and market development assistance, and other related services to rural microentrepreneurs; and
- (II) carry out such other projects and activities as the Secretary determines appropriate to further the purposes of the program.

(ii) Selection

In making grants under clause (i), the Secretary shall—

- (I) place an emphasis on microenterprise development organizations that serve microentrepreneurs that are located in rural areas that have suffered significant outward migration, as determined by the Secretary; and
- (II) ensure, to the maximum extent practicable, that grant recipients include microenterprise development organizations—
 - (aa) of varying sizes; and
 - (bb) that serve racially and ethnically diverse populations.

(B) Grants to assist microentrepreneurs**(i) In general**

The Secretary shall make grants to microenterprise development organizations to provide marketing, management, and other technical assistance to microentrepreneurs that—

- (I) received a loan from the microenterprise development organization under paragraph (3); or
- (II) are seeking a loan from the microenterprise development organization under paragraph (3).

(ii) Maximum amount of grant

A microenterprise development organization shall be eligible to receive an annual grant under this subparagraph in an amount equal to not more than 25 percent of the total outstanding balance of microloans made by the microenterprise development organization under paragraph (3), as of the date the grant is awarded.

(C) Administrative expenses

Not more than 10 percent of a grant received by a microenterprise development organization for a fiscal year under this paragraph may be used to pay administrative expenses.

(c) Administration**(1) Cost share****(A) Federal share**

Subject to subparagraph (B), the Federal share of the cost of a project funded under this section shall not exceed 75 percent.

(B) Matching requirement

As a condition of any grant made under this subparagraph, the Secretary shall require the microenterprise development organization to match not less than 15 percent of the total amount of the grant in the form of matching funds, indirect costs, or in-kind goods or services.

(C) Form of non-Federal share

The non-Federal share of the cost of a project funded under this section may be provided—

- (i) in cash (including through fees, grants (including community development block grants), and gifts); or
- (ii) in the form of in-kind contributions.

(2) Oversight

At a minimum, not later than December 1 of each fiscal year, a microenterprise development organization that receives a loan or grant under this section shall provide to the Secretary such information as the Secretary may require to ensure that assistance provided under this section is used for the purposes for which the loan or grant was made.

(d) Funding**(1) Mandatory funding**

Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section, to remain available until expended—

(A) \$4,000,000 for each of fiscal years 2009 through 2011; and

(B) \$3,000,000 for fiscal year 2012.

(2) Discretionary funding

In addition to amounts made available under paragraph (1), there are authorized to be appropriated to carry out this section \$40,000,000 for each of fiscal years 2009 through 2012.

(Pub. L. 87-128, title III, §379E, as added Pub. L. 110-234, title VI, §6022, May 22, 2008, 122 Stat. 1173, and Pub. L. 110-246, §4(a), title VI, §6022, June 18, 2008, 122 Stat. 1664, 1934.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of this title.

§ 2008t. Grants for expansion of employment opportunities for individuals with disabilities in rural areas

(a) Definitions

In this section:

(1) Individual with a disability

The term “individual with a disability” means an individual with a disability (as defined in section 12102 of title 42).

(2) Individuals with disabilities

The term “individuals with disabilities” means more than 1 individual with a disability.

(b) Grants

The Secretary shall make grants to nonprofit organizations, or to a consortium of nonprofit organizations, to expand and enhance employment opportunities for individuals with disabilities in rural areas.

(c) Eligibility

To be eligible to receive a grant under this section, a nonprofit organization or consortium of nonprofit organizations shall have—

(1) a significant focus on serving the needs of individuals with disabilities;

(2) demonstrated knowledge and expertise in—

(A) employment of individuals with disabilities; and

(B) advising private entities on accessibility issues involving individuals with disabilities;

(3) expertise in removing barriers to employment for individuals with disabilities, including access to transportation, assistive technology, and other accommodations; and

(4) existing relationships with national organizations focused primarily on the needs of rural areas.

(d) Uses

A grant received under this section may be used only to expand or enhance—

(1) employment opportunities for individuals with disabilities in rural areas by developing national technical assistance and education resources to assist small businesses in a rural area to recruit, hire, accommodate, and employ individuals with disabilities; and

(2) self-employment and entrepreneurship opportunities for individuals with disabilities in a rural area.

(e) Authorization of appropriations

There is authorized to be appropriated to carry out this section \$2,000,000 for each of fiscal years 2008 through 2012.

(Pub. L. 87-128, title III, §379F, as added Pub. L. 110-234, title VI, §6023, May 22, 2008, 122 Stat. 1176, and Pub. L. 110-246, §4(a), title VI, §6023, June 18, 2008, 122 Stat. 1664, 1937.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of this title.

§ 2008u. Health care services

(a) Purpose

The purpose of this section is to address the continued unmet health needs in the Delta region through cooperation among health care professionals, institutions of higher education, research institutions, and other individuals and entities in the region.

(b) Definition of eligible entity

In this section, the term “eligible entity” means a consortium of regional institutions of higher education, academic health and research institutes, and economic development entities located in the Delta region that have experience in addressing the health care issues in the region.

(c) Grants

To carry out the purpose described in subsection (a), the Secretary may award a grant to an eligible entity for—

(1) the development of—

(A) health care services;

(B) health education programs; and

(C) health care job training programs; and

(2) the development and expansion of public health-related facilities in the Delta region to address longstanding and unmet health needs of the region.

(d) Use

As a condition of the receipt of the grant, the eligible entity shall use the grant to fund projects and activities described in subsection (c), based on input solicited from local governments, public health care providers, and other entities in the Delta region.

(e) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section, \$3,000,000 for each of fiscal years 2008 through 2012.

(Pub. L. 87–128, title III, §379G, as added Pub. L. 110–234, title VI, §6024, May 22, 2008, 122 Stat. 1176, and Pub. L. 110–246, §4(a), title VI, §6024, June 18, 2008, 122 Stat. 1664, 1938.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of this title.

SUBCHAPTER V—RURAL COMMUNITY ADVANCEMENT PROGRAM

§ 2009. Definitions

In this subchapter:

(1) State

The term “State” means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Federated States of Micronesia.

(2) State director

The term “State director” means, with respect to a State, the Director of the Rural Economic and Community Development State Office.

(Pub. L. 87–128, title III, §381A, as added Pub. L. 104–127, title VII, §761, Apr. 4, 1996, 110 Stat. 1139; amended Pub. L. 107–171, title VI, §6020(b)(2), May 13, 2002, 116 Stat. 363.)

AMENDMENTS

2002—Pub. L. 107–171 redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out heading and text of former par. (1). Text read as follows: “The terms ‘rural’ and ‘rural area’ mean, subject to section 1926(a)(7) of this title, a city, town, or unincorporated area that has a population of 50,000 inhabitants or less, other than an urbanized area immediately adjacent to a city, town, or unincorporated area that has a population in excess of 50,000 inhabitants.”

DEFINITION OF RURAL AREAS FOR CERTAIN BUSINESS AND COMMUNITY FACILITIES PROGRAMS

Pub. L. 106–78, title VII, §730, Oct. 22, 1999, 113 Stat. 1164, provided that: “Notwithstanding section 381A of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009), in fiscal year 2000 and thereafter, the definitions of rural areas for certain business programs administered by the Rural Business-Cooperative Service and the community facilities programs administered by the Rural Housing Service shall be those provided for in statute and regulations prior to the enactment of Public Law 104–127 [Apr. 4, 1996].”

Similar provisions were contained in Pub. L. 105–277, div. A, §101(a) [title VII, §735], Oct. 21, 1998, 112 Stat. 2681, 2681–29, prior to repeal by Pub. L. 107–171, title VI, §6020(b)(3), May 13, 2002, 116 Stat. 363.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 2009a. Establishment

The Secretary shall establish a rural community advancement program to provide grants, loans, loan guarantees, and other assistance to meet the rural development needs of local communities in States and federally recognized Indian tribes.

(Pub. L. 87–128, title III, §381B, as added Pub. L. 104–127, title VII, §761, Apr. 4, 1996, 110 Stat. 1139.)

§ 2009b. National objectives

The national objectives of the program established under this subchapter shall be to—

(1) promote strategic development activities and collaborative efforts by State and local communities, and federally recognized Indian tribes, to maximize the impact of Federal assistance;

(2) optimize the use of resources;

(3) provide assistance in a manner that reflects the complexity of rural needs, including the needs for business development, health care, education, infrastructure, cultural resources, the environment, and housing;

(4) advance activities that empower, and build the capacity of, State and local communities to design unique responses to the special needs of the State and local communities, and federally recognized Indian tribes, for rural development assistance; and

(5) adopt flexible and innovative approaches to solving rural development problems.

(Pub. L. 87–128, title III, §381C, as added Pub. L. 104–127, title VII, §761, Apr. 4, 1996, 110 Stat. 1139.)

§ 2009c. Strategic plans

(a) In general

The Secretary shall direct each of the Directors of Rural Economic and Community Development State Offices to prepare a strategic plan—

(1) for each State for the delivery of assistance under this subchapter in the State; and

(2) for each federally recognized Indian tribe for the delivery of assistance under this subchapter to the Indian tribe.

(b) Assistance

(1) In general

Financial assistance for rural development provided under this subchapter for a State or a federally recognized Indian tribe shall be used only for orderly community development that is consistent with the strategic plan of the State or Indian tribe.

(2) Rural area

Assistance under this subchapter may only be provided in a rural area.

(3) Small communities

In carrying out this subchapter in a State, the Secretary shall give priority to communities with the smallest populations and lowest per capita income.

(c) Review

The Secretary shall review the strategic plan of each State and federally recognized Indian