

certifications and conditions, loan security, maximum amount of outstanding loans, exclusion from budget totals, full faith and credit of the United States, issuance of certificates of beneficial ownership, assignment of contracts of guarantee, rules and regulations, and termination of authority to make new guarantees on Sept. 30, 1979.

§ 1961. Eligibility for loans

(a) Persons eligible

The Secretary shall make and insure loans under this subchapter only to the extent and in such amounts as provided in advance in appropriation Acts to (1) established farmers or ranchers (including equine farmers or ranchers), or persons engaged in aquaculture, who are citizens of the United States and who are (in the case of farm ownership loans in accordance with subchapter I) owner-operators or operators, or (in the case of loans for a purpose under subchapter II) operators of not larger than family farms, and (2) farm cooperatives, private domestic corporations, partnerships, joint operations, trusts, or limited liability companies, or such other legal entities as the Secretary considers appropriate (A) that are engaged primarily in farming or ranching (including equine farming or ranching) or aquaculture, and (B) in which a majority interest is held by individuals who are citizens of the United States and who are (in the case of farm ownership loans in accordance with subchapter I) owner-operators or operators, or (in the case of loans for a purpose under subchapter II) operators of not larger than family farms (or in the case of such cooperatives, corporations, partnerships, joint operations, trusts, or limited liability companies, or other legal entities in which a majority interest is held by individuals who are related by blood or marriage, as defined by the Secretary, such individuals must be either owners or operators of not larger than a family farm and at least one such individual must be an operator of not larger than a family farm), where the Secretary finds that the applicants' farming, ranching, or aquaculture operations have been substantially affected by a quarantine imposed by the Secretary under the Plant Protection Act [7 U.S.C. 7701 et seq.] or the animal quarantine laws (as defined in section 136a of title 21), a natural disaster in the United States, or 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.): *Provided*, That they have experience and resources necessary to assure a reasonable prospect for successful operation with the assistance of such loan and are not able to obtain sufficient credit elsewhere. In addition to the foregoing requirements of this subsection, in the case of farm cooperatives, private domestic corporations, partnerships, joint operations, trusts, limited liability companies, and such other legal entities, the family farm requirement of the preceding sentence shall apply as well to all farms in which the entity has an ownership or operator interest (in the case of loans for a purpose under subchapter I) or an operator interest (in the case of loans for a purpose under subchapter II). The Secretary shall accept applications from, and make or insure loans pursuant to the requirements of this

subchapter to, applicants, otherwise eligible under this subchapter, that conduct farming, ranching, or aquaculture operations in any county contiguous to a county where the Secretary has found that farming, ranching, or aquaculture operations have been substantially affected by a quarantine imposed by the Secretary under the Plant Protection Act [7 U.S.C. 7701 et seq.] or the animal quarantine laws (as defined in section 136a of title 21), a natural disaster in the United States, or 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.). The Secretary shall accept applications for assistance under this subchapter from persons affected by such a quarantine or natural disaster at any time during the eight-month period beginning (A) on the date on which the Secretary determines that farming, ranching, or aquaculture operations have been substantially affected by such quarantine or natural disaster or (B) on the date the President makes the major disaster or emergency designation with respect to such natural disaster, as the case may be. An entity that is an owner-operator or operator described in this subsection shall be considered to meet the direct ownership requirement imposed under this subsection if at least 75 percent of the ownership interests of each embedded entity of the entity is owned directly or indirectly by the individuals that own the family farm.

(b) Hazard insurance requirement

(1) In general

After the Secretary makes the determination required by paragraph (2), the Secretary may not make a loan to a farmer or rancher under this subchapter to cover a property loss unless the farmer or rancher had hazard insurance that insured the property at the time of the loss.

(2) Determination

Not later than 180 days after April 4, 1996, the Secretary shall determine the appropriate level of insurance to be required under paragraph (1).

(3) Loans to poultry farmers

(A) Inability to obtain insurance

(i) In general

Notwithstanding any other provision of this subchapter, the Secretary may make a loan to a poultry farmer under this subchapter to cover the loss of a chicken house for which the farmer did not have hazard insurance at the time of the loss, if the farmer—

(I) applied for, but was unable, to obtain hazard insurance for the chicken house;

(II) uses the loan to rebuild the chicken house in accordance with industry standards in effect on the date the farmer submits an application for the loan (referred to in this paragraph as "current industry standards");

(III) obtains, for the term of the loan, hazard insurance for the full market value of the chicken house; and

(IV) meets the other requirements for the loan under this subchapter.

(ii) Amount

Subject to the limitation contained in section 1964(a)(2) of this title, the amount of a loan made to a poultry farmer under clause (i) shall be an amount that will allow the farmer to rebuild the chicken house in accordance with current industry standards.

(B) Loans to comply with current industry standards

(i) In general

Notwithstanding any other provision of this subchapter, the Secretary may make a loan to a poultry farmer under this subchapter to cover the loss of a chicken house for which the farmer had hazard insurance at the time of the loss, if—

(I) the amount of the hazard insurance is less than the cost of rebuilding the chicken house in accordance with current industry standards;

(II) the farmer uses the loan to rebuild the chicken house in accordance with current industry standards;

(III) the farmer obtains, for the term of the loan, hazard insurance for the full market value of the chicken house; and

(IV) the farmer meets the other requirements for the loan under this subchapter.

(ii) Amount

Subject to the limitation contained in section 1964(a)(2) of this title, the amount of a loan made to a poultry farmer under clause (i) shall be the difference between—

(I) the amount of the hazard insurance obtained by the farmer; and

(II) the cost of rebuilding the chicken house in accordance with current industry standards.

(c) Family farm system

The Secretary shall conduct the emergency loan program under this subchapter in a manner that will foster and encourage the family farm system of agriculture, consistent with the reaffirmation of policy and declaration of the intent of Congress contained in section 2266(a) of this title.

(d) Definitions

For the purposes of this subchapter—

(1) “aquaculture” means the husbandry of aquatic organisms under a controlled or selected environment; and

(2) “able to obtain sufficient credit elsewhere” means able to obtain sufficient credit elsewhere to finance the applicant’s 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.

(Pub. L. 87–128, title III, §321, Aug. 8, 1961, 75 Stat. 311; Pub. L. 87–832, Oct. 15, 1962, 76 Stat. 958; Pub. L. 93–24, §§2, 3, 6, Apr. 20, 1973, 87 Stat. 24, 25; Pub. L. 93–237, §10(a), (d), Jan. 2, 1974, 87

Stat. 1025; Pub. L. 94–68, §§2, 3, Aug. 5, 1975, 89 Stat. 381; Pub. L. 95–334, title I, §118, Aug. 4, 1978, 92 Stat. 426; Pub. L. 96–302, title I, §120(a), July 2, 1980, 94 Stat. 841; Pub. L. 96–438, §3(a), (b)(1), Oct. 13, 1980, 94 Stat. 1872; Pub. L. 97–35, title I, §161, Aug. 13, 1981, 95 Stat. 378; Pub. L. 98–258, title VI, §602(a), Apr. 10, 1984, 98 Stat. 138; Pub. L. 99–198, title XIII, §1308(a), (b)(1), Dec. 23, 1985, 99 Stat. 1522; Pub. L. 100–707, title I, §109(c)(1), Nov. 23, 1988, 102 Stat. 4708; Pub. L. 104–127, title VI, §621(a), Apr. 4, 1996, 110 Stat. 1091; Pub. L. 106–387, §1(a) [title VIII, §833], Oct. 28, 2000, 114 Stat. 1549, 1549A–61; Pub. L. 107–171, title V, §§5201(a), 5302, 5501(a), May 13, 2002, 116 Stat. 344, 351; Pub. L. 110–234, title V, §5201, May 22, 2008, 122 Stat. 1146; Pub. L. 110–246, §4(a), title V, §5201, June 18, 2008, 122 Stat. 1664, 1908; Pub. L. 113–79, title V, §5201, Feb. 7, 2014, 128 Stat. 838; Pub. L. 115–334, title V, §5401(a)(1), Dec. 20, 2018, 132 Stat. 4674.)

REFERENCES IN TEXT

The Plant Protection Act, referred to in subsec. (a), is title IV of Pub. L. 106–224, June 20, 2000, 114 Stat. 438, as amended, which is classified principally to chapter 104 (§7701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of this title and Tables.

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

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

2018—Subsec. (a). Pub. L. 115–334, in second sentence, substituted “limited liability companies, and such other legal entities” for “and limited liability companies”.

2014—Subsec. (a). Pub. L. 113–79, §5201(4), inserted before period at end “An entity that is an owner-operator or operator described in this subsection shall be considered to meet the direct ownership requirement imposed under this subsection if at least 75 percent of the ownership interests of each embedded entity of the entity is owned directly or indirectly by the individuals that own the family farm.”

Pub. L. 113–79, §5201(3), in second sentence, substituted “ownership or operator” for “ownership and operator”.

Pub. L. 113–79, §5201(2)(C), which directed substitution of “limited liability companies, and such other legal entities” for “and limited liability companies,” in first sentence and could not be executed as directed, was superseded by Pub. L. 115–334, §5401(a)(1). See 2018 Amendment note above and Effective Date of 2018 Amendment note below.

Pub. L. 113–79, §5201(1), (2)(A), (B), in first sentence, substituted “(in the case of farm ownership loans in accordance with subchapter I) owner-operators or operators, or (in the case of loans for a purpose under subchapter II) operators” for “owner-operators (in the case of loans for a purpose under subchapter I of this chapter) or operators (in the case of loans for a purpose under subchapter II of this chapter)” in two places, and inserted “, or such other legal entities as the Secretary considers appropriate” after “limited liability companies” the first place appearing and “, or other legal entities” after “limited liability companies” the second place appearing.

2008—Subsec. (a)(1). Pub. L. 110-246, §5201(1), substituted “farmers or ranchers (including equine farmers or ranchers)” for “farmers, ranchers”.

Subsec. (a)(2)(A). Pub. L. 110-246, §5201(2), substituted “farming or ranching (including equine farming or ranching)” for “farming, ranching.”

2002—Subsec. (a). Pub. L. 107-171 substituted “a quarantine imposed by the Secretary under the Plant Protection Act or the animal quarantine laws (as defined in section 136a of title 21), a natural disaster in the United States, or” for “a natural disaster in the United States or by” in two places, “Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)” for “Disaster Relief and Emergency Assistance Act” in two places, “joint operations, trusts, or limited liability companies” for “or joint operations” in two places, “joint operations, trusts, and limited liability companies” for “and joint operations”, “such a quarantine or natural disaster at any time” for “a natural disaster at any time”, and “by such quarantine or natural disaster or (B)” for “by such natural disaster or (B)”.

2000—Subsec. (b)(3). Pub. L. 106-387 added par. (3).

1996—Subsec. (b). Pub. L. 104-127 added subsec. (b) and struck out former subsec. (b) which read as follows: “An applicant shall be ineligible for financial assistance under this subchapter for crop losses if crop insurance was available to the applicant for such crop losses under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).”

1988—Subsec. (a). Pub. L. 100-707 substituted “and Emergency Assistance Act” for “Act of 1974” in two places.

1985—Subsec. (a)(1). Pub. L. 99-198, §1308(a), inserted “and who are owner-operators (in the case of loans for a purpose under subchapter I of this chapter) or operators (in the case of loans for a purpose under subchapter II of this chapter) of not larger than family farms” after “United States” in cl. (1) of first sentence, extended applicability to joint operations, and substituted requirement that a majority interest be held by individuals who are citizens of the United States and who are owner-operators (in the case of loans for a purpose under subchapter I of this chapter) or operators (in the case of loans for a purpose under subchapter II of this chapter) of not larger than family farms (or in the case of such cooperatives, corporations, partnerships, or joint operations in which a majority interest is held by individuals who are related by blood or marriage, as defined by the Secretary, that such individuals must be either owners or operators of not larger than a family farm and at least one such individual must be an operator of not larger than a family farm) for requirement that a majority interest be held by members, stockholders or partners who are citizens of the United States, in cl. (2) of first sentence, and inserted provision extending the family farm requirement to all farms in which the entity has an ownership and operator interest (in the case of loans for a purpose under subchapter I of this chapter) or an operator interest (in the case of loans for a purpose under subchapter II of this chapter).

Subsec. (b). Pub. L. 99-198, §1308(b)(1), amended subsec. (b) generally, substituting provision declaring a loan applicant ineligible for financial assistance for crop losses where crop insurance was available to the applicant for former provision which made applicants eligible for loans, though able to obtain credit elsewhere, subject to the other terms and conditions for loans under this subchapter and as prescribed under regulations by the Secretary.

1984—Subsec. (a). Pub. L. 98-258 inserted provisions directing the Secretary to accept applications from, and make or insure loans pursuant to the requirements of this subchapter to, applicants, otherwise eligible under this subchapter, that conduct farming, ranching, or aquaculture operations in any county contiguous to a county where the Secretary has found that farming, ranching, or aquaculture 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 Disaster Relief Act of 1974, and further directing the Secretary to accept applications for assistance under this subchapter from persons affected by a natural disaster at any time during the eight-month period beginning (A) on the date on which the Secretary determines that farming, ranching, or aquaculture operations have been substantially affected by such natural disaster or (B) on the date the President makes the major disaster or emergency designation with respect to such natural disaster, as the case may be.

1981—Subsec. (a). Pub. L. 97-35 inserted provisions relating to requirement for advance appropriation of amounts.

1980—Subsec. (a). Pub. L. 96-348, §3(a), (b)(1), repealed section 120 of Pub. L. 96-302 (see par. below) and amended section generally, designating existing provisions as subsec. (a) and, as so designated, restoring provision to proviso requiring loan recipients to be unable to obtain sufficient credit elsewhere.

Pub. L. 96-302, §120(a) (see par. above), struck out from proviso requirement that persons to be eligible for loans be unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which they reside for loans for similar purposes and periods of time.

Subsecs. (b) to (d). Pub. L. 96-438, §3(b)(1), added subsecs. (b) to (d).

1978—Pub. L. 95-334 struck out subsec. (a) which set forth provisions relating to designation of emergency areas and definition of term “aquaculture”, and incorporated provisions of subsec. (b) as entire section and, as so incorporated, substituted provisions relating to criteria authorizing the Secretary to make and insure loans, for provisions relating to criteria authorizing the Secretary to make loans in designated areas.

1975—Subsec. (a). Pub. L. 94-68, §2, substituted provisions authorizing the Secretary to designate an emergency area if he finds that a natural disaster has occurred in that area which substantially affected farming, ranching, or aquaculture operations for provisions authorizing the Secretary to designate an emergency area if he finds that there exists in that area a general need for agricultural credit and that the need for such credit in that area is the result of a natural disaster, and inserted definition of “aquaculture”.

Subsec. (b). Pub. L. 94-68, §3, extended the authority of the Secretary to make loans to areas designated by the President as “Emergency” pursuant to Disaster Relief Act of 1970, substituted reference to persons engaged in aquaculture and aquaculture for reference to oyster planters and oyster planting respectively, struck out provision that such loans be made without regard to whether the required financial assistance is otherwise available from private, cooperative, or other responsible sources, inserted requirement that the loan applicant be unable to obtain credit elsewhere at reasonable rates and terms, and inserted sentence that the provisions of this subsection shall not apply to loan applications filed prior to July 9, 1975.

1974—Subsec. (a). Pub. L. 93-237, §10(d), struck out “which cannot be met for temporary periods of time by private, cooperative, or other responsible sources (including loans the Secretary is authorized to make or insure under subchapters I and II of this chapter or any other Act of Congress), at reasonable rates and terms for loans for similar purposes and periods of time” after “a general need for agricultural credit”.

Subsec. (b). Pub. L. 93-237, §10(a), struck out “, and are unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing practice and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time” after “a reasonable prospect for successful operation with the assistance of such loan” and inserted provision that the loans be made

without regard to whether the required financial assistance is otherwise available from the private, cooperative, or other responsible sources.

1973—Subsec. (a). Pub. L. 93-24, §§2, 6, substituted in parenthetical text “authorized to make or insure under subchapters I and II of this chapter” for “authorized to make under subchapter II of this chapter or to make or insure under subchapter I of this chapter” and introductory words “shall designate” for “may designate”.

Subsec. (b). Pub. L. 93-24, §3, substituted introductory text “shall make loans in any such area designated by the Secretary in accordance with subsection (a) of this section and in any area designated as a major disaster by the President pursuant to the provisions of the Disaster Relief Act of 1970, as amended,” for “is authorized to make loans in any such area” and “: *Provided, That*” for “provided” before “they have experience”.

1962—Subsec. (b). Pub. L. 87-832 authorized loans to established oyster planters and to private domestic corporations or partnerships engaged primarily in oyster planting.

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-334, title V, §5401(a)(2), Dec. 20, 2018, 132 Stat. 4674, provided that: “The amendment made by this subsection [amending this section] shall take effect as if included in the enactment of section 5201(2)(C) of the Agricultural Act of 2014 (Public Law 113-79) in lieu of the amendment made by such section.”

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

Pub. L. 104-127, title VI, §621(b), Apr. 4, 1996, 110 Stat. 1091, provided that: “Section 321(b)(1) of the Consolidated Farm and Rural Development Act [7 U.S.C. 1961(b)(1)] shall not apply until the Secretary of Agriculture makes the determination required by section 321(b)(2) of the Act.” [The Secretary’s determination relating to hazard insurance under this provision was contained in interim rules published Mar. 3, 1997, and effective Mar. 24, 1997, see 62 F.R. 9351.]

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-198, title XIII, §1308(b)(2), Dec. 23, 1985, 99 Stat. 1522, provided that: “The amendment made by paragraph (1) [amending this section] shall not apply to a person whose eligibility for an emergency loan is the result of damage to an annual crop planted or harvested before the end of 1986.”

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-258, title VI, §602(c), Apr. 10, 1984, 98 Stat. 139, provided that: “the amendments made by this section [amending this section and section 1964 of this title] shall be applicable to disasters occurring after May 30, 1983.”

EFFECTIVE DATE OF 1980 AMENDMENTS

Pub. L. 96-438, §3(d), Oct. 13, 1980, 94 Stat. 1875, provided that: “The amendments to subtitle C of the Consolidated Farm and Rural Development Act made by subsection (b) of this section [amending this section and sections 1962 to 1964 and 1971 of this title] shall be effective with respect to loans approved by the Secretary of Agriculture under subtitle C [this subchapter] after the date of enactment of this Act [Oct. 13, 1980], except that, for borrowers with loans outstanding under subtitle C as of December 15, 1979—

“(1) the limits on loans under section 324 of the Consolidated Farm and Rural Development Act [section 1964 of this title] made by subsection (b)(1) of

this section [amending this section and sections 1962 to 1964 of this title], and

“(2) the reduction in the time limit on subsequent emergency loans under section 330 of the Consolidated Farm and Rural Development Act [section 1971 of this title] made by subsection (b)(2) of this section [amending section 1971 of this title] shall not apply to subsequent emergency loans under section 330 (as in effect on the date preceding the date of enactment of this Act) that are made to such borrowers for the disasters for which the borrowers obtained loans under subtitle C prior to December 16, 1979.”

Amendment by Pub. L. 96-302 effective Oct. 1, 1980, see section 507 of Pub. L. 96-302, set out as a note under section 631 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93-237, §10(b), Jan. 2, 1974, 87 Stat. 1025, provided that: “The provisions of subsection (a) of this section [amending this section] shall be given effect with respect to all loan applications and loans made in connection with a disaster occurring on or after April 20, 1973.”

Pub. L. 93-237, §10(d), Jan. 2, 1974, 87 Stat. 1025, provided in part that: “The provisions of this subsection [amending this section] shall be given effect with respect to all loan applications and loans made in connection with a disaster occurring on or after December 27, 1972.”

INELIGIBILITY FOR EMERGENCY LOANS

Pub. L. 101-82, title III, §301, Aug. 14, 1989, 103 Stat. 581, provided that: “Section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(b)) shall not apply to a person who otherwise would be eligible for an emergency loan under subtitle C of such Act [7 U.S.C. 1961 et seq.], if such eligibility is the result of damage to an annual crop planted for harvest in 1989.”

Similar provisions were contained in the following prior act:

Pub. L. 100-387, title III, §311, Aug. 11, 1988, 102 Stat. 948.

NINETY-DAY EXTENSION AFTER JANUARY 2, 1974, OF DEADLINE FOR SEEKING ASSISTANCE WITH REGARD TO DISASTERS OCCURRING ON OR AFTER DECEMBER 27, 1972

Pub. L. 93-237, §10(c), Jan. 2, 1974, 87 Stat. 1025, provided that: “With regard to all disasters occurring on or after December 27, 1972, the Secretary of Agriculture shall extend for ninety days after the date of enactment of this section [Jan. 2, 1974] the deadline for seeking assistance under section 321 of the Consolidated Farm and Rural Development Act [this section] as amended by this section [amending this section].”

§ 1962. Loan determination factors; written credit declinations

(a) For the purpose of determining whether to make or insure any loan under this subchapter, the Secretary shall take into consideration the net worth of the applicant involved, including all the assets and liabilities of the applicant.

(b) For the purpose of determining whether an applicant under this subchapter is not able to obtain sufficient credit elsewhere, the Secretary shall require at least one written indication of declination of credit, from a legally organized lending institution within reasonable proximity to the applicant, that specifies the reasons for the declination: *Provided*, That for loans in excess of \$300,000, the Secretary shall require at least two such written declinations: *Provided further*, That for loans of \$100,000 or less, the