

2128(f)] in a manner inconsistent with section 343(a)(13) of the Consolidated Farm and Rural Development Act [7 U.S.C. 1991(a)(13)]."

#### § 2129. Eligibility

(a) Any association of farmers, producers or harvesters of aquatic products, or any federation of such associations, which is operated on a cooperative basis, and has the powers for processing, preparing for market, handling, or marketing farm or aquatic products; or for purchasing, testing, grading, processing, distributing, or furnishing farm or aquatic supplies or furnishing farm or aquatic business services or services to eligible cooperatives and conforms to either of the two following requirements:

(1) no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein; or

(2) does not pay dividends on stock or membership capital in excess of such per centum per annum as may be approved under regulations of the Farm Credit Administration; and in any case

(3) does not deal in farm products or aquatic products, or products processed therefrom, farm or aquatic supplies, farm or aquatic business services, or services to eligible cooperatives with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members, excluding from the total of member and non-member business transactions with the United States or any agency or instrumentality thereof or services or supplies furnished as a public utility; and

(4) a percentage of the voting control of the association not less than 80 per centum (60 per centum (A) in the case of rural electric, telephone, public utility, and service cooperatives; (B) in the case of local farm supply cooperatives that have historically served needs of the community that would not adequately be served by other suppliers and have experienced a reduction in the percentage of farmer membership due to changed circumstances beyond their control such as, but not limited to, urbanization of the community; and (C) in the case of local farm supply cooperatives that provide or will provide needed services to a community and that are or will be in competition with a cooperative specified in paragraph (B)) or, with respect to any type of association or cooperative, such higher percentage as established by the bank board, is held by farmers, producers or harvesters of aquatic products, or eligible cooperative associations as defined herein;

shall be eligible to borrow from a bank for cooperatives. Any such association that has received a loan from a bank for cooperatives shall, without regard to the requirements of paragraphs (1) through (4), continue to be eligible for so long as more than 50 percent (or such higher percentage as is established by the bank board) of the voting control of the association is held by farmers, producers or harvesters of aquatic products, or eligible cooperative associations.

(b) Notwithstanding any other provision of this section:

(1) The following entities shall also be eligible to borrow from a bank for cooperatives:

(A) Cooperatives and other entities that have received a loan, loan commitment, or loan guarantee from the Rural Electrification Administration (or any successor agency), or that are eligible under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) for a loan, loan commitment, or loan guarantee from the Administration or the Bank (or a successor of the Administration or the Bank), and subsidiaries of such cooperatives or other entities.

(B) Any legal entity that (i) holds more than 50 percent of the voting control of an association or other entity that is eligible to borrow from a bank for cooperatives under subsection (a) or subparagraph (A) of this paragraph, and (ii) borrows for the purpose of making funds available to that association or entity, and makes funds available to that association or entity under the same terms and conditions that the funds are borrowed from a bank for cooperatives.

(C) Any cooperative or other entity described in subsection (b) or (f) of section 2128 of this title.

(D) Any creditworthy private entity that satisfies the requirements for a service cooperative under paragraphs (1), (2), and (4), or under the last sentence, of subsection (a) and subsidiaries of the entity, if the entity is organized to benefit agriculture in furtherance of the welfare of its farmer-members and is operated on a not-for-profit basis.

(2) Notwithstanding the provisions of section 2130 of this title, the board of directors of a bank for cooperatives may determine that, with respect to a loan to any borrower eligible to borrow from a bank under paragraph (1)(A) that is fully guaranteed by the United States, no stock purchase requirement shall apply, other than the requirement that a borrower eligible to own voting stock shall purchase one share of such stock.

(3) Each association and other entity eligible to borrow from a bank for cooperatives under this subsection, for purposes of section 2128(a) of this title, shall be treated as an eligible cooperative association and a stockholder eligible to borrow from the bank.

(4) Nothing in this subsection shall be construed to adversely affect the eligibility, as it existed on January 6, 1988, of cooperatives and other entities for any other credit assistance under Federal law.

(Pub. L. 92-181, title III, § 3.8, Dec. 10, 1971, 85 Stat. 605; Pub. L. 94-184, § 1(a), Dec. 31, 1975, 89 Stat. 1060; Pub. L. 96-592, title III, § 305, Dec. 24, 1980, 94 Stat. 3445; Pub. L. 99-198, title XIII, § 1322, Dec. 23, 1985, 99 Stat. 1534; Pub. L. 100-233, title IV, § 421, title VIII, § 805(m), Jan. 6, 1988, 101 Stat. 1654, 1715; Pub. L. 100-399, title IV, § 410, title IX, § 901(e), Aug. 17, 1988, 102 Stat. 1003, 1007; Pub. L. 101-624, title XXIII, § 2323(b), Nov. 28, 1990, 104 Stat. 4013; Pub. L. 102-237, title V, § 502(e)(2), (f), Dec. 13, 1991, 105 Stat. 1869; Pub. L. 102-552, title V, § 506, Oct. 28, 1992, 106 Stat. 4131; Pub. L. 103-376, § 4, Oct. 19, 1994, 108 Stat. 3498; Pub. L. 104-105, title II, §§ 204, 205, Feb. 10, 1996,

110 Stat. 172; Pub. L. 115-334, title V, § 5411(8), title VI, § 6602(b)(17), Dec. 20, 2018, 132 Stat. 4680, 4777.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Rural Electrification Act of 1936, referred to in subsec. (b)(1)(A), is act May 20, 1936, ch. 432, 49 Stat. 1363, which is classified generally to chapter 31 (§ 901 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 901 of Title 7 and Tables.

##### AMENDMENTS

2018—Subsec. (b)(1)(A). Pub. L. 115-334, § 6602(b)(17), struck out “or a loan or loan commitment from the Rural Telephone Bank,” before “or that are eligible”.

Pub. L. 115-334, § 5411(8), inserted “(or any successor agency)” after “Rural Electrification Administration”.

1996—Subsec. (a). Pub. L. 104-105, § 204(a), inserted at end “Any such association that has received a loan from a bank for cooperatives shall, without regard to the requirements of paragraphs (1) through (4), continue to be eligible for so long as more than 50 percent (or such higher percentage as is established by the bank board) of the voting control of the association is held by farmers, producers or harvester of aquatic products, or eligible cooperative associations.”

Subsec. (b)(1)(A). Pub. L. 104-105, § 205, substituted “are eligible under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) for” for “have been certified by the Administrator of the Rural Electrification Administration to be eligible for such” and “loan guarantee from the Administration or the Bank (or a successor of the Administration or the Bank), and” for “loan guarantee, and”.

Subsec. (b)(1)(D). Pub. L. 104-105, § 204(b), substituted “and (4), or under the last sentence, of subsection (a)” for “and (4) of subsection (a)”.

1994—Subsec. (b)(1)(B) to (E). Pub. L. 103-376 redesignated subpars. (C) to (E) as (B) to (D), respectively, realigned margin of subpar. (D), and struck out former subpar. (B) which read as follows: “Any legal entity more than 50 percent of the voting control of which is held by one or more associations or other entities that are eligible to borrow from a bank for cooperatives under subsection (a) of this section or subparagraph (A) of this paragraph, except that any such legal entity, when considered together with one or more such associations or other entities that hold such control, meet the requirement of subsection (a)(3) of this section.”

1992—Subsec. (b)(1)(E). Pub. L. 102-552 added subpar. (E).

1991—Subsec. (a)(4). Pub. L. 102-237, § 502(f)(1), substituted “a percentage” for “A percentage”.

Subsec. (b)(1)(D). Pub. L. 102-237, § 502(e)(2), (f)(2), substituted “subsection (b) or (f) of section 2128 of this title” for “section 2128(f) of this title” and realigned margin of subpar. (D).

1990—Subsec. (b)(1)(D). Pub. L. 101-624 added subpar. (D).

1988—Pub. L. 100-399, § 901(e), substituted “bank board” for “district board” in subsec. (a)(4).

Pub. L. 100-399, § 410, substituted “makes” for “make” in subsec. (b)(1)(C).

Pub. L. 100-233, § 805(m), redesignated subsec. (1) as subsec. (a) and pars. (a) to (d) as pars. (1) to (4), respectively, in par. (4) redesignated cl. (1) to (3) as (A) to (C), respectively, and in cl. (C) substituted “paragraph (B)” for “paragraph (2)”.

Pub. L. 100-233, § 421, added subsec. (b) and struck out former subsec. (2) which read as follows: “Notwithstanding any other provision of this subchapter, cooperatives and other entities that have received a loan, loan commitment, or loan guarantee from the Rural Electrification Administration, or a loan or loan commitment from the Rural Telephone Bank, or that have been certified by the Administrator of the Rural Elec-

trification Administration to be eligible for such a loan, loan commitment, or loan guarantee, and subsidiaries of such cooperatives or other entities, shall also be eligible to borrow from a bank for cooperatives.”

1985—Pub. L. 99-198, § 1322(1), designated existing provisions as subsec. (1) and added subsec. (2).

1980—Pub. L. 96-592, § 305(1), inserted reference to aquatic business in introductory text.

Subsec. (c). Pub. L. 96-592, § 305(2), inserted reference to aquatic business services or services to eligible cooperatives.

Subsec. (d). Pub. L. 96-592, § 305(3), substituted “60” for “70”, and designated former parenthetical material as item (1), and added items (2) and (3) and limitation with respect to any type of association or cooperative.

1975—Subsec. (d). Pub. L. 94-184 inserted provision relating to 70 per centum of voting control in the case of rural electric, telephone, and public utility cooperatives.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 502(f) 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)(4) of Pub. L. 102-237, set out as a note under section 1421 of Title 7, Agriculture.

##### 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 this title.

#### § 2130. Ownership of stock by borrowers

(a) Each borrower entitled to hold voting stock shall, at the time a loan is made by a bank for cooperatives, own at least one share of voting stock and shall be required by the bank to invest in additional voting stock or non-voting investment stock at that time, or from time to time, as the lending bank may determine, but the requirement for investment in stock at the time the loan is closed shall not exceed an amount equal to 10 per centum of the face amount of the loan. Such additional ownership requirements may be based on the face amount of the loan, the outstanding loan balance or on a percentage of the interest payable by the borrower during any year or during any quarter thereof, or upon such other basis as the bank determines will provide adequate capital for the operation of the bank and equitable ownership thereof among borrowers.

(b) Notwithstanding the provisions of subsection (a) of this section, the purchase of stock need not be required with respect to that part of any loan made by a bank for cooperatives which it sells to or makes in participation with financial institutions other than any of the banks for cooperatives. In such cases the distribution of earnings of the bank for cooperatives shall be on the basis of the interest in the loan retained by such bank.

(Pub. L. 92-181 title III, § 3.9, Dec. 10, 1971, 85 Stat. 605; Pub. L. 96-592, title III, § 306, Dec. 24, 1980, 94 Stat. 3445; Pub. L. 100-233, title VIII, § 802(q), Jan. 6, 1988, 101 Stat. 1712; Pub. L. 115-334, title V, § 5411(9), Dec. 20, 2018, 132 Stat. 4680.)