

113TH CONGRESS
1ST SESSION

H. R. 2260

To amend the Food Security Act of 1985 to ensure basic conservation measures are implemented by farmers who receive Federal crop insurance premium assistance.

IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 2013

Mr. THOMPSON of California (for himself and Mr. FORTENBERRY) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Food Security Act of 1985 to ensure basic conservation measures are implemented by farmers who receive Federal crop insurance premium assistance.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Crop Insurance Ac-
5 countability Act of 2013”.

6 **SEC. 2. HIGHLY ERODIBLE LAND AND WETLAND CON-**
7 **SERVATION FOR CROP INSURANCE.**

8 (a) HIGHLY ERODIBLE LAND PROGRAM INELIGI-
9 BILITY.—

1 (1) IN GENERAL.—Section 1211(a)(1) of the
2 Food Security Act of 1985 (16 U.S.C. 3811(a)(1))
3 is amended—

4 (A) in subparagraph (C), by striking “or”
5 at the end;

6 (B) in subparagraph (D), by adding “or”
7 at the end; and

8 (C) by adding at the end the following:

9 “(E) any portion of the premium paid by
10 the Federal Crop Insurance Corporation for a
11 policy or plan of insurance under the Federal
12 Crop Insurance Act (7 U.S.C. 1501 et seq.), on
13 the condition that if a person is determined to
14 have committed a violation under this sub-
15 section during a crop year, ineligibility under
16 this subparagraph shall—

17 “(i) only apply to reinsurance years
18 subsequent to the date of final determina-
19 tion of a violation, including all adminis-
20 trative appeals; and

21 “(ii) not apply to the existing reinsur-
22 ance year or any reinsurance year prior to
23 the date of final determination.”.

1 (2) EXEMPTIONS.—Section 1212(a)(2) of the
2 Food Security Act of 1985 (16 U.S.C. 3812(a)(2))
3 is amended—

4 (A) in the first sentence, by striking “(2)
5 If,” and inserting the following:

6 “(2) ELIGIBILITY BASED ON COMPLIANCE WITH
7 CONSERVATION PLAN.—

8 “(A) IN GENERAL.—If,”;

9 (B) in the second sentence, by striking “In
10 carrying” and inserting the following:

11 “(B) MINIMIZATION OF DOCUMENTA-
12 TION.—In carrying”; and

13 (C) by adding at the end the following:

14 “(C) CROP INSURANCE.—

15 “(i) IN GENERAL.—Notwithstanding
16 section 1211(a)—

17 “(I) in the case of a person that
18 is subject to section 1211 for the first
19 time after May 1, 2013, due to the
20 amendment made by section 2(a) of
21 the Crop Insurance Accountability Act
22 of 2013, any person who produces an
23 agricultural commodity on the land
24 that is the basis of the payments de-
25 scribed in section 1211(a)(1)(E) shall

1 have 5 reinsurance years after the
2 date on which such payments become
3 subject to section 1211 to develop and
4 comply with an approved conservation
5 plan so as to maintain eligibility for
6 such payments; and

7 “(II) in the case of a person that
8 the Secretary determines would have
9 been in violation of section 1211(a) if
10 the person had continued participation
11 in the programs requiring compliance
12 at any time after the date of enact-
13 ment of the Food, Conservation, and
14 Energy Act of 2008 (7 U.S.C. 8701
15 et seq.) and is currently in violation of
16 section 1211(a), the person shall have
17 2 reinsurance years after the date on
18 which the payments described in sec-
19 tion 1211(a)(1)(E) become subject to
20 section 1211 to develop and comply
21 with an approved conservation plan,
22 as determined by the Secretary, so as
23 to maintain eligibility for such pay-
24 ments.

25 “(ii) CERTIFICATION.—

1 “(I) IN GENERAL.—Beginning
2 with the first full reinsurance year im-
3 mediately following the date of enact-
4 ment of this subparagraph, all persons
5 seeking eligibility for the payment of a
6 portion of the premium paid by the
7 Federal Crop Insurance Corporation
8 for a policy or plan of insurance under
9 the Federal Crop Insurance Act (7
10 U.S.C. 1501 et seq.) shall provide cer-
11 tification of compliance with section
12 1211(a), as determined by the Sec-
13 retary.

14 “(II) TIMELY EVALUATION.—The
15 Secretary shall evaluate the certifi-
16 cation in a timely manner and—

17 “(aa) a person who has
18 properly complied with certifi-
19 cation shall be held harmless
20 with regard to eligibility during
21 the period of evaluation; and

22 “(bb) if the Secretary fails
23 to evaluate the certification in a
24 timely manner and the person is
25 subsequently found to be in viola-

tion of section 1211(a), ineligibility shall not apply to the person for that violation.

“(III) EQUITABLE CONTRIBUTION.—

“(aa) IN GENERAL.—If a person fails to provide certification of compliance to the Secretary as required and is subsequently found in violation of section 1211(a), the Secretary shall determine the amount of an equitable contribution to conservation in accordance with section 1241(e) by the person for the violation.

“(bb) LIMITATION.—The contribution shall not exceed the total of the portion of the premium paid by the Federal Crop Insurance Corporation for a policy or plan of insurance for all years the person is determined to have been in violation subsequent to the date on which certification

1 was first required under this
2 clause.”.

3 (b) WETLAND CONSERVATION PROGRAM INELIGI-
4 BILITY.—Section 1221 of the Food Security Act of 1985
5 (16 U.S.C. 3821) is amended—

6 (1) in subsection (b), by adding at the end the
7 following:

8 “(4) CROP INSURANCE.—

9 “(A) IN GENERAL.—Except as provided in
10 this paragraph, a person subject to a final de-
11 termination, including all administrative ap-
12 peals, of a violation of subsection (c) shall have
13 1 reinsurance year to initiate a conservation
14 plan to remedy the violation, as determined by
15 the Secretary, before becoming ineligible under
16 that subsection in the following reinsurance
17 year to receive any payment of any portion of
18 the premium paid by the Federal Crop Insur-
19 ance Corporation for a policy or plan of insur-
20 ance under the Federal Crop Insurance Act (7
21 U.S.C. 1501 et seq.).

22 “(B) APPLICABILITY.—In the case of a
23 person that is subject to this subsection or sub-
24 section (d) for the first time due to the amend-
25 ment made by section 2(b) of the Crop Insur-

1 ance Accountability Act of 2013, the person
2 shall have 2 reinsurance years after the date of
3 final determination, including all administrative
4 appeals, to take such steps as the Secretary de-
5 termines appropriate to remedy or mitigate the
6 violation in accordance with subsection (c).

7 “(C) GOOD FAITH.—If the Secretary de-
8 termines that a person subject to a final deter-
9 mination, including all administrative appeals,
10 of a violation of subsection (c) acted in good
11 faith and without intent to violate this section
12 as described in section 1222(h), the Secretary
13 shall give the person 1 reinsurance year to
14 begin mitigation, restoration, or such other
15 steps as are determined necessary by the Sec-
16 retary.

17 “(D) TENANT RELIEF.—

18 “(i) IN GENERAL.—If a tenant is de-
19 termined to be ineligible for payments and
20 other benefits under this section, the Sec-
21 retary may limit the ineligibility only to the
22 farm that is the basis for the ineligibility
23 determination if the tenant has estab-
24 lished, to the satisfaction of the Secretary
25 that—

1 “(I) the tenant has made a good
2 faith effort to meet the requirements
3 of this section, including enlisting the
4 assistance of the Secretary to obtain a
5 reasonable conservation plan for res-
6 toration or mitigation for the farm;

7 “(II) the landlord on the farm re-
8 fuses to comply with the plan on the
9 farm; and

10 “(III) the Secretary determines
11 that the lack of compliance is not a
12 part of a scheme or device to avoid
13 the compliance.

14 “(ii) REPORT.—The Secretary shall
15 provide an annual report to the Committee
16 on Agriculture of the House of Representa-
17 tives and the Committee on Agriculture,
18 Nutrition, and Forestry of the Senate con-
19 cerning the ineligibility determinations lim-
20 ited during the previous 12-month period
21 under this subparagraph.

22 “(E) CERTIFICATION.—

23 “(i) IN GENERAL.—Beginning with
24 the first full reinsurance year immediately
25 following the date of enactment of this

1 paragraph, all persons seeking eligibility
2 for the payment of a portion of the pre-
3 mium paid by the Federal Crop Insurance
4 Corporation for a policy or plan of insur-
5 ance under the Federal Crop Insurance
6 Act (7 U.S.C. 1501 et seq.) shall provide
7 certification of compliance with this section
8 as determined by the Secretary.

9 “(ii) TIMELY EVALUATION.—The Sec-
10 retary shall evaluate the certification in a
11 timely manner and—

12 “(I) a person who has properly
13 complied with certification shall be
14 held harmless with regard to eligibility
15 during the period of evaluation; and

16 “(II) if the Secretary fails to
17 evaluate the certification in a timely
18 manner and the person is subse-
19 quently found to be in violation of
20 subsection (c), ineligibility shall not
21 apply to the person for that violation.

22 “(iii) EQUITABLE CONTRIBUTION.—

23 “(I) IN GENERAL.—If a person
24 fails to provide certification of compli-
25 ance to the Secretary as required and

1 is subsequently found in violation of
 2 subsection (c), the Secretary shall de-
 3 termine the amount of an equitable
 4 contribution to conservation in accord-
 5 ance with section 1241(e) by the per-
 6 son for the violation.

7 “(II) LIMITATION.—The con-
 8 tribution shall not exceed the total of
 9 the portion of the premium paid by
 10 the Federal Crop Insurance Corpora-
 11 tion for a policy or plan of insurance
 12 for all years the person is determined
 13 to have been in violation subsequent
 14 to the date on which certification was
 15 first required under this subpara-
 16 graph.”;

17 (2) by redesignating subsections (c), (d), and
 18 (e) as subsections (d), (e), and (f), respectively; and

19 (3) by inserting after subsection (b) the fol-
 20 lowing:

21 “(c) INELIGIBILITY FOR CROP INSURANCE PREMIUM
 22 ASSISTANCE.—

23 “(1) IN GENERAL.—If a person is determined
 24 to have committed a violation under subsection (a)
 25 or (d) during a crop year, the person shall be ineli-

1 gible to receive any payment of any portion of the
2 premium paid by the Federal Crop Insurance Cor-
3 poration for a policy or plan of insurance under the
4 Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

5 “(2) APPLICABILITY.—Ineligibility under this
6 subsection shall—

7 “(A) only apply to reinsurance years subse-
8 quent to the date of final determination of a
9 violation, including all administrative appeals;
10 and

11 “(B) not apply to—

12 “(i) the existing reinsurance year; or

13 “(ii) any reinsurance year prior to the
14 date of final determination.

15 “(3) DATE OF CONVERSION.—Notwithstanding
16 subsection (d), ineligibility for crop insurance pre-
17 mium assistance shall apply as follows:

18 “(A) In the case of wetland that the Sec-
19 retary determines was converted after the date
20 of enactment of the Food, Conservation, and
21 Energy Act of 2008 (7 U.S.C. 8701 et seq.) but
22 on or before May 1, 2013, and continues to be
23 in violation, the person shall have 2 reinsurance
24 years after the date on which this subsection

1 applies, to begin the mitigation process, as de-
2 termined by the Secretary.

3 “(B) In the case of wetland that the Sec-
4 retary determines was converted after May 1,
5 2013—

6 “(i) subject to clause (ii), the person
7 shall be ineligible to receive crop insurance
8 premium subsidies in subsequent reinsur-
9 ance years unless section 1222(b) applies;
10 and

11 “(ii) for any violation that the Sec-
12 retary determines impacts less than 5
13 acres of the entire farm, the person may
14 pay a contribution in accordance with sec-
15 tion 1241(e) in an amount equal to 150
16 percent of the cost of mitigation, as deter-
17 mined by the Secretary, for wetland res-
18 toration in lieu of ineligibility to receive
19 crop insurance premium assistance.

20 “(C) In the case of a wetland that the Sec-
21 retary determines was converted prior to the
22 date of enactment of the Food, Conservation,
23 and Energy Act of 2008 (7 U.S.C. 8701 et
24 seq.), ineligibility under this subsection shall
25 not apply.

1 “(D) In the case of an agricultural com-
2 modity for which an individual policy or plan of
3 insurance is available for the first time to the
4 person after the date of enactment of the Crop
5 Insurance Accountability Act of 2013—

6 “(i) ineligibility shall apply only to
7 conversions that take place after the date
8 on which the policy or plan of insurance
9 first becomes available to the person; and

10 “(ii) the person shall take such steps
11 as the Secretary determines appropriate to
12 mitigate any prior conversion in a timely
13 manner but not to exceed 2 calendar years.

14 “(4) CERTIFICATION.—

15 “(A) IN GENERAL.—In enforcing eligibility
16 under this subsection, the Secretary shall use
17 existing processes and procedures for certifying
18 compliance.

19 “(B) RESPONSIBILITY.—The Secretary,
20 acting through the agencies of the Department
21 of Agriculture, shall be solely responsible for de-
22 termining whether a producer is eligible to re-
23 ceive crop insurance premium subsidies in ac-
24 cordance with this subsection.

1 “(C) LIMITATION.—The Secretary shall
 2 ensure that no agent, approved insurance pro-
 3 vider, or employee or contractor of an agency or
 4 approved insurance provider, bears responsi-
 5 bility or liability for the eligibility of an insured
 6 producer under this subsection, other than in
 7 cases of misrepresentation, fraud, or a scheme
 8 or device to avoid compliance.”.

9 **SEC. 3. TECHNICAL ASSISTANCE.**

10 Section 1241(b) of the Food Security Act of 1985
 11 (16 U.S.C. 3841(b)) is amended to read as follows:

12 “(b) TECHNICAL ASSISTANCE.—

13 “(1) IN GENERAL.—Effective for fiscal year
 14 2005 and each subsequent fiscal year, Commodity
 15 Credit Corporation funds made available for each of
 16 the programs specified in paragraphs (1) through
 17 (7) of subsection (a)—

18 “(A) shall be available for the provision of
 19 technical assistance for the programs for which
 20 funds are made available, as necessary to imple-
 21 ment the programs effectively; and

22 “(B) shall not be available for the provi-
 23 sion of technical assistance for conservation
 24 programs specified in subsection (a) other than

1 the program for which the funds were made
2 available.

3 “(2) PRIORITY.—

4 “(A) IN GENERAL.—In the delivery of
5 technical assistance under the Soil Conservation
6 and Domestic Allotment Act (16 U.S.C. 590a et
7 seq.), the Secretary shall give priority to pro-
8 ducers who request technical assistance from
9 the Secretary in order to comply for the first
10 time with the requirements of subtitle B and
11 subtitle C of this title as a result of the amend-
12 ments made by section 2 of the Crop Insurance
13 Accountability Act of 2013.

14 “(B) REPORT.—Not later than 270 days
15 after the date of enactment of the Crop Insur-
16 ance Accountability Act of 2013, the Secretary
17 shall submit to the Committee on Agriculture of
18 the House of Representatives and the Com-
19 mittee on Agriculture, Nutrition, and Forestry
20 of the Senate a report regarding the extent to
21 which the conservation compliance requirements
22 contained in the amendments made by section
23 2 of the Crop Insurance Accountability Act of
24 2013 apply to and impact specialty crop grow-
25 ers, including national analysis and surveys to

- 1 determine the extent of specialty crop acreage
- 2 on highly erodible land and wetlands.”.

