the court may cause them to be summoned whether or not they reside in the district in which the court is held, and subpenas to that end may be served in any district by the marshal thereof.

(Pub. L. 91–607, title I, §106(c), Dec. 31, 1970, 84 Stat. 1767.)

§1974. Actions by United States; subpenas for witnesses

In any action brought by or on behalf of the United States under section 1972 of this title, subpenas for witnesses may run into any district, but no writ of subpena may issue for witnesses living out of the district in which the court is held at a greater distance than one hundred miles from the place of holding the same without the prior permission of the trial court upon proper application and cause shown.

(Pub. L. 91–607, title I, §106(d), Dec. 31, 1970, 84 Stat. 1767.)

§1975. Civil actions by persons injured; jurisdiction and venue; amount of recovery

Any person who is injured in his business or property by reason of anything forbidden in section 1972 of this title may sue therefor in any district court of the United States in which the defendant resides or is found or has an agent, without regard to the amount in controversy, and shall be entitled to recover three times the amount of the damages sustained by him, and the cost of suit, including a reasonable attorney's fee.

(Pub. L. 91–607, title I, §106(e), Dec. 31, 1970, 84 Stat. 1767.)

§1976. Injunctive relief for persons against threatened loss or damages; equitable proceedings; preliminary injunctions

Any person may sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by reason of a violation of section 1972 of this title, under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity and under the rules governing such proceedings. Upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue.

(Pub. L. 91–607, title I, §106(f), Dec. 31, 1970, 84 Stat. 1767.)

§1977. Limitation of actions; suspension of limitations

(1) Subject to paragraph (2) of this section, any action to enforce any cause of action under this chapter shall be forever barred unless commenced within four years after the cause of action accrued.

(2) Whenever any enforcement action is instituted by or on behalf of the United States with respect to any matter which is or could be the subject of a private right of action under this chapter, the running of the statute of limitations in respect of every private right of action arising under this chapter and based in whole or in part on such matter shall be suspended during the pendency of the enforcement action so instituted and for one year thereafter: *Provided*, That whenever the running of the statute of limitations in respect of a cause of action arising under this chapter is suspended under this paragraph, any action to enforce such cause of action shall be forever barred unless commenced either within the period of suspension or within the four-year period referred to in paragraph (1) of this section.

(Pub. L. 91–607, title I, §106(g), Dec. 31, 1970, 84 Stat. 1768.)

§1978. Actions under other Federal or State laws unaffected; regulations or orders barred as a defense

Nothing contained in this chapter shall be construed as affecting in any manner the right of the United States or any other party to bring an action under any other law of the United States or of any State, including any right which may exist in addition to specific statutory authority, challenging the legality of any act or practice which may be proscribed by this chapter. No regulation or order issued by the Board under this chapter shall in any manner constitute a defense to such action.

(Pub. L. 91–607, title I, §106(h), Dec. 31, 1970, 84 Stat. 1768.)

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§ 2001. Congressional declaration of policy and objectives

(a) It is declared to be the policy of the Congress, recognizing that a prosperous, productive agriculture is essential to a free nation and recognizing the growing need for credit in rural areas, that the farmer-owned cooperative Farm Credit System be designed to accomplish the objective of improving the income and well-being of American farmers and ranchers by furnishing sound, adequate, and constructive credit and closely related services to them, their cooperatives, and to selected farm-related businesses necessary for efficient farm operations.

(b) It is the objective of this chapter to continue to encourage farmer- and rancher-borrowers participation in the management, control, and ownership of a permanent system of credit for agriculture which will be responsive to the credit needs of all types of agricultural producers having a basis for credit, and to modernize and improve the authorizations and means for furnishing such credit and credit for housing in rural areas made available through the institutions constituting the Farm Credit System as herein provided.

(c) It is declared to be the policy of Congress that the credit needs of farmers, ranchers, and their cooperatives are best served if the institutions of the Farm Credit System provide equitable and competitive interest rates to eligible borrowers, taking into consideration the creditworthiness and access to alternative sources of credit for borrowers, the cost of funds, including any costs of defeasance under section 2159(b) of this title, the operating costs of the institution, including the costs of any loan loss amortization under section 2254(b) of this title, the cost of servicing loans, the need to retain earnings to protect borrowers' stock, and the volume of net new borrowing. Further, it is declared to be the policy of Congress that Farm Credit System institutions take action in accordance with the Farm Credit Act Amendments of 1986 in such manner that borrowers from the institutions derive the greatest benefit practicable from that Act: *Provided*, That in no case is any borrower to be charged a rate of interest that is below competitive market rates for similar loans made by private lenders to borrowers of equivalent creditworthiness and access to alternative credit.

(Pub. L. 92–181, § 1.1, Dec. 10, 1971, 85 Stat. 583; Pub. L. 99–509, title I, § 1032, Oct. 21, 1986, 100 Stat. 1877.)

REFERENCES IN TEXT

The Farm Credit Act Amendments of 1986, referred to in subsec. (c), is subtitle D of Pub. L. 99–509, title I, §§ 1031–1037, Oct. 21, 1986, 100 Stat. 1877, which amended sections 2001, 2015, 2075, 2131, 2159, 2205, 2252, and 2254 of this title and enacted provisions set out as a note below. For complete classification of this Act to the Code, see Short Title of 1986 Amendment note below and Tables.

AMENDMENTS

1986—Subsec. (c). Pub. L. 99–509 added subsec. (c).

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–205, title IV, § 401, Dec. 23, 1985, 99 Stat. 1709, provided that: ''The provisions of titles I, II, III, and VI of this Act [enacting sections 2152, 2161, 2199, 2200, 2216 to 2216k, 2219, 2219a, 2253, 2261 to 2273 of this title and provisions set out as notes under section 2001 of this title, amending sections 2002, 2012, 2013, 2031, 2033, 2034, 2051, 2052, 2054, 2072 to 2074, 2077, 2078, 2091, 2093 to 2096, 2098, 2122 to 2126, 2132 to 2134, 2151, 2153 to 2156, 2182, 2183, 2201, 2202, 2205, 2206, 2211 to 2213, 2221 to 2223, 2227, 2241 to 2246, 2248 to 2252, and 2254 of this title, and repealing sections 2152, 2247, and 2253 of this title] shall become effective thirty days after enactment [Dec. 23, 1985].''

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–105, § 1(a), Feb. 10, 1996, 110 Stat. 162, provided that: ''This Act [enacting sections 2214a, 2219e, 2277a–10a, 2277a–10b, 2279bb–7, and 2279cc of this title, amending sections 2013, 2018, 2020, 2129, 2154a, 2199, 2202a, 2252, 2254, 2277a, 2277a–2, 2277a–4, 2277a–5, 2277a–7, 2277a–8, 2277a–10, 2279aa, 2279aa–1, 2279aa–3, 2279aa–5, 2279aa–6, 2279aa–8, 2279aa–9, 2279aa–11 to 2279aa–13, 2279bb–1 to 2279bb–4 of this title, sections 5314 and 5315 of Title 5, Government Organization and Employees, and section 1999 of Title 7, Agriculture, repealing section 2279aa–7 of this title, and enacting provisions set out as notes under this section and sections 2013 and 2252 of this title] may be cited as the 'Farm Credit System Reform Act of 1996'.''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–376, § 1, Oct. 19, 1994, 108 Stat. 3497, provided that: ''This Act [enacting section 2206a of this title and amending sections 2122, 2128, and 2129 of this title] may be cited as the 'Farm Credit System Agricultural Export and Risk Management Act'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–552, § 1(a), Oct. 28, 1992, 106 Stat. 4102, provided that: ''This Act [see Tables for classification] may be cited as the 'Farm Credit Banks and Associations Safety and Soundness Act of 1992'.''

SHORT TITLE OF 1988 AMENDMENTS

Pub. L. 100–399, § 1, Aug. 17, 1988, 102 Stat. 989, provided that: ''This Act [see Tables for classification] may be cited as the 'Agricultural Credit Technical Corrections Act of 1988'.''

Pub. L. 100–233, § 1(a), Jan. 6, 1988, 101 Stat. 1568, provided that: ''This Act [see Tables for classification] may be cited as the 'Agricultural Credit Act of 1987'.''

SHORT TITLE OF 1986 AMENDMENT

Section 1031 of title I of Pub. L. 99–509 provided that: ''This subtitle [subtitle D (§§ 1031–1037) of title I of Pub. L. 99–509, amending sections 2001, 2015, 2075, 2131, 2159, 2205, 2252, and 2254 of this title] may be cited as the 'Farm Credit Act Amendments of 1986'.''

SHORT TITLE OF 1985 AMENDMENT

Pub. L. 99–205, § 1, Dec. 23, 1985, 99 Stat. 1678, provided: ''That this Act [enacting sections 2152, 2161, 2199, 2200, 2216 to 2216k, 2219, 2219a, 2253, 2261 to 2273 of this title and provisions set out as notes under this section and section 2241 of this title, amending sections 2002, 2012, 2013, 2031, 2033, 2034, 2051, 2052, 2054, 2072 to 2074, 2077, 2078, 2091, 2093 to 2096, 2098, 2122 to 2126, 2132 to 2134, 2151, 2153 to 2156, 2182, 2183, 2201, 2202, 2205, 2206, 2211 to 2213, 2221 to 2223, 2227, 2241 to 2246, 2248 to 2252, and 2254 of this title, and repealing sections 2152, 2247, and 2253 of this title] may be cited as the 'Farm Credit Amendments Act of 1985'.''

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–592, § 1, Dec. 24, 1980, 94 Stat. 3437, provided: ''That this Act [enacting sections 2205 to 2208, 2211 to 2214, 2218, and 2260 of this title and amending sections 1141b, 2012 to 2020, 2033, 2034, 2051 to 2054, 2072 to 2077, 2091, 2093, 2094, 2096, 2097, 2122, 2124, 2126, 2128 to 2132, 2156, 2181, 2221, 2223, 2242, 2244, 2249, 2251, and 2252 of this title and section 3802 of Title 7, Agriculture] may be cited as the 'Farm Credit Act Amendments of 1980'.''

SHORT TITLE

Section 1 of Pub. L. 92–181 provided: ''That this Act [enacting this chapter and provisions set out as notes under this section, amending sections 5314 and 5315 of Title 5, Government Organization and Employees, and section 393 of this title, and repealing section 636 et seq. of this title] may be cited as the 'Farm Credit Act of 1971'.''

REGULATIONS

Pub. L. 104–105, title III, § 301, Feb. 10, 1996, 110 Stat. 185, provided that: ''The Secretary of Agriculture and the Farm Credit Administration shall promulgate regulations and take other required actions to implement the provisions of this Act [see Short Title of 1996 Amendment note above] not later than 90 days after the effective date of this Act [Feb. 10, 1996].''

Pub. L. 100–233, title IX, § 901, Jan. 6, 1988, 101 Stat. 1717, as amended by Pub. L. 100–399, title VIII, § 801, Aug. 17, 1988, 102 Stat. 1006, provided that:

''(a) ISSUANCE OF REGULATIONS.—

''(1) AUTHORITY.—The Farm Credit Administration Board shall issue such regulations as the Board considers necessary for the orderly and efficient implementation of the provisions of, and the amendments made by, this Act [see Tables for classification] relating to the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

''(2) TIMING.—To the extent the Farm Credit Administration is required to issue regulations to implement this Act and the amendments made by this Act, the Farm Credit Administration shall issue such regulations as expeditiously as possible, and, except as otherwise provided in this Act, not later than 180 days after the date of the enactment of this Act [Jan. 6, 1988].

''(b) TEMPORARY RETENTION OF CERTAIN REGULATIONS.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the regulations issued by the Farm Credit Administration before the date of the enactment of this Act [Jan. 6, 1988] under provisions amended by this Act shall remain in effect, notwithstanding such amendments, until the Farm Credit Administration issues regulations to implement such amendments, but in no event later than 180 days after such date of enactment.

''(2) CERTAIN REGULATIONS RELATING TO BORROWERS' RIGHTS.—The regulations implementing, interpreting, or applying part C of title IV (12 U.S.C. 2201 et seq.) [12 U.S.C. 2199 et seq.] (other than section 4.13(a) [12 U.S.C. 2199(a)]) (in effect immediately before the date of the enactment of this Act), to the extent that such regulations are not contrary to this Act and the amendments made by this Act, shall remain in effect until January 1, 1989.

''(3) REGULATIONS RELATING TO DISCLOSURE BY BANKS AND ASSOCIATIONS.—Any regulation issued or approved by the Farm Credit Administration that implements, interprets, or applies section 4.13(a) (12 U.S.C. 2201(a) [12 U.S.C. 2199(a)]) (in effect immediately before the date of the enactment of this Act) shall remain in effect for 120 days after such date of enactment.''

REPEALS

Pub. L. 92–181, which enacted this chapter, represents a complete rewriting of the farm credit laws and a fundamental reworking of the statutory basis for the farm credit system. In connection with such reworking of material, the existing statutory provisions covering this area were repealed and their substance revised, reenacted, and expanded by Pub. L. 92–181.

The repealed provisions constituted the bulk of chapter 7 of this title. Section 5.40(a), formerly 5.26(a), of Pub. L. 92–181, as renumbered by Pub. L. 99–205, title II, § 205(a)(2), Dec. 23, 1985, 99 Stat. 1703, enumerated the repealed statutes as follows: The Federal Farm Loan Act, as amended; section 2 of the Act of March 10, 1924 (Public Numbered 35, Sixty-eighth Congress, 43 Stat. 17), as amended; section 6 of the Act of January 23, 1932 (Public Numbered 3, Seventy-second Congress, 47 Stat. 14), as amended; the Farm Credit Act of 1933, as amended; sections 29 and 40 of the Emergency Farm Mortgage Act of 1933; Act of June 18, 1934 (Public Numbered 381, Seventy-third Congress, 48 Stat. 983); Act of June 4, 1936 (Public Numbered 644, Seventy-fourth Congress, 49 Stat. 1461), as amended; sections 5, 6, 20, 25(b) and 39 of the Farm Credit Act of 1937, as amended; sections 601 and 602 of the Act of September 21, 1944 (Public Law 425, Seventy-eighth Congress, 58 Stat. 740, 741), as amended; sections 1, 2, 3, 4, 5, 6, 7, 8, 16, and 17(b) of the Farm Credit Act of 1953, as amended; sections 2, 101, and 201(b) of the Farm Credit Act of 1956.

SAVINGS PROVISION

Section 5.40(b), formerly § 5.26(b), of Pub. L. 92–181, as renumbered by Pub. L. 99–205, title II, § 205(a)(2), Dec. 23, 1985, 99 Stat. 1703, provided that: ''All regulations of the Farm Credit Administration or the institutions of the System and all charters, bylaws, resolutions, stock classifications, and policy directives issued or approved by the Farm Credit Administration, and all elections held and appointments made under the Acts repealed by subsection (a) of this section [see Repeals note above] shall be continuing and remain valid until superseded, modified, or replaced under the authority of this Act [this chapter]. All stock, notes, bonds, debentures, and other obligations issued under the repealed acts shall be valid and enforceable upon the terms and conditions under which they were issued, including the pledge of collateral against which they were issued, and all loans made and security or collateral therefor held by, and all contracts entered into by, institutions of the System shall remain enforceable according to their terms unless and until modified in accordance with the provisions of this Act; it being the purpose of this subsection to avoid disruption in the effective operation of the System by reason of said repeals.''

SEPARABILITY

Section 5.42, formerly § 5.28, of Pub. L. 92–181, as renumbered by Pub. L. 99–205, title II, § 205(a)(2), Dec. 23,

1985, 99 Stat. 1703, provided that: ''If any provision of this Act [this chapter], or the application thereof to any persons or in any circumstances, is held invalid, the remainder of this Act and the application of such provision to other persons or in other circumstances shall not be affected thereby.''

REFERENCES TO EARLIER FARM CREDIT ACTS

Section 5.40(a), formerly § 5.26(a), of Pub. L. 92–181, as renumbered by Pub. L. 99–205, title II, § 205(a)(2), Dec. 23, 1985, 99 Stat. 1703, provided in part that: ''All references in other legislation, State or Federal, rules and regulations of any agency, stock, contracts, deeds, security instruments, bonds, debentures, notes, mortgages and other documents of the institutions of the System, to the Acts repealed hereby [see Repeals note above], shall be deemed to refer to comparable provisions of this Act [this chapter].''

RESERVATION OF RIGHT TO AMEND OR REPEAL

Section 5.43, formerly § 5.29, of Pub. L. 92–181, as renumbered by Pub. L. 99–205, title II, § 205(a)(2), Dec. 23, 1985, 99 Stat. 1703, provided that: ''The right to alter, amend, or repeal any provision or all of this Act [this chapter] is expressly reserved.''

STUDY ON DEMAND FOR AND AVAILABILITY OF CREDIT IN RURAL AREAS FOR AGRICULTURE, HOUSING, AND RURAL DEVELOPMENT

Pub. L. 104–127, title VI, § 650, Apr. 4, 1996, 110 Stat. 1105, provided that:

''(a) IN GENERAL.—The Secretary of Agriculture shall conduct a study and report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the demand for and availability of credit in rural areas for agriculture, housing, and rural development.

''(b) PURPOSE.—The purpose of the study shall be to ensure that Congress has current and comprehensive information to consider as Congress deliberates on rural credit needs and the availability of credit to satisfy the needs of rural areas of the United States.

''(c) ITEMS IN STUDY.—In conducting the study, the Secretary shall base the study on the most current available data and analyze—

''(1) rural demand for credit from the Farm Credit System, the ability of the Farm Credit System to meet the demand, and the extent to which the Farm Credit System provides loans to satisfy the demand;

''(2) rural demand for credit from the United States banking system, the ability of banks to meet the demand, and the extent to which banks provide loans to satisfy the demand;

''(3) rural demand for credit from the Secretary, the ability of the Secretary to meet the demand, and the extent to which the Secretary provides loans to satisfy the demand;

''(4) rural demand for credit from other Federal agencies, the ability of the agencies to meet the demand, and the extent to which the agencies provide loans to satisfy the demand;

''(5) what measure or measures exist to gauge the overall demand for rural credit, the extent to which rural demand for credit is satisfied, and what the measures have demonstrated;

''(6) a comparison of the interest rates and terms charged by the Farm Credit System Farm Credit Banks, production credit associations, and banks for cooperatives with the rates and terms charged by the banks of the United States for credit of comparable risk and maturity;

''(7) the advantages and disadvantages of the modernization and expansion proposals of the Farm Credit System on the Farm Credit System, the United States banking system, rural users of credit, local rural communities, and the Federal Government, including—

''(A) any added risk to the safety and soundness of the Farm Credit System that may result from approval of a proposal; and

''(B) any positive or adverse impacts on competition between the Farm Credit System and the banks of the United States in providing credit to rural users;

''(8) the nature and extent of the unsatisfied rural credit need that the Farm Credit System proposals are supposed to address and what aspects of the present Farm Credit System prevent the Farm Credit System from meeting the need;

''(9) the advantages and disadvantages of the proposal by commercial bankers to allow banks access to the Farm Credit System as a funding source on the Farm Credit System, the United States banking system, rural users of credit, local rural communities, and the Federal Government, including—

''(A) any added risk to the safety and soundness of the Farm Credit System that may result from approval of the proposal; and

''(B) any positive or adverse impacts on competition between the Farm Credit System and the banks of the United States in providing credit to rural users; and

''(10) problems that commercial banks have in obtaining capital for lending in rural areas, how access to Farm Credit System funds would improve the availability of capital in rural areas in ways that cannot be achieved in the system in existence on the date of enactment of this Act [Apr. 4, 1996], and the possible effects on the viability of the Farm Credit System of granting banks access to Farm Credit System funds.

''(d) INTERAGENCY TASK FORCE.—In completing the study, the Secretary shall use, among other things, data and information obtained by the interagency task force on rural credit.''

GAO STUDY OF RURAL CREDIT COST AND AVAILABILITY

Pub. L. 101–624, title XVIII, § 1842, Nov. 28, 1990, 104 Stat. 3835, directed Comptroller General of the United States to conduct a study relating to cost and availability of credit in rural America and, not later than 2 years after Nov. 28, 1990, submit a report to Committee on Agriculture of House of Representatives and Committee on Agriculture, Nutrition, and Forestry of Senate.

AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL COMMISSION ON AGRICULTURAL FINANCE AND NATIONAL COMMISSION ON AGRICULTURE AND RURAL DEVELOPMENT POLICY

Pub. L. 100–71, title V, § 519(b), July 11, 1987, 101 Stat. 475, authorized and appropriated (1) for National Commission on Agricultural Finance established under section 501 of Pub. L. 99–205, $100,000, to remain available until expended, and (2) for National Commission on Agriculture and Rural Development [Policy] established under section 5002 of this title, $100,000, to remain available until expended.

LOAN REVIEW BY LOCAL LENDING INSTITUTIONS

Pub. L. 99–205, title III, § 307, Dec. 23, 1985, 99 Stat. 1709, required each local lending institution of Farm Credit System established under this chapter to (1) review each loan that had been placed in non-accrual status by such institution to determine whether such loan could be restructured based on changes in circumstances of such institution as the result of this Act and the amendments made by this Act, and (2) notify in writing borrower of each such loan of provisions of this section.

NATIONAL COMMISSION ON AGRICULTURAL FINANCE

Pub. L. 99–205, title V, § 501, Dec. 23, 1985, 99 Stat. 1710, directed President to appoint a National Commission on Agricultural Finance, comprised of 15 members, representing the financial community, the agricultural sector, and government, to conduct a study of methods to ensure availability of adequate credit to agricultural producers and agribusiness, taking into account long-

term financing needs of agricultural economy, roles of commercial banks, Farm Credit System, and Farmers Home Administration in meeting those financial needs, with the Commission, in conducting such study, to (1) evaluate financial circumstances relative to both lenders and borrowers of farm credit, (2) evaluate structure, performance, and conduct of private lenders—commercial bankers and Farm Credit System—and public lenders, (3) explore need for long-term assistance in stabilizing value of agricultural assets, and (4) evaluate effect on suppliers, producers, processors, and local communities when financial institutions fail, and not later than Dec. 23, 1986, to submit to Congress a report containing results of study, together with comments and recommendations for legislation providing for a sound, reasonable, and primarily self-supporting credit program for farmers and ranchers as Commission considers appropriate.

§ 2002. Farm Credit System

(a) Composition

The Farm Credit System shall include the the[1] Farm Credit Banks, the Federal land bank associations, the production credit associations, the banks for cooperatives, and such other institutions as may be made a part of the System, all of which shall be chartered by and subject to regulation by the Farm Credit Administration.

(b) Farm credit districts

There shall be not more than twelve farm credit districts in the United States, which may be designated by number, one of which districts shall include the Commonwealth of Puerto Rico and one of which districts may, if authorized by the Farm Credit Administration, include the Virgin Islands of the United States: *Provided*, That the extension of credit and other services authorized by this chapter in the Virgin Islands of the United States shall be undertaken only if determined to be feasible under regulations of the Farm Credit Administration. The boundaries of the twelve farm credit districts existing on December 10, 1971, may be readjusted from time to time by the Farm Credit Administration, with the concurrence of the boards of the banks in each district involved. Two or more districts may be merged as provided in section 2252(a)(2) of this title.

(Pub. L. 92–181, § 1.2, formerly §§ 1.2, 5.0, Dec. 10, 1971, 85 Stat. 583, 614; Pub. L. 96–592, title V, § 501, Dec. 24, 1980, 94 Stat. 3448; Pub. L. 99–205, title II, § 205(c), (g)(1), Dec. 23, 1985, 99 Stat. 1703, 1706; Pub. L. 100–233, title IV, § 434, title VIII, § 805(a), (v), Jan. 6, 1988, 101 Stat. 1662, 1715, 1716; Pub. L. 100–399, title IX, § 901(q)–(s), Aug. 17, 1988, 102 Stat. 1008.)

CODIFICATION

Pub. L. 100–399, § 901(r), transferred section 5.0 of Pub. L. 92–181, which was classified to section 2221 of this title, to subsec. (b) of this section.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–399, § 901(s), designated existing provisions as subsec. (a), inserted heading, and substituted ''regulation'' for ''the regulation''.

Pub. L. 100–233, § 434, amended provisions generally. Prior to amendment, provisions read as follows: ''The Farm Credit System shall include the Federal land banks, the Federal land bank associations, the Federal intermediate credit banks, the production credit associations, the banks for cooperatives, and such other institutions as may be made a part of the System, all of which shall be chartered by and subject to regulation by the Farm Credit Administration.''

Pub. L. 100–233, § 805(a), substituted ''subject to regulation'' for ''subject to the regulation''.

Subsec. (b). Pub. L. 100–399, § 901(q), (r), designated section 2221 of this title as subsec. (b), inserted heading, and substituted ''boards of the banks in each district'' for ''district boards''.

Pub. L. 100–233, § 805(v), substituted ''section 2252(a)(2) of this title'' for ''section 2252(2) of this title''.

1985—Subsec. (a). Pub. L. 99–205, § 205(c), substituted ''regulation by'' for ''supervision of''.

Subsec. (b). Pub. L. 99–205, § 205(g)(1), substituted ''Farm Credit Administration'' for ''Federal Farm Credit Board'' in first and second sentences, and made a technical amendment to reference to section 2252(2) of this title to reflect the renumbering of the corresponding section of the original act.

1980—Subsec. (b). Pub. L. 96–592 inserted provisions relating to Virgin Islands of the United States.

EFFECTIVE DATE OF 1988 AMENDMENTS

Section 1001 of Pub. L. 100–399 provided that:

''(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by this Act [see Tables for classification] shall take effect as if enacted immediately after the enactment of the 1987 Act [Pub. L. 100–233, which was enacted Jan. 6, 1988].

''(b) EXCEPTIONS.—The amendments made by sections 102(b), 102(f), 102(g), 102(h), 201(q), 302(c), 302(d), 302(e), 401, 402(b), 409(d), 411, 414, and 901 (other than by subsections (a), (b), (c), (e), (f), and (g) thereof) of this Act [see Tables for classification] shall take effect immediately after the amendment made by section 401 of the 1987 Act takes effect [section 401 of Pub. L. 100–233, effective 6 months after Jan. 6, 1988].''

Section 434 of Pub. L. 100–233 provided in part that the amendment of this section by section 434 of Pub. L. 100–233 is effective 6 months after Jan. 6, 1988.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

CONSOLIDATION OF DISTRICT FARM CREDIT BANKS

Section 412 of Pub. L. 100–233, as amended by Pub. L. 100–399, title IV, § 404, Aug. 17, 1988, 102 Stat. 999, provided that:

''(a) SUBMISSION OF PROPOSAL.—

''(1) SPECIAL COMMITTEE.—

''(A) IN GENERAL.—Not later than 6 months after the date of the enactment of this section [Jan. 6, 1988], a special committee shall be selected pursuant to regulations of the Farm Credit Administration for the purpose of developing a proposal for the consolidation of Farm Credit System districts.

''(B) COMPOSITION.—The special committee selected under subparagraph (A) shall be composed of one representative from each Farm Credit Bank board and the members of the Board of Directors of the Assistance Board.

''(2) DEVELOPMENT OF PROPOSAL.—Not later than 6 months after the formation of the special committee, the committee shall develop a proposal to consolidate the Farm Credit Banks into no less than six financially viable Farm Credit Banks through inter-district mergers.

''(3) REPORT.—Not later than the end of each calendar quarter beginning at least 6 months after the selection of the special committee, such committee 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 on the progress of the committee in developing a proposal under this subsection.

[1] So in original.

''(b) PREREQUISITES TO CONSOLIDATION.—

''(1) FCA REVIEW OF PROPOSAL.—Prior to the submission of the proposal developed under subsection (a)(2) to the stockholders under paragraph (3), the proposal together with all information to be presented to the stockholders, shall be submitted to the Farm Credit Administration for approval.

''(2) PREREQUISITES.—The proposal developed under subsection (a)(2) shall not be submitted to stockholders under paragraph (3) unless the proposal is approved by—

''(A) a majority of the members of the Board of Directors of the Assistance Board; and

''(B) the members of the special committee that represent the districts affected by the terms of the proposal.

''(3) SUBMISSION TO STOCKHOLDERS.—Not later than the end of the 18-month period after the date of enactment of this Act [Jan. 6, 1988], each Farm Credit Bank involved, in consultation with the special committee, shall submit the proposed merger affecting such bank to the voting stockholders of each such bank.

''(4) STOCKHOLDER VOTE.—Each association shall be entitled to cast a number of votes equal to the number of voting stockholders of such association.''

[For termination, effective May 15, 2000, of reporting provisions in section 412(a)(3) of Pub. L. 100–233, set out above, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 166 of House Document No. 103–7.]

APPLICABILITY OF LAWS ENACTED AFTER JANUARY 1, 1960

Pub. L. 86–168, title II, § 203(b), Aug. 18, 1959, 73 Stat. 390, provided that: ''Any Act of Congress enacted after the effective date of this title [Jan. 1, 1960] and which states that it shall be applicable to agencies or instrumentalities of the United States or to corporations controlled or owned, in whole or in part, by the United States, or to officers and employees of the United States or such agencies or instrumentalities or corporations, shall not be applicable to a Federal land bank, Federal intermediate credit bank, or bank for cooperatives, or to its directors, officers, or employees unless such Act specifically so provides by naming such banks.''

SUBCHAPTER I—FARM CREDIT BANKS

CODIFICATION

Title I of the Farm Credit Act of 1971, comprising this subchapter, was originally enacted by Pub. L. 92–181, title I, Dec. 10, 1971, 85 Stat. 583, and amended by Pub. L. 96–592, Dec. 24, 1980, 94 Stat. 3437; Pub. L. 99–205, Dec. 23, 1985, 99 Stat. 1678; Pub. L. 99–509, Oct. 21, 1986, 100 Stat. 1874; Pub. L. 100–233, Jan. 6, 1988, 101 Stat. 1568. Such title is shown herein, however, as having been added by Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1622, without reference to such intervening amendments because of the extensive revision of the title's provisions by Pub. L. 100–233.

§ 2011. Establishment, charters, titles, branches

(a) Establishment

The banks established pursuant to the merger of each District Federal Intermediate Credit Bank and Federal Land Bank (hereinafter referred to in this subchapter as ''Farm Credit Banks''), as provided in section 410 of the Agricultural Credit Act of 1987, shall be Federally chartered instrumentalities of the United States.

(b) Charters

The Farm Credit Administration shall, consistent with this chapter, issue charters for, and approve amendments to charters of, the Farm Credit Banks.

(c) Title

Each Farm Credit Bank may include in its title the name of the city in which it is located or other geographical designation.

(d) Branches

Each Farm Credit Bank may establish such branches or other offices as may be appropriate for the effective operation of its business.

(Pub. L. 92–181, title I, § 1.3, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1622; amended Pub. L. 100–399, title IV, § 401(a), (b), Aug. 17, 1988, 102 Stat. 995.)

REFERENCES IN TEXT

Section 410 of the Agricultural Credit Act of 1987, referred to in subsec. (a), is section 410 of Pub. L. 100–233, which is set out as a note below.

PRIOR PROVISIONS

A prior section 2011, Pub. L. 92–181, title I, § 1.3, Dec. 10, 1971, 85 Stat. 583; Pub. L. 100–233, title VIII, § 802(a), Jan. 6, 1988, 101 Stat. 1710, related to establishment, title, and branches of Federal land banks prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–399, § 401(a), inserted '', as provided in section 410 of the Agricultural Credit Act of 1987,'' before ''shall''.

Subsec. (b). Pub. L. 100–399, § 401(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The charters or organization certificates of Farm Credit Banks may be modified from time to time by the Farm Credit Administration Board, not inconsistent with the provisions of this subchapter, as may be necessary or expedient to implement this chapter.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

EFFECTIVE DATE

Section 401 of Pub. L. 100–233 provided that this subchapter is effective 6 months after Jan. 6, 1988.

LONG-TERM LENDING AUTHORITY OF FARM CREDIT BANK OF TEXAS WITH RESPECT TO STATES OF ALABAMA, LOUISIANA, AND MISSISSIPPI

Pub. L. 102–552, title IV, § 401(b), Oct. 28, 1992, 106 Stat. 4128, as amended by Pub. L. 110–234, title V, § 5407(c)(3), May 22, 2008, 122 Stat. 1160; Pub. L. 110–246, § 4(a), title V, § 5407(c)(3), June 18, 2008, 122 Stat. 1664, 1922, provided that:

''(1) IN GENERAL.—Notwithstanding any other provision of law (except section 7.7 of the Farm Credit Act of 1971 [12 U.S.C. 2279c]), the Farm Credit Bank of Texas may act in accordance with the exclusive charter of the bank, as amended by the Farm Credit Administration on February 7, 1989, and effective February 9, 1989 (except to the extent that the charter may be further amended by the Farm Credit Administration in accordance with its general authorities under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

''(2) EFFECTIVE DATE.—Paragraph (1) shall take effect as if such paragraph had become law on February 7, 1989.''

MANDATORY MERGER OF SYSTEM INSTITUTIONS

Pub. L. 100–233, title IV, § 410, Jan. 6, 1988, 101 Stat. 1637, as amended by Pub. L. 100–399, title IV, § 402, Aug.

17, 1988, 102 Stat. 999; Pub. L. 102–552, title IV, § 401(a), Oct. 28, 1992, 106 Stat. 4116; Pub. L. 110–234, title V, § 5407(c)(2), May 22, 2008, 122 Stat. 1160; Pub. L. 110–246, § 4(a), title V, § 5407(c)(2), June 18, 2008, 122 Stat. 1664, 1922, provided that:

''(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this section [Jan. 6, 1988], the Federal land bank and the Federal intermediate credit bank of each Farm Credit System district shall merge into a Farm Credit Bank in such district pursuant to a plan of merger agreed on by the Boards of Directors of such banks and approved by the Farm Credit Administration, or if such banks fail to agree, a plan of merger prescribed by the Farm Credit Administration. The mergers required by this section shall be implemented without regard to title VII [enacting sections 2279aa to 2279aa–14 of this title, amending sections 2012, 2033, 2072, and 2093 of this title, section 1988 of Title 7, Agriculture, and section 9105 of Title 31, Money and Finance, and enacting provisions set out as notes under section 2279aa of this title and section 1988 of Title 7].

''(b) CAPITAL STOCK.—Notwithstanding section 1.6 (as added by section 401 of this Act) [12 U.S.C. 2014], the number of shares of capital stock issued by a Farm Credit Bank to stockholders and other owners of the institution involved in the merger, and the rights and privileges of such shares (including voting power, redemption rights, preferences on liquidation, and the right to dividends) shall be determined by the plan of merger adopted by the merging banks, and shall be consistent with section 4.3A [12 U.S.C. 2154a] and the regulations issued by the Farm Credit Administration.

''(c) ASSISTANCE.—The Assistance Board established under section 6.0 [12 U.S.C. 2278a] shall direct the Financial Assistance Corporation established under section 6.20 [12 U.S.C. 2278b] to provide any Farm Credit Bank with that amount of financial assistance as is necessary to ensure that the stock of the Farm Credit Bank, upon implementation of the merger, has a book value equal to 75 percent of par, and such Farm Credit Bank shall be subject to all of the requirements of title VI of the Farm Credit Act of 1971 [12 U.S.C. 2278a et seq.].

''(d) INITIAL BOARD.—Notwithstanding section 1.4 (as added by section 401 of this Act) [12 U.S.C. 2012], the initial board of each Farm Credit Bank shall be composed of the members of the district board (which is dissolved upon the creation of such bank) elected by the production credit associations, Federal land bank associations, and stockholders at large. Such initial board shall operate for such term as is agreed to by the members of the board, except that such period shall not exceed two years. Thereafter the board shall be elected and serve in accordance with the provisions of section 1.4 of the Farm Credit Act of 1971 [12 U.S.C. 2012].

''(e) CLARIFICATION OF AUTHORITY REGARDING REMAINING FEDERAL INTERMEDIATE CREDIT BANK.—

''(1) NEGOTIATED MERGER.—

''(A) REQUIREMENT.—

''(i) IN GENERAL.—Not later than June 30, 1993, except as provided in subparagraph (C), the Federal Intermediate Credit Bank of Jackson (as chartered on the date of enactment of this subsection [Oct. 28, 1992]) shall merge with a Farm Credit Bank pursuant to the procedures prescribed by section 7.12 of the Farm Credit Act of 1971 (12 U.S.C. 2279f).

''(ii) MERGER OF ENTIRE BANK.—Notwithstanding subparagraph (B), or any other provision of law, the Farm Credit Administration shall approve a merger of the Federal Intermediate Credit Bank of Jackson only if the Bank (as chartered on the date of enactment of this subsection [Oct. 28, 1992], except as provided in subparagraph (B)(ii)(II)(bb)) merges in its entirety with a Farm Credit Bank.

''(iii) LIMITED LENDING AUTHORITY.—Notwithstanding any provision of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) (except section 7.7 of that Act [12 U.S.C. 2279c]), the Farm Credit Bank resulting from a merger under this subsection shall have only the lending authorities in the States of Alabama, Louisiana, and Mississippi that the constituent banks exercised in such States immediately prior to the merger, except as may be provided in section 5.17(a)(2) of such Act (12 U.S.C. 2252(a)(2)).

''(B) OPERATING AND MERGER AUTHORITY.—

''(i) IN GENERAL.—Except as provided in clause (ii), the Federal Intermediate Credit Bank of Jackson may operate subject to such provisions of part A of title II of the Farm Credit Act of 1971 [12 U.S.C. 2071 et seq.] (as in effect immediately before the amendment made by section 401 took effect) and such provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) (as in effect after the amendment), as the Farm Credit Administration deems appropriate to carry out the purposes of this subsection and such Act. This subparagraph shall take effect as if it had become law at the same time as the amendment made by section 401 and shall remain in effect until the Bank's merger with a Farm Credit Bank under this subsection, or July 1, 1994, whichever is sooner.

''(ii) LIMITATION ON OPERATING AUTHORITY.—

''(I) IN GENERAL.—Notwithstanding clause (i) and subparagraph (A)(ii), the authority of the Federal Intermediate Credit Bank of Jackson to operate as provided under clause (i) shall expire, and the Farm Credit Administration shall revoke the Bank's charter, immediately on the Bank's merger with a Farm Credit Bank under this subsection, or July 1, 1994, whichever is sooner.

''(II) DISTRICT BOUNDARY MODIFICATION.—Notwithstanding clause (i), the authority of the Federal Intermediate Credit Bank of Jackson shall not include the authority for the Bank to modify, nor shall the Farm Credit Administration approve such a modification to, the boundaries of the Fifth Farm Credit District to reaffiliate any portion of the District with another Farm Credit Bank, except—

''(aa) in the case of the merger of the entire Bank as an entity with a Farm Credit Bank such that the entire chartered territory of the Federal Intermediate Credit Bank of Jackson (except as provided in item (bb)) is merged with the Farm Credit Bank; and

''(bb) in the case of the reaffiliation of the Northwest Louisiana Production Credit Association with another farm credit district pursuant to the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations under such Act.

''(iii) LIMITATION ON AUTHORITY TO MERGE.—

''(I) IN GENERAL.—Notwithstanding clause (i), the authority of the Federal Intermediate Credit Bank of Jackson to merge with a Farm Credit Bank as provided under clause (i) shall expire, and the Farm Credit Administration shall revoke the Bank's charter, immediately on the Bank's merger with a Farm Credit Bank under this subsection, or July 1, 1994, whichever is sooner.

''(II) BANK INTEGRITY.—Notwithstanding clause (i), the authority of the Federal Intermediate Credit Bank of Jackson to merge with a Farm Credit Bank shall be limited to a merger of the Federal Intermediate Credit Bank of Jackson (as chartered on the date of enactment of this subsection [Oct. 28, 1992] to include the territory in the States of Alabama, Louisiana, and Mississippi, except as provided in clause (ii)(II)(bb)) as a whole entity such that the entire chartered territory of the Federal Intermediate Credit Bank of Jackson is merged with the Farm Credit Bank.

''(III) LIMITATION.—Beginning on the date of an order issued by the Farm Credit Administra-

tion under subparagraph (D), the authority of the Federal Intermediate Credit Bank of Jackson to merge with a Farm Credit Bank shall be limited to the arbitrated merger provided for in paragraph (2).

''(C) EXTENSION.—

''(i) LETTER OF INTENT.—If no later than June 30, 1993, the Federal Intermediate Credit Bank of Jackson delivers to the Farm Credit Administration a letter of intent to merge with a Farm Credit Bank, summarizing the terms and conditions of the merger (including, but not limited to, board composition, capital structure, exchange, or transfer of equities, and termination) signed by the chief executive officer and the members of the boards of directors of the Federal Intermediate Credit Bank of Jackson and the Farm Credit Bank, the Farm Credit Administration shall, on its determination that the letter of intent represents a bona fide good faith agreement in principle between the two banks to merge, and that there is at least a reasonable prospect that the merger will be completed in an expeditious manner, grant a one-time extension, until a date certain not later than October 31, 1993, of the requirement under subparagraph (A). Any extension provided under this subparagraph may be conditioned on such terms and conditions as the Farm Credit Administration determines necessary to ensure that the merger described in the letter of intent is completed by the closing date of the extension.

''(ii) COMPLIANCE.—If the Farm Credit Administration grants an extension under clause (i), it shall issue an order under subparagraph (D) immediately if—

''(I) the Federal Intermediate Credit Bank of Jackson, or the Farm Credit Bank that is a signatory to the letter of intent under clause (i), provides written notification to the Farm Credit Administration that the bank does not intend to complete the merger described in the letter of intent;

''(II) the Farm Credit Administration determines that the Federal Intermediate Credit Bank of Jackson is not complying with any term or condition on which an extension under clause (i) was conditioned; or

''(III) the Farm Credit Administration determines that the Federal Intermediate Credit Bank of Jackson is not pursuing in good faith the merger provided for in the letter of intent.

If the Farm Credit Administration issues an order under subparagraph (D) pursuant to this clause, the Federal Intermediate Credit Bank of Jackson shall be deemed to have failed to comply with the requirements of subparagraph (A).

''(D) FAILURE TO MERGE; ISSUANCE OF ORDER.—If the Federal Intermediate Credit Bank of Jackson fails to comply, or notifies the Farm Credit Administration in writing that it does not intend to comply, with the requirements of subparagraph (A), the Farm Credit Administration shall, within 5 days after the date specified in subparagraph (A), or such other date specified by the Farm Credit Administration under subparagraph (C), issue, notwithstanding any other provision of law, an order requiring the Federal Intermediate Credit Bank of Jackson to merge with the Farm Credit Bank of Texas in accordance with paragraph (2).

''(2) ARBITRATED MERGER.—

''(A) IN GENERAL.—Not later than 30 days after the issuance of an order by the Farm Credit Administration under paragraph (1)(D), an arbitrator (or panel of arbitrators) shall be named by the American Arbitration Association in accordance with the Commercial Arbitration Rules of the American Arbitration Association to serve as the arbitrator referred to in this paragraph.

''(B) DUTIES.—The arbitrator shall determine the terms and conditions of the merger required under an order issued under paragraph (1)(D), such that the terms and conditions are fair and equitable to the two banks, their affiliated associations, the stockholders and borrowers of the associations, and the other institutions of the Farm Credit System, and are designed to protect or enhance the safety and soundness of the Farm Credit System. The arbitrator shall have the authority to hire staff and secure the services of consultants as necessary to discharge the duties of the arbitrator under this paragraph.

''(C) EXPENSES.—Notwithstanding any other provision of law, the compensation and expenses of the arbitrator, the fees and expenses of the American Arbitration Association, and any expenses associated with the referendum required under subparagraph (F) shall be paid from the Farm Credit Assistance Fund established under section 6.25 of the Farm Credit Act of 1971 (12 U.S.C. 2278b–5).

''(D) DEVELOPMENT OF MERGER PLANS.—

''(i) IN GENERAL.—Not later than 100 days after the issuance of an order by the Farm Credit Administration under paragraph (1)(D), the arbitrator shall develop and submit for certification to the Farm Credit Administration a plan specifying the terms and conditions of the merger of the two banks required under this paragraph, such that the terms and conditions are fair and equitable to the two banks, their affiliated associations, the stockholders or farmer-borrowers of the associations, and the other institutions of the Farm Credit System, and are designed to protect or enhance the safety and soundness of the Farm Credit System. In devising the plan, the arbitrator shall, to the extent practicable, achieve the following objectives:

''(I) Implementation of the preferences expressed by the affected and interested parties in submissions under clause (ii).

''(II) Valuation of assets fairly, equitably, and consistently for all parties involved.

''(III) Establishment of capitalization and funding terms in a manner that treats farmer-borrowers and stockholders in the two involved farm credit districts equitably and takes account of risk.

''(IV) Ensure the viability of the resulting Farm Credit Bank and associations of the bank and the ability of the resulting bank and associations of the bank to lend to eligible borrowers at reasonable and competitive rates of interest.

''(ii) SUBMISSION OF VIEWS AND INFORMATION.—The arbitrator shall receive from affected and interested parties written submissions, in accordance with fair and reasonable procedures established by the arbitrator, regarding the terms and conditions of an appropriate plan for the merger of the two banks required under this paragraph. The Federal Intermediate Credit Bank of Jackson, the Farm Credit Bank of Texas, and their affiliated associations shall make available all books, records, financial information, and other material that the arbitrator determines is necessary to the development of the plan or the fulfillment of any other requirement under this paragraph. A copy of any submission or information provided to the arbitrator by any party under this paragraph shall be furnished to the Federal Intermediate Credit Bank of Jackson or the Farm Credit Bank of Texas on the written request of the bank and at the bank's expense. The arbitrator shall provide both banks with a reasonable opportunity to review and respond to any submission or information provided by any party.

''(iii) CONTENT OF PLAN; FARM CREDIT BANK.—The plan developed and submitted under clause (i) shall include provisions regarding the following matters:

''(I) The initial composition, following the merger, of the board of directors of the result-

ing Farm Credit Bank (which shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

''(II) The valuation, for purposes of the merger, of the assets and liabilities of the merging banks.

''(III) The terms and conditions on which the shares of capital stock of the Federal Intermediate Credit Bank of Jackson and, if necessary, the Farm Credit Bank of Texas, will be converted into shares of the resulting Farm Credit Bank.

''(IV) The capital structure and capitalization levels of the resulting Farm Credit Bank and the affiliated associations of the Farm Credit Bank in the States of Alabama, Louisiana, and Mississippi as the arbitrator determines necessary to carry out the purposes of this paragraph (which shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

''(V) The terms of financing agreements between any production credit associations or agricultural credit associations described in clause (iv), and the resulting Farm Credit Bank (which shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

''(VI) Any other terms and conditions or other matters that the arbitrator considers necessary.

''(iv) CONTENT OF PLAN; AGRICULTURAL CREDIT ASSOCIATIONS.—If the arbitrator determines that the chartering of agricultural credit associations in the States of Alabama, Louisiana, and Mississippi will be in the best interests of the farmers, ranchers, and aquatic producers eligible to borrow from Farm Credit System associations, the plan required under this subparagraph shall also include, based on submissions from the Federal Intermediate Credit Bank of Jackson and the Farm Credit Bank of Texas, provisions for the establishment of agricultural credit associations to operate in the States, subject to approval in the referendum under subparagraph (F). Such provisions shall include provisions regarding the following matters:

''(I) A proposal for the establishment of an agricultural credit association in each of the geographic areas specified in subparagraph (F)(iii) (the charters of which, if validly issued under subparagraph (G)(i) pursuant to approval in the referendum under subparagraph (F), shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

''(II) The initial composition, if the proposal for the establishment of agricultural credit associations is approved, of the board of directors of each such agricultural credit association (which shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

''(III) The valuation, for purposes of the proposed merger of the production credit association and the Federal land bank association in each of the geographic areas specified in subparagraph (F)(iii), of the assets and liabilities of the associations.

''(IV) The terms and conditions on which the shares of capital stock of any associations that may merge under the plan to form agricultural credit associations will be converted into shares of the resulting agricultural credit associations.

''(V) The capital structure and capitalization levels of the resulting Farm Credit Bank and such affiliated associations of the Farm Credit Bank in the States of Alabama, Louisiana, and Mississippi as the arbitrator determines necessary to carry out the purposes of this paragraph (which capital structure and capitalization levels shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

''(VI) The terms of financing agreements between any agricultural credit associations and the resulting Farm Credit Bank (which shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

''(VII) Any other terms and conditions or other matters that the arbitrator considers necessary.

''(v) CONSULTATION WITH INSURANCE CORPORATION.—The arbitrator shall consult with the Farm Credit System Insurance Corporation regarding the valuation of the assets and liabilities under the plan of merger, the capitalization of the Farm Credit System institutions resulting under the plan, and any other matters relevant to the assistance to be provided by the Insurance Corporation to facilitate the merger under subparagraph (H).

''(E) CERTIFICATION OF PLAN.—Not later than 30 days after the receipt of the plan developed by the arbitrator, the Farm Credit Administration shall—

''(i) certify; or

''(ii) recommend to the arbitrator revisions to the plan that, if incorporated into the plan, will allow the Farm Credit Administration to certify,

that the resulting bank and any resulting associations are proposed to be organized in such a fashion that they will, on implementation of the plan, operate in compliance with applicable laws and regulations. The arbitrator and the Farm Credit Administration shall work cooperatively to ensure the expeditious issuance of the certification. If the Farm Credit Administration recommends to the arbitrator revisions to the plan that, if incorporated into the plan, will allow the Farm Credit Administration to certify the plan, the arbitrator shall, not later than 15 days after receipt of the recommended revisions, incorporate the revisions into the plan as the arbitrator deems appropriate to secure the certification.

''(F) REFERENDUM ON ASSOCIATION STRUCTURE.—

''(i) IN GENERAL.—Not later than 170 days after the issuance of an order by the Farm Credit Administration under paragraph (1)(D), the American Arbitration Association shall conduct, and compile and forward to the Farm Credit Administration the results of, a vote of current farmer-borrowers of the production credit associations and the Federal land bank associations in the States of Alabama, Louisiana, and Mississippi, in accordance with the Election Rules of the American Arbitration Association, to determine whether the farmer-borrowers of each association in the geographic areas described in clause (iii) prefer to have credit delivered—

''(I) in the case of production credit association farmer-borrowers, through a production credit association or through an agricultural credit association as proposed in the plan; and

''(II) in the case of Federal land bank association farmer-borrowers, through a Federal land bank association or through an agricultural credit association as proposed in the plan.

Each farmer-borrower shall be entitled to one vote. The arbitrator shall establish record dates and other procedures for conducting the referendum. The Federal Intermediate Credit Bank of Jackson, the Farm Credit Bank of Texas, and their affiliated associations shall cooperate in the conduct of the referendum, as determined necessary by the Arbitrator.

''(ii) DISCLOSURE.—The arbitrator shall send to farmer-borrowers eligible to vote under this subparagraph, with their ballot, a statement describing the potential consequences to the farmer-borrowers, and to the associations from which they borrow, of voting to charter an agricultural credit association and setting forth factors that farmer-borrowers should consider relevant to the choice between credit delivery through the current association structure and the chartering of an agricultural credit association. The arbitrator shall develop the disclosure materials in cooperation with the Farm Credit Administration and ensure that the materials are not inconsistent with applicable laws and regulations.

''(iii) TABULATION OF RESULTS.—The results of the vote under this subparagraph shall be compiled separately for production credit association farmer-borrowers and Federal land bank association farmer-borrowers in each of the following seven geographic areas:

''(I) The area served by the Federal Land Bank Association of South Mississippi.

''(II) The area served by the Federal Land Bank Association of North Mississippi.

''(III) The area served by the Federal Land Bank Association of South Alabama.

''(IV) The area served by the Federal Land Bank Association of North Alabama.

''(V) The area served by the Federal Land Bank Association of South Louisiana.

''(VI) The area served by both the Federal Land Bank Association of North Louisiana and the First South Production Credit Association.

''(VII) The area served by both the Federal Land Bank Association of North Louisiana and the Northwest Louisiana Production Credit Association.

''(iv) PUBLICATION OF RESULTS.—The results of the vote under this subparagraph, as tabulated by the American Arbitration Association, shall be made promptly available to the public in a manner determined appropriate by the Farm Credit Administration.

''(G) IMPLEMENTATION.—Not later than 10 days after the date of the receipt of the results of the referendum conducted under subparagraph (F), the Farm Credit Administration shall issue such charters or charter amendments and take such other regulatory actions as may be necessary to implement the merger or mergers as provided for under the certified plan. In this regard, the Farm Credit Administration shall—

''(i) issue a charter or charter amendment and take any such other regulatory actions as may be necessary to provide for the establishment of an agricultural credit association in each of the geographic areas described in subparagraph (F)(iii) where a majority of the farmer-borrowers of both the production credit association and the Federal land bank association voted under subparagraph (F)(i) that they preferred to have credit delivered through an agricultural credit association (which charter shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations); and

''(ii) not issue a charter or charter amendment or take any such other regulatory action to provide for the establishment of an agricultural credit association in any of the geographic areas described in subparagraph (F)(iii) where less than a majority of the farmer-borrowers of the production credit association or the Federal land bank association voted in the referendum under subparagraph (F)(i) that they preferred to have credit delivered through an agricultural credit association (provided that the charter of any remaining association in such geographic area shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

''(H) FACILITATION.—

''(i) IN GENERAL.—Beginning on the date of the issuance of an order by the Farm Credit Administration under paragraph (1)(D), the Farm Credit System Insurance Corporation shall expend amounts from the Farm Credit Insurance Fund to the extent necessary to facilitate the merger prescribed in the plan.

''(ii) MAINTENANCE OF BOOK VALUE.—Assistance provided by the Corporation under this subparagraph shall be in amounts not to exceed that required to maintain book value per share of stockholders' equity at the same value reflected on the most recent audited financial statements of the Federal Intermediate Credit Bank of Jackson and the Farm Credit Bank of Texas prior to or effective with the date of the merger.

''(iii) OTHER ASSISTANCE.—Until the expiration of 5 years from the effective date of a merger authorized by this subsection, or the final resolution of any litigation against the Federal Intermediate Credit Bank of Jackson or any of its stockholders pending on the date of the enactment of this subsection [Oct. 28, 1992], whichever is later, the Corporation shall guarantee prompt payment of any loss experienced by the merged bank, which loss is caused by the failure of any association-stockholder of the merged bank that was a stockholder of the Federal Intermediate Credit Bank of Jackson immediately prior to the merger, or any successor to the association, to pay when due any obligation of principal or interest owed by the association or its successor to the resulting bank.

''(iv) TERMS AND CONDITIONS.—Assistance provided by the Corporation under this subparagraph shall be on such terms and conditions as the Corporation deems appropriate to facilitate the merger.

''(I) SAFETY AND SOUNDNESS.—

''(i) IN GENERAL.—Except as provided in clause (ii), if at any time prior to the completion of the merger required under this subsection the Farm Credit Administration determines that the Federal Intermediate Credit Bank of Jackson is being operated in an unsafe or unsound manner (as determined in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.)), the Farm Credit Administration, after consultation with the respective boards of directors of the affected banks and taking into consideration the purposes of this subsection, may require the Federal Intermediate Credit Bank of Jackson to merge with a Farm Credit Bank, subject to such terms and conditions as the Farm Credit Administration may prescribe. The Farm Credit System Insurance Corporation shall expend amounts in the Farm Credit Insurance Fund to the extent necessary to facilitate the merger prescribed under this subparagraph, including the provision of assistance as provided in section 5.61(a)(2)(A)(iii) of the Farm Credit Act of 1971 (12 U.S.C. 2277a–10(a)(2)(A)(iii)), on such terms and conditions as the Corporation deems appropriate.

''(ii) ARBITRATED MERGER.—If at any time after the Farm Credit Administration issues an order under paragraph (1)(D), but prior to the completion of the merger required under this subsection, the Farm Credit Administration determines that the Federal Intermediate Credit Bank of Jackson is being operated in an unsafe or unsound manner (as determined in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.)), the Farm Credit Administration shall, after consultation with the boards of directors of the Federal Intermediate Credit Bank of Jackson and the Farm Credit Bank of Texas, take such action as it deems necessary pursuant to the authorities pro-

vided under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) to return the operation of the Federal Intermediate Credit Bank of Jackson to a safe and sound condition, pending the completion of the merger under paragraph (2).

''(J) MERGER PLAN FOR AGRICULTURAL CREDIT ASSOCIATIONS.—In any of the States of Alabama, Louisiana, or Mississippi where all of the associations are chartered as agricultural credit associations, the boards of directors of each such association in each State are encouraged to submit to the farmer-borrowers of each such association for their approval a plan for merging the associations into one statewide agricultural credit association, in accordance with the applicable provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

''(K) DEFINITIONS.—As used in this paragraph:

''(i) AGRICULTURAL CREDIT ASSOCIATION.—The term 'agricultural credit association' means an association having the same authorities, attributes, and obligations as, and for all purposes an agricultural credit association resulting from the implementation of the plan under this paragraph shall be deemed to be, an association resulting from the merger of a production credit association and a Federal land bank association under section 7.8 of the Farm Credit Act of 1971 (12 U.S.C. 2279c–1).

''(ii) FARMER-BORROWER.—The term 'farmer-borrower' means a borrower from a Farm Credit System association in the State of Alabama, Louisiana, or Mississippi who holds voting stock, or is eligible to hold voting stock, in the association or a stockholder in any such association.

''(3) REVIEW.—

''(A) IN GENERAL.—Actions and determinations of the arbitrator, the Farm Credit Administration, or the Farm Credit System Insurance Corporation pursuant to this subsection shall not be subject to judicial review except as provided in this paragraph, nor shall they be subject to the requirements of subchapter II of chapter 5 or chapter 7 of title 5, United States Code.

''(B) AGENCY DETERMINATIONS.—

''(i) IN GENERAL.—Any petition for review of a determination or other action of the Farm Credit Administration or the Farm Credit System Insurance Corporation under this subsection shall be filed in the United States Court of Appeals for the District of Columbia Circuit not later than 10 days after the determination, or the petition shall be barred. The court shall have exclusive jurisdiction to determine the proceeding in accordance with standard procedures as supplemented by procedures hereinafter provided and no other district court or court of appeals of the United States shall have jurisdiction over any such challenge in any proceeding instituted prior to, on, or after the date of enactment of this subsection. The review of any determination or action of the Farm Credit Administration or the Farm Credit System Insurance Corporation under this subsection shall be based on the examination of all of the information before the Farm Credit Administration or the Farm Credit System Insurance Corporation, as the case may be, at the time the determination was made. The court reviewing the determination or action shall not enter a stay or order of mandamus unless the court has determined, after notice and a hearing before a panel of the court, that the agency action complained of was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

''(ii) PROCEDURES.—Notwithstanding any other provision of law, the court may set rules governing the procedures of any such proceeding that set page limits on briefs and time limits for filing briefs and motions and other actions that are shorter than the limits specified in the Federal Rules of Civil or Appellate Procedure.

''(iii) EXPEDITED REVIEW.—Any such proceeding before the court shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way. The court shall render its final decision relative to any challenge not later than 50 days from the date the challenge is brought unless the court determines that a longer period of time is required to satisfy the requirements of the Constitution.

''(C) ARBITRATOR DETERMINATIONS.—

''(i) IN GENERAL.—Except as otherwise provided in this paragraph, any petition for review of a determination or other action of the arbitrator named under paragraph (2) shall be filed in accordance with the United States Arbitration Act (9 U.S.C. 1 et seq.). Such Act shall apply to the arbitration conducted pursuant to paragraph (2) to the same extent as if the arbitration were established in a contract evidencing a transaction in commerce between the Federal Intermediate Credit Bank of Jackson and the Farm Credit Bank of Texas.

''(ii) PROCEDURES.—Notwithstanding the United States Arbitration Act (9 U.S.C. 1 et seq.), any petition for review of a determination or other action of the arbitrator under this subsection shall be filed not later than 10 days after the determination, or the petition shall be barred. The court specified under such Act shall have exclusive jurisdiction to determine the proceeding in accordance with the applicable procedures under such Act, as supplemented by procedures hereinafter provided, and no other district court shall have jurisdiction over any such challenge in any such proceeding. Notwithstanding any other provision of law, the court may set rules governing the procedures of any such proceeding that set page limits on briefs and time limits for filing briefs and motions and other actions that are shorter than the limits specified in the United States Arbitration Act or the Federal Rules of Civil or Appellate Procedure [28 U.S.C. App.].

''(iii) EXPEDITED REVIEW.—Any such proceeding before the court shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way. The court shall render its final decision relative to any challenge as soon as possible in accordance with the United States Arbitration Act (9 U.S.C. 1 et seq.), or not later than 30 days from the date the challenge is brought, whichever is sooner, unless the court determines that a longer period of time is required to satisfy the requirements of the Constitution.''

§ 2012. Board of directors

Each Farm Credit Bank shall elect a board of directors of such number, for such term, in such manner, and with such qualifications, as may be required in its bylaws, except that, at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.

(Pub. L. 92–181, title I, § 1.4, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1622; amended Pub. L. 100–399, title IV, § 401(c), Aug. 17, 1988, 102 Stat. 995.)

PRIOR PROVISIONS

A prior section 2012, Pub. L. 92–181, title I, § 1.4, Dec. 10, 1971, 85 Stat. 584; Pub. L. 96–592, title I, § 101, Dec. 24, 1980, 94 Stat. 3437; Pub. L. 99–205, title II, § 205(d)(1), Dec. 23, 1985, 99 Stat. 1703; Pub. L. 100–233, title VII, § 705(a), title VIII, § 802(b), Jan. 6, 1988, 101 Stat. 1706, 1710; Pub. L. 100–399, title VI, § 604, Aug. 17, 1988, 102 Stat. 1006, related to corporate existence and general corporate powers, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

AMENDMENTS

1988—Pub. L. 100–399 struck out ''from its voting stockholders'' after ''shall elect''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

§ 2013. General corporate powers

Each Farm Credit Bank shall be a body corporate and, subject to regulation by the Farm Credit Administration, shall have power to—

(1) adopt and use a corporate seal;

(2) have succession until dissolved under the provisions of this chapter or other Act of Congress;

(3) make contracts;

(4) sue and be sued;

(5) acquire, hold, dispose, and otherwise exercise all the usual incidents of ownership of real and personal property necessary or convenient to its business;

(6) make, participate in, and discount loans, make commitments for credit, accept advance payments, and provide services as authorized in this chapter, and charge fees for such;

(7) operate under the direction of its board of directors;

(8) provide by its board of directors for a president, one or more vice presidents, a secretary, a treasurer, and provide for such other officers, employees, and agents as may be necessary, as provided in this chapter, define their duties, and require surety bonds or make other provision against losses occasioned by employees;

(9) prescribe, by its board of directors, its bylaws that shall be consistent with law, and that shall provide for—

(A) the classes of its stock and the manner in which such stock shall be issued, transferred, and retired; and

(B) the manner in which it is to—

(i) select officers, employees, and agents;

(ii) acquire, hold, and transfer property;

(iii) make loans and discounts;

(iv) conduct general business; and

(v) exercise and enjoy the privileges granted to it by law;

(10) borrow money and issue notes, bonds, debentures, or other obligations individually, or in concert with one or more other banks of the System, of such character, terms, conditions, and rates of interest as may be determined as provided for in this chapter;

(11) purchase nonvoting stock in, or pay in surplus to, and accept deposits of securities or funds from associations in its district, and pay interest on such funds;

(12) participate with—

(A) one or more other Farm Credit Banks in loans under this subchapter on such terms as may be agreed on among such banks;

(B) one or more other Farm Credit System institutions in loans made under this subchapter or other subchapters of this chapter on the basis prescribed in section 2206 of this title; and

(C) lenders that are not Farm Credit System institutions in loans that the bank is authorized to make under this subchapter;

(13) approve the salary scale of the officers and employees of the associations in its district and supervise the exercise by such associations of the functions vested in or delegated to them;

(14) deposit the securities and current funds of the bank with any member bank of the Federal Reserve System or any insured State nonmember bank (within the meaning of section 1813 of this title) and pay fees and receive interest on such as may be agreed, and when designated for that purpose by the Secretary of the Treasury, such bank—

(A) shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary;

(B) may be employed as a fiscal agent of the Government; and

(C) shall perform all such reasonable duties as a depository of public money or financial agent of the Government as may be required of such bank;

except that no Government funds deposited under the provisions of this paragraph shall be invested in loans or bonds or other obligations of the bank;

(15) buy and sell obligations of, or insured by, the United States or any agency thereof, or securities backed by the full faith and credit of any such agency, and make other investments as may be authorized under regulations issued by the Farm Credit Administration;

(16) sell to lenders that are not Farm Credit System institutions interests in loans, and buy from and sell to Farm Credit System institutions interests in loans and other extensions of credit, and nonvoting stock as may be authorized under regulations issued by the Farm Credit Administration;

(17) conduct studies and make and adopt standards for lending;

(18) delegate to associations such functions as the bank determines appropriate;

(19) amend and modify loan contracts, documents, and payment schedules, and release, subordinate, or substitute security for any of such items;

(20) for loans made by the bank, require associations to endorse notes and other obligations of borrowers from the bank;

(21) exercise through the board of directors or authorized officers, employees, or agents of the bank, all such incidental powers as may be necessary or expedient to carry on the business of the bank;

(22) accept contributions to the capital of the bank from associations and account for such in accordance with generally accepted accounting principles, except as may be authorized by the Farm Credit Administration;

(23) as may be authorized by the board of directors of the bank, agree with other Farm Credit System institutions to share loan and other losses, whether to protect against capital impairment or for any other purpose; and

(24) operate as an originator and become certified as a certified facility under subchapter VIII of this chapter.

(Pub. L. 92–181, title I, § 1.5, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1623; amended Pub. L. 100–399, title IV, § 401(d), Aug. 17, 1988, 102 Stat. 995; Pub. L. 104–105, title II, § 201, Feb. 10, 1996, 110 Stat. 172.)

PRIOR PROVISIONS

A prior section 2013, Pub. L. 92–181, title I, § 1.5, Dec. 10, 1971, 85 Stat. 585; Pub. L. 96–592, title I, § 102, Dec. 24, 1980, 94 Stat. 3437; Pub. L. 99–205, title II, § 205(d)(2), (3), title VI, § 601, Dec. 23, 1985, 99 Stat. 1703, 1711; Pub. L. 100–233, title VIII, § 802(c), Jan. 6, 1988, 101 Stat. 1710, related to land bank stock, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

AMENDMENTS

1996—Par. (13). Pub. L. 104–105 struck out ", and the appointment and compensation of the chief executive officer thereof," after "in its district".

1988—Par. (9). Pub. L. 100–399, § 401(d)(1), amended par. (9) generally. Prior to amendment, par. (9) read as follows: "prescribe by its board of directors—

"(A) the bylaws of such bank that shall not be inconsistent with law, providing for the classes of the stock of the bank and the manner in which such stock shall be issued, transferred, and retired;

"(B) the officers, employees, and agents of the bank as provided for;

"(C) the property of the bank acquired, held, and transferred;

"(D) the loans and discounts made by the bank;

"(E) the general business conducted by the bank; and

"(F) the privileges granted to the bank by law exercised and enjoyed;".

Par. (11). Pub. L. 100–399, § 401(d)(2), substituted "of securities or" for "or securities of".

Par. (12)(B), (C). Pub. L. 100–399, § 401(d)(3), struck out "participate with" before "one or more" in subpar. (B) and "participate with" before "lenders that" in subpar. (C).

Par. (14). Pub. L. 100–399, § 401(d)(4), substituted "(within the meaning of section 1813 of this title)" for "as defined in section 1813 of this title".

Par. (18). Pub. L. 100–399, § 401(d)(5), struck out "Federal land bank" after "delegate to".

Par. (22). Pub. L. 100–399, § 401(d)(6), substituted "in accordance with generally accepted accounting principles, except as may be authorized by the Farm Credit Administration;" for "as authorized by the Farm Credit Administration; and".

Par. (23). Pub. L. 100–399, § 401(d)(7), struck out "and approved by the Farm Credit Administration Board" after "of the bank" and substituted "purpose; and" for "purpose."

Par. (24). Pub. L. 100–399, § 401(d)(8), added par. (24).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 302 of Pub. L. 104–105 provided that: "Except as otherwise provided in this Act, this Act [see Short Title of 1996 Amendment note set out under section 2001 of this title] and the amendments made by this Act shall become effective on the date of enactment [Feb. 10, 1996]."

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

§ 2014. Farm Credit Bank capitalization

In accordance with section 2154a of this title, the Farm Credit Banks shall provide, through bylaws and subject to Farm Credit Administration regulations, for the capitalization of the bank and the manner in which bank stock shall be issued, held, transferred, and retired and bank earnings distributed.

(Pub. L. 92–181, title I, § 1.6, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1624.)

PRIOR PROVISIONS

A prior section 2014, Pub. L. 92–181, title I, § 1.6, Dec. 10, 1971, 85 Stat. 585; Pub. L. 96–592, title I, § 103, Dec. 24, 1980, 94 Stat. 3438, related to real estate mortgage loans, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

§ 2015. Lending authority

(a) Real estate loans and related assistance

(1) Real estate loans

The Farm Credit Banks may make or participate with other lenders in long-term real estate mortgage loans in rural areas, as defined by the Farm Credit Administration, or to producers or harvesters of aquatic products, and make continuing commitments to make such loans under specified circumstances, for a term of not less than 5 nor more than 40 years.

(2) Financial assistance

The Farm Credit Banks may provide and extend financial assistance to, and discount for, or purchase from, a Federal land bank association any note, draft, or other obligation with the endorsement or guarantee of the association, the proceeds of which have been advanced to persons eligible and for purposes of financing by the association, as authorized under section 2279b(a) of this title.

(b) Intermediate credit

(1) In general

The Farm Credit Banks are authorized to make loans and extend other similar financial assistance to and to discount for or purchase from—

(A) any production credit association, or

(B) any national bank, State bank, trust company, agricultural credit corporation, incorporated livestock loan company, savings institution, credit union, or any association of agricultural producers engaged in the making of loans to farmers and ranchers, and any corporation engaged in the making of loans to producers or harvesters of aquatic products,

any note, draft, or other obligation with the institution's endorsement or guarantee, the proceeds of which note, draft, or other obligation have been advanced to persons and for purposes eligible for financing by production credit associations as authorized by this chapter.

(2) Participation with other entities

The Farm Credit Banks may participate with one or more production credit associations or other Farm Credit Banks in the making of loans to eligible borrowers and may participate with one or more other Farm Credit System institutions in loans made under this subchapter or other subchapters of this chapter on the basis prescribed in section 2206 of this title.

(3) Limitations on extension of financial services

(A) General rule

No paper shall be purchased from or discounted for, and no loans shall be made or other similar financial assistance extended by a Farm Credit Bank to any entity identified in paragraph (1)(B) of this subsection if the amount of such paper added to the aggregate liabilities of such entity, whether direct or contingent (other than bona fide deposit liabilities), exceeds ten times the paid-in and unimpaired capital and surplus of such entity or the amount of such liabilities permitted under the laws of the jurisdiction creating such institution, whichever is the lesser.

(B) Limitation on national bank

It shall be unlawful for any national bank which is indebted to any Farm Credit Bank, on paper discounted or purchased under paragraph (1), to incur any additional indebtedness, if by virtue of such additional indebtedness its aggregate liabilities direct or contingent, will exceed the limitation described in subparagraph (A).

(4) FCA regulations

(A) In general

All of the loans, financial assistance, discounts and purchases authorized by this subsection shall be subject to regulations of the Farm Credit Administration and shall be secured by collateral, if any, as may be required in such regulations.

(B) Requirement of regulations

The regulations shall assure that such loans, financial assistance, discounts, and purchases are available on a reasonable basis to any financing institution authorized to receive such services under paragraph (1)(B) of this subsection, and that—

(i) is significantly involved in lending for agricultural or aquatic purposes;

(ii) demonstrates a continuing need for supplementary sources of funds to meet the credit requirements of its agricultural or aquatic borrowers;

(iii) has limited access to national or regional capital markets; and

(iv) does not use such services to expand its financing activities to persons and for purposes other than those authorized under subchapter II of this chapter.

(C) Fees

The regulations may authorize a Farm Credit Bank to charge reasonable fees for any commitment to extend service under this section to such a financing institution.

(D) Subsidiaries and affiliates

For purposes of this subsection, a financing institution together with the subsidiaries and affiliates of such may be considered as one, but such determination to consider such institution together with the subsidiaries and affiliates of such as one shall be made in the first instance by the bank and in the event of a denial by the bank of its services to a financial institution, then by the Farm Credit Administration on a case-by-case basis with due regard to the total relationship of the financing institution, its subsidiaries, and affiliates.

(5) Effective date

Nothing in this section shall require termination of discount relationships in existence on December 24, 1980.

(Pub. L. 92–181, title I, § 1.7, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1625; amended Pub. L. 100–399, title IV, § 401(e), (f), Aug. 17, 1988, 102 Stat. 995, 996.)

CODIFICATION

In subsec. (b)(5), ''December 24, 1980'' substituted for ''the effective date of the Farm Credit Act Amendments of 1980''.

PRIOR PROVISIONS

A prior section 2015, Pub. L. 92–181, title I, § 1.7, Dec. 10, 1971, 85 Stat. 585; Pub. L. 96–592, title I, § 104, Dec. 24, 1980, 94 Stat. 3438; Pub. L. 99–509, title I, § 1033(a), Oct. 21, 1986, 100 Stat. 1877, related to interest rates and other charges, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–399, § 401(e), inserted in heading ''and related assistance'' and amended text generally. Prior to amendment, text read as follows: ''The Farm Credit Banks are authorized to make or participate with other lenders in long-term real estate mortgage loans in rural areas, as defined by the Farm Credit Administration, or to producers or harvesters of aquatic products, and make continuing commitments to make such loans under specified circumstances, for a term of not less than 5 nor more than 40 years.''

Subsec. (b)(2). Pub. L. 100–399, § 401(f)(1), struck out provision that banks may own and lease or lease with an option to purchase to persons eligible for assistance under this subchapter, equipment needed in the operations of such persons.

Subsec. (b)(3). Pub. L. 100–399, § 401(f)(2), substituted in heading ''services'' for ''assistance'' and in subpar. (B) ''described in subparagraph (A)'' for ''herein contained''.

Subsec. (b)(4)(A). Pub. L. 100–399, § 401(f)(3), substituted ''subsection'' for ''section''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

§ 2016. Interest rates and other charges

(a) In general

Loans and discounts made by a Farm Credit Bank shall bear such rate or rates of interest or discount, and be on such terms and conditions, as may be determined by the board of directors of the bank from time to time.

(b) Setting rates and charges

In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers at the lowest reasonable costs on a sound business basis taking into consideration the cost of money to the bank, necessary reserve and expenses of the bank and associations, and providing services to members. The

loan documents or discounting and financing agreements, may provide for the interest rate or rates to vary from time to time during the repayment period of the loan or agreement.

(Pub. L. 92–181, title I, § 1.8, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1626; amended Pub. L. 100–399, title IV, § 401(g), Aug. 17, 1988, 102 Stat. 996.)

PRIOR PROVISIONS

A prior section 2016, Pub. L. 92–181, title I, § 1.8, Dec. 10, 1971, 85 Stat. 586; Pub. L. 96–592, title I, § 105, Dec. 24, 1980, 94 Stat. 3438, related to eligibility, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–399 substituted ''such rate or rates of interest or discount, and be'' for ''interest at a rate or rates, and''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

§ 2017. Eligibility

The credit and financial services authorized in this subchapter may be made available to persons who are or become stockholders or members of the bank or associations in the district, and who are—

(1) bona fide farmers, ranchers, or producers or harvesters of aquatic products;

(2) persons furnishing to farmers and ranchers farm-related services directly related to their on-farm operating needs; or

(3) owners of rural homes.

(Pub. L. 92–181, title I, § 1.9, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1626.)

PRIOR PROVISIONS

A prior section 2017, Pub. L. 92–181, title I, § 1.9, Dec. 10, 1971, 85 Stat. 586; Pub. L. 96–592, title I, § 106, Dec. 24, 1980, 94 Stat. 3438; Pub. L. 100–233, title IV, § 426, title VIII, § 802(d), Jan. 6, 1988, 101 Stat. 1657, 1710; Pub. L. 100–399, title IV, § 412, title VII, § 701, Aug. 17, 1988, 102 Stat. 1004, 1006, related to security, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

§ 2018. Security; terms

(a) Real estate loans

(1) Maximum level of loans

(A) In general

Real estate mortgage loans originated by a Farm Credit Bank, or in which a Farm Credit Bank participates in with a lender that is not a System institution, shall not exceed 85 percent of the appraised value of the real estate security, except as provided for in subparagraphs (C) and (D).

(B) Regulation

The Farm Credit Administration may, by regulation, require that loans not exceed 75 percent of the appraised value of the real estate security.

(C) Guaranteed loans

If the loan is guaranteed by Federal, State, or other governmental agencies, the loan may not exceed 97 percent of the appraised value of the real estate security, as may be authorized under regulations of the Farm Credit Administration.

(D) Private mortgage insurance

A loan on which private mortgage insurance is obtained may exceed 85 percent of the appraised value of the real estate security to the extent that the loan amount in excess of such 85 percent is covered by the insurance.

(2) Security

All loans originated or participated in by a bank under this section shall be secured by first liens on interests in real estate of such classes as may be prescribed by regulations of the Farm Credit Administration.

(3) Value of security

To adequately secure the loan, the value of security shall be determined by appraisal under standards prescribed by the bank in accordance with regulations of the Farm Credit Administration.

(4) Additional security

Additional security for any loan may be required by the bank to supplement real estate security. Credit factors, other than the ratio between the amount of the loan and the security value, shall be given due consideration.

(b) Intermediate credit

Loans, other than real estate loans, and discounts made under the provisions of this subchapter shall be repayable in not more than 7 years (15 years if made to producers or harvesters of aquatic products) from the time that such are made or discounted by the Farm Credit Bank, except that the Board of Directors, under regulations of the Farm Credit Administration, may approve policies permitting loans, advances, or discounts (other than those made to producers or harvesters of aquatic products) to be repayable in not more than 10 years from the time that such are made or discounted by such bank.

(Pub. L. 92–181, title I, § 1.10, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1627; amended Pub. L. 100–399, title IV, § 401(h), (i), Aug. 17, 1988, 102 Stat. 996; Pub. L. 104–105, title II, §§ 202, 203, Feb. 10, 1996, 110 Stat. 172.)

PRIOR PROVISIONS

A prior section 2018, Pub. L. 92–181, title I, § 1.10, Dec. 10, 1971, 85 Stat. 586; Pub. L. 96–592, title I, § 107, Dec. 24, 1980, 94 Stat. 3438, related to purposes, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

AMENDMENTS

1996—Subsec. (a)(1)(A). Pub. L. 104–105, § 202(b), substituted ''subparagraphs (C) and (D)'' for ''paragraphs (2) and (3)''.

Subsec. (a)(1)(D). Pub. L. 104–105, § 202(a), added subpar. (D).

Subsec. (a)(5). Pub. L. 104–105, § 203, struck out heading and text of par. (5). Text read as follows: ''Each Farm Credit Bank shall require a financial statement from each borrower at least once every 3 years, or during such shorter period of time as may be required under regulations of the Farm Credit Administration.''

1988—Subsec. (a)(2). Pub. L. 100–399, § 401(h)(1), substituted ''prescribed by regulations of'' for ''approved by''.

Subsec. (a)(3). Pub. L. 100–399, § 401(h)(2), substituted ''under standards'' for ''under appraisal standards'' and ''in accordance with regulations of'' for ''and approved by''.

Subsec. (b). Pub. L. 100–399, § 401(i), substituted ''harvesters of aquatic products) from'' for ''harvester of aquatic products) from''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

§ 2019. Purposes for extensions of credit

(a) Agricultural or aquatic purposes

(1) In general

Loans made by a Farm Credit Bank to farmers, ranchers, and producers or harvesters of aquatic products may be for any agricultural or aquatic purpose and other credit needs of the applicant, including financing for basic processing and marketing directly related to the applicant's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products, except that the operations of the applicant shall supply some portion of the total processing or marketing for which financing is extended.

(2) Limitation on loans for basic processing and marketing operations

The aggregate of the financing provided by any Farm Credit Bank for basic processing and marketing directly related to the operations of farmers, ranchers, and producers or harvesters of aquatic products, if the operations of the applicant supply less than 20 percent of the total processing or marketing for which financing is extended, shall not exceed 15 percent of the total of all outstanding loans of such bank.

(b) Rural housing financing

(1) In general

Loans and discounts may be made to rural residents for rural housing financing under regulations of the Farm Credit Administration.

(2) Limitations

Rural housing financed under this subchapter shall be for single-family, moderate-priced dwellings and their appurtenances not inconsistent with the general quality and standards of housing existing in, or planned or recommended for, the rural area where it is located, except that a Farm Credit Bank may not at any one time have a total amount of loans outstanding for such rural housing to persons other than farmers or ranchers in amounts exceeding 15 percent of the total of all loans outstanding in such bank.

(3) Rural areas

For rural housing purposes under this section the term ''rural areas'' shall not be defined to include any city or village having a population in excess of 2,500 inhabitants.

(c) Farm-related services

(1) In general

Loans to persons furnishing farm-related services to farmers and ranchers directly related to their on-farm operating needs may be made for the necessary capital structures and equipment and initial working capital for such services.

(2) Facilities

The banks may own and lease, or lease with option to purchase, to persons eligible for credit under this subchapter or subchapter II of this chapter, equipment or facilities needed in the operations of such persons.

(Pub. L. 92–181, title I, § 1.11, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1627; amended Pub. L. 100–399, title IV, § 401(j), Aug. 17, 1988, 102 Stat. 996; Pub. L. 101–624, title XVIII, § 1832(a), Nov. 28, 1990, 104 Stat. 3832; Pub. L. 102–237, title V, § 502(a), Dec. 13, 1991, 105 Stat. 1868.)

PRIOR PROVISIONS

A prior section 2019, Pub. L. 92–181, title I, § 1.11, Dec. 10, 1971, 85 Stat. 586; Pub. L. 96–592, title I, § 108, Dec. 24, 1980, 94 Stat. 3438, related to services related to borrower's operations, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–237 made technical amendments to headings of subsec. (a) and pars. (1) and (2).

1990—Subsec. (a). Pub. L. 101–624 designated existing provisions as par. (1), inserted heading, substituted ''some portion'' for ''at least 20 percent, or such larger percent as may be required by the board of directors of the bank under regulations of the Farm Credit Administration,'', and added par. (2).

1988—Subsec. (c)(2). Pub. L. 100–399 substituted ''this subchapter or subchapter II of this chapter, equipment or facilities'' for ''this subchapter, facilities''.

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)(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 immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

§ 2020. Related services

(a) In general

The Farm Credit Banks may provide technical assistance to borrowers, members, and applicants from the bank and associations in the district, including persons obligated on paper discounted by the bank, and may make available to them at their option such financial related services appropriate to their on-farm and aquatic operations as determined to be feasible by the board of directors of the bank, under regulations of the Farm Credit Administration.

(b) Authority to pass along cost of insurance premiums

(1) In general

Each Farm Credit Bank may assess each production credit association, other association making direct loans under the authority provided under section 2279b of this title, and other financing institution described in section 2015(b)(1)(B) of this title in the district in which the bank is located to cover the costs of making premium payments under part E of subchapter V of this chapter.

(2) Computation

The assessment on any association or other financing institution described in paragraph (1) for any period shall be computed in an equitable manner, as determined by the Corporation.

(Pub. L. 92–181, title I, § 1.12, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1628; amended Pub. L. 100–399, title IV, § 401(k), Aug. 17, 1988, 102 Stat. 996; Pub. L. 101–220, § 6(b)(1), (2), Dec. 12, 1989, 103 Stat. 1880; Pub. L. 104–105, title II, § 215(a)(2)(C), Feb. 10, 1996, 110 Stat. 176; Pub. L. 107–171, title V, § 5403(a)(2)(A), May 13, 2002, 116 Stat. 350; Pub. L. 110–234, title V, § 5401(a), May 22, 2008, 122 Stat. 1154; Pub. L. 110–246, § 4(a), title V, § 5401(a), June 18, 2008, 122 Stat. 1664, 1915.)

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

A prior section 2020, Pub. L. 92–181, title I, § 1.12, Dec. 10, 1971, 85 Stat. 586; Pub. L. 96–592, title I, § 109, Dec. 24, 1980, 94 Stat. 3439, related to loans through associations or agents, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–246, § 5401(a), designated first sentence as par. (1), inserted heading, added par. (2), and struck out former second sentence which related to computation of the assessment on the same basis as is used to compute the premium payment and provided formula to calculate a maximum amount.

2002—Subsec. (b)(1). Pub. L. 107–171, § 5403(a)(2)(A)(i), inserted ''and Government Sponsored Enterprise-guaranteed loans (as defined in section 2277a–4(a)(4) of this title) provided for in paragraph (4)'' after ''government-guaranteed loans (as defined in section 2277a–4(a)(3) of this title) provided for in paragraph (3)''.

Subsec. (b)(4). Pub. L. 107–171, § 5403(a)(2)(A)(ii)–(iv), added par. (4).

1996—Pub. L. 104–105, § 215(a)(2)(C), which directed amendment of ''section 1.12(b)'', without specifying the name of the Act being amended, was executed to this section, which is section 112 of the Farm Credit Act of 1971, to reflect the probable intent of Congress.

Subsec. (b)(1). Pub. L. 104–105, § 215(a)(2)(C)(i), inserted ''(as defined in section 2277a–4(a)(3) of this title)'' after ''government-guaranteed loans''.

Subsec. (b)(3). Pub. L. 104–105, § 215(a)(2)(C)(i), inserted ''(as so defined)'' after ''government-guaranteed loans'' in subpars. (A) and (B).

1989—Subsec. (b). Pub. L. 101–220, § 6(b)(1), inserted '', other association making direct loans under the authority provided under section 2279b of this title,'' after ''production credit association''.

Subsec. (b)(1). Pub. L. 101–220, § 6(b)(2)(A), inserted ''funded by or'' before ''discounted with'' and ''excluding the guaranteed portions of government-guaranteed loans provided for in paragraph (3),'' and struck out ''and'' after ''multiplied by 0.0015;''.

Subsec. (b)(2). Pub. L. 101–220, § 6(b)(2)(B), inserted ''funded by or'' before ''discounted with'' and substituted ''0.0025; and'' for ''0.0025.''.

Subsec. (b)(3). Pub. L. 101–220, § 6(b)(2)(C), added par. (3).

1988—Subsec. (a). Pub. L. 100–399 designated existing provision as subsec. (a), inserted heading, substituted ''directors of the bank'' for ''directors of each district bank'', and added subsec. (b).

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 Title 7, Agriculture.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–171, title V, § 5403(b), May 13, 2002, 116 Stat. 351, provided that: ''The amendments made by this section [amending this section and sections 2277a–4 and 2277a–5 of this title] shall apply with respect to determinations of premiums for calendar year 2002 and for any succeeding calendar year, and to certified statements with respect to such premiums.''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 6(c) of Pub. L. 101–220 provided that: ''The amendments made by subsections (a) and (b) [amending sections 2020, 2277a–4, 2277a–8, and 2277a–10 of this title] shall be effective for insurance premiums due to the Farm Credit System Insurance Corporation under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) on or after January 1, 1990, based on the loan volume of each bank for each calendar year beginning with calendar year 1989, and shall be effective for the calculation of the initial premium payment required under section 5.56(c) of the Farm Credit Act of 1971 (12 U.S.C. 2277a–5(c)).''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

§ 2021. Loans through associations or agents

(a) In general

The Farm Credit Banks shall, except as otherwise herein provided, make loans of the type authorized under section 2015(a) of this title through a Federal land bank association chartered to serve the territory in which the real estate of the borrower is located.

(b) No active association

If there is no active association chartered to serve territory where the real estate is located, the bank may make the loan directly or through such bank or trust company or savings or other financial institution as such bank may designate.

(c) Purchase of stock required

When the loan is not made through a Federal land bank association, the applicant shall purchase stock in the bank in accordance with the capitalization requirements provided for in the bylaws of the bank.

(Pub. L. 92–181, title I, § 1.13, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1628.)

PRIOR PROVISIONS

A prior section 1.13 of Pub. L. 92–181 was classified to section 2031 of this title prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

§ 2022. Liens on stock

The Farm Credit Banks shall have a first lien on the stock or participation certificates it issues for the payment of any liability of the stockholders to the bank.

(Pub. L. 92–181, title I, § 1.14, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1629.)

PRIOR PROVISIONS

A prior section 1.14 of Pub. L. 92–181 was classified to section 2032 of this title prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

§ 2023. Taxation

The Farm Credit Banks and the capital, reserves, and surplus thereof, and the income derived therefrom, shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by a Farm Credit Bank to the same extent, according to its value, as other similar property held by other persons is taxed. The mortgages held by the Farm Credit Banks and the notes, bonds, debentures, and other obligations issued by the banks shall be considered and held to be instrumentalities of the United States and, as such, they and the income therefrom shall be exempt from all Federal, State, municipal, and local taxation, other than Federal income tax liability of the holder thereof under the Public Debt Act of 1941 (31 U.S.C. 3124).

(Pub. L. 92–181, title I, § 1.15, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1629; amended Pub. L. 100–399, title IV, § 401(*l*), Aug. 17, 1988, 102 Stat. 997.)

PRIOR PROVISIONS

A prior section 1.15 of Pub. L. 92–181 was classified to section 2033 of this title prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

A prior section 2031, Pub. L. 92–181, title I, § 1.13, Dec. 10, 1971, 85 Stat. 587; Pub. L. 99–205, title II, § 205(d)(4), Dec. 23, 1985, 99 Stat. 1703; Pub. L. 100–233, title VIII, § 802(e), Jan. 6, 1988, 101 Stat. 1710, related to organizations, articles, and charters of Federal land bank associations, and powers of Farm Credit Administration, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401. See section 2011 of this title.

A prior section 2032, Pub. L. 92–181, title I, § 1.14, Dec. 10, 1971, 85 Stat. 587, related to board of directors, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401. See section 2012 of this title.

A prior section 2033, Pub. L. 92–181, title I, § 1.15, Dec. 10, 1971, 85 Stat. 587; Pub. L. 96–592, title I, § 110, Dec. 24, 1980, 94 Stat. 3439; Pub. L. 99–205, title II, § 205(d)(5), Dec. 23, 1985, 99 Stat. 1704; Pub. L. 100–233, title VII, § 705(b), title VIII, § 805(b), Jan. 6, 1988, 101 Stat. 1707, 1715; Pub. L. 100–399, title VI, § 604, title VII, § 702(a), Aug. 17, 1988, 102 Stat. 1006, related to general corporate powers, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401. See section 2013 of this title.

A prior section 2034, Pub. L. 92–181, title I, § 1.16, Dec. 10, 1971, 85 Stat. 589; Pub. L. 96–592, title I, § 111, Dec. 24, 1980, 94 Stat. 3439; Pub. L. 99–205, title III, § 304(a), Dec. 23, 1985, 99 Stat. 1708, related to association stock, value of shares, voting, and purchase, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

A prior section 2051, Pub. L. 92–181, title I, § 1.17, Dec. 10, 1971, 85 Stat. 589; Pub. L. 96–592, title I, § 112, Dec. 24, 1980, 94 Stat. 3439; Pub. L. 99–205, title II, § 205(d)(6), title VI, § 602, Dec. 23, 1985, 99 Stat. 1704, 1711; Pub. L. 100–233, title VIII, § 802(f), Jan. 6, 1988, 101 Stat. 1711, related to land bank reserves, dividends, and patronage refunds, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

A prior section 2052, Pub. L. 92–181, title I, § 1.18, Dec. 10, 1971, 85 Stat. 589; Pub. L. 96–592, title I, § 113, Dec. 24, 1980, 94 Stat. 3439; Pub. L. 99–205, title VI, § 603, Dec. 23, 1985, 99 Stat. 1711; Pub. L. 100–233, title VIII, § 802(g), Jan. 6, 1988, 101 Stat. 1711, related to association reserves, dividends, and patronage refunds, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

A prior section 2053, Pub. L. 92–181, title I, § 1.19, Dec. 10, 1971, 85 Stat. 590; Pub. L. 96–592, title I, § 114, Dec. 24, 1980, 94 Stat. 3439, related to agreements for sharing gains or losses, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

A prior section 2054, Pub. L. 92–181, title I, § 1.20, Dec. 10, 1971, 85 Stat. 590; Pub. L. 96–592, title I, § 115, Dec. 24, 1980, 94 Stat. 3439; Pub. L. 99–205, title II, § 205(d)(7), Dec. 23, 1985, 99 Stat. 1704; Pub. L. 100–233, title VIII, § 805(c), Jan. 6, 1988, 101 Stat. 1715, related to liens on stock and participation certificates, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

A prior section 2055, Pub. L. 92–181, title I, § 1.21, Dec. 10, 1971, 85 Stat. 590; Pub. L. 100–399, title IX, § 901(a), Aug. 17, 1988, 102 Stat. 1007, related to tax exempt status, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401. See section 2023 of this title.

AMENDMENTS

1988—Pub. L. 100–399 inserted a comma after ''therefrom'' and substituted ''3124'' for ''742(a)''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

SUBCHAPTER II—FARM CREDIT ASSOCIATIONS

CODIFICATION

Title II of the Farm Credit Act of 1971, comprising this subchapter, was originally enacted by Pub. L. 92–181, title II, Dec. 10, 1971, 85 Stat. 590, and amended by Pub. L. 95–443, Oct. 10, 1978, 92 Stat. 1066; Pub. L. 96–592, Dec. 24, 1980, 94 Stat. 3437; Pub. L. 99–205, Dec. 23, 1985, 99 Stat. 1678; Pub. L. 99–509, Oct. 21, 1986, 100 Stat. 1874; Pub. L. 100–233, Jan. 6, 1988, 101 Stat. 1568. Such title is shown herein, however, as having been added by Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1622, without reference to such intervening amendments because of the extensive revision of the title's provisions by Pub. L. 100–233.

PART A—PRODUCTION CREDIT ASSOCIATIONS

AMENDMENTS

1988—Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1629, substituted ''Farm Credit Associations'' for ''Federal Intermediate Credit Banks and Production Credit Associations'' as subchapter heading, and substituted ''Production Credit Associations'' for ''Federal Intermediate Credit Banks'' as heading for part A.

§ 2071. Organization and charters

(a) Charter

Each production credit association shall continue as a Federally chartered instrumentality of the United States.

(b) Organization

(1) In general

Production credit associations may be organized by 10 or more farmers or ranchers or producers or harvesters of aquatic products desiring to borrow money under the provisions of this part.

(2) Articles of association

The proposed articles of association shall be forwarded to the Farm Credit Bank for the district accompanied by an agreement to subscribe on behalf of the association for stock in the bank in such amounts as may be required by the bank.

(3) Contents of articles

The articles shall specify in general terms the—

(A) objects for which the association is formed;

(B) powers to be exercised by the association in carrying out the functions authorized by this part; and

(C) territory the association proposes to serve.

(4) Signatures

The articles shall be signed by persons desiring to form such an association and shall be accompanied by a statement signed by each such person establishing eligibility to borrow from the association in which such person will become a stockholder.

(5) Copy to FCA

A copy of the articles of association shall be forwarded to the Farm Credit Administration with the recommendations of the bank concerning the need for such an association in order to adequately serve the credit needs of eligible persons in the proposed territory and whether that territory includes any area described in the charter of another production credit association.

(6) Denial of charter

The Farm Credit Administration for good cause shown may deny the charter.

(7) Approval of articles

On approval of the proposed articles by the Farm Credit Administration, and on the issuance of a charter, the association shall become as of such date a federally chartered body corporate and an instrumentality of the United States.

(8) Powers of FCA

The Farm Credit Administration shall have the power, under rules and regulations prescribed by the Farm Credit Administration or by prescribing in the terms of the charter, to—

(A) provide for the organization of the association;

(B) provide for the initial amount of stock of the association;

(C) provide for the territory within which the association's operations may be carried on; and

(D) approve amendments to the charter of the association.

(Pub. L. 92–181, title II, § 2.0, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1629; amended Pub. L. 100–399, title IV, § 401(m), Aug. 17, 1988, 102 Stat. 997; Pub. L. 102–237, title V, § 502(b), Dec. 13, 1991, 105 Stat. 1868.)

PRIOR PROVISIONS

A prior section 2071, Pub. L. 92–181, title II, § 2.0, Dec. 10, 1971, 85 Stat. 590; Pub. L. 100–233, title VIII, § 802(h), Jan. 6, 1988, 101 Stat. 1711, related to establishment and branches of Federal intermediate credit banks, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

AMENDMENTS

1991—Subsec. (b)(8). Pub. L. 102–237 substituted ''charter, to'' for ''charter to'' in introductory provisions.

1988—Subsec. (b)(1). Pub. L. 100–399, § 401(m)(1), substituted ''this part'' for ''this subchapter''.

Subsec. (b)(3)(B). Pub. L. 100–399, § 401(m)(2), (3), struck out ''the'' before ''powers'' and substituted ''this subtitle'' for ''this part'', both of which for purposes of codification were translated as ''this part'', requiring no change in text.

Subsec. (b)(3)(C). Pub. L. 100–399, § 401(m)(3), struck out ''the'' before ''territory''.

Subsec. (b)(8). Pub. L. 100–399, § 401(m)(4), struck out in introductory provision ''or by approval of bylaws of the association'' after ''the charter'' and amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: ''direct at any time such changes in the charter as the Farm Credit Administration finds necessary for the accomplishment of the purposes of this chapter''.

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)(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 immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

EFFECTIVE DATE

Section 401 of Pub. L. 100–233 provided in part that this subchapter is effective 6 months after Jan. 6, 1988.

MERGER OF PRODUCTION CREDIT ASSOCIATIONS AND FEDERAL LAND BANK ASSOCIATIONS

Section 411 of Pub. L. 100–233, as amended by Pub. L. 100–399, title IV, § 403, Aug. 17, 1988, 102 Stat. 999, provided that:

''(a) SUBMISSION OF PROPOSAL.—Not later than 6 months after the date of the merger of the Federal land bank and the Federal intermediate credit bank in a district, the Boards of Directors of each Federal land bank association and each production credit association in such district, that share substantially the same geographical territory with each other, shall submit to the voting stockholders of each such association for their approval, a plan, approved by the supervising bank and the Farm Credit Administration, for merging such associations.

''(b) PREREQUISITES TO MERGER.—

''(1) STOCKHOLDER VOTE.—The stockholder vote required for approval of a merger under subsection (a) shall be a majority of the voting stockholders of each association voting, in person or by written proxy, at a duly authorized stockholders meeting.

''(2) SUBMISSION TO FCA.—Not later than 60 days prior to the end of the 12-month period beginning on the date of the enactment of this section [Jan. 6, 1988], the plan of merger under subsection (a), to-

gether with all information to be presented to the stockholders, shall be submitted to the Farm Credit Administration.

''(3) EXPEDITED CONSIDERATION BY FCA.—The Farm Credit Administration shall expedite its consideration of the plan and accompanying information submitted under paragraph (2) so that review and approval of such plan and information shall be completed by the Administration so as to enable a stockholder vote to occur within the 12-month period referred to in paragraph (2).

''(c) DIRECT LENDERS.—On approval of a merger under this subsection, the resulting association shall be a direct lender in the same manner as applies to production credit associations.''

REASSIGNMENT OF ASSOCIATIONS TO ADJOINING DISTRICTS

Section 433 of Pub. L. 100–233, as amended by Pub. L. 100–399, title IV, § 417, Aug. 17, 1988, 102 Stat. 1004, provided that:

''(a) PETITION OF BANK.—Notwithstanding any other provision of law, effective for the 12-month period beginning on the date of enactment of this Act [Jan. 6, 1988], each Federal land bank association or production credit association, whose chartered territory adjoins the territory of another district, may petition the Farm Credit Administration to amend the charters of the association and the adjoining district bank to provide that the territory of the association is part of the adjoining district.

''(b) REQUIREMENTS OF PETITION.—To be considered under this section, the petition must be signed by not less than 15 percent of the stockholders of the association. Only one such petition may be filed by an association under this section.

''(c) FCA ACTION.—The Farm Credit Administration shall take any action necessary—

''(1) to amend the charters of the association and the district bank; and

''(2) to incorporate the petitioning association into the adjoining district if the reassignment is approved by—

''(A) a majority of the stockholders of the association voting, in person or by proxy, at a duly authorized stockholders' meeting held for such purpose;

''(B) the board of directors of the adjoining district bank;

''(C) the Farm Credit System Assistance Board; and

''(D) the Farm Credit Administration Board.''

§ 2072. Board of directors

Each production credit association shall elect from the voting members of such association, a board of directors of such number, for such terms, with such qualifications, and in such manner as may be required by the bylaws of the association, except that at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, stockholder, or agent of a System institution.

(Pub. L. 92–181, title II, § 2.1, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1630; amended Pub. L. 100–399, title IV, § 401(n), Aug. 17, 1988, 102 Stat. 997; Pub. L. 102–237, title V, § 502(c), Dec. 13, 1991, 105 Stat. 1868.)

PRIOR PROVISIONS

A prior section 2072, Pub. L. 92–181, title II, § 2.1, Dec. 10, 1971, 85 Stat. 591; Pub. L. 96–592, title II, § 201, Dec. 24, 1980, 94 Stat. 3439; Pub. L. 99–205, title II, § 205(e)(1), Dec. 23, 1985, 99 Stat. 1704; Pub. L. 100–233, title VII, § 705(c), title VIII, §§ 802(i), 805(d), Jan. 6, 1988, 101 Stat. 1707, 1711, 1715; Pub. L. 100–399, title VI, § 604, title IX, § 901(b), Aug. 17, 1988, 102 Stat. 1006, 1007, related to corporate existence and general corporate powers, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

AMENDMENTS

1991—Pub. L. 102–237 substituted ''stockholder, or agent'' for ''or stockholder''.

1988—Pub. L. 100–399 struck out the comma after ''except that''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

§ 2073. General corporate powers

Each production credit association shall be a body corporate and, subject to supervision by the Farm Credit Bank for the district and regulation by the Farm Credit Administration, shall have the power to—

(1) have succession until terminated in accordance with this chapter or any other Act of Congress;

(2) adopt and use a corporate seal;

(3) make contracts;

(4) sue and be sued;

(5) acquire, hold, dispose, and otherwise exercise all of the usual incidents of ownership of real and personal property necessary or convenient to the business of the association;

(6) operate under the direction of the board of directors of the association in accordance with the provisions of this chapter;

(7) subscribe to stock of the bank;

(8) purchase stock of the bank held by other production credit associations and stock of other production credit associations;

(9) contribute to the capital of the bank or other production credit associations;

(10) invest funds of the association as may be approved by the Farm Credit Bank under regulations of the Farm Credit Administration and deposit the current funds and securities of such with the Farm Credit Bank, a member bank of the Federal Reserve System, or any bank insured under the Federal Deposit Insurance Corporation, and may pay fees therefor and receive interest thereon as may be agreed;

(11) buy and sell obligations of or insured by the United States or of any agency thereof or of any banks of the Farm Credit System and buy from and sell to such banks, interests in loans and in other financial assistance extended and nonvoting stock, as may be authorized by the Farm Credit Bank in accordance with regulations of the Farm Credit Administration;

(12) borrow money from the Farm Credit Bank, and with the approval of such bank, borrow from and issue notes or other obligations to any commercial bank or other financial institution;

(13) make and participate in loans, accept advance payments, and provide services and other assistance as authorized in this part and charge fees therefor, and when authorized by the bank participate with one or more other

Farm Credit System institutions in loans made under this subchapter or other subchapters of this chapter on the basis prescribed in section 2206 of this title;

(14) endorse and become liable on loans discounted or pledged to the Farm Credit Bank;

(15) as may be authorized by the Farm Credit Bank in accordance with regulations of the Farm Credit Administration, agree with other Farm Credit System institutions to share loan or other losses, whether to protect against capital impairment or for any other purpose;

(16) prescribe, by its board of directors, its bylaws that shall be consistent with law, and that shall provide for—

(A) the classes of its stock and the manner in which such stock shall be issued, transferred, and retired; and

(B) the manner in which it is to—

(i) select officers and employees;

(ii) acquire, hold, and transfer property;

(iii) conduct general business; and

(iv) exercise and enjoy the privileges granted to it by law;

(17) provide by its board of directors for a manager or other chief executive officer, and provide for such other officers or employees as may be necessary, including joint employees as provided in this chapter, define their duties, and require surety bonds or make other provisions against losses occasioned by employees, but no director shall, within one year after the date when such director ceases to be a member of the board, serve as a salaried employee of the association on the board of which he served;

(18) elect by the board of directors of the association a loan committee with power to approve applications for membership in the association and loans or participations or, with the approval of the bank, delegate the approval of applications for membership and loans or participations within specified limits to other committees or to authorized officers and employees of the association;

(19) perform any functions delegated to the association by the bank;

(20) exercise by the board of directors or authorized officers or employees of the association, all such incidental powers as may be necessary or expedient to carry on the business of the association; and

(21) operate as an originator and become certified as a certified facility under subchapter VIII of this chapter.

(Pub. L. 92–181, title II, § 2.2, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1630; amended Pub. L. 100–399, title IV, § 401(*o*), Aug. 17, 1988, 102 Stat. 997.)

PRIOR PROVISIONS

A prior section 2073, Pub. L. 92–181, title II, § 2.2, Dec. 10, 1971, 85 Stat. 592; Pub. L. 96–592, title II, § 202, Dec. 24, 1980, 94 Stat. 3440; Pub. L. 99–205, title II, § 205(e)(2)–(5), title VI, § 604, Dec. 23, 1985, 99 Stat. 1704, 1711; Pub. L. 100–233, title VIII, §§ 802(j), 805(e), Jan. 6, 1988, 101 Stat. 1711, 1715, related to Federal intermediate credit bank stock, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

AMENDMENTS

1988—Par. (16). Pub. L. 100–399, § 401(*o*)(1), amended par. (16) generally. Prior to amendment, par. (16) read as follows: ''prescribe by the board of directors of the association the bylaws not inconsistent with law providing for—

''(A) the classes of association stock and the manner in which the stock shall be issued, transferred, and retired;

''(B) the officers and employees elected or provided for;

''(C) the property acquired, held, and transferred by the association; and

''(D) the general business conducted, and the privileges granted to the association by law exercised and enjoyed;''.

Par. (17). Pub. L. 100–399, § 401(*o*)(2), substituted ''provide by its board of directors for'' for ''elect by the board of directors of the association'' and ''serve as'' for ''be elected or designated''.

Par. (21). Pub. L. 100–399, § 401(*o*)(3)–(5), added par. (21).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

§ 2074. Production credit association capitalization

(a) In general

In accordance with section 2154a of this title, each production credit association shall provide, through its bylaws and subject to Farm Credit Administration regulations, for its capitalization and the manner in which its stock shall be issued, held, transferred, and retired and, except as provided in subsection (b) of this section, its earnings distributed.

(b) Application of earnings

At the end of each fiscal year, each production credit association shall apply the amount of the earnings of the association for the fiscal year in excess of the operating expenses of the association (including provision for valuation reserves against loan assets in accordance with generally accepted accounting principles)—

(1) first, to the restoration of the impairment (if any) of capital; and

(2) second, to the establishment and maintenance of the surplus accounts, the minimum aggregate amount of which shall be prescribed by the Farm Credit Bank.

(c) Patronage

When the bylaws of an association so provide and subject to the general directions of the Farm Credit Administration, available net earnings at the end of any fiscal year may be distributed on a patronage basis in stock, participation certificates, or in cash. Any part of the earnings of the fiscal year in excess of the operating expenses for such year held in the surplus account may be allocated to patrons on a patronage basis.

(Pub. L. 92–181, title II, § 2.3, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1632; amended Pub. L. 102–552, title V, § 501, Oct. 28, 1992, 106 Stat. 4129.)

PRIOR PROVISIONS

A prior section 2074, Pub. L. 92–181, title II, § 2.3, Dec. 10, 1971, 85 Stat. 593; Pub. L. 96–592, title II, § 203, Dec. 24, 1980, 94 Stat. 3440; Pub. L. 99–205, title II, § 205(e)(6),

Dec. 23, 1985, 99 Stat. 1704, related to loans, discounts, participation, and leasing, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–552 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Each production credit association at the end of each fiscal year shall apply the amount of the earnings of the association for such year in excess of the operating expenses of the association (including provision for valuation reserves against loan assets in an amount equal to one-half of 1 percent of the loans outstanding at the end of the fiscal year to the extent that such earnings in such year in excess of other operating expenses permit, or in such greater amounts as are deemed necessary under generally accepted accounting principles, until such reserves equal or exceed 3½ percent of the loans outstanding at the end of the fiscal year, beyond which 3½ percent further additions to such reserves may be made, if deemed necessary under generally accepted accounting principles) first to the restoration of the impairment, if any, of capital, and second, to the establishment and maintenance of the surplus accounts, the minimum aggregate amount of which shall be prescribed by the Farm Credit Bank.''

§ 2075. Short- and intermediate-term loans; participation; other financial assistance; terms; conditions; interest; security

(a) Short- and intermediate-term loans

Each production credit association, under standards prescribed by the board of directors of the Farm Credit Bank of the district, may make, guarantee, or participate with other lenders in short- and intermediate-term loans and other similar financial assistance to—

(1) bona fide farmers and ranchers and the producers or harvesters of aquatic products, for agricultural or aquatic purposes and other requirements of such borrowers, including financing for basic processing and marketing directly related to the operations of the borrower and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products, except that the operations of the borrower shall supply some portion of the total processing or marketing for which financing is extended, except that the aggregate of the financing provided by any association for basic processing and marketing directly related to the operations of farmers, ranchers, and producers or harvesters of aquatic products, if the operations of the applicant supply less than 20 percent of the total processing or marketing for which financing is extended, shall not exceed 15 percent of the total of all outstanding loans of all associations in the district at the end of its preceding fiscal year;

(2) rural residents for housing financing in rural areas, under regulations of the Farm Credit Administration; and

(3) persons furnishing to farmers and ranchers farm-related services directly related to their on-farm operating needs.

(b) Rural housing

(1) In general

Rural housing financed under this part shall be for single-family, moderate-priced dwellings and the appurtenances of such not inconsistent with the general quality and standards of housing existing in, or planned or recommended for, the rural area where it is located.

(2) Limitation

The aggregate of such housing loans in an association to persons other than farmers or ranchers shall not exceed 15 percent of the outstanding loans at the end of its preceding fiscal year except on prior approval by the Farm Credit Bank of the district. The aggregate of such housing loans in any farm credit district shall not exceed 15 percent of the outstanding loans of all associations in the district at the end of the preceding fiscal year.

(3) Rural areas

For rural housing purposes under this section the term ''rural areas'' shall not be defined to include any city or village having a population in excess of 2,500 inhabitants.

(4) Equipment

Each association may own and lease, or lease with option to purchase, to stockholders of the association equipment needed in the operations of the stockholder.

(c) Interest rates and charges

(1) In general

Loans authorized in subsection (a) of this section shall bear such rate or rates of interest as are determined under standards prescribed by the board of the bank subject to the provisions of section 2205 of this title, and shall be made upon such terms, conditions, and upon such security, if any, as shall be authorized in such standards.

(2) Setting of rates

In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers, at the lowest reasonable cost on a sound business basis, taking into account the cost of money to the association, necessary reserves and expenses of the association, and services provided to borrowers and members.

(3) Varying rates

The loan documents may provide for the interest rate or rates to vary from time to time during the repayment period of the loan in accordance with the rate or rates currently being charged by the association.

(4) Prior approval

Such standards may require prior approval of the bank on certain classes of loans, and may authorize a continuing commitment to a borrower of a line of credit.

(d) Special district rule

(1) Provision of credit and technical assistance outside service territory

Notwithstanding any territorial limitation in the charter of a production credit association located in a district in which there are only two such associations, the Farm Credit Administration Board, on request of such association, may permit such association to provide credit and technical assistance to any borrower who is denied credit by the other production credit association in the district if

the Board determines that such other production credit association in the district is unduly restrictive in the application of credit standards.

(2) Timing of determination

If the Farm Credit Administration Board approves the extension of credit and technical assistance under paragraph (1), the association shall approve or deny the application for credit within 90 days after receipt of the application from the borrower.

(Pub. L. 92–181, title II, § 2.4, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1632; amended Pub. L. 100–399, title IV, § 401(p), (q), Aug. 17, 1988, 102 Stat. 997; Pub. L. 101–624, title XVIII, § 1832(b), Nov. 28, 1990, 104 Stat. 3832.)

PRIOR PROVISIONS

A prior section 2075, Pub. L. 92–181, title II, § 2.4, Dec. 10, 1971, 85 Stat. 594; Pub. L. 95–443, Oct. 10, 1978, 92 Stat. 1066; Pub. L. 96–592, title II, § 204, Dec. 24, 1980, 94 Stat. 3441; Pub. L. 99–509, title I, § 1033(b), Oct. 21, 1986, 100 Stat. 1877, related to terms, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101–624 substituted ''some portion of the total processing or marketing for which financing is extended, except that the aggregate of the financing provided by any association for basic processing and marketing directly related to the operations of farmers, ranchers, and producers or harvesters of aquatic products, if the operations of the applicant supply less than 20 percent of the total processing or marketing for which financing is extended, shall not exceed 15 percent of the total of all outstanding loans of all associations in the district at the end of its preceding fiscal year'' for ''at least 20 percent, or such larger percent as is required by the supervising bank under regulations of the Farm Credit Administration, of the total processing or marketing for which financing is extended''.

1988—Subsec. (b)(1). Pub. L. 100–399, § 401(p), substituted ''this part'' for ''this subchapter'' and substituted ''or planned'' for ''planned''.

Subsec. (d). Pub. L. 100–399, § 401(q), added subsec. (d).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

§ 2076. Other services

Each production credit association may provide technical assistance to borrowers, applicants, and members and may make available to them at their option such financial related services appropriate to their on-farm and aquatic operations as is determined feasible by the board of directors of each Farm Credit Bank, under regulations prescribed by the Farm Credit Administration.

(Pub. L. 92–181, title II, § 2.5, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1633.)

PRIOR PROVISIONS

A prior section 2076, Pub. L. 92–181, title II, § 2.5, Dec. 10, 1971, 85 Stat. 595; Pub. L. 96–592, title II, § 205, Dec. 24, 1980, 94 Stat. 3442; Pub. L. 100–233, title III, § 305, Jan. 6, 1988, 101 Stat. 1621, related to services related to borrowers' operations, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

§ 2076a. Liens on stock

Except with regard to stock or participation certificates held by other Farm Credit System institutions, each production credit association shall have a first lien on stock and participation certificates the association issues, on allocated surplus, and on investments in equity reserve, for any indebtedness of the holder of the capital investments and, in the case of equity reserves, for charges for association losses in excess of reserves and surpluses.

(Pub. L. 92–181, title II, § 2.6, as added Pub. L. 101–624, title XVIII, § 1833(2), Nov. 28, 1990, 104 Stat. 3832.)

PRIOR PROVISIONS

A prior section 2.6 of Pub. L. 92–181 was renumbered section 2.7 and is classified to section 2077 of this title.

EFFECTIVE DATE

Section effective Jan. 7, 1988, see section 1861(d) of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 2001 of Title 7, Agriculture.

§ 2077. Taxation

Each production credit association and its obligations are instrumentalities of the United States and as such any and all notes, debentures, and other obligations issued by such associations shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States or any State, territorial, or local taxing authority, except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder.

(Pub. L. 92–181, title II, § 2.7, formerly § 2.6, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1633; amended Pub. L. 100–399, title IV, § 401(r), Aug. 17, 1988, 102 Stat. 998; renumbered § 2.7, Pub. L. 101–624, title XVIII, § 1833(1), Nov. 28, 1990, 104 Stat. 3832.)

PRIOR PROVISIONS

A prior section 2077, Pub. L. 92–181, title II, § 2.6, Dec. 10, 1971, 85 Stat. 595; Pub. L. 96–592, title II, § 206, Dec. 24, 1980, 94 Stat. 3442; Pub. L. 99–205, title II, § 205(e)(7), (8), Dec. 23, 1985, 99 Stat. 1704; Pub. L. 100–233, title VIII, §§ 802(k), 805(f), Jan. 6, 1988, 101 Stat. 1711, 1715, related to net earnings, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

A prior section 2078, Pub. L. 92–181, title II, § 2.7, Dec. 10, 1971, 85 Stat. 597; Pub. L. 99–205, title II, § 205(e)(9), Dec. 23, 1985, 99 Stat. 1704, related to distribution of assets on liquidation, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

A prior section 2079, Pub. L. 92–181, title II, § 2.8, Dec. 10, 1971, 85 Stat. 597; Pub. L. 100–399, title IX, § 901(a), Aug. 17, 1988, 102 Stat. 1007, related to taxation, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

AMENDMENTS

1988—Pub. L. 100–399 substituted ''interest,'' for ''interest'' and inserted '', except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233,

which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

PART B—FEDERAL LAND BANK ASSOCIATIONS

AMENDMENTS

1988—Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1634, substituted ''Federal Land Bank Associations'' for ''Production Credit Associations'' as heading for part B.

§ 2091. Organizations; articles; charters; powers of the Farm Credit Administration

(a) Charter

Each Federal land bank association shall continue as a federally chartered instrumentality of the United States.

(b) Organization

(1) In general

A Federal land bank association may be organized by any group of 10 or more persons desiring to borrow money from a Farm Credit Bank under section 2015(a) of this title, including persons to whom the Farm Credit Bank has made a loan directly or through an agent and has taken as security real estate located in the territory proposed to be served by the association.

(2) Articles of association

(A) Description of territory

The articles of association shall describe the territory within which the association proposes to carry on its operations.

(B) Submission to FCB

Proposed articles shall be forwarded to the Farm Credit Bank for the district, accompanied by an agreement to subscribe on behalf of the association for stock in accordance with the bylaws of the Farm Credit Bank.

(C) Stock purchase

Association stock may be paid for by surrendering for cancellation stock in the bank held by a borrower and the issuance of an equivalent amount of stock to such borrower in the association.

(D) Statement

The articles shall be accompanied by a statement signed by each of the members of the proposed association establishing—

(i) the individual's eligibility and request for a Farm Credit Bank loan;

(ii) that the real estate with respect to which the individual desires the loan for is not being served by another Federal land bank association; and

(iii) that the individual is or will become a stockholder in the proposed association.

(E) Submission to FCA

A copy of the articles of association shall be forwarded to the Farm Credit Administration with the recommendations of the bank concerning the need for the proposed association in order to adequately serve the credit needs of eligible persons in the proposed territory and a statement as to whether or not the territory includes any territory described in the charter of another Federal land bank association.

(3) Denials of charters

The Farm Credit Administration for good cause shown may deny the charter applied for.

(4) Approval of articles

On the approval of the proposed articles by the Farm Credit Administration and the issuance of such charter, the association shall become as of such date a federally chartered body corporate and an instrumentality of the United States.

(c) FCA authority on organization

The Farm Credit Administration shall have power, in the terms of the charter, under rules and regulations prescribed by the Farm Credit Administration—

(1) to provide for the organization of the association;

(2) to provide for the initial amount of stock of the association;

(3) to provide for the territory within which the association may carry on its operations; and

(4) to approve amendments to the charter of such association.

(Pub. L. 92–181, title II, § 2.10, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1634; amended Pub. L. 100–399, title IV, § 401(s), (t), Aug. 17, 1988, 102 Stat. 998.)

PRIOR PROVISIONS

A prior section 2091, Pub. L. 92–181, title II, § 2.10, Dec. 10, 1971, 85 Stat. 597; Pub. L. 96–592, title II, § 207, Dec. 24, 1980, 94 Stat. 3442; Pub. L. 99–205, title II, § 205(e)(10), Dec. 23, 1985, 99 Stat. 1704; Pub. L. 100–233, title VIII, §§ 802(*l*), 805(g), Jan. 6, 1988, 101 Stat. 1711, 1715, related to organization and charters of production credit associations, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

AMENDMENTS

1988—Subsec. (b)(1). Pub. L. 100–399, § 401(s)(1), inserted ''under section 2015(a) of this title'' after ''a Farm Credit Bank''.

Subsec. (b)(2)(D)(i). Pub. L. 100–399, § 401(s)(2), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: ''the individual's eligibility for, and request or need of the individual of a Farm Credit Bank loan;''.

Subsec. (c). Pub. L. 100–399, § 401(t), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The Farm Credit Administration shall have power, in the terms of the charter, under rules and regulations prescribed by the Farm Credit Administration or by approving the bylaws of the association, to provide for the—

''(1) organization of the association;

''(2) the initial amount of stock of such association;

''(3) the territory within which the operations of the association may be carried on; and

''(4) to direct at any time changes in the charter of such association as the Farm Credit Administration finds necessary in accomplishing the purposes of this chapter.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

§ 2092. Board of directors

Each Federal land bank association shall elect from its voting shareholders a board of directors of such number, for such terms, in such manner, and with such qualifications as may be required by its bylaws except that, at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, stockholder, or agent of a System institution.

(Pub. L. 92–181, title II, § 2.11, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1635; amended Pub. L. 102–237, title V, § 502(d), Dec. 13, 1991, 105 Stat. 1868.)

PRIOR PROVISIONS

A prior section 2092, Pub. L. 92–181, title II, § 2.11, Dec. 10, 1971, 85 Stat. 598, related to board of directors, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

AMENDMENTS

1991—Pub. L. 102–237 substituted ''stockholder, or agent'' for ''or stockholder''.

§ 2093. General corporate powers

Each Federal land bank association shall be a body corporate and, subject to supervision of the Farm Credit Bank for the district and the regulation of the Farm Credit Administration, shall have the power to—

(1) adopt and use a corporate seal;

(2) have succession until dissolved under the provisions of this chapter or other Act of Congress;

(3) make contracts;

(4) sue and be sued;

(5) acquire, hold, dispose, and otherwise exercise all of the usual incidents of ownership of real estate and personal property necessary or convenient to the business of the association;

(6) operate under the direction of the board of directors of the association in accordance with this chapter;

(7) provide by its board of directors for a manager or other chief executive officer, and provide for such other officers or employees as may be necessary, including joint employees as provided in this chapter, define the duties of such, and require surety bonds or make other provision against losses occasioned by employees, except that no director shall, within one year after the date when such director ceases to be a member of the board, serve as a salaried employee of the association on the board of which such director served;

(8) prescribe, by its board of directors, its bylaws that shall be consistent with law, and that shall provide for—

(A) the classes of its stock and the manner in which such stock shall be issued, transferred, and retired; and

(B) the manner in which it is to—

(i) select officers and employees;

(ii) acquire, hold, and transfer property;

(iii) conduct general business; and

(iv) exercise and enjoy the privileges granted to it by law;

(9) accept applications for Farm Credit Bank loans and receive from such bank and disburse to the borrowers the proceeds of such loans;

(10) subscribe to stock of the Farm Credit Bank of the district;

(11) elect by its board of directors a loan committee with power to elect applicants for membership in the association and recommend loans to the Farm Credit Bank, or with the approval of the Farm Credit Bank, delegate the election of applicants for membership and the approval of loans within specified limits to other committees or to authorized employees of the association;

(12) on agreement with the bank, take such additional actions with respect to applications and loans and perform such functions as are vested by law in the Farm Credit Banks as may be agreed to by the association;

(13) endorse and become liable to the bank on loans it makes to association members;

(14) receive such compensation and deduct such sums from loan proceeds with respect to each loan as may be agreed between the association and the bank and make such other charges for services as may be approved by the bank;

(15) provide technical assistance to members, borrowers, applicants, and other eligible persons and make available to them, at their option, such financial related services appropriate to their operations as it determines, with Farm Credit Bank approval, are feasible, under regulations of the Farm Credit Administration;

(16) borrow money from the bank and, with the approval of such bank, borrow from and issue association notes or other obligations to any commercial bank or other financial institution;

(17) buy and sell obligations of or insured by the United States or any agency thereof or of any banks of the Farm Credit System;

(18) invest association funds in such obligations as may be authorized in regulations of the Farm Credit Administration and approved by the bank and deposit securities and current funds of the association with any member bank of the Federal Reserve System, with the Farm Credit Bank, or with any bank insured by the Federal Deposit Insurance Corporation, and pay fees therefor and receive interest thereon as may be agreed;

(19) perform such other function delegated to the association by the Farm Credit Bank of the district;

(20) exercise by its board of directors or authorized officers or agents all such incidental powers as may be necessary or expedient in the conduct of its business;

(21) contribute to the capital of the bank; and

(22) operate as an originator and become certified as a certified facility under subchapter VIII of this chapter.

(Pub. L. 92–181, title II, § 2.12, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1635; amended Pub. L. 100–399, title IV, § 401(u), Aug. 17, 1988, 102 Stat. 998.)

PRIOR PROVISIONS

A prior section 2093, Pub. L. 92–181, title II, § 2.12, Dec. 10, 1971, 85 Stat. 598; Pub. L. 96–592, title II, § 208, Dec. 24, 1980, 94 Stat. 3442; Pub. L. 99–205, title II, § 205(e)(11),

Dec. 23, 1985, 99 Stat. 1704; Pub. L. 100–233, title VII, § 705(d), Jan. 6, 1988, 101 Stat. 1707; Pub. L. 100–399, title VI, § 604, Aug. 17, 1988, 102 Stat. 1006, related to general corporate powers, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

AMENDMENTS

1988—Par. (7). Pub. L. 100–399, § 401(u)(1), substituted ''provide by its board of directors for'' for ''elect by its board of directors'' and ''serve as'' for ''be elected or designated''.

Par. (8). Pub. L. 100–399, § 401(u)(2), amended par. (8) generally. Prior to amendment, par. (8) read as follows: ''prescribe by its board of directors, association bylaws, not inconsistent with law, providing for the classes of association stock and the manner in which such stock shall be issued, transferred, and retired; the officers and employees of the association elected or provided for, the property of the association that is acquired, held, and transferred, the general business of the association conducted, and the privileges granted to the association by law exercised and enjoyed;''.

Par. (12). Pub. L. 100–399, § 401(u)(3), substituted ''agreed to by'' for ''agreed to or delegated to''.

Par. (22). Pub. L. 100–399, § 401(u)(4)–(6), added par. (22).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

§ 2094. Federal land bank association capitalization

In accordance with section 2154a of this title, the Federal land bank association shall provide, through its bylaws and subject to Farm Credit Administration regulations, for its capitalization and the manner in which its stock shall be issued, held, transferred, and retired and its earnings distributed.

(Pub. L. 92–181, title II, § 2.13, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1636.)

PRIOR PROVISIONS

A prior section 2094, Pub. L. 92–181, title II, § 2.13, Dec. 10, 1971, 85 Stat. 599; Pub. L. 96–592, title II, § 209, Dec. 24, 1980, 94 Stat. 3442; Pub. L. 99–205, title II, § 205(e)(12)–(14), title III, § 304(b), Dec. 23, 1985, 99 Stat. 1705, 1708; Pub. L. 100–233, title VIII, § 805(h), Jan. 6, 1988, 101 Stat. 1715, related to stock and participation certificates, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

§ 2095. Repealed. Pub. L. 100–399, title IV, § 401(v), Aug. 17, 1988, 102 Stat. 999

Section, Pub. L. 92–181, title II, § 2.14, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1636, provided that whenever any Federal land bank association was liquidated, a sum equal to its reserve account as required in this chapter was to be paid and become the property of the bank in which such association was a shareholder.

A prior section 2095, Pub. L. 92–181, title II, § 2.14, Dec. 10, 1971, 85 Stat. 600; Pub. L. 99–205, title II, § 205(e)(15), title VI, § 605, Dec. 23, 1985, 99 Stat. 1705, 1711, related to application of earnings, restoration of capital impairment, and surplus account, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

CONSTRUCTION OF REPEAL

Section 401(v) of Pub. L. 100–399 repealed this section and provided that this chapter be applied and administered as if this section had not been enacted.

§ 2096. Agreements for sharing gains or losses

Each Farm Credit Bank may enter into agreements with Federal land bank associations in its district for sharing the gain or losses on loans or on security held therefor or acquired in liquidation thereof, and associations are authorized to enter into any such agreements and also, subject to bank approval, agreements with other associations in the district for sharing the risk of loss on loans endorsed by each such association. As may be authorized by the bank in accordance with regulations of the Farm Credit Administration, associations also may enter into agreements with other Farm Credit System institutions to share loan and other losses, whether to protect against capital impairment or for any other purpose.

(Pub. L. 92–181, title II, § 2.14, formerly § 2.15, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1636; renumbered § 2.14, Pub. L. 100–399, title IV, § 401(w), Aug. 17, 1988, 102 Stat. 999.)

PRIOR PROVISIONS

A prior section 2096, Pub. L. 92–181, title II, § 2.15, Dec. 10, 1971, 85 Stat. 601; Pub. L. 96–592, title II, § 210, Dec. 24, 1980, 94 Stat. 3442; Pub. L. 99–205, title II, § 205(b), Dec. 23, 1985, 99 Stat. 1703; Pub. L. 100–233, title IV, § 431(f), title VIII, § 805(i), Jan. 6, 1988, 101 Stat. 1660, 1715; Pub. L. 100–399, title IV, § 415(b), Aug. 17, 1988, 102 Stat. 1004, related to short- and intermediate-term loans, participation, other financial assistance, terms, conditions, interest, and security, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

A prior section 2.14 of Pub. L. 92–181 was classified to section 2095 of this title and was repealed by Pub. L. 100–399, § 401(v).

§ 2097. Liens on stock

Each Federal land bank association shall have a first lien on the stock and participation certificates it issues, except on stock or participation certificates held by other Farm Credit System institutions, for the payment of any liability of the stockholder to the association or to the bank, or to both of them.

(Pub. L. 92–181, title II, § 2.15, formerly § 2.16, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1637; renumbered § 2.15, Pub. L. 100–399, title IV, § 401(w), Aug. 17, 1988, 102 Stat. 999.)

PRIOR PROVISIONS

A prior section 2097, Pub. L. 92–181, title II, § 2.16, Dec. 10, 1971, 85 Stat. 602; Pub. L. 96–592, title II, § 211, Dec. 24, 1980, 94 Stat. 3443, related to other services, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

A prior section 2.15 of Pub. L. 92–181 was renumbered section 2.14 and is classified to section 2096 of this title.

§ 2098. Taxation

Each Federal land bank association and the capital, reserves, and surplus thereof, and the income derived therefrom, shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by a Federal land bank association to the same extent, according to its value, as other similar property held by other persons is taxed. The mortgages held by the Federal land bank associations and the notes, bonds, debentures, and other obligations issued by the associations shall be consid-

ered and held to be instrumentalities of the United States and, as such, they and the income therefrom shall be exempt from all Federal, State, municipal, and local taxation, other than Federal income tax liability of the holder thereof under the Public Debt Act of 1941 (31 U.S.C. 3124).

(Pub. L. 92–181, title II, § 2.16, formerly § 2.17, as added Pub. L. 100–233, title IV, § 401, Jan. 6, 1988, 101 Stat. 1637; renumbered § 2.16 and amended Pub. L. 100–399, title IV, § 401(w), (x), Aug. 17, 1988, 102 Stat. 999.)

PRIOR PROVISIONS

A prior section 2098, Pub. L. 92–181, title II, § 2.17, Dec. 10, 1971, 85 Stat. 602; Pub. L. 99–205, title II, § 205(e)(16), Dec. 23, 1985, 99 Stat. 1705; Pub. L. 100–233, title VIII, § 805(j), Jan. 6, 1988, 101 Stat. 1715, related to taxation, prior to the general amendment of this subchapter by Pub. L. 100–233, § 401.

A prior section 2.16 of Pub. L. 92–181 was renumbered section 2.15 and is classified to section 2097 of this title.

AMENDMENTS

1988—Pub. L. 100–399, § 401(x), substituted ''derived therefrom, shall'' for ''derived therefrom shall'', ''by the associations'' for ''by the banks'', and ''3124'' for ''742(a)''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

SUBCHAPTER III—BANKS FOR COOPERATIVES

PART A—BANKS FOR COOPERATIVES

AMENDMENTS

1988—Pub. L. 100–233, title IV, § 415(1), Jan. 6, 1988, 101 Stat. 1642, inserted part A heading.

§ 2121. Establishment; titles; branches

The banks for cooperatives established pursuant to sections 2 and 30 of the Farm Credit Act of 1933, as amended, shall continue as federally chartered instrumentalities of the United States. The Farm Credit Administration shall approve amendments consistent with this chapter to charters and organizational certificates of banks for cooperatives. Unless an existing bank for cooperatives is merged with another bank, there shall be a bank for cooperatives in each farm credit district and a Central Bank for Cooperatives. A bank for cooperatives may include in its title the name of the city in which it is located or other geographical designation. The Central Bank for Cooperatives may be located in such place as its board of directors may determine with the approval of the Farm Credit Administration. When authorized by the Farm Credit Administration each bank for cooperatives may establish such branches or other offices as may be appropriate for the effective operation of its business.

(Pub. L. 92–181, title III, § 3.0, Dec. 10, 1971, 85 Stat. 602; Pub. L. 100–233, title IV, § 414(b), title VIII, § 802(m), Jan. 6, 1988, 101 Stat. 1641, 1711; Pub. L. 100–399, title IV, § 406(b), title IX, § 901(c), Aug. 17, 1988, 102 Stat. 1000, 1007.)

REFERENCES IN TEXT

Sections 2 and 30 of the Farm Credit Act of 1933, as amended, referred to in text, were classified to sections 1134 and 1134f, respectively, of this title prior to their repeal by section 5.26 of Pub. L. 92–181, which enacted this chapter.

AMENDMENTS

1988—Pub. L. 100–399, § 901(c), substituted ''merged with another bank'' for ''merged with one or more other such banks under section 2181 of this title''.

Pub. L. 100–233, § 802(m), substituted ''The Farm Credit Administration shall approve amendments consistent with this chapter to charters and organizational certificates of banks for cooperatives'' for ''Their charters or organization certificates may be modified from time to time by the Farm Credit Administration, not inconsistent with the provisions of this subchapter, as may be necessary or expedient to implement this chapter''.

Pub. L. 100–233, § 414(b), which designated existing provisions as subsec. (a), and added subsec. (b) reading ''Each bank for cooperatives shall elect from its voting stockholders a board of directors of such number, for such term, in such manner, and with such qualifications as may be required in its bylaws, except that, at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.'', was repealed by section 406(b) of Pub. L. 100–399. See Construction of 1988 Amendment note below.

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.

CONSTRUCTION OF 1988 AMENDMENT

Section 406(b) of Pub. L. 100–399 provided that section 414(b) of Pub. L. 100–233, cited as a credit to this section, is repealed and that the Agricultural Credit Act of 1987 (Pub. L. 100–233) and this chapter shall be applied and administered as if such section had not been enacted.

VOLUNTARY MERGER OF BANKS FOR COOPERATIVES

Section 413 of Pub. L. 100–233, as amended by Pub. L. 100–399, title IV, § 405, Aug. 17, 1988, 102 Stat. 1000, provided that:

''(a) SUBMISSION OF PROPOSAL.—

''(1) SPECIAL COMMITTEE.—

''(A) IN GENERAL.—Not later than 15 days after the date of the enactment of this section [Jan. 6, 1988], a special committee shall be selected pursuant to subparagraph (B), for the purpose of developing a proposal for the voluntary merger of the banks for cooperatives.

''(B) COMPOSITION.—The special committee selected under subparagraph (A) shall be composed of—

''(i) one member of each district board elected by the voting stockholders of the bank for cooperatives in the district; and

''(ii) one member chosen from the board of directors of the Central Bank for Cooperatives by the board of such Bank.

''(C) DEVELOPMENT OF PLAN.—Not later than 75 days after the date of the enactment of this section [Jan. 6, 1988], the special committee shall develop a plan of merger for all such banks and the Central Bank for Cooperatives into a National Bank for Cooperatives.

''(2) PREREQUISITES TO MERGER.—

''(A) SUBMISSION TO FCA.—On completion of the plan of merger pursuant to paragraph (1)(C), the special committee shall submit the proposed plan, together with all information that is to be distrib-

uted to the stockholders concerning such plan, to the Farm Credit Administration for approval.

''(B) EXPEDITED REVIEW.—Not later than 30 days after the Farm Credit Administration receives the plan of merger, the Administration shall promptly review such plan and advise the special committee concerning any required changes that are necessary to the plan.

''(3) SUBMISSION TO STOCKHOLDERS.—On approval of the plan by the Farm Credit Administration, the special committee shall, under such procedures as may be established by the committee, submit the plan and recommendations to all voting stockholders of the district banks for cooperatives and the Central Bank for Cooperatives.

''(b) VOTING REQUIREMENTS.—

''(1) MAJORITY VOTE REQUIRED.—An approval of the plan of merger developed and submitted under subsection (a) shall—

''(A) require a majority vote of the stockholders of each district bank for cooperatives voting, in person or by proxy, at a duly authorized stockholders' meeting, computed both—

''(i) in accordance with the requirement that, except as provided in section 3.3(d) [12 U.S.C. 2124(d)], each cooperative that is the holder of voting stock in the bank for cooperatives shall be entitled to cast one vote; and

''(ii) on the basis of the total equity interests in the bank (including allocated, but not unallocated, surplus and reserves) held by such stockholders;

''(B) require a majority vote of the voting stockholders of the Central Bank for Cooperatives voting on a one-bank-one-vote basis;

''(C) take place not later than 180 days after the date of the enactment of this section [Jan. 6, 1988]; and

''(D) take place prior to any other merger vote involving a bank for cooperatives.

''(2) APPROVAL BY ALL BANKS FOR COOPERATIVES.—If the stockholders of all of the banks for cooperatives approve the merger, the merger shall take place.

''(3) EFFECT OF LESSER VOTE.—If the stockholders of more than one but fewer than all of the banks approve the plan, each such bank whose stockholders voted to approve the merger shall be merged into a single bank for cooperatives, as provided in paragraphs (4) or (5).

''(4) NATIONAL BANK FOR COOPERATIVES.—

''(A) CREATION.—If the stockholders of eight or more of the district banks for cooperatives approve the merger, such banks, and the Central Bank for Cooperatives, shall be merged into a single bank, which shall be referred to as the 'National Bank for Cooperatives'.

''(B) SERVICES PROVIDED.—The National Bank for Cooperatives may offer credit and related services to eligible borrowers located within any territory that may be served by Farm Credit System institutions under section 5.0 [12 U.S.C. 2221], or to any borrower otherwise eligible under section 3.7(b) [12 U.S.C. 2128(b)].

''(5) UNITED BANK FOR COOPERATIVES.—

''(A) CREATION.—If the stockholders of more than one but fewer than eight of the district banks approve the plan, each such bank, and the Central Bank for Cooperatives (if approved by a numerical majority of its stockholders), shall be merged into a single bank, which shall be referred to as the 'United Bank for Cooperatives'.

''(B) SERVICES PROVIDED.—The United Bank for Cooperatives shall offer credit and related services only in the territory included, as of the date of the enactment of this section [Jan. 6, 1988], within the boundaries of the districts that had been served by the constituent banks of the United Bank for Cooperatives, and to any borrower otherwise eligible under section 3.7(b) [12 U.S.C. 2128(b)].

''(6) NONCONSENTING BANKS.—

''(A) IN GENERAL.—

''(i) NATIONAL BANK FOR COOPERATIVES.—Any of the district banks whose stockholders did not approve the plan of merger may offer credit and related services to any eligible borrowers within any territory or area that may be served by the National Bank.

''(ii) UNITED BANK FOR COOPERATIVES.—Any of the district banks whose stockholders did not approve the plan of merger shall continue as district banks for cooperatives and shall continue to serve only the territory within the boundaries of the district that such banks served as of the date of the enactment of this section [Jan. 6, 1988].

''(B) NONDISCRIMINATION.—Any district bank whose stockholders did not approve the plan of merger shall be entitled to the availability, from the National Bank for Cooperatives or the United Bank for Cooperatives, as the case may be, of the same credit and related services now provided by the Central Bank for Cooperatives as of the date of the enactment of this section [Jan. 6, 1988], regardless of the decision not to merge.

''(C) SUBSEQUENT MERGERS.—Any district bank referred to in subparagraph (A) may subsequently merge with the National Bank for Cooperatives or the United Bank for Cooperatives, as the case may be, on the approval of the voting stockholders of both banks proposing to merge based on the voting requirement of subsection (b)(1).

''(c) REFERENCES.—References in this section to voting stockholders shall include subscribers to the guaranty fund.''

BANK FOR COOPERATIVES INITIAL BOARD OF DIRECTORS

Section 414(a) of Pub. L. 100–233, as amended by Pub. L. 100–399, title IV, § 406(a), Aug. 17, 1988, 102 Stat. 1000, provided that: ''Notwithstanding section 3.2 [probably means section 3.2 of Pub. L. 92–181, 12 U.S.C. 2123], the initial board of each district bank for cooperatives shall be composed of the members of the district board (which is dissolved upon the creation of the district Farm Credit Bank) elected by the stockholders of the bank for cooperatives and one member elected by the other two members, which member shall not be a director, officer, employee, or stockholder of a System institution. The initial board shall operate for such term as is agreed to by the members of the board, except that such period shall not exceed two years. Thereafter, the board shall be elected and serve in accordance with section 3.0 of the Farm Credit Act of 1971 [12 U.S.C. 2121].''

§ 2122. Corporate existence; general corporate powers

Each bank for cooperatives shall be a body corporate and, subject to regulation by the Farm Credit Administration, shall have power to—

(1) Adopt and use a corporate seal.

(2) Have succession until dissolved under the provisions of this chapter or other Act of Congress.

(3) Make contracts.

(4) Sue and be sued.

(5) Acquire, hold, dispose, and otherwise exercise all of the usual incidents of ownership of real and personal property necessary or convenient to its business.

(6) Make loans and commitments for credit, provide services and other assistance as authorized in this chapter, and charge fees therefor.

(7) Operate under the direction of its board of directors.

(8) Elect by its board of directors a president, any vice presidents, a secretary, a treasurer, and provide for such other officers, employees, and

agents as may be necessary, including joint employees as provided in this chapter, define their duties and require surety bonds or make other provisions against losses occasioned by employees.

(9) Prescribe by its board of directors its bylaws not inconsistent with law providing for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired; its officers, employees, or agents elected or provided for; its property acquired, held, and transferred; its loans made; its general business conducted; and the privileges granted it by law exercised and enjoyed.

(10) Borrow money and issue notes, bonds, debentures, or other obligations individually or in concert with one or more other banks of the System, of such character, and such terms, conditions, and rates of interest as may be determined.

(11)(A) Participate in loans under this subchapter with one or more other banks for cooperatives and with commercial banks and other financial institutions upon such terms as may be agreed among them, and participate with one or more other Farm Credit System institutions in loans made under this subchapter or other subchapters of this chapter on the basis prescribed in section 2206 of this title.

(B)(i) Participate in any loan of a type otherwise authorized under this subchapter that is made to a similar entity by any institution in the business of extending credit, including purchases of participations in loans to finance international trade transactions involving the sale of agricultural commodities or the products thereof, except that—

(I) a bank for cooperatives may not participate in a loan—

(aa) if the participation would cause the total amount of all loan participations by the bank under this subparagraph involving a single credit risk to exceed 10 percent of the bank's total capital; or

(bb) if the participation by the bank will itself equal or exceed 50 percent of the principal of the loan or, when taken together with participations in the loan by other Farm Credit System institutions, will cause the cumulative amount of the participations by all Farm Credit System institutions in the loan to equal or exceed 50 percent of the principal of the loan;

(II) a bank for cooperatives may not participate in a loan to a similar entity under this subparagraph if the similar entity has a loan or loan commitment outstanding with a Farm Credit Bank or an association chartered under this chapter, unless agreed to by the Bank or association; and

(III) the cumulative amount of participations that a bank for cooperatives may have outstanding under this subparagraph at any time may not exceed 15 percent of the bank's total assets.

(ii) As used in this subparagraph, the term ''similar entity'' means an entity that, while not eligible for a loan under section 2129 of this title, is functionally similar to an entity eligible for a loan under section 2129 of this title in that it derives a majority of its income from, or has a majority of its assets invested in, the conduct of activities functionally similar to those conducted by the entity.

(iii) As used in this subparagraph, the term ''participate'' or ''participation'' refers to multilender transactions, including syndications, assignments, loan participations, subparticipations, or other forms of the purchase, sale, or transfer of interests in loans, other extensions of credit, or other technical and financial assistance.

(12) Deposit its securities and its current funds with any member bank of the Federal Reserve System or any insured State nonmember bank (within the meaning of section 1813 of this title) or, to the extent necessary to facilitate transactions which may be financed under section 2128(b) of this title, any other financial organization, domestic or foreign, as may be authorized by its board of directors, and pay fees therefor and receive interest thereon as may be agreed. When designated for that purpose by the Secretary of the Treasury, it shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary; may be employed as a fiscal agent of the Government, and shall perform all such reasonable duties as a depository of public money or financial agent of the Government as may be required of it. No Government funds deposited under the provisions of this subsection shall be invested in loans or bonds or other obligations of the bank.

(13)(A) Buy and sell obligations of or insured by the United States or of any agency thereof, or securities backed by the full faith and credit of any such agency and make such other investments as may be authorized under regulations issued by the Farm Credit Administration.

(B) As may be authorized by its board of directors, buy from and sell to Farm Credit System institutions interests in loans and in other financial assistance extended and nonvoting stock.

(C) As may be authorized by its board of directors, and solely for the purposes of obtaining credit information and other services needed to facilitate transactions which may be financed under section 2128(b) of this title, invest in ownership interests in foreign business entities that are principally engaged in providing credit information to and performing such servicing functions for their members in connection with the members' international activities.

(14) Conduct studies and adopt standards for lending.

(15) Amend and modify loan contracts, documents, and payment schedules, and release, subordinate, or substitute security for any of them.

(16) Exercise by its board of directors or authorized officers, employees, or agents all such incidental powers as may be necessary or expedient to carry on the business of the bank.

(17) As may be authorized by the board of directors, maintain credit balances and pay or receive fees or interest thereon, for the purpose of assisting in the transfer of funds to or from parties to transactions that may be financed under section 2128(b) of this title: *Provided*, *however*, That nothing herein shall authorize the banks

for cooperatives to engage in the business of accepting domestic deposits.

(18) As may be authorized by its board of directors, agree with other Farm Credit System institutions to share loan or other losses, whether to protect against capital impairment or for any other purpose.

(Pub. L. 92–181, title III, § 3.1, Dec. 10, 1971, 85 Stat. 602; Pub. L. 96–592, title III, § 301, Dec. 24, 1980, 94 Stat. 3443; Pub. L. 99–205, title II, § 205(e)(1), Dec. 23, 1985, 99 Stat. 1705; Pub. L. 100–233, title VIII, § 802(n), Jan. 6, 1988, 101 Stat. 1712; Pub. L. 100–399, title IX, § 901(b), Aug. 17, 1988, 102 Stat. 1007; Pub. L. 102–552, title V, § 502, Oct. 28, 1992, 106 Stat. 4130; Pub. L. 103–376, §§ 2, 6, Oct. 19, 1994, 108 Stat. 3497, 3500; Pub. L. 107–171, title V, § 5401(a), May 13, 2002, 116 Stat. 349.)

AMENDMENTS

2002—Par. (11)(B)(iii), (iv). Pub. L. 107–171 redesignated cl. (iv) as (iii) and struck out former cl. (iii) which read as follows: ''With respect to similar entities that are eligible to borrow from a Farm Credit Bank or association under subchapter I or II of this chapter, the authority of a bank for cooperatives to participate in loans to the entities under this subparagraph shall be subject to the prior approval of the Farm Credit Bank or Banks in whose chartered territory the entity is eligible to borrow. The approval may be granted on an annual basis and under such terms and conditions as may be agreed on between the bank for cooperatives and the Farm Credit Bank or Banks that serve the territory.''

1994—Par. (11)(B)(i)(I)(bb). Pub. L. 103–376, § 6, substituted ''other Farm Credit System institutions'' for ''the other banks for cooperatives under this subparagraph'' and ''all Farm Credit System institutions'' for ''all banks for cooperatives''.

Par. (11)(B)(iv). Pub. L. 103–376, § 2, added cl. (iv).

1992—Par. (11). Pub. L. 102–552 designated existing provisions as subpar. (A) and added subpar. (B).

1988—Par. (12). Pub. L. 100–399 substituted ''(within the meaning of section 1813 of this title)'' for ''as defined in section 1812 of this title.''

Pars. (12), (13)(B), (C), (17), (18). Pub. L. 100–233 struck out ''and approved by the Farm Credit Administration'' after ''board of directors''.

1985—Pub. L. 99–205 substituted ''regulation'' for ''supervision'' in provision preceding par. (1).

Par. (13)(A). Pub. L. 99–205 inserted ''under regulations issued'' after ''authorized''.

Pars. (16) to (19). Pub. L. 99–205 struck out par. (16) respecting power of bank for cooperatives to perform any function delegated to it by the Farm Credit Administration, and redesignated pars. (17) to (19) as (16) to (18), respectively.

1980—Par. (11). Pub. L. 96–592, § 301(1), inserted provisions respecting participation with one or more other Farm Credit System institutions in loans.

Par. (12). Pub. L. 96–592, § 301(2), inserted applicability to any insured State nonmember bank and to other domestic or foreign financial organizations.

Par. (13). Pub. L. 96–592, § 301(3), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Pars. (18), (19). Pub. L. 96–592, § 301(4), added pars. (18) and (19).

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.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

§ 2123. Board of directors

(a)(1) Each bank for cooperatives not merged into the United Bank for Cooperatives or the National Bank for Cooperatives shall elect a board of directors of such number, for such term, in such manner, and with such qualifications as may be required in its bylaws, except that at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.

(2)(A) If approved by the stockholders through a bylaw amendment, the nomination and election of one member from a bank for cooperatives (other than the National Bank for Cooperatives) shall be carried out with each voting stockholder of a bank for cooperatives having one vote, plus a number of votes (or fractional part thereof) equal to—

(i) the number of stockholders eligible to vote; multiplied by

(ii) the percentage (or fractional part thereof) of the total equity interest (including allocated, but not unallocated, surplus and reserves) in the bank of all stockholders held by the individual voting stockholder at the close of the immediately preceding fiscal year of the bank.

(B) The total number of votes under this paragraph shall be the number of voting stockholders of a bank for cooperatives multiplied by two.

(b) The board of directors of the Central Bank for Cooperatives shall consist of one member elected by the board of each bank for cooperatives, including the United Bank for Cooperatives if the Central Bank for Cooperatives is not merged into such bank, and one member appointed by the Farm Credit Administration.

(Pub. L. 92–181, title III, § 3.2, Dec. 10, 1971, 85 Stat. 603; Pub. L. 99–205, title II, § 205(e)(2), Dec. 23, 1985, 99 Stat. 1705; Pub. L. 100–399, title IX, § 901(d), Aug. 17, 1988, 102 Stat. 1007; Pub. L. 102–552, title V, § 503, Oct. 28, 1992, 106 Stat. 4130.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–552 designated existing provisions as par. (1) and added par. (2).

1988—Subsec. (a). Pub. L. 100–399 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''In the case of a district bank for cooperatives, the board of directors shall be the farm credit district board and in the case of the Central Bank for Cooperatives shall be a separate board of not more than thirteen members, one from each farm credit district and one at large. One district director of the Central Bank Board shall be elected by each district farm credit board and the member at large shall be appointed by the Farm Credit Administration.''

Subsec. (b). Pub. L. 100–399 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''For the purposes of this section the provisions of sections 2222(b) and (c), 2225, 2226, and 2227 of this title shall apply to and shall be the authority of the Central Bank for Cooperatives the same as though it were a district bank.''

1985—Subsec. (a). Pub. L. 99–205 substituted ''Farm Credit Administration'' for ''Governor with the advice and consent of the Federal Farm Credit Board''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233,

which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

§ 2124. Stock of banks for cooperatives

(a) Amount

The Capital stock of each bank for cooperatives shall be in such amount as its board determines is required for the purpose of providing adequate capital to permit the bank to meet the credit needs of borrowers from the bank and such amounts may be increased or decreased from time to time in accordance with such needs.

(b) Value

The capital stock of each bank shall be divided into shares of par value of $100 each and may be of such classes as the board may determine. Such stock may be issued in fractional shares.

(c) Eligible holders of voting stock

Voting stock may be issued or transferred to and held only by (i) cooperative associations eligible to borrow from the banks[1] (ii) other categories of persons and entities described in sections 2128 and 2129 of this title eligible to borrow from the bank, as determined by the bank's board of directors; and (iii) other banks for cooperatives, and shall not be otherwise transferred, pledged, or hypothecated except as consented to by the issuing bank under regulations of the Farm Credit Administration.

(d) Entitlement to vote

Each holder of one or more shares of voting stock which is eligible to borrow from a bank for cooperatives shall be entitled only to one vote and only in the affairs of the bank in the district in which its principal office is located unless otherwise authorized under regulations issued by the Farm Credit Administration, except that if such holder has not been a borrower from the bank in which it holds such stock within a period of two years next preceding the date fixed by the Farm Credit Administration prior to the commencement of voting, it shall not be entitled to vote.

(e) Nonvoting investment stock

Nonvoting investment stock may be issued in such series and in such amounts as may be determined by the board and may be exchanged for voting stock or sold or transferred to any person subject to the approval of the issuing bank.

(f) Participation certificates

Participation certificates may be issued to parties to whom voting stock may not be issued.

(Pub. L. 92–181, title III, § 3.3, Dec. 10, 1971, 85 Stat. 603; Pub. L. 96–592, title III, § 302, Dec. 24, 1980, 94 Stat. 3443; Pub. L. 99–205, title II, § 205(e)(3), (4), Dec. 23, 1985, 99 Stat. 1705; Pub. L. 100–233, title VIII, §§ 802(*o*), 805(k), Jan. 6, 1988, 101 Stat. 1712, 1715; Pub. L. 110–234, title V, §§ 5402, 5403(a), May 22, 2008, 122 Stat. 1154; Pub. L. 110–246, § 4(a), title V, §§ 5402, 5403(a), June 18, 2008, 122 Stat. 1664, 1915.)

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). Pub. L. 110–246, § 5402, which directed substitution of "par" for "per", could not be executed because "per" did not appear.

Subsec. (c)(ii), (iii). Pub. L. 110–246, § 5403(a), added cl. (ii) and redesignated former cl. (ii) as (iii).

1988—Subsec. (a). Pub. L. 100–233, § 802(*o*)(1), struck out ", with the approval of Farm Credit Administration," after "board determines".

Subsec. (b). Pub. L. 100–233, § 802(*o*)(2), struck out "with the approval of the Farm Credit Administration" after "board may determine".

Subsec. (d). Pub. L. 100–233, § 805(k), substituted "by" for "by by" after "regulations issued".

Subsec. (e). Pub. L. 100–233, § 802(*o*)(3), struck out "and approved by the Farm Credit Administration" after "Board".

1985—Subsec. (d). Pub. L. 99–205, § 205(e)(3), inserted "under regulations issued by" after "authorized".

Subsec. (e). Pub. L. 99–205, § 205(e)(4), struck out ", except for stock held by the Governor," before "may be exchanged".

1980—Subsec. (f). Pub. L. 96–592 added subsec. (f).

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 Title 7, Agriculture.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

§ 2125. Dividends

Dividends may be payable only on nonvoting investment stock, if declared by the board of directors of the bank, subject to the general direction of the Farm Credit Administration.

(Pub. L. 92–181, title III, § 3.4, Dec. 10, 1971, 85 Stat. 604; Pub. L. 99–205, title II, § 205(e)(5), title VI, § 606, Dec. 23, 1985, 99 Stat. 1705, 1711; Pub. L. 100–233, title VIII, § 805(*l*), Jan. 6, 1988, 101 Stat. 1715.)

AMENDMENTS

1988—Pub. L. 100–233 struck out "other than stock held by the Farm Credit Administration," after "investment stock,".

1985—Pub. L. 99–205 struck out "the Governor of" before "the Farm Credit Administration" and inserted ", subject to the general direction of the Farm Credit Administration".

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

§ 2126. Retirement of stock

Nonvoting investment stock and participation certificates may be called for retirement at par.

[1] So in original. There probably should be a semicolon after "banks".

With the approval of the issuing bank, the holder may elect not to have the called stock or participation certificates retired in response to a call, reserving the right to have such stock or participation certificates included in the next call for retirement. Voting stock may also be retired at par, on call or on such revolving basis as the board may determine with due regard for its total capital needs: *Provided, however*, That all equities in the district banks issued or allocated with respect to 1971 and prior years shall be retired on a revolving basis according to the year of issue with the oldest outstanding equities being first retired. Equities issued for subsequent years shall not be called or retired until equities described in the preceding sentence of this proviso have been retired.

(Pub. L. 92–181, title III, § 3.5, Dec. 10, 1971, 85 Stat. 604; Pub. L. 96–592, title III, § 303, Dec. 24, 1980, 94 Stat. 3444; Pub. L. 99–205, title II, § 205(e)(6), Dec. 23, 1985, 99 Stat. 1705; Pub. L. 100–233, title VIII, § 802(p), Jan. 6, 1988, 101 Stat. 1712.)

AMENDMENTS

1988—Pub. L. 100–233 struck out ''with approval of the Farm Credit Administration'' after ''board may determine''.

1985—Pub. L. 99–205 substituted ''Nonvoting investment stock'' for ''Any nonvoting stock held by the Governor of the Farm Credit Administration shall be retired to the extent required by section 2151(b) of this title before any other outstanding voting or nonvoting stock or participation certificates shall be retired except as may be otherwise authorized by the Farm Credit Administration. When those requirements have been satisfied, nonvoting investment stock'', and substituted ''Voting'' for ''When the requirements of section 2151(b) of this title have been met, voting''.

1980—Pub. L. 96–592 inserted provisions respecting applicability to participation certificates and struck out provisions relating to maximum amount of fair book value at retirement.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

§ 2127. Guaranty fund subscriptions in lieu of stock

If any cooperative association is not authorized under the laws of the State in which it is organized to take and hold stock in a bank for cooperatives, the bank shall, in lieu of any requirement for stock purchase, require the association to pay into or have on deposit in a guaranty fund, or the bank may retain out of the amount of the loan and credit to the guaranty fund account of the borrower, a sum equal to the amount of stock which the association would otherwise be required to own. Each reference to stock of the banks for cooperatives in this chapter shall include such guaranty fund equivalents. The holder of the guaranty fund equivalent and the bank shall each be entitled to the same rights and obligations with respect thereto as the rights and obligations associated with the class or classes of stock involved.

(Pub. L. 92–181, title III, § 3.6, Dec. 10, 1971, 85 Stat. 604.)

§ 2128. Loans, commitments, and technical and financial assistance

(a) Authorities

The banks for cooperatives are authorized to make loans and commitments to eligible cooperative associations and to extend to them other technical and financial assistance at any time (whether or not they have a loan from the bank outstanding), including but not limited to discounting notes and other obligations, guarantees, currency exchange necessary to service individual transactions that may be financed under subsection (b) of this section, collateral custody, or participation with other banks for cooperatives and commercial banks or other financial institutions in loans to eligible cooperatives, under such terms and conditions as may be determined to be feasible by the board of directors of each bank for cooperatives under regulations of the Farm Credit Administration. Such regulations may include provisions for avoiding duplication between the Central Bank and district banks for cooperatives. Each bank may own and lease, or lease with option to purchase, to stockholders eligible to borrow from the bank equipment needed in the operations of the stockholder and may make or participate in loans or commitments and extend other technical and financial assistance to other domestic parties for the acquisition of equipment and facilities to be leased to such stockholders for use in their operations in the United States.

(b) Additional authorities

(1) A bank for cooperatives is authorized to make or participate in loans and commitments to, and to extend other technical and financial assistance to a domestic or foreign party with respect to its transactions with an association that is a voting stockholder of the bank for the import of agricultural commodities or products thereof, agricultural supplies, or aquatic products through purchases, sales or exchanges, if the bank for cooperatives determines, under regulations of the Farm Credit Administration, that the voting stockholder will benefit substantially as a result of such loan, commitment, or assistance.

(2)(A) A bank for cooperatives may make or participate in loans and commitments to, and extend other technical and financial assistance to—

(i) any domestic or foreign party for the export, including (where applicable) the cost of freight, of agricultural commodities or products thereof, agricultural supplies, or aquatic products from the United States under policies and procedures established by the bank to ensure that the commodities, products, or supplies are originally sourced, where reasonably available, from one or more eligible cooperative associations described in section 2129(a) of this title on a priority basis, except that if the total amount of the balances outstanding on loans made by a bank under this clause that—

(I) are made to finance the export of commodities, products, or supplies that are not originally sourced from a cooperative, and

(II) are not guaranteed or insured, in an amount equal to at least 95 percent of the

amount loaned, by a department, agency, bureau, board, commission, or establishment of the United States or a corporation wholly-owned directly or indirectly by the United States,

exceeds an amount that is equal to 50 percent of the bank's capital, then a sufficient interest in the loans shall be sold by the bank for cooperatives to commercial banks and other non-System lenders to reduce the total amount of such outstanding balances to an amount not greater than an amount equal to 50 percent of the bank's capital; and

(ii) except as provided in subparagraph (B), any domestic or foreign party in which an eligible cooperative association described in section 2129(a) of this title (including, for the purpose of facilitating its domestic business operations only, a cooperative or other entity described in section 2129(b)(1)(A) of this title) has an ownership interest, for the purpose of facilitating the domestic or foreign business operations of the association, except that if the ownership interest by an eligible cooperative association, or associations, is less than 50 percent, the financing shall be limited to the percentage held in the party by the association or associations.

(B) A bank for cooperatives shall not use the authority provided in subparagraph (A)(ii) to provide financial assistance to a party for the purpose of financing the relocation of a plant or facility from the United States to another country.

(3) A bank for cooperatives is authorized to provide such services as may be customary and normal in maintaining relationships with domestic or foreign entities to facilitate the activities specified in paragraphs (1) and (2), consistent with this chapter.

(4) DEFINITION OF AGRICULTURAL SUPPLY.—In this subsection, the term ''agricultural supply'' includes—

(A) a farm supply; and

(B)(i) agriculture-related processing equipment;

(ii) agriculture-related machinery; and

(iii) other capital goods related to the storage or handling of agricultural commodities or products.

(c) Applicable policies

Loans, commitments, and assistance authorized by subsection (b) of this section shall be extended in accordance with policies adopted by the board of directors of the bank under regulations of the Farm Credit Administration.

(d) Regulatory limitations

The regulations of the Farm Credit Administration implementing subsection (b) of this section and other provisions of this subchapter relating to the authority under subsection (b) of this section may not confer upon the banks for cooperatives powers and authorities greater than those specified in this subchapter. The Farm Credit Administration shall, during the formulation of such regulations, closely consult on a continuing basis with the Board of Governors of the Federal Reserve System to insure that such regulations conform to national banking policies, objectives, and limitations.

(e) Speculative futures transactions

Notwithstanding any other provision of this subchapter, the banks for cooperatives shall not make or participate in loans or commitments for the purpose of financing speculative futures transactions by eligible borrowers in foreign currencies.

(f) Installation, expansion, or improvement of water and waste disposal facilities

The banks for cooperatives may, for the purpose of installing, maintaining, expanding, improving, or operating water and waste disposal facilities in rural areas, make and participate in loans and commitments and extending other technical and financial assistance to—

(1) cooperatives formed specifically for the purpose of establishing or operating such facilities; and

(2) public and quasi-public agencies and bodies, and other public and private entities that, under authority of State or local law, establish or operate such facilities.

For purposes of this subsection, the term ''rural area'' means all territory of a State that is not within the outer boundary of any city or town having a population of more than 20,000 based on the latest decennial census of the United States.

(Pub. L. 92–181, title III, § 3.7, Dec. 10, 1971, 85 Stat. 605; Pub. L. 96–592, title III, § 304, Dec. 24, 1980, 94 Stat. 3444; Pub. L. 101–624, title XXIII, § 2323(a), Nov. 28, 1990, 104 Stat. 4013; Pub. L. 102–237, title V, § 502(e)(1), Dec. 13, 1991, 105 Stat. 1868; Pub. L. 102–552, title V, §§ 504, 505, Oct. 28, 1992, 106 Stat. 4131; Pub. L. 103–376, § 3, Oct. 19, 1994, 108 Stat. 3497; Pub. L. 107–171, title V, § 5402, May 13, 2002, 116 Stat. 350.)

AMENDMENTS

2002—Subsec. (b)(1), (2)(A)(i). Pub. L. 107–171, § 5402(1), substituted ''agricultural supplies'' for ''farm supplies''.

Subsec. (b)(4). Pub. L. 107–171, § 5402(2), added par. (4).

1994—Subsec. (b)(1). Pub. L. 103–376, § 3(A), substituted ''assistance to'' for ''assistance to (A)'', ''bank for the import'' for ''bank for the export or import'', and ''if the bank for cooperatives'' for ''and (B) a domestic or foreign party in which such an association has at least the minimum ownership interest approved under regulations of the Farm Credit Administration for the purpose of facilitating the association's export or import operations of the type described in subparagraph (A): *Provided*, That a''.

Subsec. (b)(2). Pub. L. 103–376, § 3(B), added par. (2) and struck out former par. (2) which read as follows: ''A bank for cooperatives is authorized to make or participate in loans and commitments, and to extend other technical and financial assistance, to any domestic or foreign entity that is eligible for a guarantee or insurance as described in subparagraphs (A) and (B) with respect to transactions involving the Soviet Union (its successor entities or any of the individual republics of the Soviet Union) or an emerging democracy (as defined in section 1542(f) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note)) for the export of agricultural commodities and products thereof from the United States, including (where applicable) the cost of freight, if in each case—

''(A) the loan involved is unconditionally guaranteed or insured by a department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States; and

''(B) the guarantee or insurance—

''(i) covers at least 95 percent of the amount loaned for the purchase of the commodities or products; and

''(ii) is issued on or before September 30, 1995.''

1992—Subsec. (a). Pub. L. 102–552, § 504, inserted ''at any time (whether or not they have a loan from the bank outstanding)'' after ''assistance'' in first sentence.

Subsec. (f). Pub. L. 102–552, § 505, in introductory provisions, substituted ''installing, maintaining, expanding, improving, or operating'' for ''the installation, expansion, or improvement of'' and ''extending'' for ''to extend''.

1991—Subsec. (b). Pub. L. 102–237 designated existing provisions as par. (1), redesignated cl. (1) as (A) and inserted ''or products thereof'' after ''commodities'', redesignated cl. (2) as (B) and substituted ''subparagraph (A)'' for ''clause (1) of this subsection'', and added pars. (2) and (3).

1990—Subsec. (f). Pub. L. 101–624 added subsec. (f).

1980—Pub. L. 96–592 designated existing provisions as subsec. (a), inserted provisions relating to currency exchanges and provisions relating to loans, etc., to domestic parties, and added subsecs. (b) to (e).

§ 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 nonmember 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 a loan or loan commitment from the Rural Telephone Bank, 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) of this section 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) of this section 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.)

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, as amended, 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

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 harvesters 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) of this section'' for ''and (4) of subsection (a) of this section''.

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 cls. (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 Electrification 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.

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 nonvoting 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. In the case of a direct loan by the Central Bank, the borrower shall be required to own or invest in the necessary stock in a district bank or banks and such district bank shall be required to own a corresponding amount of stock in the Central

Bank, but voting stock shall be in the one district bank, designated by the Farm Credit Administration.

(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.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–233 substituted ''by the bank to invest'' for ''by the bank with the approval of the Farm Credit Administration to invest'', ''or upon such other basis as the bank determines'' for ''or upon such other basis as the bank, with the approval of the Farm Credit Administration, determines'', and ''in a district bank or banks and such district bank shall be required'' for ''in a district bank or banks as may be approved by the Farm Credit Administration and such district bank shall be required''.

1980—Subsec. (a). Pub. L. 96–592 inserted provisions respecting entitlement to hold voting stock.

§ 2131. Loans

(a) Interest rates and charges

Loans made by a bank for cooperatives shall bear interest at a rate or rates determined by the board of directors of the bank from time to time. In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers at the lowest reasonable cost on a sound business basis, taking into account the net cost of money to the bank, necessary reserves and expenses of the bank, and services provided. The loan documents may provide for the interest rate or rates to vary from time to time during the repayment period of the loan, in accordance with the rate or rates currently being charged by the bank.

(b) Security

Loans shall be made upon such terms, conditions, and security, if any, as may be determined by the bank in accordance with regulations of the Farm Credit Administration.

(c) Lien

Each bank for cooperatives shall have a first lien on all stock or other equities in the bank as collateral for the payment of any indebtedness of the owner thereof to the bank. In the case of a direct loan to an eligible cooperative by the Central Bank, the Central Bank shall have a first lien on the stock and equities of the borrower in the district bank and the district bank shall have a lien thereon junior only to the lien of the Central Bank.

(d) Cancellation; application on indebtedness

In any case where the debt of a borrower is in default, or in any case of liquidation or dissolution of a present or former borrower from a bank for cooperatives, the bank may, but shall not be required to, retire and cancel all or a part of the stock, allocated surplus or contingency reserves, or any other equity in the bank owned by or allocated to such borrower, at the fair market value thereof not exceeding par, and, to the extent required in such cases, corresponding shares and allocations and other equity interests held by a district bank in another district bank on account of such indebtedness, shall be retired or equitably adjusted. In no event shall the bank's equities be retired or canceled if the retirement or cancellation would adversely affect the bank's capital structure, as determined by the Farm Credit Administration.

(Pub. L. 92–181, title III, § 3.10, Dec. 10, 1971, 85 Stat. 606; Pub. L. 96–592, title III, § 307, Dec. 24, 1980, 94 Stat. 3445; Pub. L. 99–509, title I, § 1033(c), Oct. 21, 1986, 100 Stat. 1877.)

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–509 struck out '', with the approval of the Farm Credit Administration as provided in section 2205 of this title'' after ''from time to time''.

1980—Subsec. (a). Pub. L. 96–592, § 307(1), inserted reference to section 2205 of this title.

Subsec. (d). Pub. L. 96–592, § 307(2), substituted ''market'' for ''book'' and inserted provisions respecting retirement or cancellation of equities as affected by the capital structure.

§ 2132. Earnings and reserves; application of savings

(a) Application of savings

At the end of each fiscal year, the net savings shall, under regulations prescribed by the Farm Credit Administration, continue to be applied on a cooperative basis with provision for sound, adequate capitalization to meet the changing financing needs of eligible cooperative borrowers and prudent corporate fiscal management, to the end that current year's patrons carry their fair share of the capitalization, ultimate expenses, and reserves related to the year's operations and the remaining net savings shall be distributed as patronage refunds as provided in subsections (b) and (c) of this section. Such regulations may provide for application of net savings to the restoration or maintenance of an allocated surplus account, reasonable additions to unallocated surplus, or to unallocated reserves after payment of operating expenses, and provide for allocations to patrons not qualified under title 26, or payment of such per centum of patronage refunds in cash, as the board may determine.

(b) Patronage refunds

The net savings of each district bank for cooperatives, after the earnings for the fiscal year have been applied in accordance with subsection (a) of this section shall be paid in stock, participation certificates, or cash, or in any of them, as determined by its board, as patronage refunds to borrowers to whom such refunds are payable who are borrowers of the fiscal year for which such patronage refunds are distributed. Except as provided in subsection (c) below, all patronage refunds shall be paid in proportion that the amount of interest and service fees on the loans to each borrower during the year bears to the in-

terest and service fees on the loans of all borrowers during the year or on such other proportionate patronage basis as may be approved by the board of directors.

(c) Savings of Central Bank for Cooperatives

The net savings of the Central Bank for Cooperatives after the earnings for the fiscal year have been applied in accordance with subsection (a) of this section shall be paid in stock or cash, or both, as determined by the board, as patronage refunds to the district banks on the basis of interests held by the Central Bank in loans made by the district banks and upon any direct loans made by the Central Bank to cooperative associations, or on such other proportionate patronage basis as may be approved by the board of directors. In cases of direct loans, such refund shall be paid to the district bank or banks which issued their stock to the borrower incident to such loans, and the district bank or banks shall issue a like amount of patronage refunds to the borrower.

(d) Loss carryover

In the event of a net loss in any fiscal year after providing for all operating expenses (including reasonable valuation reserves and losses in excess of any applicable reserves), such loss may be carried forward or carried back, if appropriate, or otherwise shall be absorbed by charges to unallocated reserve or surplus accounts established after December 10, 1971; charges to allocated contingency reserve account; charges to allocated surplus accounts; charges to other contingency reserve and surplus accounts; the impairment of voting stock; or the impairment of all other stock.

(e) Charge of unrecognized costs or expenses to reserve, surplus, or patronage allocations

Notwithstanding any other provisions of this section any costs or expenses attributable to a prior year or years but not recognized in determining the net savings for such year or years may be charged to reserves or surplus of the bank or to patronage allocations for such years, as may be determined by the board of directors.

(f) Payment of patronage refunds in cash

A bank for cooperatives may pay in cash such portion of its patronage refunds as will permit its taxable income to be determined without taking into account savings applied as allocated surplus, allocated contingency reserves, and patronage refunds under subsection (a) of this section.

(Pub. L. 92–181, title III, § 3.11, Dec. 10, 1971, 85 Stat. 606; Pub. L. 96–592, title III, § 308, Dec. 24, 1980, 94 Stat. 3445; Pub. L. 99–205, title II, § 205(e)(7), (8), Dec. 23, 1985, 99 Stat. 1705; Pub. L. 100–233, title VIII, §§ 802(r), 805(n), Jan. 6, 1988, 101 Stat. 1712, 1716.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–233, §§ 802(r)(1), 805(n)(1), (5), redesignated subsec. (b) as (a), substituted ''(b) and (c)'' for ''(c) and (d)'', struck out ''as may be approved by the Farm Credit Administration'' after ''payment of operating expenses'', and struck out at end ''If during the fiscal year but not at the end thereof a bank shall have had outstanding capital stock held by the United States, provision will be made for payment of franchise taxes required in section 2151 of this title.''

Subsec. (b). Pub. L. 100–233, §§ 802(r)(2), 805(n)(2), (5), redesignated subsec. (c) as (b) and substituted ''(a) of this section'' for ''(b) of this section, whichever is applicable,'', ''(c) below'' for ''(d) below'', and ''may be approved by the board of directors'' for ''the Farm Credit Administration may approve''. Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 100–233, §§ 802(r)(3), 805(n)(3), (5), redesignated subsec. (d) as (c) and substituted ''(a) of this section'' for ''(b) of this section whichever is applicable,'' and ''may be approved by the board of directors'' for ''the Farm Credit Administration may approve''. Former subsec. (c) redesignated (b).

Subsecs. (d), (e). Pub. L. 100–233, § 805(n)(5), redesignated subsecs. (e) and (f) as (d) and (e), respectively. Former subsec. (d) redesignated (c).

Subsecs. (f), (g). Pub. L. 100–233, § 805(n)(4), (5), redesignated subsec. (g) as (f), substituted ''A bank for cooperatives'' for ''For any year that a bank for cooperatives is subject to Federal income tax, it'', and struck out ''or (b)'' after ''subsection (a)''. Former subsec. (f) redesignated (e).

1985—Subsec. (a). Pub. L. 99–205, § 205(e)(7), struck out subsec. (a) which provided for application of savings when bank for cooperatives has outstanding stock held by the Governor.

Subsec. (b). Pub. L. 99–205, § 205(e)(8)(A), substituted ''At the end of each fiscal year, the net'' for ''Whenever at the end of any fiscal year a bank for cooperatives shall have no outstanding capital stock held by the Governor of the Farm Credit Administration, the net''.

Subsecs. (c), (d). Pub. L. 99–205, § 205(e)(8)(B), substituted ''subsection (b) of this section'' for ''subsection (a) or (b) of this section''.

1980—Subsec. (b). Pub. L. 96–592, § 308(1), struck out provisions relating to 25 per centum requirement for net savings.

Subsec. (c). Pub. L. 96–592, § 308(2), inserted applicability to participation certificates and to borrowers to whom refunds are payable.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

§ 2133. Distribution of assets on liquidation or dissolution

In the case of liquidation or dissolution of any bank for cooperatives, after payment or retirement, first, of all liabilities; second, of all capital stock issued before January 1, 1956, at par, and all nonvoting stock at par; and third, all voting stock at par; any surplus and reserves existing on January 1, 1956, shall be paid to the holders of stock issued before that date, and voting stock pro rata; and any remaining allocated surplus and reserves shall be distributed to those entities to which they are allocated on the books of the bank, and any other remaining surplus shall be paid to the holders of outstanding voting stock. If it should become necessary to use any surplus or reserves to pay any liabilities or to retire any capital stock, unallocated reserves or surplus, allocated reserves and surplus shall be exhausted in accordance with rules prescribed by the Farm Credit Administration.

(Pub. L. 92–181, title III, § 3.12, Dec. 10, 1971, 85 Stat. 608; Pub. L. 99–205, title II, § 205(e)(9), Dec. 23, 1985, 99 Stat. 1705; Pub. L. 100–233, title VIII, § 805(*o*), Jan. 6, 1988, 101 Stat. 1716.)

AMENDMENTS

1988—Pub. L. 100–233 inserted ''the'' before ''Farm Credit Administration''.

1985—Pub. L. 99–205 struck out ‘‘, any stock held by the Governor of the Farm Credit Administration at par’’ before ‘‘, and all nonvoting stock at par’’, and struck out ‘‘stock held by the Governor of the Farm Credit Administration,’’ before ‘‘and voting stock pro rata’’ in first sentence.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

§ 2134. Taxation

Each bank for cooperatives and its obligations are instrumentalities of the United States and as such any and all notes, debentures, and other obligations issued by such bank shall be exempt, both as to principal and interest from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States or any State, territorial, or local taxing authority, except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder.

(Pub. L. 92–181, title III, § 3.13, Dec. 10, 1971, 85 Stat. 608; Pub. L. 99–205, title II, § 205(e)(10), Dec. 23, 1985, 99 Stat. 1705; Pub. L. 100–233, title VIII, § 805(p), Jan. 6, 1988, 101 Stat. 1716.)

AMENDMENTS

1988—Pub. L. 100–233 inserted before period at end ‘‘, except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder’’.

1985—Pub. L. 99–205 struck out last two sentences relating to exemption of banks for cooperatives and their property, franchises, capital, reserves, surplus, other funds, and income from Federal and non-Federal taxation except for Federal income taxation of interest on obligations of such banks and for Federal and non-Federal taxation of real and tangible personal property of such banks to same extent as similar property is taxed, and making such exemption provisions applicable only for any year or part thereof in which stock in such banks was held by the Governor of the Farm Credit Administration.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

PART B—UNITED AND NATIONAL BANKS FOR COOPERATIVES

§ 2141. Charter, powers, and operation

(a) Charter

The National Bank for Cooperatives or the United Bank for Cooperatives, as the case may be (hereinafter in this part referred to as the ‘‘consolidated bank’’), established under section 413 of the Agricultural Credit Act of 1987, shall be a federally chartered instrumentality of the United States and an institution of the Farm Credit System.

(b) Powers

The consolidated bank and the board of directors of such bank shall have all of the powers, rights, responsibilities, and obligations of the district banks for cooperatives and the Central Bank for Cooperatives and the boards of directors of such banks, except as otherwise provided for in this chapter.

(c) Operation

The consolidated bank shall be organized and operated on a cooperative basis.

(Pub. L. 92–181, title III, § 3.20, as added Pub. L. 100–233, title IV, § 415(2), Jan. 6, 1988, 101 Stat. 1642; amended Pub. L. 100–399, title IV, § 407(a), (b), Aug. 17, 1988, 102 Stat. 1000.)

REFERENCES IN TEXT

Section 413 of the Agricultural Credit Act of 1987, referred to in subsec. (a), is section 413 of Pub. L. 100–233, as amended, which is set out as a note under section 2121 of this title.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–399, § 407(a), struck out ‘‘in this section’’ after ‘‘referred to’’ and inserted ‘‘, established under section 413 of the Agricultural Credit Act of 1987,’’ before ‘‘shall’’.

Subsec. (b). Pub. L. 100–399, § 407(b), inserted ‘‘except’’ before ‘‘as otherwise’’.

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.

§ 2142. Board of directors provisions

(a) Initial board of directors

The initial board of directors of a consolidated bank shall include the members of the boards of directors of the farm credit districts who were elected by voting stockholders of the constituent district banks for cooperatives (as such banks existed on January 6, 1988) and who shall serve out the terms for which they were elected.

(b) Permanent board of directors

(1) Composition

The permanent board of directors of a consolidated bank shall consist of—

(A) three members, elected by the voting stockholders of the consolidated bank, from each of the farm credit districts that had been served by constituent banks, as such districts existed on January 6, 1988, at least one of whom, from each such district, shall be a farmer;

(B) one member elected by the voting stockholders of each district bank for cooperatives that is not a constituent of the consolidated bank; and

(C) one member appointed by the members chosen under subparagraphs (A) and (B) who shall not be a stockholder or borrower of a System institution or an officer or director of any such stockholder or borrower.

(2) Nomination and election

For purposes of nominating and electing members of the board of directors under paragraph (1)(A):

(A) First member

The nomination and election of the first member from each district shall be carried out on the basis provided for in section 2124(d) of this title.

(B) Second member

(i) In general

The nomination and election of the second member from each district shall be

carried out with each voting stockholder of the consolidated bank located in the district having one vote, plus a number of votes (or fractional part thereof) equal to the number of stockholders eligible to vote in that district multiplied by the percentage (or fractional part thereof) of the total equity interest (including allocated, but not unallocated, surplus and reserves) in the consolidated bank of all such stockholders located in that district held by the individual voting stockholder—

(I) at the close of the immediately preceding fiscal year of the consolidated bank; or

(II) with respect to the first election held under this subsection, as of such date as the Farm Credit Administration shall prescribe.

(ii) Total number of votes

The total number of votes for each district under this subparagraph shall be the number of voting stockholders of the consolidated bank located in the district multiplied by two.

(C) Third member

The nomination and election of the third member from each district shall be carried out in accordance with procedures prescribed in the bylaws of the consolidated bank.

(3) Terms

(A) In general

The members of the board of directors of the consolidated bank shall serve for a term of 3 years.

(B) Timing of elections

Procedures for electing members of the board of directors of the consolidated bank under this subsection shall ensure that the beginning of the terms of such members coincide with the expiration of the terms of members of the interim board of directors of the bank under subsection (a) of this section.

(4) FCA regulations

The nomination and election of the members of the board of directors of the consolidated bank under this subsection shall be carried out in accordance with regulations issued by the Farm Credit Administration.

(c) Modification of board of directors provisions

The provisions of subsection (b) of this section relating to the board of directors of the consolidated bank, other than the provisions relating to the initial composition, nomination, and election of the members of the board, may be modified on an affirmative vote of at least two-thirds of the voting stockholders of the bank, with each such stockholder to have, for such purposes, only one vote. Any proposals for modifying such provisions shall be submitted for a vote by such stockholders in accordance with procedures prescribed by the Farm Credit Administration.

(Pub. L. 92–181, title III, § 3.21, as added Pub. L. 100–233, title IV, § 415(2), Jan. 6, 1988, 101 Stat. 1642; amended Pub. L. 100–399, title IV, § 407(c), (d), Aug. 17, 1988, 102 Stat. 1000.)

AMENDMENTS

1988—Subsec. (b)(2)(B)(i)(I). Pub. L. 100–399, § 407(d), amended subcl. (I) generally. Prior to amendment, subcl. (I) read as follows: ''as of the final date of the fiscal year of the consolidated bank; or''.

Subsec. (b)(2)(C). Pub. L. 100–399, § 407(c), added subpar. (C).

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.

§ 2143. Credit delivery office

On a determination by the board of directors of the consolidated bank that the bank's loan portfolio is concentrated in any one district or districts (according to the district boundaries in effect immediately prior to the effective date of the establishment of the bank under section 413 of the Agricultural Credit Act of 1987), the bank may consider the creation of regional service centers to accommodate such loan concentrations.

(Pub. L. 92–181, title III, § 3.22, as added Pub. L. 100–233, title IV, § 415(2), Jan. 6, 1988, 101 Stat. 1643; amended Pub. L. 100–399, title IV, § 407(e), Aug. 17, 1988, 102 Stat. 1000.)

REFERENCES IN TEXT

Section 413 of the Agricultural Credit Act of 1987, referred to in text, is section 413 of Pub. L. 100–233, as amended, which is set out as a note under section 2121 of this title.

AMENDMENTS

1988—Pub. L. 100–399 substituted ''consolidated bank'' for ''United Bank for Cooperatives or the National Bank for Cooperatives'' and ''establishment of the bank under section 413 of the Agricultural Credit Act of 1987'' for ''merger''.

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.

§ 2144. Consolidation of functions

Subject to section 2143 of this title, to the greatest extent practicable, the functions of the consolidated bank shall be consolidated in the central office of the bank.

(Pub. L. 92–181, title III, § 3.23, as added Pub. L. 100–233, title IV, § 415(2), Jan. 6, 1988, 101 Stat. 1644.)

§ 2145. Exchange of ownership interests

On the establishment of the consolidated bank, ownership interests of the stockholders and subscribers to the guaranty funds of the constituent district banks for cooperatives (including stock, participation certificates, and allocated equities) shall be exchanged for like ownership interests in the consolidated bank on a book value basis.

(Pub. L. 92–181, title III, § 3.24, as added Pub. L. 100–233, title IV, § 415(2), Jan. 6, 1988, 101 Stat. 1644.)

§ 2146. Capitalization

In accordance with section 2154a of this title, each consolidated bank shall provide, through bylaws and subject to Farm Credit Administration regulations, for the capitalization of the bank and the manner in which bank stock shall be issued, held, transferred, and retired and bank earnings distributed.

(Pub. L. 92–181, title III, § 3.25, as added Pub. L. 100–233, title IV, § 415(2), Jan. 6, 1988, 101 Stat. 1644; amended Pub. L. 100–399, title IV, § 407(f), Aug. 17, 1988, 102 Stat. 1000.)

AMENDMENTS

1988—Pub. L. 100–399 amended section generally. Prior to amendment, section read as follows: ''The board of directors of the consolidated bank shall provide for the capitalization of such bank in accordance with the provisions of section 2154a of this title.''

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.

§ 2147. Patronage pools

Under such terms and conditions as may be determined by its board of directors, the consolidated bank may—

(1) for a period of at least 3 years following January 6, 1988, establish separate patronage pools consisting of loans to eligible borrowers located in each constituent farm credit district (as such district existed on January 6, 1988); and

(2) allocate revenues, expenses, and net savings among such pools on an equitable basis.

(Pub. L. 92–181, title III, § 3.26, as added Pub. L. 100–233, title IV, § 415(2), Jan. 6, 1988, 101 Stat. 1644.)

§ 2148. Transactions to accomplish merger

The receipt of assets or assumption of liabilities by the consolidated bank, the exchange of stock, equities, or other ownership interests, and any other transaction carried out in accomplishing the merger of the banks for cooperatives shall not be treated as a taxable event under the laws of the United States or of any State or political subdivision thereof. The preceding sentence shall also apply to the receipt of assets and liabilities by a cooperative to the extent that the net amount of the distribution is immediately reinvested in stock of a consolidated bank (and in such case the basis of such stock shall be appropriately reduced by the amount of gain not recognized by reason of this sentence).

(Pub. L. 92–181, title III, § 3.27, as added Pub. L. 100–233, title IV, § 415(2), Jan. 6, 1988, 101 Stat. 1644; amended Pub. L. 100–399, title IV, § 407(g), Aug. 17, 1988, 102 Stat. 1001.)

AMENDMENTS

1988—Pub. L. 100–399 substituted ''cooperative'' for ''taxable institution''.

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.

§ 2149. Lending limits

The Farm Credit Administration may not establish lending limits for the consolidated bank with respect to any loans or borrowers that are more restrictive than the combined lending limits that were previously established by the Farm Credit Administration for a district bank for cooperatives and the Central Bank for Cooperatives with respect to such loans or borrowers.

(Pub. L. 92–181, title III, § 3.28, as added Pub. L. 100–233, title IV, § 415(2), Jan. 6, 1988, 101 Stat. 1644.)

§ 2149a. Reports by merged banks for cooperatives

(a) In general

When two or more banks for cooperatives merge, the resulting bank shall, not later than December 31 of each year of the succeeding 5 years following the date of the merger, file an annual report with the Farm Credit Administration that—

(1) analyzes the effect of the merger;

(2) includes a breakdown of loans outstanding according to the size of the cooperative stockholders of the bank; and

(3) describes the adequacy of credit and other assistance services provided to smaller cooperatives.

(b) Availability

A copy of the report required in subsection (a) of this section shall be made available to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(Pub. L. 92–181, title III, § 3.29, formerly title VII, § 7.5, as added Pub. L. 100–233, title IV, § 416, Jan. 6, 1988, 101 Stat. 1646; renumbered § 3.29, Pub. L. 100–399, title IV, § 408(e), Aug. 17, 1988, 102 Stat. 1001.)

CODIFICATION

Section was classified to section 2279a–5 of this title prior to renumbering by Pub. L. 100–399.

SUBCHAPTER IV—PROVISIONS APPLICABLE TO TWO OR MORE CLASSES OF INSTITUTIONS OF THE SYSTEM

PART A—FUNDING

§ 2151. Revolving fund

The revolving fund established by this section (in effect immediately before January 6, 1988) shall be available to the Farm Credit Administration and the Assistance Board during the periods, and for the purposes, provided for in sections 2278a–13 and 2278a–7 of this title, respectively.

(Pub. L. 92–181, title IV, § 4.0, Dec. 10, 1971, 85 Stat. 609; Pub. L. 99–205, title I, § 101(1), Dec. 23, 1985, 99 Stat. 1678; Pub. L. 100–233, title II, § 202, Jan. 6, 1988, 101 Stat. 1605; Pub. L. 100–399, title II, § 202, Aug. 17, 1988, 102 Stat. 992.)

REFERENCES IN TEXT

For explanation of the revolving fund established by this section (in effect immediately before January 6,

1988), referred to in text, see Revolving Funds note below.

AMENDMENTS

1988—Pub. L. 100–399 amended section generally. Prior to amendment, section read as follows:

''(a) REVOLVING FUND.—The revolving fund established by this section (in effect immediately before January 6, 1988) shall be available to the Farm Credit Administration during the period, and for the purposes provided for, in sections 2278a–7(b) and 2278a–13 of this title.

''(b) FARM CREDIT INSURANCE FUND.—On the date the first premium is due and payable under section 2277a–5(c) of this title, any funds remaining in the revolving fund shall be transferred to the Farm Credit Insurance Fund in accordance with the terms and conditions established by the Farm Credit Administration.''

Pub. L. 100–233 amended section generally. Prior to amendment, section read as follows: ''The revolving fund established by Public Law 87–343, 75 Stat. 758, as amended, and the revolving fund established by Public Law 87–494, 76 Stat. 109, as amended, and continued by Public Law 96–592, shall be merged and shall be available to the Farm Credit Administration for the purchase, on behalf of the United States, of capital stock of the Capital Corporation. The Farm Credit Administration may make such purchases of stock as the Farm Credit Administration determines, in its discretion, are necessary to achieve the purposes of this chapter.''

1985—Pub. L. 99–205 substituted provisions relating to revolving funds and investments for provisions respecting stock purchased by the Governor for the Farm Credit Administration, retirement, and franchise tax.

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.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

REVOLVING FUNDS

The revolving fund established by this section (in effect immediately before January 6, 1988), referred to in text, means the revolving fund created by former provisions of this section, which merged the revolving fund established by Public Law 87–343, 75 Stat. 758, as amended (described below as ''first fund''), with the revolving fund established by Public Law 87–494, 76 Stat. 109, as amended (described below as ''second fund''), which was regarded as continued by Pub. L. 96–592.

At the time of enactment of former section 2152 of this title (see second par. of note under former section 2152 of this title) by Pub. L. 92–181 funds for temporary investment by the Governor of the Farm Credit Administration in the farm credit system were available from two revolving funds.

The first fund, providing moneys for investment in production credit associations and intermediate credit banks, was covered by former section 1131i of this title. Such fund was itself the result of an earlier merger of two revolving funds, the first having been created by the Farm Credit Act of 1933 and the second having been created by the Federal Farm Mortgage Corporation Act of 1934. These two were combined into a single fund pursuant to Pub. L. 87–343, § 2(1), Oct. 3, 1961, 75 Stat. 758. Each of the statutory steps in the establishment of such fund was cast in the form of an amendment to the Farm Credit Act of 1933. Since such Farm Credit Act of 1933 has been repealed by section 5.26 of Pub. L. 92–181, section 1131i of this title is carried as repealed. Notwithstanding such apparent repeal, statements of Congressional intent indicate an intention to retain the fund using as its statutory base the law (Pub. L. 87–343) which had effected the consolidation in 1961.

The second fund, providing moneys for investment in banks for cooperatives, is covered by section 1141d of this title. Although the basic authority for such fund would be the Agricultural Marketing Act of 1929, a more updated authority for such fund is the Agricultural Marketing Act Amendment of 1962, Pub. L. 87–494, June 25, 1962, 76 Stat. 109, under which the fund was reduced to $150,000,000 and the amount in such fund in excess of such figure was returned to the Treasury as miscellaneous receipts.

Pub. L. 96–592, referred to above as continuing the revolving fund established by Pub. L. 87–494, is the Farm Credit Act Amendment of 1980, Pub. L. 96–592, Dec. 24, 1980, 94 Stat. 3437. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 2001 of this title and Tables.

§ 2152. Repealed. Pub. L. 100–233, title II, § 207(a)(1), Jan. 6, 1988, 101 Stat. 1607

Section, Pub. L. 92–181, title IV, § 4.1, as added Pub. L. 99–205, title I, § 104, Dec. 23, 1985, 99 Stat. 1687, contained requirements for purchase of stock and payment of assessments and contribution of capital to Capital Corporation.

A prior section 2152, Pub. L. 92–181, title IV, § 4.1, Dec. 10, 1971, 85 Stat. 609, related to revolving funds and government deposits, prior to repeal, effective thirty days after Dec. 23, 1985, by Pub. L. 99–205, title I, § 101(2), Dec. 23, 1985, 99 Stat. 1678. See section 2151 of this title.

EFFECTIVE DATE OF REPEAL

Section 207(b) of Pub. L. 100–233 provided that: ''The repeals made by subsection (a) [repealing this section and sections 2216 to 2216k, and 2252(a)(8) of this title] shall take effect 15 days after the date of the enactment of this Act [Jan. 6, 1988].''

§ 2153. Power to borrow; issuance of notes, bonds, debentures, and other obligations

Each of the banks of the System, in order to obtain funds for its authorized purposes, shall have power, subject to regulation by the Farm Credit Administration, and subject to the limitations of paragraph (e) of this section, to—

(a) Borrow money from or loan to any other institution of the System, borrow from any commercial bank or other lending institution, issue its notes or other evidence of debt on its own individual responsibility and full faith and credit, and invest its excess funds in such sums, at such times, and on such terms and conditions as it may determine.

(b) Issue its own notes, bonds, debentures, or other similar obligations, fully collateralized as provided in section 2154(c) of this title by the notes, mortgages, and security instruments it holds in the performance of its functions under this chapter in such sums, maturities, rates of interest, and terms and conditions of each issue as it may determine with approval of the Farm Credit Administration.

(c) Join with any or all banks organized and operating under the same subchapter of this chapter in borrowing or in issuance of consolidated notes, bonds, debentures, or other obligations as may be agreed with approval of the Farm Credit Administration.

(d) Join with other banks of the System in issuance of System-wide notes, bonds, debentures, and other obligations in the manner, form, amounts, and on such terms and conditions as may be agreed upon with approval of the Farm Credit Administration. Such System-wide issue by the participating banks and such participa-

tions by each bank shall not exceed the limits to which each such bank is subject in the issuance of its individual or consolidated obligations and each such issue shall be subject to approval of the Farm Credit Administration: *Provided, however*, There shall be no issues of System-wide obligations without the concurrence of the boards of directors of each bank and the approval of the Farm Credit Administration for such issues shall be conditioned on and be evidence of the compliance with this provision.

(e) No bank or banks shall issue notes, bonds, debentures, or other obligations individually or in concert with one or more banks of the System other than through the Federal Farm Credit Banks Funding Corporation under any provision of this chapter except under subsection (a) of this section: *Provided*, That any bank or banks may issue investment bonds or like obligations other than through the Federal Farm Credit Banks Funding Corporation if the interest rate is not in excess of the interest allowable on savings deposits of commercial banks of comparable amounts and maturities under Federal Reserve regulation on its member banks.

(Pub. L. 92–181, title IV, § 4.2, Dec. 10, 1971, 85 Stat. 610; Pub. L. 99–205, title II, § 205(f)(1), Dec. 23, 1985, 99 Stat. 1705; Pub. L. 100–233, title IV, § 418(b), formerly § 415(b), Jan. 6, 1988, 101 Stat. 1653, renumbered § 418(b), Pub. L. 100–399, title IV, § 409(a), Aug. 17, 1988, 102 Stat. 1003; Pub. L. 100–399, title II, § 203(e), Aug. 17, 1988, 102 Stat. 993.)

AMENDMENTS

1988—Subsec. (d). Pub. L. 100–233 substituted ''the boards of directors of each bank'' for ''the boards of directors of each of the 12 districts and the Central Bank for Cooperatives''.

Subsec. (e). Pub. L. 100–399, § 203(e), substituted ''System other than through the'' for ''System other than through their'', and substituted ''Federal Farm Credit Banks Funding Corporation'' for ''fiscal agent'' in two places.

1985—Pub. L. 99–205 substituted ''regulation by'' for ''supervision of'' in provision preceding subsec. (a).

Subsec. (b). Pub. L. 99–205 substituted references to section ''2154(c)'' for ''2154(b)'' and ''Farm Credit Administration'' for ''Governor''.

Subsecs. (c), (d). Pub. L. 99–205 substituted ''Farm Credit Administration'' for ''Governor'' wherever appearing.

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.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

§ 2154. Capital adequacy of banks and institutions

(a) Minimum levels of capital

The Farm Credit Administration shall cause System institutions to achieve and maintain adequate capital by establishing minimum levels of capital for such System institutions and by using such other methods as the Farm Credit Administration deems appropriate. The Farm Credit Administration may establish such minimum level of capital for a System institution as the Farm Credit Administration, in its discretion, deems to be necessary or appropriate in light of the particular circumstances of the System institution.

(b) Failure to maintain minimum levels; directives; plans for achieving minimum levels; proposals affecting compliance

(1) Failure of a System institution to maintain capital at or above its minimum level as established under subsection (a) of this section may be deemed by the Farm Credit Administration, in its discretion, to constitute an unsafe and unsound practice within the meaning of this chapter.

(2) In addition to, or in lieu of, any other action authorized by law, including paragraph (1), the Farm Credit Administration may issue a directive to a System institution that fails to maintain capital at or above its required level as established under subsection (a) of this section. Such directive may require the System institution to submit and adhere to a plan acceptable to the Farm Credit Administration describing the means and timing by which the System institution shall achieve its required capital level, but may not require merger or consolidation without a majority vote of the voting stockholders or the contributors to the guaranty fund of the institution.

(3) The Farm Credit Administration may consider such System institution's progress in adhering to any plan required under paragraph (2) whenever such System institution, or an affiliate thereof, seeks the requisite approval of the Farm Credit Administration for any proposal that would divert earnings, diminish capital, or otherwise impede such System institution's progress in achieving its minimum capital level. The Farm Credit Administration may deny such approval where it determines that such proposal would adversely affect the ability of the System institution to comply with such plan.

(c) Enhancement of capital adequacy of banks

Each bank shall have on hand at the time of issuance of any note, bond, debenture, or other similar obligation and at all times thereafter maintain, free from any lien or other pledge, notes and other obligations representing loans made under this chapter or real or personal property acquired in connection with loans made under this chapter, obligations of the United States or any agency thereof direct or fully guaranteed, other bank assets (including marketable securities) approved by the Farm Credit Administration, or cash, in an aggregate value equal to the total amount of notes, bonds, debentures, or other similar obligations outstanding for which the bank is primarily liable.

(Pub. L. 92–181, title IV, § 4.3, Dec. 10, 1971, 85 Stat. 611; Pub. L. 99–205, title I, § 101(3), Dec. 23, 1985, 99 Stat. 1678; Pub. L. 100–233, title III, § 304, title VIII, §§ 804(a)(3), 805(q), Jan. 6, 1988, 101 Stat. 1621, 1715, 1716; Pub. L. 100–399, title VII, § 702(b), Aug. 17, 1988, 102 Stat. 1006.)

AMENDMENTS

1988—Subsec. (b)(2). Pub. L. 100–233, § 804(a)(3), struck out subpar. (A) designation and struck out subpar. (B)

which read as follows: ''Any directive issued under this paragraph, including plans submitted pursuant thereto, shall be enforceable under the provisions of section 2267 of this title to the same extent as an effective and outstanding order issued under section 2261 of this title that has become final.''

Subsec. (c). Pub. L. 100–233, § 805(q), which directed the amendment of subsec. (c) by substituting ''direct or fully guaranteed'' for ''direct of fully guaranteed'' was repealed by Pub. L. 100–399, § 702(b). See Construction of 1988 Amendment note below.

Pub. L. 100–233, § 304, amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''Each bank shall have on hand at the time of issuance of any long-term notes, bonds, debentures, or other similar obligations and at all times thereafter maintain, free from any lien or other pledge, notes and other obligations representing loans made under the authority of this chapter, obligations of the United States or any agency thereof direct or fully guaranteed, other readily marketable securities approved by the Farm Credit Administration, or cash, in an aggregate value equal to the total amount of long-term notes, bonds, debentures, or other similar obligations outstanding for which the bank is primarily liable.''

1985—Pub. L. 99–205 substituted ''Capital adequacy of banks and associations'' for ''Aggregate of obligations; collateral'' in section catchline.

Subsec. (a). Pub. L. 99–205 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''No issue of long-term notes, bonds, debentures, or other similar obligations by a bank or banks shall be approved in an amount which, together with the amount of other bonds, debentures, long-term notes, or other similar obligations issued and outstanding, exceeds twenty times the capital and surplus of all the banks which will be primarily liable on the proposed issue, or such lesser amount as the Farm Credit Administration shall establish by regulation.''

Subsecs. (b), (c). Pub. L. 99–205 added subsec. (b) and redesignated former subsec. (b) as (c).

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

CONSTRUCTION OF 1988 AMENDMENT

Section 702(b) of Pub. L. 100–399 provided that section 805(q) of Pub. L. 100–233, cited as a credit to this section, is repealed and that subsec. (c) of this section shall be applied and administered as if such section had not been enacted.

MINIMUM CAPITAL ADEQUACY STANDARDS

Section 301(a) of Pub. L. 100–233, as amended by Pub. L. 100–399, title III, § 301(a), Aug. 17, 1988, 102 Stat. 993, provided that:

''(1) IN GENERAL.—

''(A) ESTABLISHMENT.—Within 120 days after the date of the enactment of this Act [Jan. 6, 1988], the Farm Credit Administration shall issue regulations under section 4.3(a) of the Farm Credit Act of 1971 (12 U.S.C. 2154(c) [12 U.S.C. 2154(a)]) that establish minimum permanent capital adequacy standards for Farm Credit System institutions.

''(B) BASIS FOR ESTABLISHMENT.—The standards established under subparagraph (A) shall apply to an institution based on the financial statements of the institution prepared in accordance with generally accepted accounting principles.

''(C) RATIO OF CAPITAL TO ASSETS.—The standards established under subparagraph (A) shall specify fixed percentages representing the ratio of permanent capital of the institution to the assets of the institution, taking into consideration relative risk factors as determined by the Farm Credit Administration.

''(D) PHASE-IN PERIOD.—The standards established under subparagraph (A) shall be phased in during the 5-year period beginning on the date of the enactment of this Act [Jan. 6, 1988].

''(2) EMERGENCY POWER NOT AVAILABLE.—The Farm Credit Administration shall not invoke the emergency provisions of section 5.17(c)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2251(c)(2) [12 U.S.C. 2252(c)(2)]) with respect to the issuance of the regulations required under paragraph (1)(A).

''(3) PROHIBITIONS DURING TRANSITION PERIOD.—During the 5-year period specified in paragraph (1)(D), the Farm Credit Administration shall not initiate any receivership, conservatorship, liquidation, or enforcement action against any System institution certified to issue preferred stock under section 6.27 of the Farm Credit Act of 1971 (as added by section 201 of this Act) [12 U.S.C. 2278b–7], solely because of the failure of such institution to meet minimum permanent capital adequacy standards unless such action is recommended or concurred in by the Farm Credit System Assistance Board established under section 6.0 of such Act (as added by section 201 of this Act) [12 U.S.C. 2278a].

''(4) PERMANENT CAPITAL.—For purposes of this subsection, the term 'permanent capital' has the same meaning given that term in section 4.3A(a)(1) of the Farm Credit Act of 1971 [12 U.S.C. 2154a(a)(1)].''

§ 2154a. Capitalization of System institutions

(a) Definitions

As used in this section:

(1) Permanent capital

The term ''permanent capital'' means—

(A) current year retained earnings;

(B) allocated and unallocated earnings (which, in the case of earnings allocated in any form by a System bank to any association or other recipient and retained by the bank, shall be considered, in whole or in part, permanent capital of the bank or of any such association or other recipient as provided under an agreement between the bank and each such association or other recipient);

(C) all surplus (less allowances for losses);

(D) stock issued by a System institution, except—

(i) stock that may be retired by the holder of the stock on repayment of the holder's loan, or otherwise at the option or request of the holder; or

(ii) stock that is protected under section 2162 of this title or is otherwise not at risk; and

(E) any other debt or equity instruments or other accounts that the Farm Credit Administration determines appropriate to be considered permanent capital.

(2) Stock

The term ''stock'' means voting and nonvoting stock (including preferred stock), equivalent contributions to a guaranty fund, participation certificates, allocated equities, and other forms and types of equities.

(b) Adoption of bylaws

Subject to approval by shareholders under subsection (c)(2) of this section, each bank and association shall adopt bylaws, developed by its board of directors, that provide for the capitalization of the institution in accordance with subsection (c)(1) of this section.

(c) Requirements of bylaws

(1) In general

Notwithstanding any other provision of this chapter, the bylaws adopted under subsection (b) of this section—

(A) shall provide for such classes, par value, and amounts of the stock of the institution, the manner in which such stock shall be issued, transferred, and retired, and the payment of dividends and patronage refunds, as determined appropriate by the Board of Directors, subject to this section;

(B) may provide for the charging of loan origination fees as determined appropriate by the Board of Directors;

(C) shall enable the institution to meet the capital adequacy standards established under the regulations issued under section 2154(a) of this title;

(D) shall provide for the issuance of voting stock, which may only be held by—

(i) borrowers who are farmers, ranchers, or producers or harvesters of aquatic products, and cooperative associations eligible to borrow from System institutions under this chapter;

(ii) persons and entities eligible to borrow from the banks for cooperatives, as described in section 2124(c)(ii) of this title;

(iii) in the case of a Central Bank for Cooperatives, other banks for cooperatives; and

(iv) in the case of banks other than banks for cooperatives, System associations;

(E) shall require that—

(i) as a condition of borrowing from or through the institution, any borrower who is entitled to hold voting stock or participation certificates shall, at the time a loan is made, acquire voting stock or participation certificates in an amount not less than $1,000 or 2 percent of the amount of the loan, whichever is less; and

(ii) within 2 years after the loan of a borrower is repaid in full, any voting stock held by the borrower be converted to nonvoting stock;

(F) may provide that persons who are not borrowers from the institution may hold nonvoting stock of the institution;

(G) shall require that any holder of voting stock issued before the adoption of bylaws under this section exchange a portion of such stock for new voting stock;

(H) do not need to provide for maximum or minimum standards of borrower stock ownership based on a percentage of the loan of the borrower, except as otherwise provided in this section;

(I) shall permit the retirement of stock at the discretion of the institution if the institution meets the capital adequacy standards established under section 2154(a) of this title; and

(J) shall permit stock to be transferable.

(2) Effective date

The bylaws adopted by the board of directors of a System institution under subsection (b) of this section shall take effect only on approval of a majority of the stockholders of such institution present and voting, or voting by written proxy, at a duly authorized stockholders' meeting.

(d) Reduction of capital

(1) General rule

Except as provided in paragraph (2), the board of directors of a System institution may not reduce the permanent capital of the institution through the payment of patronage refunds or dividends, or the retirement of stock if, after or due to such action, the permanent capital of the institution would thereafter fail to meet the minimum capital adequacy standards established under section 2154(a) of this title.

(2) Exceptions

Paragraph (1) shall not apply to the payment of noncash patronage refunds by any institution exempt from Federal income tax if the entire refund paid qualifies as permanent capital. Notwithstanding paragraph (1), any System institution subject to Federal income tax may pay patronage refunds partially in cash as long as the cash portion of the refund is the minimum amount required to qualify the refund as a deductible patronage distribution for Federal income tax purposes and the remaining portion of the refund paid qualifies as permanent capital.

(e) Compliance

The Farm Credit Administration may issue a directive that requires compliance with subsection (d) of this section, to the board of directors of any System institution that fails to comply therewith.

(f) Loans designated for sale or sold into secondary market

(1) In general

Subject to paragraph (2) and notwithstanding any other provision of this section, the bylaws adopted by a bank or association under subsection (b) of this section may provide—

(A) in the case of a loan made on or after February 10, 1996, that is designated, at the time the loan is made, for sale into a secondary market, that no voting stock or participation certificate purchase requirement shall apply to the borrower for the loan; and

(B) in the case of a loan made before February 10, 1996, that is sold into a secondary market, that all outstanding voting stock or participation certificates held by the borrower with respect to the loan shall, subject to subsection (d)(1) of this section, be retired.

(2) Applicability

Notwithstanding any other provision of this section, in the case of a loan sold to a secondary market under subchapter VIII of this chapter, paragraph (1) shall apply regardless of whether the bank or association retains a subordinated participation interest in a loan or pool of loans or contributes to a cash reserve.

(3) Exception

(A) In general

Subject to subparagraph (B) and notwithstanding any other provision of this section,

if a loan designated for sale under paragraph (1)(A) is not sold into a secondary market during the 180-day period that begins on the date of the designation, the voting stock or participation certificate purchase requirement that would otherwise apply to the loan in the absence of a bylaw provision described in paragraph (1)(A) shall be effective.

(B) Retirement

The bylaws adopted by a bank or association under subsection (b) of this section may provide that if a loan described in subparagraph (A) is sold into a secondary market after the end of the 180-day period described in the subparagraph, all outstanding voting stock or participation certificates held by the borrower with respect to the loan shall, subject to subsection (d)(1) of this section, be retired.

(g) Construction

This section shall not be construed to affect the provisions of this chapter that confer on System institutions a lien on borrower stock or other equities and the privilege to retire or cancel such stock or other equities for application against the indebtedness on a defaulted or restructured loan.

(h) Controlling authority

To the extent that any provision of this section is inconsistent with any other provision of this chapter (other than section 2162 of this title), the provision of this section shall control.

(Pub. L. 92–181, title IV, § 4.3A, as added Pub. L. 100–233, title III, § 301(b), Jan. 6, 1988, 101 Stat. 1608; amended Pub. L. 100–399, title III, § 301(b)–(f), Aug. 17, 1988, 102 Stat. 994; Pub. L. 102–552, title I, § 101, Oct. 28, 1992, 106 Stat. 4103; Pub. L. 104–105, title II, § 206, Feb. 10, 1996, 110 Stat. 173; Pub. L. 110–234, title V, § 5403(b), May 22, 2008, 122 Stat. 1154; Pub. L. 110–246, § 4(a), title V, § 5403(b), June 18, 2008, 122 Stat. 1664, 1916.)

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)(1)(D)(ii) to (iv). Pub. L. 110–246, § 5403(b), added cl. (ii) and redesignated former cls. (ii) and (iii) as (iii) and (iv), respectively.

1996—Subsecs. (f) to (h). Pub. L. 104–105 added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

1992—Subsec. (a)(1). Pub. L. 102–552 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The term 'permanent capital' means current year retained earnings, allocated and unallocated earnings, all surplus (less allowances for losses), and stock issued by a System institution, except stock that—

''(A) may be retired by the holder thereof on repayment of the holder's loan, or otherwise at the option or request of the holder; or

''(B) is protected under section 2162 of this title or is otherwise not at risk.''

1988—Subsec. (a)(1)(B). Pub. L. 100–399, § 301(b), substituted ''section 2162 of this title'' for ''section 4.9B''.

Subsec. (c)(1)(D)(i). Pub. L. 100–399, § 301(c)(1), substituted ''producers or'' for ''producers, or''.

Subsec. (c)(1)(G). Pub. L. 100–399, § 301(c)(2), substituted ''voting stock issued'' for ''stock issued''.

Subsec. (c)(1)(H). Pub. L. 100–399, § 301(d), inserted '', except as otherwise provided in this section'' after ''the borrower''.

Subsec. (c)(1)(I). Pub. L. 100–399, § 301(e), struck out ''standards issued under'' after ''established under''.

Subsec. (d)(1). Pub. L. 100–399, § 301(f), struck out ''and in section 2162 of this title'' after ''paragraph (2)'' and ''or allocated equities'' after ''retirement of stock''.

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 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.

§ 2155. Liability of banks; United States not liable

(a) Joint and several liability of banks

(1) Each bank of the System shall be fully liable on notes, bonds, debentures, or other obligations issued by it individually, and shall be liable for the interest payments on long-term notes, bonds, debentures, or other obligations issued by other banks operating under the same subchapter of this chapter.

(2)(A) Each bank shall also be primarily liable for the portion of any issue of consolidated or System-wide obligations made on its behalf and be jointly and severally liable for the payment of any additional sums as called upon by the Farm Credit Administration in order to make payments of interest or principal which any bank primarily liable therefor shall be unable to make.

(B) Such calls first shall be made on all nondefaulting banks in proportion to each such bank's proportionate share of the aggregate available collateral held by all such banks.

(C) For purposes of this paragraph, the term ''available collateral'' means the amount (determined at the close of the last calendar quarter ending before such call) by which a bank's collateral as described in section 2154 of this title exceeds the collateral required to support the bank's outstanding notes, bonds, debentures, and other similar obligations.

(D) If the Farm Credit Administration makes any such call and the available collateral of all such banks does not fully satisfy the liability necessitating such calls, such calls shall be made on all nondefaulting banks in proportion to each such bank's remaining assets.

(E) Any System bank that, pursuant to a call by the Farm Credit Administration, makes a payment of principal or interest to the holder of any consolidated or System-wide obligation issued on behalf of another System bank shall be subrogated to all rights of the holder against such other bank to the extent of such payment.

(F) On making such a call with respect to obligations issued on behalf of a System bank, the Farm Credit Administration shall appoint a receiver for the bank, which shall expeditiously liquidate or otherwise wind up the affairs of the bank.

(b) Resolutions as to liability; execution of obligations

Each bank participating in an issue shall by appropriate resolution undertake such responsibility as provided in subsection (a) of this section, and in the case of consolidated or System-wide obligations shall authorize the execution of such long-term notes, bonds, debentures, or other obligations on its behalf. When a consolidated or System-wide issue is approved, the notes, bonds, debentures, or other obligations shall be executed and the banks shall be liable thereon as provided herein.

(c) United States liability

The United States shall not be liable or assume any liability directly or indirectly thereon.

(d) Insurance Fund called on before invoking joint and several liability

Beginning 5 years after January 6, 1988, the Farm Credit Administration shall not call on any System institution to satisfy the liability of the institution on any joint, consolidated, or System-wide obligation participated in by the institution or with respect to which the institution is primarily, or jointly and severally, liable, before the Farm Credit Insurance Fund is exhausted, even if the Fund is only able to make a partial payment because of insufficient amounts in the Fund.

(Pub. L. 92–181, title IV, § 4.4, Dec. 10, 1971, 85 Stat. 611; Pub. L. 99–205, title I, § 101(4), title II, § 205(f)(2), Dec. 23, 1985, 99 Stat. 1679, 1706; Pub. L. 100–233, title II, § 207(c), title III, § 303, Jan. 6, 1988, 101 Stat. 1608, 1620; Pub. L. 100–399, title III, § 303, Aug. 17, 1988, 102 Stat. 995.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–233, § 303(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Each bank of the System shall be fully liable on notes, bonds, debentures, or other obligations issued by it individually, and shall be liable for the interest payments on long-term notes, bonds, debentures, or other obligations issued by other banks operating under the same subchapter of this chapter. Each bank shall also be primarily liable for the portion of any issue of consolidated or System-wide obligations made on its behalf and be jointly and severally liable for the payment of any additional sums as called upon by the Farm Credit Administration in order to make payments of interest or principal which any bank primarily liable therefor shall be unable to make. Such calls shall be made first upon the other banks operating under the same subchapter of this chapter as the defaulting bank, and second upon banks operating under other subchapters of this chapter, taking into consideration the capital, surplus, bonds, debentures, or other obligations which each may have outstanding at the time of such assessment.''

Subsec. (c). Pub. L. 100–233, § 207(c), redesignated subsec. (d) as (c), and struck out former subsec. (c) which provided that for purposes of this part, the term ''bank'' included the Capital Corporation.

Subsec. (d). Pub. L. 100–399 redesignated subsec. (e) as (d).

Pub. L. 100–233, § 207(c), redesignated subsec. (d) as (c).

Subsec. (e). Pub. L. 100–399 redesignated subsec. (e) as (d).

Pub. L. 100–233, § 303(b), added subsec. (e).

1985—Subsec. (b). Pub. L. 99–205, § 205(f)(2), substituted ''execution of'' for ''Governor to execute'' in first sentence and struck out ''by the Governor'' after ''shall be executed'' in second sentence.

Subsecs. (c), (d). Pub. L. 99–205, § 101(4), added subsec. (c) and redesignated former subsec. (c) as (d).

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.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

§ 2156. Repealed. Pub. L. 100–233, title II, § 204(b), Jan. 6, 1988, 101 Stat. 1607

Section, Pub. L. 92–181, title IV, § 4.5, Dec. 10, 1971, 85 Stat. 611; Pub. L. 96–592, title IV, § 401, Dec. 24, 1980, 94 Stat. 3446; Pub. L. 99–205, title II, § 205(f)(3), Dec. 23, 1985, 99 Stat. 1706, provided for establishment of a finance committee for banks organized and operated under subchapters I, II, and III of this chapter. See section 2160 of this title.

§ 2157. Bonds as investments

The bonds, debentures, and other similar obligations issued under the authority of this chapter shall be lawful investments for all fiduciary and trust funds and may be accepted as security for all public deposits.

(Pub. L. 92–181, title IV, § 4.6, Dec. 10, 1971, 85 Stat. 612.)

§ 2158. Purchase and sale by Federal Reserve System

Any member of the Federal Reserve System may buy and sell bonds, debentures, or other similar obligations issued under the authority of this chapter and any Federal Reserve bank may buy and sell such obligations to the same extent and subject to the same limitations placed upon the purchase and sale by said banks of State, county, district, and municipal bonds under section 355 of this title.

(Pub. L. 92–181, title IV, § 4.7, Dec. 10, 1971, 85 Stat. 612.)

§ 2159. Purchase and sale of obligations; additional powers

(a) Each bank of the System may purchase its own obligations and the obligations of other banks of the System and may provide for the sale of obligations issued by it, consolidated obligations, or Systemwide obligations through a fiscal agent or agents, by negotiation, offer, bid, syndicate sale, and to deliver such obligations by book entry, wire transfer, or such other means as may be appropriate.

(b) Through December 31, 1992, each bank of the System, in addition to purchasing obligations as authorized by this chapter, may, with the prior approval of the Farm Credit Administration and subject to such conditions as it may establish, (1) reduce the cost of its borrowings by doing one or more of the following: (A) contracting with a third party, or an entity that is established as a limited purpose System institution under section 2211 of this title and that is not to be included in the combined financial statements of other System institutions, with

respect to the payment of interest on the bank's obligations and the obligations of other banks incurred before January 1, 1985, in consideration of the payment of market interest rates on such obligations, plus a premium, or (B) for the period July 1, 1986, through December 31, 1992, capitalizing interest costs on obligations incurred before January 1, 1985, in excess of the estimated interest costs on an equivalent amount of Farm Credit System obligations at prevailing market rates on such obligations of similar maturities as of October 21, 1986, or (C) taking other similar action; and (2) amortize, over a period of not to exceed 20 years, the capitalization of the premium, capitalization of interest expense, or like costs of any action taken under clause (1).

(Pub. L. 92–181, title IV, § 4.8, Dec. 10, 1971, 85 Stat. 612; Pub. L. 99–509, title I, § 1034, Oct. 21, 1986, 100 Stat. 1878; Pub. L. 100–233, title II, § 205(a), Jan. 6, 1988, 101 Stat. 1607.)

AMENDMENTS

1988—Subsec. (b). Pub. L. 100–233 substituted ''December 31, 1992'' for ''December 31, 1988'' in two places.

1986—Pub. L. 99–509 designated existing provisions as subsec. (a) and added subsec. (b).

§ 2160. Federal Farm Credit Banks Funding Corporation

(a) Establishment

There is hereby established the Federal Farm Credit Banks Funding Corporation (hereinafter in this section referred to as the ''Corporation''), which shall be an institution of the Farm Credit System.

(b) Duties

The Corporation—

(1) shall issue, market, and handle the obligations of the banks of the Farm Credit System, and interbank or intersystem flow of funds as may from time to time be required;

(2) acting for the banks of the Farm Credit System, subject to approval of the Farm Credit Administration, shall determine the amount, maturities, rates of interest, terms, and conditions of participation by the several banks in each issue of joint, consolidated, or System-wide obligations; and

(3) shall exercise such other powers as were provided to the predecessor Federal Farm Credit Banks Funding Corporation in accordance with its charter issued under section 2211 of this title, in effect immediately before January 6, 1988.

(c) Officers and committees

(1) Designation

The board of directors may designate such officers and committees for such terms and such purposes as may be agreed on by the board.

(2) Issuance of obligations

When appropriate to the board's functions under this section, a committee of the board of directors of the Corporation, or representatives thereof, may act on behalf of the board in connection with the issuance of joint, consolidated, and System-wide obligations.

(d) Board of directors

(1) Composition

The board of directors shall be composed of nine voting members and one nonvoting member, as follows:

(A) Four voting members shall be current or former directors of the System banks elected by the shareholders of the Corporation.

(B) Three voting members shall be chief executive officers or presidents of System banks elected by the shareholders of the Corporation.

(C) Two voting members shall be appointed by the members elected under subparagraphs (A) and (B) after the elected members have received recommendations for such appointments from, and consulted with, the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System. The appointed members shall be selected from United States citizens—

(i) who are not borrowers from, shareholders in, or employees or agents of any System institution, who are not affiliated with the Farm Credit Administration, and who are not actively engaged with a bank or investment organization that is a member of the Corporation's selling group for System-wide securities; and

(ii) who are experienced or knowledgeable in corporate and public finance, agricultural economics, and financial reporting and disclosure.

(D) The president of the Corporation shall serve as a nonvoting member of the board.

In selecting candidates under subparagraphs (A) and (B), due consideration shall be given to choosing individuals knowledgeable in agricultural economics, public and corporate finance, and financial reporting and disclosure.

(2) Non-voting representatives

(A) Assistance Board

During the period in which the Assistance Board is in existence, the board of directors of the Assistance Board shall designate one of its directors to serve as a non-voting representative to the board of directors of the Corporation.

(B) Meetings

The person designated by the Assistance Board under subparagraph (A) may attend and participate in all deliberations of the board of directors of the Corporation.

(C) Termination of Assistance Board

After termination of the Assistance Board, neither the Assistance Board nor its successor, the Farm Credit System Insurance Corporation, shall have any representation on the board of directors of the Corporation.

(e) Transitional authority

Until a majority of the voting members of the board of directors of the Corporation is elected, which shall occur as soon as is practicable after January 6, 1988—

(1) the finance committee established under section 2156[1] of this title in effect before Janu-

[1] See References in Text note below.

ary 6, 1988, and the fiscal agency established under section 2160[1] of this title in effect before January 6, 1988, shall continue to operate as if this section had not been enacted; and

(2) the board of directors of the predecessor Federal Farm Credit Banks Funding Corporation shall be the board of directors of the Financial Assistance Corporation.

(f) Succession

(1) Assets and liabilities

The Corporation shall, by operation of law and without any further action by the Farm Credit Administration, the predecessor Federal Farm Credit Banks Funding Corporation (hereinafter referred to in this subsection as ''the predecessor corporation'') chartered under this chapter, or any court, succeed to the assets of and assume all debts, obligations, contracts, and other liabilities of the predecessor corporation, matured or unmatured, accrued, absolute, contingent or otherwise, and whether or not reflected or reserved against on balance sheets, books of account, or records of the predecessor corporation.

(2) Contracts

The existing contractual obligations, security instruments, and title instruments of the predecessor corporation shall, by operation of law and without any further action by the Farm Credit Administration, the predecessor corporation, or any court, become and be converted into obligations, entitlements, and instruments of the Corporation.

(3) Stock

The stock of the predecessor corporation issued before January 6, 1988, shall, by operation of law and without any further action by the Farm Credit Administration, the predecessor corporation, or any court, become and be converted into stock of the Corporation established by this section.

(4) Taxation

The succession to assets, assumption of liabilities, conversion of obligations, instruments, and stock, and effectuation of any other transaction by the Corporation to carry out this subsection shall not be treated as a taxable event under the laws of any State or political subdivision thereof.

(Pub. L. 92–181, title IV, § 4.9, Dec. 10, 1971, 85 Stat. 612; Pub. L. 100–233, title II, § 204(a), Jan. 6, 1988, 101 Stat. 1605; Pub. L. 100–399, title II, § 203(a)–(d), Aug. 17, 1988, 102 Stat. 992, 993; Pub. L. 102–552, title V, § 507, Oct. 28, 1992, 106 Stat. 4131.)

REFERENCES IN TEXT

January 6, 1988, referred to in subsecs. (e) and (f)(3), was in the original ''the enactment of this section'', ''the date of the enactment of this section'', and ''such date of enactment'', which were translated as meaning the date of enactment of Pub. L. 100–233, which amended this section generally, to reflect the probable intent of Congress.

Section 2156 of this title, referred to in subsec. (e)(1), was repealed by Pub. L. 100–233, title II, § 204(b), Jan. 6, 1988, 101 Stat. 1607.

For text of section 2160 of this title in effect before January 6, 1988, referred to in subsec. (e)(1), see 1988 Amendment note below.

AMENDMENTS

1992—Subsec. (d)(2). Pub. L. 102–552 amended par. (2) generally. Prior to amendment, par. (2) read as follows:

''(A) ASSISTANCE BOARD.—During the period in which the Assistance Board is in existence, the board of directors of the Assistance Board shall designate one of its directors to serve as a nonvoting representative to the board of directors of the Corporation.

''(B) INSURANCE CORPORATION.—After such period, the board of directors of the Farm Credit System Insurance Corporation may designate one of its directors to serve as a nonvoting representative to the board of directors of the Corporation.

''(C) MEETINGS.—The persons so designated by the Assistance Board and by the Farm Credit System Insurance Corporation may attend and participate in all deliberations of the board of directors of the Corporation.''

1988—Pub. L. 100–233 amended section generally. Prior to amendment, section read as follows: ''A fiscal agency shall be established by the banks for such of their functions relating to the issuance, marketing, and handling of their obligations, and interbank or intersystem flow of funds as may from time to time be required.''

Subsec. (b)(3). Pub. L. 100–399, § 203(b), inserted ''predecessor Federal Farm Credit Banks'' before ''Funding Corporation''.

Subsec. (d)(2)(B), (C). Pub. L. 100–399, § 203(c), substituted ''directors of the Corporation'' for ''directors of the Federal Farm Credit Banks Funding Corporation''.

Subsec. (e). Pub. L. 100–399, § 203(d), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''Until a quorum of the board of directors of the Corporation is elected or appointed, the finance committee established under section 2156 of this title in effect before January 6, 1988, and the fiscal agency established under section 2160 of this title in effect before January 6, 1988, shall continue to operate as if this section had not been enacted.''

Subsec. (f). Pub. L. 100–399, § 203(a), added subsec. (f).

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.

§ 2161. Repealed. Pub. L. 100–399, title I, § 101(a), Aug. 17, 1988, 102 Stat. 989

Section, Pub. L. 92–181, title IV, § 4.9A, as added Pub. L. 99–205, title I, § 105, Dec. 23, 1985, 99 Stat. 1687, authorized a central reserve for Farm Credit System.

EFFECTIVE DATE OF REPEAL

Repeal effective immediately after enactment of Pub. L. 100–233, approved Jan. 6, 1988, see section 1001(a) of Pub. L. 100–399, set out as a note under section 2002 of this title.

§ 2162. Protection of borrower stock

(a) Retirement of stock

Notwithstanding any other section of this chapter, each institution of the Farm Credit System, when retiring eligible borrower stock in accordance with this chapter, shall retire such stock at par value.

(b) Certain powers not affected

This section does not affect the authority of any institution of the Farm Credit System—

(1) to retire or cancel borrower stock at par value for application against a loan in default;

(2) to cancel borrower stock at par value under section 2202b of this title; or

(3) to apply, against any outstanding indebtedness to a System association arising out of

or in connection with a liquidation referred to in subsection (d)(2) of this section, the par value of borrower stock frozen in such liquidation.

(c) Inability to retire stock at par value

If an institution is unable to retire eligible borrower stock at par value due to the liquidation of the institution, the receiver of the institution shall retire such stock at par value as would have been retired in the ordinary course of business of the institution, and—

(1) during the 5-year period beginning on January 6, 1988, the Assistance Board shall direct the Financial Assistance Corporation to provide the receiver with sufficient funds to enable the receiver to carry out this subsection; and

(2) after such 5-year period, the Farm Credit System Insurance Corporation shall provide the receiver with sufficient funds from the Farm Credit Insurance Fund to enable the receiver to carry out this subsection.

(d) Definitions

For purposes of this section:

(1) Borrower stock

The term ''borrower stock'' means voting and nonvoting stock, equivalent contributions to a guaranty fund, participation certificates, allocated equities, and other similar equities that are subject to retirement under a revolving cycle issued by any System institution and held by any person other than any System institution.

(2) Eligible borrower stock

The term ''eligible borrower stock'' means borrower stock that—

(A) is outstanding on January 6, 1988;

(B) is issued or allocated after January 6, 1988, but prior to the earlier of—

(i) in the case of each bank and association, the date of approval, by the stockholders of such bank or association, of the capitalization requirements of the institution in accordance with section 2154a of this title; or

(ii) the date that is 9 months after January 6, 1988;

(C) was, after January 1, 1983, but before January 6, 1988, frozen by an institution that was placed in liquidation; or

(D) was retired at less than par value by an institution that was placed in liquidation after January 1, 1983, but before January 6, 1988.

(3) Institution

The term ''institution'' means a bank or association chartered under this chapter.

(4) Par value

The term ''par value'' means—

(A) in the case of stock, par value;

(B) in the case of participation certificates and other equities and interests not described in subparagraph (C), face or equivalent value; or

(C) in the case of participation certificates and allocated equities subject to retirement under a revolving cycle but that a System institution elects to retire out of order for application against a loan in default or otherwise as provided in this chapter, par or face value discounted, at a rate determined by the institution, to reflect the present value of the equity or interest as of the date of such retirement.

(Pub. L. 92–181, title IV, § 4.9A, as added Pub. L. 100–233, title I, § 101, Jan. 6, 1988, 101 Stat. 1572; amended Pub. L. 100–399, title I, § 101(b)–(d), Aug. 17, 1988, 102 Stat. 989.)

PRIOR PROVISIONS

A prior section 4.9A of Pub. L. 92–181, which authorized a central reserve for Farm Credit System, was classified to section 2161 of this title and was repealed by Pub. L. 100–399, § 101(a).

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–399, § 101(b), struck out provision that an institution whose capital stock is impaired coordinate retirement of stock under this section with the activities of the Assistance Board and the Financial Assistance Corporation.

Subsec. (c). Pub. L. 100–399, § 101(c), inserted ''stock'' in subsec. heading and amended text generally. Prior to amendment, text read as follows: ''If an institution is unable to retire eligible borrower stock at par value due to the freezing of such stock during a liquidation of the institution, the receiver of the institution shall retire such stock at par value as would have been retired in the ordinary course of business of the institution and the Financial Assistance Corporation, on request of the Assistance Board, shall provide the receiver with sufficient funds to enable the receiver to carry out this subsection.''

Subsec. (d)(2)(B). Pub. L. 100–399, § 101(d), in introductory provision substituted ''issued or allocated'' for ''required to be purchased, and is purchased, as a condition of obtaining a loan made'' and in cl. (i) substituted ''section 2154a of this title'' for ''section 4.9B''.

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.

PART B—DISSOLUTION

AMENDMENTS

1988—Pub. L. 100–233, title IV, § 418(a)(1), formerly § 415(a)(1), Jan. 6, 1988, 101 Stat. 1653, renumbered § 418(a)(1), Pub. L. 100–399, title IV, § 409(a), Aug. 17, 1988, 102 Stat. 1003, substituted ''Dissolution'' for ''Dissolution and merger'' as part B heading.

§§ 2181, 2182. Repealed. Pub. L. 100–233, title IV, § 418(a)(2), (3), formerly § 415(a)(2), (3), Jan. 6, 1988, 101 Stat. 1653; renumbered § 418(a)(2), (3), Pub. L. 100–399, title IV, § 409(a), Aug. 17, 1988, 102 Stat. 1003

Section 2181, Pub. L. 92–181, title IV, § 4.10, Dec. 10, 1971, 85 Stat. 612; Pub. L. 96–592, title IV, § 402, Dec. 24, 1980, 94 Stat. 3446, related to merger of similar banks.

Section 2182, Pub. L. 92–181, title IV, § 4.11, Dec. 10, 1971, 85 Stat. 612; Pub. L. 99–205, title II, § 205(f)(4), Dec. 23, 1985, 99 Stat. 1706, related to board of directors for merged bank.

§ 2183. Dissolution; voluntary or involuntary liquidation; mergers; receiverships or conservators

(a) Voluntary liquidation; consent of Farm Credit Administration; rules and regulations; minimization of adverse effect; voluntary merger; mandatory merger on failure to comply or meet obligations

No institution of the System shall go into voluntary liquidation without the consent of the Farm Credit Administration and with such consent may liquidate only in accordance with regulations prescribed by the Farm Credit Administration. In the case of a voluntary liquidation of an association, such regulations, among other things, shall direct the supervising bank to institute such measures as it deems appropriate to minimize the adverse effect of the liquidation on those borrowers whose loans are purchased by or otherwise transferred to another System institution. The Farm Credit Administration Board may require an association to merge with another association whenever it determines, with the concurrence of the board of the supervising bank, that an association has failed to meet its outstanding obligations or failed to conduct its operations in accordance with this chapter.

(b) Appointment of conservator or receiver; grounds; action for removal; stay of actions or proceedings

The Farm Credit Administration Board may appoint a conservator or receiver for any System institution on the determination by the Farm Credit Administration Board that one or more of the following exists, or is occurring, with respect to the institution: (1) insolvency, in that the assets of the institution are less than its obligations to its creditors and others, including its members; (2) substantial dissipation of assets or earnings due to any violation of law, rules, or regulations, or to any unsafe or unsound practice; (3) an unsafe or unsound condition to transact business; (4) willful violation of a cease and desist order that has become final; (5) concealment of books, papers, records, or assets of the institution or refusal to submit books, papers, records, or other material relating to the affairs of the institution for inspection to any examiner or to any lawful agent of the Farm Credit Administration; (6) the institution is unable to timely pay principal or interest on any insured obligation (as defined in section 2277a(3) of this title) issued by the institution. The Farm Credit Administration Board shall have exclusive power and jurisdiction to appoint a conservator or receiver, and such receiver or conservator, after the 5-year period beginning on January 6, 1988, shall be the Farm Credit System Insurance Corporation. If the Farm Credit Administration Board determines that a ground for the appointment of a conservator or receiver as herein provided exists, the Farm Credit Administration Board may appoint ex parte and without notice a conservator or receiver for the institution. In the event of such appointment, the institution, within thirty days thereafter, may bring an action in the United States district court for the judicial district in which the home office of such institution is located, or in the United States District Court for the District of Columbia, for an order requiring the Farm Credit Administration Board to remove such conservator or receiver, and the court shall on the merits, dismiss such action or direct the Farm Credit Administration Board to remove such conservator or receiver. On the commencement of such an action, the court having jurisdiction of any other action or enforcement proceeding authorized under this chapter to which the institution is a party shall stay such action or proceeding during the pendency of the action for removal of the conservator or receiver.

(c) Involuntary liquidation; rules and regulations; minimization of adverse effect

In the case of an involuntary liquidation of an association, regulations of the Farm Credit Administration, among other things, shall direct the supervising bank to institute such measures as it deems appropriate to minimize the adverse effect of the liquidation on those borrowers whose loans are purchased by or otherwise transferred to another System institution.

(Pub. L. 92–181, title IV, § 4.12, Dec. 10, 1971, 85 Stat. 612; Pub. L. 99–205, title I, § 102, title II, § 205(f)(5), title III, § 305, Dec. 23, 1985, 99 Stat. 1679, 1706, 1708; Pub. L. 100–233, title III, § 306, title IV, § 418(a)(4), formerly § 415(a)(4), § 431(g), title VIII, § 805(r), Jan. 6, 1988, 101 Stat. 1622, 1653, 1660, 1716, renumbered § 418(a)(4), Pub. L. 100–399, title IV, § 409(a), Aug. 17, 1988, 102 Stat. 1003; Pub. L. 100–399, title IX, § 901(f), Aug. 17, 1988, 102 Stat. 1007.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–399, § 901(f), substituted ''board of the supervising bank'' for ''district board''.

Pub. L. 100–233, § 415(a)(4), struck out third sentence which provided that Associations may voluntarily merge with other like associations upon the vote of a majority of each of their stockholders present and voting or voting by written proxy at duly authorized meetings, and with the approval of the supervising bank and the Farm Credit Administration, and substituted ''Board may require an association to merge with another association'' for ''may require such merger'' in fourth sentence.

Subsec. (b). Pub. L. 100–233, § 431(g), substituted ''Farm Credit Administration Board'' for ''Farm Credit Administration'' wherever appearing other than in cl. (5).

Pub. L. 100–233, § 306, added cl. (6) and inserted '', and such receiver or conservator, after the 5-year period beginning on January 6, 1988, shall be the Farm Credit System Insurance Corporation'' before the period at end of second sentence.

Pub. L. 100–233, § 805(r), substituted ''court shall'' for ''court, shall''.

1985—Subsec. (a). Pub. L. 99–205, § 205(f)(5), substituted ''Farm Credit Administration'' for ''Federal Farm Credit Board'' in last sentence.

Pub. L. 99–205, § 305(a), inserted after first sentence a sentence requiring the regulations, in the case of a voluntary liquidation of an association, to direct the supervising bank to institute appropriate measures to minimize the adverse effect of the liquidation on borrowers whose loans are purchased by or otherwise transferred to another System institution.

Subsec. (b). Pub. L. 99–205, § 102, in revising subsec. (b), substituted expanded provisions respecting appointment of conservator or receiver for former provision, which read as follows: ''Upon default of any obligation by any institution of the System, such institution may be declared insolvent and placed in the hands

of a conservator or a receiver appointed by the Governor and the proceedings thereon shall be in accordance with regulations of the Farm Credit Administration regarding such insolvencies.''

Subsec. (c). Pub. L. 99–205, § 305(b), added subsec. (c).

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.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

§ 2184. Communications with stockholders

(a) Provision of stockholder lists

(1) In general

Within 7 days after receipt of a written request by a stockholder, a bank for cooperatives, Federal land bank association, or production credit association shall provide a current list of its stockholders to such requesting stockholder.

(2) Conditions

As a condition of providing a stockholder list under paragraph (1), the bank or association may require that the stockholder agree and certify in writing that the stockholder will—

(A) use the list exclusively for communicating with stockholders for permissible purposes; and

(B) not make the list available to any person, other than the stockholder's attorney or accountant, without first obtaining the written consent of the institution.

(b) Alternative communications

(1) Request to issue

As an alternative to receiving a list of stockholders, a stockholder may request the institution to mail or otherwise furnish to each stockholder a communication for a permissible purpose on behalf of the requesting stockholder.

(2) When permissible

Alternative communications may be used, at the discretion of the requesting stockholder, if the requester agrees to defray the reasonable costs of the communication. If the requester decides to exercise this option, the institution shall provide the requester with a written estimate of the costs of handling and mailing the communication as soon as is practicable after receipt of the stockholder's request to furnish the communication.

(Pub. L. 92–181, title IV, § 4.12A, as added Pub. L. 100–233, title IV, § 420, Jan. 6, 1988, 101 Stat. 1653.)

PART C—RIGHTS OF BORROWERS; LOAN RESTRUCTURING

AMENDMENTS

1988—Pub. L. 100–233, title VIII, § 804(b), Jan. 6, 1988, 101 Stat. 1715, substituted ''Rights of Borrowers; Loan Restructuring'' for ''Rights of Applicants'' as part C heading.

§ 2199. Disclosure

(a) In general

In accordance with regulations of the Farm Credit Administration, qualified lenders shall provide to borrowers, for all loans that are not subject to the Truth in Lending Act (15 U.S.C. 1601 et seq.), meaningful and timely disclosure not later than the time of the loan closing, of—

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

(2) in the case of an adjustable or variable rate loan, the amount and frequency by which the interest rate can be increased during the term of the loan or, if there are no such limitations, a statement to that effect, and the factors (including the cost of funds, operating expenses, and provision for loan losses) that will be taken into account by the qualified lender in determining adjustments to the interest rate;

(3) the effect, as shown by a representative example or examples, of any loan origination charges or purchases of stock or participation certificates on the effective rate of interest;

(4) any change in the interest rate applicable to the borrower's loan, and notice to the borrower of a change in the interest rate applicable to the loan of the borrower may be made within a reasonable time after the effective date of an increase or decrease in the interest rate;

(5) except with respect to stock guaranteed under section 2162 of this title, a statement indicating that stock that is purchased is at risk; and

(6) a statement indicating the various types of loan options available to borrowers, with an explanation of the terms and borrowers' rights that apply to each type of loan.

(b) Differential interest rates

A qualified lender offering more than one rate of interest to borrowers shall, at the request of a borrower of a loan—

(1) provide a review of the loan to determine if the proper interest rate has been established;

(2) explain to the borrower in writing the basis for the interest rate charged; and

(3) explain to the borrower in writing how the credit status of the borrower may be improved to receive a lower interest rate on the loan.

(Pub. L. 92–181, title IV, § 4.13, as added Pub. L. 99–205, title III, § 301(b), Dec. 23, 1985, 99 Stat. 1707; amended Pub. L. 100–233, title I, §§ 103, 109, Jan. 6, 1988, 101 Stat. 1579, 1584; Pub. L. 104–105, title II, § 207, Feb. 10, 1996, 110 Stat. 173.)

REFERENCES IN TEXT

The Truth in Lending Act, referred to in subsec. (a), is title I of Pub. L. 90–321, May 29, 1968, 82 Stat. 146, as amended, which is classified generally to subchapter I (§ 1601 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

PRIOR PROVISIONS

A prior section 4.13 of Pub. L. 92–181, title IV, Dec. 10, 1971, 85 Stat. 613, was renumbered section 4.13B by Pub. L. 99–205, title III, § 301(a), Dec. 23, 1985, 99 Stat. 1707, and is classified to section 2201 of this title.

AMENDMENTS

1996—Subsec. (a)(4). Pub. L. 104–105 inserted before semicolon at end ‘‘, and notice to the borrower of a change in the interest rate applicable to the loan of the borrower may be made within a reasonable time after the effective date of an increase or decrease in the interest rate’’.

1988—Pub. L. 100–233, § 109, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Pub. L. 100–233, § 103, amended section generally, substituting introductory provisions and cls. (1) to (6) for former subsecs. (a) and (b).

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2200. Access to documents and information

In accordance with regulations of the Farm Credit Administration, qualified lenders shall provide their borrowers, at the time of execution of loans, copies of all documents signed by the borrower and at any time thereafter, on a borrower's request, copies of all documents signed or delivered by the borrower and at any time, on request, a copy of the institution's articles of incorporation or charter and bylaws and copies of each appraisal of the borrower's assets made or used by the qualified lender.

(Pub. L. 92–181, title IV, § 4.13A, as added Pub. L. 99–205, title III, § 301(b), Dec. 23, 1985, 99 Stat. 1707; amended Pub. L. 100–233, title I, § 104, Jan. 6, 1988, 101 Stat. 1579.)

AMENDMENTS

1988—Pub. L. 100–233 substituted ‘‘qualified lenders’’ for ‘‘System institutions’’ and inserted ‘‘and copies of each appraisal of the borrower's assets made or used by the qualified lender’’ before period at end.

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2201. Notice of action on application

(a) Loan applications

Each qualified lender to which a person has applied for a loan shall provide the person with prompt written notice of—

(1) the action on the application;

(2) if the loan applied for is reduced or denied, the reasons for such action; and

(3) the applicant's right to review under section 2202 of this title.

(b) Distressed loans

Each qualified lender that has a distressed loan outstanding that is subject to restructuring requirements under this chapter shall provide, in accordance with regulations prescribed by the Farm Credit Administration, the borrower with prompt written notice of—

(1) any action taken with respect to restructuring the loan under section 2202a of this title;

(2) if restructuring is denied, the reasons for such action; and

(3) the borrower's right to review under section 2202 of this title.

(Pub. L. 92–181, title IV, § 4.13B, formerly § 4.13, Dec. 10, 1971, 85 Stat. 613, renumbered § 4.13B and amended Pub. L. 99–205, title III, §§ 301(a), 302, Dec. 23, 1985, 99 Stat. 1707, 1708; Pub. L. 100–233, title I, § 105, Jan. 6, 1988, 101 Stat. 1579.)

AMENDMENTS

1988—Pub. L. 100–233 amended section generally. Prior to amendment, section read as follows: ‘‘Every applicant for a loan from an institution of the System shall be entitled to prompt written notice of action on his application, and, if the loan applied for is reduced or denied, the reason for such action, and of the applicant's right to review under section 2202 of this title.’’

1985—Pub. L. 99–205, § 302, provided for a ‘‘written’’ notice and for the applicant's right to review under section 2202 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

§ 2202. Reconsideration of actions

(a) Credit review committees

(1) In general

The board of directors of each qualified lender shall establish one or more credit review committees, which shall include farmer board representation.

(2) Membership

In no case shall a loan officer involved in the initial decision on a loan serve on the credit review committee when the committee reviews such loan.

(b) Review of decisions

(1) Denials or reductions

Any applicant for a loan from a qualified lender that has received a written notice issued under section 2201 of this title of a decision to deny or reduce the loan applied for may submit a written request, not later than 30 days after receiving a notice denying or reducing the amount of the loan application, to obtain a review of the decision before the credit review committee.

(2) Denials of restructuring

A borrower of a loan from a qualified lender that has received notice, under section 2201 of this title, of a decision to deny loan restructuring with respect to a loan made to the borrower, if the borrower so requests in writing within 7 days after receiving such notice, may obtain a review of such decision in person before the credit review committee.

(c) Personal appearance

An applicant for a loan or for restructuring, who is entitled to and has requested a review under this section, may appear in person before the credit review committee, and may be accompanied by counsel or by any other representative of such person's choice, to seek a reversal of the decision on the application under review.

(d) Independent appraisal

(1) In general

An appeal filed with a credit review committee under this section may include, as a part

of the request for a review of the decision filed under subsection (b)(1) or (2) of this section, a request for an independent appraisal, by an accredited appraiser, of any interests in property securing the loan (other than the stock or participation certificates of the qualified lender held by the borrower).

(2) Arrangement and cost

Within 30 days after a request for an appraisal under paragraph (1), the credit review committee shall present the borrower with a list of three appraisers approved by the appropriate qualified lender from which the borrower shall select an appraiser to conduct the appraisal the cost of which shall be borne by the borrower, and shall consider the results of such appraisal in any final determination with respect to the loan.

(3) Copy to borrower

A copy of any appraisal made under this subsection shall be provided to the borrower.

(4) Additional collateral

An independent appraisal shall be permitted if additional collateral for a loan is demanded by the qualified lender when determining whether to restructure the loan.

(e) Notification of applicant

Promptly after a review by the credit review committee, the committee shall notify the applicant or borrower, as the case may be, in writing of the decision of the committee and the reasons for the decision.

(Pub. L. 92–181, title IV, § 4.14, Dec. 10, 1971, 85 Stat. 613; Pub. L. 99–205, title III, § 303, Dec. 23, 1985, 99 Stat. 1708; Pub. L. 100–233, title I, § 106, title VIII, § 805(s), Jan. 6, 1988, 101 Stat. 1580, 1716; Pub. L. 100–399, title I, § 103, title VII, § 702(b), Aug. 17, 1988, 102 Stat. 990, 1006.)

AMENDMENTS

1988—Pub. L. 100–233, § 805(s), which directed amendment of this section by substituting ''committees'' for ''committee(s)'', ''2201'' for ''2199'', and ''review'' for ''reviews'', was repealed by Pub. L. 100–399, § 702(b). See Construction of 1988 Amendment note below.

Pub. L. 100–233, § 106, amended section generally. Prior to amendment, section read as follows: ''The board of directors of each Farm Credit System institution shall establish one or more credit review committee(s), which shall include farmer board respresentation. [sic] Any loan applicant who has received written notice, under section 2199 of this title, of a decision to deny or reduce the loan applied for, if the applicant so requests in writing within thirty days after receiving such notice, may obtain a review of such decision in person before the credit review committee. When a loan applicant requests review of an adverse credit decision, a majority of persons serving on such reviews committee must be persons who were not involved in making the adverse decision. Promptly after any such review, the applicant shall be notified in writing of the credit review committee's decision and the reasons therefor.''

Subsec. (b)(1). Pub. L. 100–399, § 103(a), substituted ''before the'' for ''by a''.

Subsec. (d)(1). Pub. L. 100–399, § 103(b), inserted ''or (2)''.

1985—Pub. L. 99–205, in amending section generally, substituted provisions respecting reconsideration of action on loan application for prior reconsideration provisions which read as follows: ''Any applicant who has reason to believe that the action on his application by an association failed to take into account facts pertinent to his application, or has misinterpreted or failed to properly apply the applicable law or rules and regulations governing his application, may, if he so requests in writing within thirty days of the date of that notice, request an informal hearing on his application and the action of the association in reduction or denial thereof, or the reason for such action, in person before the loan committee or officer or employee thereof authorized to act on applications under section 2033(11) or 2093(18) of this title. Promptly after such a hearing, he shall be notified of the decision upon reconsideration and the reasons therefor.''

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.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

CONSTRUCTION OF 1988 AMENDMENT

Section 702(b) of Pub. L. 100–399 provided that section 805(s) of Pub. L. 100–233, cited as a credit to this section, is repealed and that this section shall be applied and administered as if such section had not been enacted.

§ 2202a. Restructuring distressed loans

(a) Definitions

As used in this part:

(1) Application for restructuring

The term ''application for restructuring'' means a written request—

(A) from a borrower for the restructuring of a distressed loan in accordance with a preliminary restructuring plan proposed by the borrower as a part of the application;

(B) submitted on the appropriate forms prescribed by the qualified lender; and

(C) accompanied by sufficient financial information and repayment projections, where appropriate, as required by the qualified lender to support a sound credit decision.

(2) Cost of foreclosure

The term ''cost of foreclosure'' includes—

(A) the difference between the outstanding balance due on a loan made by a qualified lender and the liquidation value of the loan, taking into consideration the borrower's repayment capacity and the liquidation value of the collateral used to secure the loan;

(B) the estimated cost of maintaining a loan as a nonperforming asset;

(C) the estimated cost of administrative and legal actions necessary to foreclose a loan and dispose of property acquired as the result of the foreclosure, including attorneys' fees and court costs;

(D) the estimated cost of changes in the value of collateral used to secure a loan during the period beginning on the date of the initiation of an action to foreclose or liquidate the loan and ending on the date of the disposition of the collateral; and

(E) all other costs incurred as the result of the foreclosure or liquidation of a loan.

(3) Distressed loan

The term ''distressed loan'' means a loan that the borrower does not have the financial

capacity to pay according to its terms and that exhibits one or more of the following characteristics:

(A) The borrower is demonstrating adverse financial and repayment trends.

(B) The loan is delinquent or past due under the terms of the loan contract.

(C) One or both of the factors listed in subparagraphs (A) and (B), together with inadequate collateralization, present a high probability of loss to the lender.

(4) Foreclosure proceeding

The term ''foreclosure proceeding'' means—

(A) a foreclosure or similar legal proceeding to enforce a lien on property, whether real or personal, that secures a nonaccrual or distressed loan; or

(B) the seizing of and realizing on nonreal property collateral, other than collateral subject to a statutory lien arising under subchapter I or II of this chapter, to effect collection of a nonaccrual or distressed loan.

(5) Loan

(A) In general

Subject to subparagraph (B), the term ''loan'' means a loan made to a farmer, rancher, or producer or harvester of aquatic products, for any agricultural or aquatic purpose and other credit needs of the borrower, including financing for basic processing and marketing directly related to the borrower's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products.

(B) Exclusion for loans designated for sale into secondary market

(i) In general

Except as provided in clause (ii), the term ''loan'' does not include a loan made on or after February 10, 1996, that is designated, at the time the loan is made, for sale into a secondary market.

(ii) Unsold loans

(I) In general

Except as provided in subclause (II), if a loan designated for sale under clause (i) is not sold into a secondary market during the 180-day period that begins on the date of the designation, the provisions of this section and sections 2202, 2202b, 2202c, 2202d, and 2219a of this title that would otherwise apply to the loan in the absence of the exclusion described in clause (i) shall become effective with respect to the loan.

(II) Later sale

If a loan described in subclause (I) is sold into a secondary market after the end of the 180-day period described in subclause (I), subclause (I) shall not apply with respect to the loan beginning on the date of the sale.

(6) Qualified lender

The term ''qualified lender'' means—

(A) a System institution that makes loans (as defined in paragraph (5)) except a bank for cooperatives; and

(B) each bank, institution, corporation, company, union, and association described in section 2015(b)(1)(B) of this title but only with respect to loans discounted or pledged under section 2015(b)(1) of this title.

(7) Restructure and restructuring

The terms ''restructure'' and ''restructuring'' include rescheduling, reamortization, renewal, deferral of principal or interest, monetary concessions, and the taking of any other action to modify the terms of, or forbear on, a loan in any way that will make it probable that the operations of the borrower will become financially viable.

(b) Notice

(1) In general

On a determination by a qualified lender that a loan made by the lender is or has become a distressed loan, the lender shall provide written notice to the borrower that the loan may be suitable for restructuring, and include with such notice—

(A) a copy of the policy of the lender established under subsection (g) of this section that governs the treatment of distressed loans; and

(B) all materials necessary to enable the borrower to submit an application for restructuring on the loan.

(2) Notice before foreclosure

Not later than 45 days before any qualified lender begins foreclosure proceedings with respect to a loan outstanding to any borrower, the lender shall notify the borrower that the loan may be suitable for restructuring and that the lender will review any such suitable loan for restructuring, and shall include with such notice a copy of the policy and the materials described in paragraph (1).

(3) Limitation on foreclosure

No qualified lender may foreclose or continue any foreclosure proceeding with respect to any distressed loan before the lender has completed any pending consideration of the loan for restructuring under this section.

(c) Meetings

On determination by a qualified lender that a loan made by the lender is or has become a distressed loan, the lender shall provide a reasonable opportunity for the borrower thereof to personally meet with a representative of the lender—

(1) to review the status of the loan, the financial condition of the borrower, and the suitability of the loan for restructuring; and

(2) with respect to a loan that is in nonaccrual status, to develop a plan for restructuring the loan if the loan is suitable for restructuring.

(d) Consideration of applications

(1) In general

When a qualified lender receives an application for restructuring from a borrower, the qualified lender shall determine whether or not to restructure the loan, taking into consideration—

(A) whether the cost to the lender of restructuring the loan is equal to or less than the cost of foreclosure;

(B) whether the borrower is applying all income over and above necessary and reasonable living and operating expenses to the payment of primary obligations;

(C) whether the borrower has the financial capacity and the management skills to protect the collateral from diversion, dissipation, or deterioration;

(D) whether the borrower is capable of working out existing financial difficulties, reestablishing a viable operation, and repaying the loan on a rescheduled basis; and

(E) in the case of a distressed loan that is not delinquent, whether restructuring consistent with sound lending practices may be taken to reasonably ensure that the loan will not become a loan that it is necessary to place in nonaccrual status.

(2) Applications not required for restructuring plans

This section shall not prevent a qualified lender from proposing a restructuring plan for an individual borrower in the absence of an application for restructuring from the borrower.

(e) Restructuring

(1) In general

If a qualified lender determines that the potential cost to such qualified lender of restructuring the loan in accordance with a proposed restructuring plan is less than or equal to the potential cost of foreclosure, the qualified lender shall restructure the loan in accordance with the plan.

(2) Computation of cost of restructuring

In determining whether the potential cost to the qualified lender of restructuring a distressed loan is less than or equal to the potential cost of foreclosure, a qualified lender shall consider all relevant factors, including—

(A) the present value of interest income and principal forgone by the lender in carrying out the restructuring plan;

(B) reasonable and necessary administrative expenses involved in working with the borrower to finalize and implement the restructuring plan;

(C) whether the borrower has presented a preliminary restructuring plan and cash-flow analysis taking into account income from all sources to be applied to the debt and all assets to be pledged, showing a reasonable probability that orderly debt retirement will occur as a result of the proposed restructuring; and

(D) whether the borrower has furnished or is willing to furnish complete and current financial statements in a form acceptable to the institution.

(f) Least cost alternative

If two or more restructuring alternatives are available to a qualified lender under this section with respect to a distressed loan, the lender shall restructure the loan in conformity with the alternative that results in the least cost to the lender.

(g) Restructuring policy

(1) Establishment

Each bank board of directors shall develop a policy within 60 days after January 6, 1988, that is consistent with this section, to govern the restructuring of distressed loans. Such policy shall constitute the restructuring policy of each qualified lender within the district.

(2) Contents of policy

The policy established under paragraph (1) shall include an explanation of—

(A) the procedure for submitting an application for restructuring; and

(B) the right of borrowers with distressed loans to seek review by a credit review committee in accordance with section 2202 of this title of a denial of an application for restructuring.

(3) Submission of policy to FCA

Each bank board shall submit the policy of the district governing the treatment of distressed loans under this section to the Farm Credit Administration. Notwithstanding the duty imposed by the preceding sentence, the other duties imposed by this section shall take effect on January 6, 1988.

(h) Reports

During the 5-year period beginning on January 6, 1988, each qualified lender shall submit semiannual reports to the Farm Credit Administration containing—

(1) the results of the review of distressed loans of the lender; and

(2) the financial effect of loan restructurings and liquidations on the lender.

(i) Compliance

The Farm Credit Administration may issue a directive requiring compliance with any provision of this section to any qualified lender that fails to comply with such provision.

(j) Permitted foreclosures

This section shall not be construed to prevent any qualified lender from enforcing any contractual provision that allows the lender to foreclose a loan, or from taking such other lawful action as the lender deems appropriate, if the lender has reasonable grounds to believe that the loan collateral will be destroyed, dissipated, consumed, concealed, or permanently removed from the State in which the collateral is located.

(k) Application of section

The time limitation prescribed in subsection (b)(2) of this section, and the requirements of subsection (c) of this section, shall not apply to a loan that became a distressed loan before January 6, 1988, if the borrower and lender of the loan are in the process of negotiating loan restructuring with respect to the loan.

***(l)* Assistance in restructuring**

Each Farm Credit Bank, on request of any production credit association, may assist the association in restructuring loans under this section.

(Pub. L. 92–181, title IV, § 4.14A, as added Pub. L. 100–233, title I, § 102(a), Jan. 6, 1988, 101 Stat. 1574;

amended Pub. L. 100–399, title I, § 102(a)–(f), Aug. 17, 1988, 102 Stat. 990; Pub. L. 104–105, title II, § 208(a), Feb. 10, 1996, 110 Stat. 173.)

AMENDMENTS

1996—Subsec. (a)(5). Pub. L. 104–105 designated existing provisions as subpar. (A), inserted subpar. heading, substituted ''Subject to subparagraph (B), the term'' for ''The term'', and added subpar. (B).

1988—Subsec. (a). Pub. L. 100–399, § 102(a), struck out ''(other than in sections 2205 and 2206 of this title)'' after ''in this part''.

Subsec. (a)(6)(B). Pub. L. 100–399, § 102(b), substituted ''section 2015(b)(1)(B) of this title'' for ''section 2074(a)(2) of this title'' and ''section 2015(b)(1) of this title'' for ''section 2074(a) of this title''.

Subsec. (e)(1). Pub. L. 100–399, § 102(c), substituted ''cost to such qualified'' for ''cost to a qualified''.

Subsec. (g)(1). Pub. L. 100–399, § 102(d), substituted ''bank'' for ''farm credit district''.

Subsec. (g)(3). Pub. L. 100–399, § 102(e), substituted ''bank board'' for ''district board''.

Subsec. (*l*). Pub. L. 100–399, § 102(f), substituted ''Farm Credit Bank'' for ''Federal intermediate credit bank''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 102(b), (f) of Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, and amendment by section 102(a), (c)–(e) of 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 of Pub. L. 100–399, set out as a note under section 2002 of this title.

SENSE OF CONGRESS

Section 102(b) of Pub. L. 100–233 provided that: ''It is the sense of Congress that the banks and associations (except banks for cooperatives) operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) should administer distressed loans to farmers with the objective of using the loan guarantee programs of the Farmers Home Administration and other loan restructuring measures, including participation in interest rate buydown programs that are Federally or State funded, and other Federal and State sponsored financial assistance programs that offer relief to financially distressed farmers, as alternatives to foreclosure, considering the availability and appropriateness of such programs on a case-by-case basis.''

§ 2202b. Effect of restructuring on borrower stock

(a) Farm Credit Bank

If a Farm Credit Bank forgives and writes off, under section 2202a of this title, any of the principal outstanding on a loan made to any borrower, the Federal land bank association of which the borrower is a member and stockholder shall cancel the same dollar amount of borrower stock held by the borrower in respect of the loan, up to the total amount of such stock, and, to the extent provided for in the bylaws of the bank relating to its capitalization, the bank shall retire an equal amount of stock owned by the Federal land bank association.

(b) Production credit association

If a production credit association forgives and writes off, under section 2202a of this title, any of the principal outstanding on a loan made to any borrower, the association shall cancel the same dollar amount of borrower stock held by the borrower in respect of the loan, up to the total amount of such stock.

(c) Retention of stock

Notwithstanding subsections (a) and (b) of this section, the borrower shall be entitled to retain at least one share of stock to maintain the borrower's membership and voting interest in the association.

(Pub. L. 92–181, title IV, § 4.14B, as added Pub. L. 100–233, title I, § 102(a), Jan. 6, 1988, 101 Stat. 1577; amended Pub. L. 100–399, title I, § 102(g), Aug. 17, 1988, 102 Stat. 990.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–399 substituted in subsec. heading ''Farm Credit Bank'' for ''Federal land bank'' and in text ''a Farm Credit Bank'' for ''a Federal land bank'' and '', to the extent provided for in the bylaws of the bank relating to capitalization, the bank shall'' for ''the Federal land bank shall''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

§ 2202c. Review of restructuring denials

(a) Requirements for restructuring by System institutions

(1) Existing nonaccrual loans

Within 9 months after a qualified lender is certified under section 2278a–4 of this title, such lender shall review each loan that has not been previously restructured and that is in nonaccrual status on the date the lender is certified, and determine whether to restructure the loan.

(2) New nonaccrual loans

Within 6 months after a loan made by a certified lender is placed in nonaccrual status, the lender shall determine whether to restructure the loan.

(b) Special asset groups

(1) Establishment

Within 30 days after a qualified lender in a district is certified to issue preferred stock under section 2278b–7 of this title, the Farm Credit Bank board shall establish a special asset group that shall review each determination by the lender not to restructure a loan.

(2) Restructuring plan

If a special asset group determines under paragraph (1) that a loan under review should be restructured, the group shall prescribe a restructuring plan for the loan that the qualified lender shall implement.

(c) National Special Asset Council

(1) Establishment

A National Special Asset Council shall be established by the Assistance Board to—

(A) monitor compliance with the restructuring requirements of this section by qualified lenders certified to issue preferred stock under section 2278b–7 of this title, and by special asset groups established under subsection (b) of this section; and

(B) review a sample of determinations made by each special asset group that a loan will not be restructured.

(2) Review of determination

The National Special Asset Council shall review a sufficient number of determinations made by each special asset group to foreclose on any loan to assure the Council that such group is complying with this section. With regard to each determination reviewed, the Council shall make an independent judgment on the merits of the decision to foreclose rather than restructure the loan.

(3) Noncompliance

If the National Special Asset Council determines that any special asset group is not in substantial compliance with this section, the Council shall notify the group of the determination, and may take such other action as the Council considers necessary to ensure that such group complies with this section.

(d) Report

With respect to determinations by a special asset group that a loan will not be restructured, the special asset group shall submit to the National Special Asset Council a report evaluating the loan and the basis for the determination that the loan should not be restructured.

(e) Restructuring factors

In determining whether a loan is to be restructured, the National Special Asset Council, each special asset group, and each qualified lender certified under section 2278a–4 of this title shall take into consideration the factors specified in section 2202a(d)(1) of this title.

(Pub. L. 92–181, title IV, § 4.14C, as added Pub. L. 100–233, title I, § 102(a), Jan. 6, 1988, 101 Stat. 1578; amended Pub. L. 100–399, title I, § 102(h), Aug. 17, 1988, 102 Stat. 990.)

AMENDMENTS

1988—Subsec. (b)(1). Pub. L. 100–399 substituted ''Farm Credit Bank board'' for ''district board of such district''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

§ 2202d. Protection of borrowers who meet all loan obligations

(a) Foreclosure prohibited

A qualified lender may not foreclose on any loan because of the failure of the borrower thereof to post additional collateral, if the borrower has made all accrued payments of principal, interest, and penalties with respect to the loan.

(b) Prohibition against required principal reduction

A qualified lender may not require any borrower to reduce the outstanding principal balance of any loan made to the borrower by any amount that exceeds the regularly scheduled principal installment payment (when due and payable), unless—

(1) the borrower sells or otherwise disposes of part or all of the collateral; or

(2) the parties agree otherwise in a written agreement entered into by the parties.

(c) Nonenforcement

After a borrower has made all accrued payments of principal, interest, and penalties with respect to a loan made by a qualified lender, the lender shall not enforce acceleration of the borrower's repayment schedule due to the borrower having not timely made one or more principal or interest payments.

(d) Placing loans in nonaccrual status

(1) Notification

If a qualified lender places any loan in nonaccrual status, the lender shall document such change of status and promptly notify the borrower thereof in writing of such action and the reasons therefor.

(2) Review of denial

If the borrower was not delinquent in any principal or interest payment under the loan at the time of such action and the borrower's request to have the loan placed back into accrual status is denied, the borrower may obtain a review of such denial before the appropriate credit review committee under section 2202 of this title.

(3) Application

This subsection shall only apply if a loan being placed in nonaccrual status results in an adverse action being taken against the borrower.

(Pub. L. 92–181, title IV, § 4.14D, as added Pub. L. 100–233, title I, § 107, Jan. 6, 1988, 101 Stat. 1581.)

§ 2202e. Waiver of mediation rights by borrowers

No System institution may make a loan secured by a mortgage or lien on agricultural property to a borrower on the condition that the borrower waive any right under the mediation program of any State.

(Pub. L. 92–181, title IV, § 4.14E, as added Pub. L. 100–233, title V, § 511, Jan. 6, 1988, 101 Stat. 1664; amended Pub. L. 103–354, title II, § 282(f)(2), Oct. 13, 1994, 108 Stat. 3235.)

AMENDMENTS

1994—Pub. L. 103–354 struck out ''agricultural loan'' before ''mediation program''.

PART D—ACTIVITIES OF INSTITUTIONS OF THE SYSTEM

AMENDMENTS

1988—Pub. L. 100–233, title VIII, § 805(t)(1), Jan. 6, 1988, 101 Stat. 1716, added heading for part D.

§ 2203. Nomination of association directors; representative selection of nominees

Each production credit association and each Federal land bank association shall elect a nominating committee by vote of the stockholders at the annual meeting to serve for the following year. Each nominating committee shall review lists of farmers from the association territory, determine their willingness to serve, and submit for election a slate of eligible candidates which shall include at least two nominees for

each elective office to be filled. In doing so, the committee shall endeavor to assure representation to all sections of the association territory and as nearly as possible to all types of agriculture practiced within the area. Employees of the association shall not be eligible to be nominated, elected, or serve as a member of the board. Nominations shall also be accepted from the floor. Members of the board are not eligible to serve on the nominating committee. Regulations of the Farm Credit Administration governing the election of bank directors shall similarly assure a choice of two nominees for each elective office to be filled and that the bank board represent as nearly as possible all types of agriculture in the district.

(Pub. L. 92–181, title IV, § 4.15, Dec. 10, 1971, 85 Stat. 613; Pub. L. 100–399, title IX, § 901(g), Aug. 17, 1988, 102 Stat. 1007.)

AMENDMENTS

1988—Pub. L. 100–399 substituted ''bank directors'' for ''district directors'' and ''bank board'' for ''district board''.

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.

§ 2204. Repealed. Pub. L. 102–552, title V, § 508, Oct. 28, 1992, 106 Stat. 4132

Section, Pub. L. 92–181, title IV, § 4.16, Dec. 10, 1971, 85 Stat. 613, prohibited tax-exempt guarantees.

§ 2205. Interest rates

Interest rates on loans from institutions of the Farm Credit System shall not be subject to any interest rate limitation imposed by any State constitution or statute or other laws. Such limitation is preempted for purposes of this chapter. Interest rates on loans made by agricultural credit corporations organized in conjunction with cooperative associations for the purpose of financing the ordinary crop operations of the members of such associations or other producers and eligible to discount with the Federal intermediate credit banks and Farm Credit Banks shall be exempt from any interest rate limitation imposed by any State constitution or statute or other laws which are hereby preempted for purposes of this chapter.

(Pub. L. 92–181, title IV, § 4.17, as added Pub. L. 96–592, title IV, § 403, Dec. 24, 1980, 94 Stat. 3446; amended Pub. L. 99–205, title II, § 205(f)(6), Dec. 23, 1985, 99 Stat. 1706; Pub. L. 99–509, title I, § 1035, Oct. 21, 1986, 100 Stat. 1878; Pub. L. 100–399, title IX, § 901(h), Aug. 17, 1988, 102 Stat. 1007.)

AMENDMENTS

1988—Pub. L. 100–399 substituted ''and Farm Credit Banks'' for ''pursuant to section 2074 of this title''.

1986—Pub. L. 99–509 substituted first two sentences for former first sentence which read as follows: ''Interest rates on loans from institutions of the Farm Credit System shall be determined with the approval of, as provided in section 2252(a)(5) of this title, the Farm Credit Administration as provided in this chapter, notwithstanding any interest rate limitation imposed by any State constitution or statute or other laws which are hereby preempted for purposes of this chapter.''

1985—Pub. L. 99–205 inserted '', as provided in section 2252(a)(5) of this title,'' after ''with the approval of'' in first sentence.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

§ 2206. Participation loans

Notwithstanding any other provisions of this chapter, the terms of any loan participated in by two or more Farm Credit System institutions operating under different subchapters of this chapter, including provisions for capitalization of the portion of the loan participated in by each institution, shall be as may be agreed upon among such institutions and authorized under regulations issued by the Farm Credit Administration, except that for purposes of determining borrower eligibility, membership, term, amount, loan security, and purchase of stock or participation certificates by the borrower, the provisions of law applicable to the loan shall be the provisions in the subchapter under which the institution that originates the loan operates.

(Pub. L. 92–181, title IV, § 4.18, as added Pub. L. 96–592, title IV, § 403, Dec. 24, 1980, 94 Stat. 3446; amended Pub. L. 99–205, title II, § 205(f)(7), Dec. 23, 1985, 99 Stat. 1706.)

AMENDMENTS

1985—Pub. L. 98–205 inserted ''under regulations issued'' after ''authorized''.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

§ 2206a. Authority of Farm Credit Banks and direct lender associations to participate in loans to similar entities for risk management purposes

(a) Definitions

As used in this section:

(1) Participate and participation

The terms ''participate'' and ''participation'' shall have the meaning provided in section 2122(11)(B)(iii) of this title.

(2) Similar entity

The term ''similar entity'' means a person that—

(A) is not eligible for a loan from the Farm Credit Bank or association; and

(B) has operations that are functionally similar to a person that is eligible for a loan from the Farm Credit Bank or association in that the person derives a majority of the income of the person from, or has a majority of the assets of the person invested in, the conduct of activities that are functionally similar to the activities that are conducted by an eligible person.

(b) Loan participation authority

Notwithstanding any other provision of this chapter, any Farm Credit Bank or direct lender association chartered under this chapter may participate in any loan of a type otherwise authorized under subchapter I or II of this chapter made to a similar entity by any person in the business of extending credit, except that a Farm Credit Bank or direct lender association may not participate in a loan under this section if—

(1) the participation would cause the total amount of all participations by the Farm Credit Bank or association under this section involving a single credit risk to exceed 10 percent (or the applicable higher lending limit authorized under regulations issued by the Farm Credit Administration if the stockholders of the respective Farm Credit Bank or association so approve) of the total capital of the Farm Credit Bank or association;

(2) the participation by the Farm Credit Bank or association would equal or exceed 50 percent of the principal of the loan or, when taken together with participations in the loan by other Farm Credit System institutions, would cause the cumulative amount of the participations by all Farm Credit System institutions in the loan to equal or exceed 50 percent of the principal of the loan;

(3) the participation would cause the cumulative amount of participations that the Farm Credit Bank or association has outstanding under this section to exceed 15 percent of the total assets of the Farm Credit Bank or association; or

(4) the loan is of the type authorized under section 2019(b) or 2075(a)(2) of this title.

(Pub. L. 92–181, title IV, § 4.18A, as added Pub. L. 103–376, § 5, Oct. 19, 1994, 108 Stat. 3498; Pub. L. 107–171, title V, § 5401(b), May 13, 2002, 116 Stat. 349.)

AMENDMENTS

2002—Subsec. (a)(1). Pub. L. 107–171, § 5401(b)(1), substituted ''2122(11)(B)(iii) of this title'' for ''2122(11)(B)(iv) of this title''.

Subsec. (c). Pub. L. 107–171, § 5401(b)(2), struck out heading and text of subsec. (c). Text read as follows:

''(1) IN GENERAL.—With respect to a similar entity that is eligible to borrow from a bank for cooperatives under subchapter III of this chapter, the authority of a Farm Credit Bank or association to participate in a loan to the entity under this section shall be subject to the prior approval of the bank for cooperatives having, at the time the loan is made, the greatest loan volume in the State in which the headquarters office of the similar entity is located.

''(2) TERMS AND CONDITIONS.—Approval under paragraph (1) may be granted on an annual basis and under such terms and conditions as may be agreed on between the Farm Credit Bank or association, as the case may be, and the bank for cooperatives granting the approval.

''(3) APPROVAL BY SUPERVISING FARM CREDIT BANK.—An association may not participate in a loan to a similar entity under this section without the approval of the supervising Farm Credit Bank of the association.''

§ 2207. Young, beginning, and small farmers and ranchers

(a) Under policies of the district Farm Credit Bank board, each Federal land bank association and production credit association shall prepare a program for furnishing sound and constructive credit and related services to young, beginning, and small farmers and ranchers. Such programs shall assure that such credit and services are available in coordination with other units of the Farm Credit System serving the territory and with other governmental and private sources of credit. Each program shall be subject to review and approval by the supervising bank.

(b) The Farm Credit Bank for each district shall annually obtain from associations under its supervision reports of activities under programs developed pursuant to subsection (a) of this section and progress toward program objectives. On the basis of such reports, the bank shall provide to the Farm Credit Administration an annual report summarizing the operations and achievements in its district under such programs.

(Pub. L. 92–181, title IV, § 4.19, as added Pub. L. 96–592, title IV, § 403, Dec. 24, 1980, 94 Stat. 3446; amended Pub. L. 100–399, title IX, § 901(i), (j), Aug. 17, 1988, 102 Stat. 1007.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–399, § 901(i), inserted ''Farm Credit Bank'' after ''district''.

Subsec. (b). Pub. L. 100–399, § 901(j)(1), (2), (4), (5), substituted ''The Farm Credit Bank for each district'' for ''The Federal land bank and the Federal intermediate credit bank for each district'', ''under its supervision'' for ''under their supervision'', ''the bank shall'' for ''the banks shall'', ''an annual report'' for ''a joint annual report'', and ''achievements in its district'' for ''achievements in their district''.

Pub. L. 100–399, § 901(j)(3), substituted ''subsection (a)'' for ''subsection (a) of this section'', which for purposes of codification was translated as ''subsection (a) of this section'', requiring no change in text.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

§ 2208. Prohibition against use of signed ballots

In any election or merger vote, or other proceeding subject to a vote of the stockholders (or subscribers to the guaranty fund of a bank for cooperatives), conducted by a lending institution of the Farm Credit System, the institution—

(1) may not use signed ballots; and

(2) shall implement measures to safeguard the voting process for the protection of the right of stockholders (or subscribers) to a secret ballot.

(Pub. L. 92–181, title IV, § 4.20, as added Pub. L. 96–592, title IV, § 403, Dec. 24, 1980, 94 Stat. 3447; amended Pub. L. 100–233, title IV, § 425, Jan. 6, 1988, 101 Stat. 1657.)

AMENDMENTS

1988—Pub. L. 100–233 amended section generally. Prior to amendment, section read as follows: ''The provisions of (1) section 2074 of this title authorizing the Federal intermediate credit banks to lend to or discount paper for other financial institutions, and (2) section 2128(b) of this title authorizing the financing of certain domestic or foreign entities in connection with the import or export activities of cooperatives which are borrowers

from the banks for cooperatives, shall expire on September 30, 1990, unless extended by Act of Congress prior to that date. Any contract or agreement entered into under the authority of either provision prior to its expiration shall remain in full force and effect notwithstanding such expiration.''

§ 2209. Compensation of bank directors

(a) In general

The Farm Credit Administration shall monitor the compensation of members of the board of directors of a System bank received as compensation for serving as a director of the bank to ensure that the amount of the compensation does not exceed a level of $20,000 per year, as adjusted to reflect changes in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, unless the Farm Credit Administration determines that such level adversely affects the safety and soundness of the bank.

(b) Waiver

The Farm Credit Administration may waive the limitation prescribed in subsection (a) of this section under exceptional circumstances, as determined in accordance with regulations promulgated by the Farm Credit Administration.

(Pub. L. 92–181, title IV, § 4.21, as added Pub. L. 100–399, title IV, § 414, Aug. 17, 1988, 102 Stat. 1004; amended Pub. L. 102–552, title V, § 509, Oct. 28, 1992, 106 Stat. 4132.)

AMENDMENTS

1992—Pub. L. 102–552 amended section generally. Prior to amendment, section read as follows: ''No member of the board of directors of a System bank may receive more than $15,000 per year under this chapter as compensation for serving as a director of such bank.''

EFFECTIVE DATE

Section effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as an Effective Date of 1988 Amendment note under section 2002 of this title.

PART E—SERVICE ORGANIZATIONS

AMENDMENTS

1988—Pub. L. 100–233, title VIII, § 805(t)(2), Jan. 6, 1988, 101 Stat. 1716, redesignated part D as E.

§ 2211. Establishment

Any bank of the Farm Credit System, or two or more of such banks acting together, may organize a corporation or corporations for the purpose of performing functions and services for or on behalf of the organizing bank or banks that the bank or banks may perform pursuant to this chapter: *Provided*, That a corporation so organized shall have no authority either to extend credit or provide insurance services for borrowers from Farm Credit System institutions, nor shall it have any greater authority with respect to functions and services than the organizing bank or banks possess under this chapter. The organizing bank or banks shall apply for a Federal charter for the corporation by forwarding to the Farm Credit Administration a statement of the need for the corporation and proposed articles specifying in general terms the objectives for which the corporation is formed, the powers to be exercised by it in carrying out the functions and services, and the territory it is to serve. The Farm Credit Administration for good cause may deny the charter applied for. Upon the approval of articles by the Farm Credit Administration and the issuance of a charter, the corporation shall become as of such date a federally chartered body corporate and an instrumentality of the United States.

(Pub. L. 92–181, title IV, § 4.25, as added Pub. L. 96–592, title IV, § 404, Dec. 24, 1980, 94 Stat. 3447; amended Pub. L. 99–205, title II, § 205(f)(8), Dec. 23, 1985, 99 Stat. 1706.)

AMENDMENTS

1985—Pub. L. 99–205 struck out ''the Governor of'' before ''the Farm Credit Administration'' in second sentence and substituted ''Farm Credit Administration'' for ''Governor'' in third and fourth sentences.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

§ 2212. Powers of Farm Credit Administration

The Farm Credit Administration shall have power, under rules and regulations prescribed by the Farm Credit Administration, to provide for the organization of any corporation chartered under this part and the territory within which its operations may be carried on, and to approve amendments consistent with this chapter to charters or articles of service corporations.

(Pub. L. 92–181, title IV, § 4.26, as added Pub. L. 96–592, title IV, § 404, Dec. 24, 1980, 94 Stat. 3447; amended Pub. L. 99–205, title II, § 205(f)(9), Dec. 23, 1985, 99 Stat. 1706; Pub. L. 100–233, title VIII, § 802(s), Jan. 6, 1988, 101 Stat. 1712.)

AMENDMENTS

1988—Pub. L. 100–233 struck out ''or by prescribing in the terms of the charter or by approval of the bylaws of the corporation'' after second reference to Farm Credit Administration, substituted ''approve amendments consistent with this chapter to charters or articles of service corporations'' for ''direct at any time such changes in its charter as the Farm Credit Administration finds necessary for the accomplishment of the purposes of this chapter'', and struck out last sentence which read as follows: ''The powers of the Farm Credit Administration to provide for the organization of any corporation chartered under this part include, but are not limited to approval of—

''(1) corporate title;

''(2) general corporate powers;

''(3) eligibility for membership on, and the powers, composition, selection, terms, and compensation of the board of directors;

''(4) classes, issuance, value, and retirement of stock;

''(5) sources of operating funds;

''(6) dissolution, liquidation, and distribution of assets on liquidation; and

''(7) application and distribution of earnings.''

1985—Pub. L. 99–205 substituted ''Farm Credit Administration'' for ''Governor'' in heading and wherever appearing in text, and substituted ''the Federal Credit Administration'' for ''he'' before ''finds necessary'' in first sentence.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

§ 2213. Regulation and examination

The corporations organized under this part shall be institutions of the Farm Credit System and shall be subject to the same regulation and examination by the Farm Credit Administration as are the organizing bank or banks under this chapter.

(Pub. L. 92–181, title IV, § 4.27, as added Pub. L. 96–592, title IV, § 404, Dec. 24, 1980, 94 Stat. 3447; amended Pub. L. 99–205, title II, § 205(f)(10), Dec. 23, 1985, 99 Stat. 1706; Pub. L. 100–233, title VIII, § 802(t), Jan. 6, 1988, 101 Stat. 1712.)

AMENDMENTS

1988—Pub. L. 100–233 substituted ''Regulation'' for ''Supervision'' in section catchline.

1985—Pub. L. 99–205 substituted ''regulation'' for ''supervision''.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

§ 2214. State laws

State and other laws shall apply to corporations organized pursuant to this part to the same extent such laws would apply to the organizing banks engaged in the same activity in the same jurisdiction: *Provided, however*, That to the extent that sections 2023, 2098, and 2134 of this title may exempt banks or associations of the Farm Credit System from taxation, such exemptions, other than with respect to franchise taxes, shall not extend to corporations organized pursuant to this part.

(Pub. L. 92–181, title IV, § 4.28, as added Pub. L. 96–592, title IV, § 404, Dec. 24, 1980, 94 Stat. 3448; amended Pub. L. 100–399, title IX, § 901(k), Aug. 17, 1988, 102 Stat. 1007; Pub. L. 102–237, title V, § 502(g), Dec. 13, 1991, 105 Stat. 1869.)

AMENDMENTS

1991—Pub. L. 102–237 made technical amendment to reference to section 2098 of this title to reflect change in reference to corresponding section of original act.

1988—Pub. L. 100–399 inserted ''or associations'' and substituted ''2023, 2098,'' for ''2055, 2079,''.

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)(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 immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

§ 2214a. "Bank" defined

In this part, the term ''bank'' includes each association operating under subchapter II of this chapter.

(Pub. L. 92–181, title IV, § 4.28A, as added Pub. L. 104–105, title II, § 209, Feb. 10, 1996, 110 Stat. 174.)

PRIOR PROVISIONS

A prior section 4.28A of title IV of Pub. L. 92–181, which provided for chartering of Farm Credit System Capital Corporation by Farm Credit Administration and revoked charter of Farm Credit System Capital Corporation which had been issued under part D of this subchapter, was classified to section 2216 of this title, prior to repeal by Pub. L. 100–233, title II, § 207(a)(3), Jan. 6, 1988, 101 Stat. 1607.

PART D1—FARM CREDIT SYSTEM CAPITAL CORPORATION

§§ 2216 to 2216k. Repealed. Pub. L. 100–233, title II, § 207(a)(3), Jan. 6, 1988, 101 Stat. 1607

Section 2216, Pub. L. 92–181, title IV, § 4.28A, as added Pub. L. 99–205, title I, § 103, Dec. 23, 1985, 99 Stat. 1680, provided for chartering of Farm Credit System Capital Corporation by Farm Credit Administration and revoked charter of Farm Credit System Capital Corporation which had been issued under part D of this subchapter. See sections 2278a et seq. and 2278b et seq. of this title.

Section 2216a, Pub. L. 92–181, title IV, § 4.28B, as added Pub. L. 99–205, title I, § 103, Dec. 23, 1985, 99 Stat. 1680, set out purposes of Capital Corporation. See sections 2278a–1 and 2278b–1 of this title.

Section 2216b, Pub. L. 92–181, title IV, § 4.28C, as added Pub. L. 99–205, title I, § 103, Dec. 23, 1985, 99 Stat. 1680, provided for Board of Directors of Capital Corporation. See sections 2278a–2 and 2278b–2 of this title.

Section 2216c, Pub. L. 92–181, title IV, § 4.28D, as added Pub. L. 99–205, title I, § 103, Dec. 23, 1985, 99 Stat. 1682, provided for compensation of members of Board of Directors of Capital Corporation. See sections 2278a–2 and 2278b–2 of this title.

Section 2216d, Pub. L. 92–181, title IV, § 4.28E, as added Pub. L. 99–205, title I, § 103, Dec. 23, 1985, 99 Stat. 1682, authorized Board of Directors of Capital Corporation to adopt rules. See sections 2278a–2 and 2278b–2 of this title.

Section 2216e, Pub. L. 92–181, title IV, § 4.28F, as added Pub. L. 99–205, title I, § 103, Dec. 23, 1985, 99 Stat. 1682, provided for selection of chief executive officer of Capital Corporation. See sections 2278a–2 and 2278b–2 of this title.

Section 2216f, Pub. L. 92–181, title IV, § 4.28G, as added Pub. L. 99–205, title I, § 103, Dec. 23, 1985, 99 Stat. 1682, enumerated corporate powers of Capital Corporation. See sections 2278a–3 and 2278b–4 of this title.

Section 2216g, Pub. L. 92–181, title IV, § 4.28H, as added Pub. L. 99–205, title I, § 103, Dec. 23, 1985, 99 Stat. 1685, provided for succession of Capital Corporation. See section 2278a–9 of this title.

Section 2216h, Pub. L. 92–181, title IV, § 4.28I, as added Pub. L. 99–205, title I, § 103, Dec. 23, 1985, 99 Stat. 1685, set out provisions limiting powers of Capital Corporation. See section 2278a–8 of this title.

Section 2216i, Pub. L. 92–181, title IV, § 4.28J, as added Pub. L. 99–205, title I, § 103, Dec. 23, 1985, 99 Stat. 1686, set out authority of Secretary of the Treasury. See section 2278b–6 of this title.

Section 2216j, Pub. L. 92–181, title IV, § 4.28K, as added Pub. L. 99–205, title I, § 103, Dec. 23, 1985, 99 Stat. 1687, provided for initial capitalization of Capital Corporation.

Section 2216k, Pub. L. 92–181, title IV, § 4.28L, as added Pub. L. 99–205, title I, § 103, Dec. 23, 1985, 99 Stat. 1687, provided for tax status of consolidated obligations. See sections 2278a–11 and 2278b–10 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective 15 days after Jan. 6, 1988, see section 207(b) of Pub. L. 100–233, set out as a note under section 2152 of this title.

PART F—SALE OF INSURANCE

AMENDMENTS

1988—Pub. L. 100–399, title VII, § 702(c), Aug. 17, 1988, 102 Stat. 1006, redesignated part G as F.

Pub. L. 100–233, title VIII, § 805(u), Jan. 6, 1988, 101 Stat. 1716, redesignated part E as G.

§ 2218. Lines of insurance

(a) Regulatory authorization

(1) The regulations of the Farm Credit Administration governing financially related services that the banks and associations of the Farm Credit System may provide under subchapters I and II of this chapter may authorize the sale to any member of or borrower from any such bank or association, on an optional basis, of credit or term life and credit disability insurance appropriate to protect the loan commitment in the event of death or disability of the debtors and other insurance necessary to protect the member's farm or aquatic unit, but limited to, hail and multiple-peril crop insurance, title insurance, and insurance to protect the facilities and equipment of aquatic borrowers. A member or borrower shall have the option, without coercion from the bank or association of such member or borrower, to accept or reject such insurance.

(2) In making insurance available through private insurers, the banks shall approve the programs of more than two insurers for each type of insurance offered in the district, if more than two insurers for each type of insurance have proposed programs to a bank that will, in all likelihood, have long-term viability and meet the requirements of subsection (b)(2)(D) of this section. The banks may provide comparative information relating to costs and quality of approved programs and the financial conditions of approved companies. Associations shall offer at least two insurers for each program from among those approved by the Farm Credit Banks, if at least two insurers have been approved in accordance with this paragraph.

(b) Contents of regulations

Such regulations shall provide that—

(1) in any case in which insurance is required as a condition for a loan or other financial assistance from a bank or association, notice be given that it is not necessary to purchase the insurance from the bank or association and that the borrower has the option of obtaining the insurance elsewhere;

(2) such insurance services may be offered only if—

(A) the bank or association has the capacity to render insurance service under this chapter in an effective and efficient manner;

(B) there exists the probability that any insurance program under this chapter will generate sufficient revenue to cover all costs;

(C) rendering insurance service will not have an adverse effect on the bank's or association's credit or other operations;

(D) the insurance program has been approved by the bank or association from among specific programs made available to it by insurers—

(i) meeting reasonable financial and quality of service standards; and

(ii) licensed under State law to do business in the State; and

(E) in making insurance available through approved insurers, the board of directors of the association or bank selects and offers at least two approved insurers for each type of insurance made available to the members and borrowers, if at least two insurers have been approved in accordance with subsection (a)(2) of this section; and

(3) no bank or association shall directly or indirectly discriminate in any manner against any agent, broker, or insurer that is not affiliated with such bank or association, or against any party who purchases insurance through any such nonaffiliated insurance agent, broker, or insurer.

(c) Continuation of existing coverage

Notwithstanding any provision of this section to the contrary, any bank or association that on December 24, 1980, is offering insurance coverages not authorized by this section may continue to sell such coverages for a period of not more than one year from such date and may continue to service such coverages until their expiration.

(Pub. L. 92–181, title IV, § 4.29, as added Pub. L. 96–592, title IV, § 404, Dec. 24, 1980, 94 Stat. 3448; amended Pub. L. 100–233, title IV, § 422(a), Jan. 6, 1988, 101 Stat. 1655; Pub. L. 100–399, title IV, § 411, Aug. 17, 1988, 102 Stat. 1003; Pub. L. 101–624, title XVIII, § 1834, Nov. 28, 1990, 104 Stat. 3833.)

AMENDMENTS

1990—Subsec. (a)(2). Pub. L. 101–624, § 1834(1), inserted ", if more than two insurers for each type of insurance have proposed programs to a bank that will, in all likelihood, have long-term viability and meet the requirements of subsection (b)(2)(D) of this section" before period at end of first sentence, and ", if at least two insurers have been approved in accordance with this paragraph" before period at end of third sentence.

Subsec. (b)(2)(E). Pub. L. 101–624, § 1834(2), inserted before semicolon at end ", if at least two insurers have been approved in accordance with subsection (a)(2) of this section".

1988—Subsec. (a). Pub. L. 100–233, § 422(a)(1), designated existing provisions as par. (1), struck out "of this Act" to conform to style of original enactment, resulting in no change in text, inserted "or borrower from" before "any such bank", inserted provision at end giving a member or borrower the option, without coercion from the bank or association of such member or borrower, to accept or reject such insurance, and added par. (2).

Subsec. (a)(1). Pub. L. 100–399, § 411(a), substituted "subchapters I and II of this chapter" for "sections 2019, 2033, 2076, and 2097 of this title".

Subsec. (a)(2). Pub. L. 100–399, § 411(b), substituted "Farm Credit Banks" for "Federal intermediate credit banks".

Subsec. (b)(2). Pub. L. 100–233, § 422(a)(2), redesignated cls. (i) to (iii) as subpars. (A) to (C), respectively, and added subpars. (D) and (E).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

CONTINUATION OF PROGRAM

Section 422(b) of Pub. L. 100–233 provided that: "Notwithstanding the amendments made to section 4.29 [12 U.S.C. 2218] by subsection (a), any insurance program offered by any bank or association of the Farm Credit System on the date of the enactment of this Act [Jan.

6, 1988] that does not meet the requirements of section 4.29, as so amended, may be continued until July 1, 1988.''

PART G—MISCELLANEOUS

AMENDMENTS

1988—Pub. L. 100–399, title VII, § 702(c), Aug. 17, 1988, 102 Stat. 1006, redesignated part H as G.

Pub. L. 100–233, title VIII, § 805(u), Jan. 6, 1988, 101 Stat. 1716, redesignated part F as H.

§ 2219. Limitation on separate sale

If real property is acquired by any institution of the Farm Credit System through foreclosure, no institution of the Farm Credit System shall sell the surface rights to that real property to any person unless the institution also sells all mineral rights to that real property to that person.

(Pub. L. 92–181, title IV, § 4.35, as added Pub. L. 99–205, title III, § 306, Dec. 23, 1985, 99 Stat. 1709.)

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2219a. Right of first refusal

(a) General rule

Agricultural real estate that is acquired by an institution of the System as a result of a loan foreclosure or a voluntary conveyance by a borrower (hereinafter in this section referred to as the ''previous owner'') who, as determined by the institution, does not have the financial resources to avoid foreclosure (hereinafter in this section referred to as ''acquired real estate'') shall be subject to the right of first refusal of the previous owner to repurchase or lease the property, as provided in this section.

(b) Application of right of first refusal to sale of property

(1) Election to sell and notification

Within 15 days after an institution of the System first elects to sell acquired real estate, or any portion of such real estate, the institution shall notify the previous owner by certified mail of the owner's right—

(A) to purchase the property at the appraised fair market value of the property, as established by an accredited appraiser; or

(B) to offer to purchase the property at a price less than the appraised value.

(2) Eligibility to purchase

To be eligible to purchase the property under paragraph (1), the previous owner must, within 30 days after receiving the notice required by such paragraph, submit an offer to purchase the property.

(3) Mandatory sale

An institution of the System receiving an offer from the previous owner to purchase the property at the appraised value shall, within 15 days after the receipt of such offer, accept such offer and sell the property to the previous owner.

(4) Permissive sale

An institution of the System receiving an offer from the previous owner to purchase the property at a price less than the appraised value may accept such offer and sell the property to the previous owner. Notice shall be provided to the previous owner of the acceptance or rejection of such offer within 15 days after the receipt of such offer.

(5) Rejection of offer of previous owner

(A) Duties of institution

An institution of the System that rejects an offer from the previous owner to purchase the property at a price less than the appraised value may not sell the property to any other person—

(i) at a price equal to, or less than, that offered by the previous owner; or

(ii) on different terms and conditions than those that were extended to the previous owner,

without first affording the previous owner an opportunity to purchase the property at such price or under such terms and conditions.

(B) Notice

Notice of the opportunity in subparagraph (A) shall be provided to the previous owner by certified mail, and the previous owner shall have 15 days in which to submit an offer to purchase the property at such price or under such terms and conditions.

(c) Application of right of first refusal to leasing of property

(1) Election to lease and notification

Within 15 days after an institution of the System first elects to lease acquired real estate, or any portion of such real estate, the institution shall notify the previous owner by certified mail of the owner's right—

(A) to lease the property at a rate equivalent to the appraised rental value of the property, as established by an accredited appraiser; or

(B) to offer to lease the property at a rate that is less than the appraised rental value of the property.

(2) Eligibility to lease

To be eligible to lease the property under paragraph (1), the previous owner must, within 15 days after receiving the notice required by such paragraph, submit an offer to lease the property.

(3) Mandatory lease

An institution of the System receiving an offer from the previous owner to lease the property at a rate equivalent to the appraised rental value of the property shall, within 15 days after the receipt of such offer, accept such offer and lease the property to the previous owner unless the institution determines that the previous owner—

(A) does not have the resources available to conduct a successful farming or ranching operation; or

(B) cannot meet all of the payments, terms, and conditions of such lease.

(4) Permissive lease

An institution of the System receiving an offer from the previous owner to lease the

property at a rate that is less than the appraised rental value of the property may accept such offer and lease the property to the previous owner.

(5) Notice to previous owner

An institution of the System receiving an offer from the previous owner to lease the property at a rate less than the appraised rental value of the property shall notify the previous owner of its acceptance or rejection of the offer within 15 days after the receipt of such offer.

(6) Rejection of offer of previous owner

(A) Duties of institution

An institution of the System rejecting an offer from the previous owner to lease the property at a rate less than the appraised rental value of the property may not lease the property to any other person—

(i) at a rate equal to or less than that offered by the previous owner; or

(ii) on different terms and conditions than those that were extended to the previous owner,

without first affording the previous owner an opportunity to lease the property at such rate or under such terms and conditions.

(B) Notice

Notice of the opportunity described in subparagraph (A) shall be given to the previous owner by certified mail, and the previous owner shall have 15 days after the receipt of such notice in which to agree to lease the property at such rate or under such terms and conditions.

(d) Public offerings

(1) Notification of previous owner

If an institution of the System elects to sell or lease acquired property or a portion thereof through a public auction, competitive bidding process, or other similar public offering, the institution shall notify the previous owner, by certified mail, of the availability of the property. Such notice shall contain the minimum amount, if any, required to qualify a bid as acceptable to the institution and any terms and conditions to which such sale or lease will be subject.

(2) Priority

If two or more qualified bids in the same amount are received by the institution under paragraph (1), such bids are the highest received, and one of the qualified bids is offered by the previous owner, the institution shall accept the offer by the previous owner.

(3) Nondiscrimination

No institution of the System may discriminate against a previous owner in any public auction, competitive bidding process, or other similar public offering of property acquired by the institution from such person.

(e) Term or condition

For the purposes of this section, financing by a System institution shall not be considered to be a term or condition of a sale of acquired real estate.

(f) Financing

Notwithstanding any other provision of this section, a System institution shall not be required to provide financing to the previous owner in connection with the sale of acquired real estate.

(g) Mailing of notice

Notwithstanding any other provision of this section, each certified mail notice requirement in this section shall be fully satisfied by mailing one certified mail notice to the last known address of the previous owner.

(h) State laws

The rights provided in this section shall not diminish any such right of first refusal under the law of the State in which the property is located.

(i) Applicability

This section shall not apply to a bank for cooperatives.

(Pub. L. 92–181, title IV, § 4.36, as added Pub. L. 99–205, title III, § 306, Dec. 23, 1985, 99 Stat. 1709; amended Pub. L. 100–233, title I, § 108, Jan. 6, 1988, 101 Stat. 1582; Pub. L. 100–399, title I, § 104, Aug. 17, 1988, 102 Stat. 990.)

AMENDMENTS

1988—Pub. L. 100–233 amended section generally. Prior to amendment, section read as follows: ''No institution of the Farm Credit System shall sell any real property that previously served as security for a loan in a tract larger than a normal family size farm in the vicinity of the property for less than the amount it can receive from the Capital Corporation.''

Subsec. (b)(2). Pub. L. 100–399, § 104(a), substituted ''30'' for ''15''.

Subsec. (b)(3). Pub. L. 100–399, § 104(b), substituted ''15'' for ''30''.

Subsec. (g). Pub. L. 100–399, § 104(c), substituted ''previous owner'' for ''former borrower''.

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.

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2219b. Application of uninsured accounts

(a) In general

Money of a borrower held by a Farm Credit System institution in an uninsured voluntary or involuntary account as authorized under regulations issued by the Farm Credit Administration (as in effect immediately before January 6, 1988), including all such other accounts known as ''advanced payment accounts'' or ''future prepayment accounts'' shall, in the event the institution is placed in liquidation, be immediately applied as payment against the indebtedness of any outstanding loans of such borrower.

(b) Regulations

The Farm Credit Administration shall promulgate regulations—

(1) that define the term ''uninsured voluntary or involuntary account''; and

(2) to otherwise effectively carry out this section.

(Pub. L. 92–181, title IV, § 4.37, as added Pub. L. 100–233, title I, § 110, Jan. 6, 1988, 101 Stat. 1585.)

CODIFICATION

Another section 4.37 of Pub. L. 92–181 was renumbered section 4.38 and is classified to section 2219c of this title.

§ 2219c. Affirmative action

The Assistance Board established under section 2278a of this title and all institutions of the Farm Credit System with more than 20 employees shall establish and maintain an affirmative action program plan that applies the affirmative action standards otherwise applied to contractors of the Federal Government.

(Pub. L. 92–181, title IV, § 4.38, formerly § 4.37, as added Pub. L. 100–233, title IV, § 427, Jan. 6, 1988, 101 Stat. 1657; renumbered § 4.38, Pub. L. 100–399, title IV, § 413, Aug. 17, 1988, 102 Stat. 1004.)

§ 2219d. Encouragement of conservation practices

At the time a System institution or an agricultural mortgage loan originator (as defined in section 2279aa(7) of this title) approves a loan made to a borrower that, in the opinion of the institution or originator, would be ineligible for a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) by reason of subtitle B or C of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.), the institution or originator, as the case may be, shall encourage the borrower to contact the Department of Agriculture Soil Conservation Service to obtain information about soil conservation methods and practices.

(Pub. L. 92–181, title IV, § 4.39, formerly § 4.38, as added Pub. L. 100–233, title IV, § 428, Jan. 6, 1988, 101 Stat. 1658; renumbered § 4.39, Pub. L. 100–399, title IV, § 413, Aug. 17, 1988, 102 Stat. 1004.)

REFERENCES IN TEXT

The Consolidated Farm and Rural Development Act, referred to in text, is title III of Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 307, as amended, which is classified principally to chapter 50 (§ 1921 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables.

The Food Security Act of 1985, referred to in text, is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as amended. Subtitles B and C of title XII of the Food Security Act are classified generally to subchapters II (§ 3811 et seq.) and III (§ 3821 et seq.), respectively, of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of Title 7 and Tables.

§ 2219e. Liability for making criminal referrals

(a) In general

Any institution of the Farm Credit System, or any director, officer, employee, or agent of a Farm Credit System institution, that discloses to a Government authority information proffered in good faith that may be relevant to a possible violation of any law or regulation shall not be liable to any person under any law of the United States or any State—

(1) for the disclosure; or

(2) for any failure to notify the person involved in the possible violation.

(b) No prohibition on disclosure

Any institution of the Farm Credit System, or any director, officer, employee, or agent of a Farm Credit System institution, may disclose information to a Government authority that may be relevant to a possible violation of any law or regulation.

(Pub. L. 104–105, title II, § 221, Feb. 10, 1996, 110 Stat. 184.)

CODIFICATION

Section was enacted as part of the Farm Credit System Reform Act of 1996, and not as part of the Farm Credit Act of 1971 which comprises this chapter.

SUBCHAPTER V—FARM CREDIT ADMINISTRATION ORGANIZATION

AMENDMENTS

1988—Pub. L. 100–399, title IX, § 901(*o*), (p), Aug. 17, 1988, 102 Stat. 1008, struck out ''DISTRICT AND'' before ''FARM'' in subchapter heading and struck out part A heading ''District Organization''.

PART A—District Organization

§ 2221. Transferred

CODIFICATION

Section, Pub. L. 92–181, title V, § 5.0, Dec. 10, 1971, 85 Stat. 614; Pub. L. 96–592, title V, § 501, Dec. 24, 1980, 94 Stat. 3448; Pub. L. 99–205, title II, § 205(g)(1), Dec. 23, 1985, 99 Stat. 1706; Pub. L. 100–233, title VIII, § 805(v), Jan. 6, 1988, 101 Stat. 1716; Pub. L. 100–399, title IX, § 901(q), (r), Aug. 17, 1988, 102 Stat. 1008, which related to creation of districts, was transferred to section 1.2(b) of Pub. L. 92–181 by section 901(r) of Pub. L. 100–399 and is classified to section 2002(b) of this title.

§§ 2222 to 2227. Repealed. Pub. L. 100–399, title IV, § 409(d), Aug. 17, 1988, 102 Stat. 1003

Sections 2222 to 2227 were directed to be repealed by Pub. L. 100–233, title IV, § 418(c), formerly § 415(c), Jan. 6, 1988, 101 Stat. 1653, renumbered § 418(c), Pub. L. 100–399, title IV, § 409(a), Aug. 17, 1988, 102 Stat. 1003, which was repealed by section 409(c) of Pub. L. 100–399, title IV, Aug. 17, 1988, 102 Stat. 1003.

Section 409(c) of Pub. L. 100–399 provided in part that section 418(c) of Pub. L. 100–233 is repealed and that this chapter shall be applied and administered, and the amendments by sections 430 and 802(u) of Pub. L. 100–233 (amending sections 2226 and 2223, respectively, of this title) shall take effect, as if such section 418(c) had not been enacted.

Section 2222, Pub. L. 92–181, title V, § 5.1, Dec. 10, 1971, 85 Stat. 614; Pub. L. 99–205, title II, § 205(g)(2), Dec. 23, 1985, 99 Stat. 1707, related to district boards of directors, membership, eligibility, and terms.

Section 2223, Pub. L. 92–181, title V, § 5.2, Dec. 10, 1971, 85 Stat. 614; Pub. L. 96–592, title V, § 502, Dec. 24, 1980, 94 Stat. 3449; Pub. L. 99–205, title II, § 205(g)(3), (4), title VI, § 607, Dec. 23, 1985, 99 Stat. 1707, 1712; Pub. L. 100–233, title VIII, § 802(u), Jan. 6, 1988, 101 Stat. 1712, related to nomination and election of district directors.

Section 2224, Pub. L. 92–181, title V, § 5.3, Dec. 10, 1971, 85 Stat. 615, related to functions of district directors.

Section 2225, Pub. L. 92–181, title V, § 5.4, Dec. 10, 1971, 85 Stat. 615, related to district board officers.

Section 2226, Pub. L. 92–181, title V, § 5.5, Dec. 10, 1971, 85 Stat. 616; Pub. L. 100–233, title IV, § 430, Jan. 6, 1988, 101 Stat. 1658, related to compensation of district boards.

Section 2227, Pub. L. 92–181, title V, § 5.6, Dec. 10, 1971, 85 Stat. 616; 1978 Reorg. Plan No. 2, § 102, 43 F.R. 36037, 92 Stat. 3784; Pub. L. 99–205, title II, § 205(g)(5), Dec. 23, 1985, 99 Stat. 1707, related to powers of district farm credit board.

EFFECTIVE DATE OF REPEAL

Repeal effective immediately after amendments made by section 401 of Pub. L. 100–233, which were effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as an Effective Date of 1988 Amendment note under section 2002 of this title.

PART B—FARM CREDIT ADMINISTRATION ORGANIZATION

EX. ORD. NO. 6084. REORGANIZING AGRICULTURAL CREDIT AGENCIES OF THE UNITED STATES

Ex. Ord. No. 6084, Mar. 27, 1933, provided in part: . . . it is hereby ordered that:

(1) The functions of the Secretary of Agriculture as a member of the Federal Farm Board, and the offices of the appointed members of the Federal Farm Board, except the office of the member designated as chairman thereof, are abolished.

(2) The name of the Federal Farm Board is changed to the Farm Credit Administration.

(3) The name of the office of Chairman of the Federal Farm Board is changed to Governor of the Farm Credit Administration, and he is vested with all the powers and duties of the Federal Farm Board.

(4) The functions of the Secretary of the Treasury as a member of the Federal Farm Loan Board, and the offices of the appointed members of the Federal Farm Loan Board, except the office of the member designated as farm loan commissioner, are abolished, and all the powers and functions of the Federal Farm Loan Board, are transferred to and vested in the Farm Loan Commissioner, subject to the jurisdiction and control of the Farm Credit Administration as herein provided.

(5) There are transferred to the jurisdiction and control of the Farm Credit Administration:

(a) The Federal Farm Loan Bureau and the functions thereof; together with the functions of the Federal Farm Loan Board, including the functions of the Farm Loan Commissioner;

(b) The functions of the Treasury Department and the Department of Agriculture, and the Secretaries thereof, under Executive authorizations to give aid to farmers, dated July 26, 1918, and any extensions or amendments thereof;

(c) The functions of the Secretary of Agriculture under all provisions of law relating to the making of advances or loans to farmers, fruit growers, producers and owners of livestock and crops, and to individuals for the purpose of assisting in forming or increasing the capital stock of agricultural-credit corporations, livestock-loan companies, or like organizations, except Public Resolution No. 74, Seventieth Congress, approved December 21, 1928, providing for the Puerto Rican Hurricane Relief Commission;

(d) The Crop Production Loan Office and the Seed Loan Office of the Department of Agriculture, and the functions thereof;

(e) The functions of the Reconstruction Finance Corporation and its Board of Directors relating to the appointment of officers and agents to manage regional agricultural credit corporations formed under section 201(e) of the Emergency Relief and Construction Act of 1932 [section 1148 of this title]; relating to the establishment of rules and regulations for such management; and relating to the approval of loans and advances made by such corporations and of the terms and conditions thereof.

(6) The functions vested in the Federal Farm Board by section 9 of the Agricultural Marketing Act [section 1141g of this title] are abolished except that such functions shall continue to be exercised to such extent and for such time as may be necessary to permit the orderly winding up of the activities of stabilization corporations heretofore recognized under authority of such section, and the governor of the Farm Credit Administration shall take appropriate action for winding up at the earliest practicable date the activities of such corporations and all affairs related to the exercise of such functions.

(7) The records, property (including office equipment), and personnel used and employed in the execution of the functions hereinbefore transferred are transferred to the jurisdiction and control of the Farm Credit Administration.

(8) The sum of $2,000,000 of the unexpended balances of appropriations made to the Federal Farm Board by Public Resolutions No. 43 and No. 51 of the Seventy-second Congress shall be impounded and returned to the Treasury, which sum shall be in addition to the other savings to be effected by the Farm Credit Administration as a result of this order.

(9) The unexpended balances of appropriations to the Secretary of Agriculture, the Federal Farm Loan Bureau, and the Federal Farm Board for salaries, expenses, and all other administrative expenditures in the execution of the functions herein vested in the Farm Credit Administration shall be transferred to and vested in the Farm Credit Administration as a single fund for its use for salaries, expenses, and all other administrative expenditures for the execution of any or all of such functions without restriction as to the particular functions for the execution of which the same were originally appropriated. All other appropriations, allotments, and other funds available for use in connection with the functions and executive agencies hereby transferred and consolidated are hereby transferred to and vested in the Farm Credit Administration, and shall be available for use by it, for the same purposes as if the Farm Credit Administration were named in the law or authority providing such appropriations, allotments, or other funds.

(10) All power, authority, and duties conferred by law upon any officer, executive agency, or head thereof, from which or from whom transfer is hereinbefore made, in relation to the executive agency or function transferred, are transferred to and vested in the Governor of the Farm Credit Administration.

(11) The Governor of the Farm Credit Administration is directed to dismiss, furlough, transfer, or make other appropriate disposition of such of the officers and employees under his jurisdiction and control as are not required for the proper execution of the functions of the Farm Credit Administration.

(12) The Governor of the Farm Credit Administration is authorized to execute any and all functions and perform any and all duties vested in him through such persons as he shall by order designate or employ.

(13) The Governor of the Farm Credit Administration, by order or rules and regulations, may consolidate, regroup, and transfer offices, bureaus, activities, and functions in the Farm Credit Administration, so far as may be required to carry out the purposes to which this order is directed, and may fix or change the names of such offices, bureaus, and activities and the duties, powers, and titles of their executive heads.

This order shall take effect upon the sixty-first calendar day after its transmission to Congress unless otherwise determined in accordance with the provisions of section 407 of the act cited above, as amended.

[All functions, powers and duties of the Governor of the Farm Credit Administration which relate to the making, administration, and liquidation of all loans identified or referred to in pars. 5(b), 5(c), and 5(d) of this Executive Order were abolished by act Aug. 14, 1946, ch. 964, § 2(a)(2), 60 Stat. 1062, set out as a note under sections 1001 to 1006 of Title 7, Agriculture.]

§ 2241. Farm Credit Administration

The Farm Credit Administration shall be an independent agency in the executive branch of

the Government. It shall be composed of the Farm Credit Administration Board and such other personnel as are employed in carrying out the functions, powers, and duties vested in the Farm Credit Administration by this chapter.

(Pub. L. 92–181, title V, § 5.7, Dec. 10, 1971, 85 Stat. 617; Pub. L. 99–205, title II, § 201(1), Dec. 23, 1985, 99 Stat. 1688.)

AMENDMENTS

1985—Pub. L. 99–205 amended section generally, substituting ''Farm Credit Administration Board and such other personnel'' for ''Federal Farm Credit Board, the Governor of the Farm Credit Administration, and such other personnel''.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

INTERIM IMPLEMENTATION OF 1985 AMENDMENT

Section 402 of Pub. L. 99–205 provided that:

''(a) Until the Chairman of the Farm Credit Administration Board provided for under the amendment made by section 201(1) of this Act [see section 2242 of this title] is appointed by the President and confirmed by the Senate, the Governor of the Farm Credit Administration, under the Farm Credit Act of 1971 [this chapter] as in effect on the day before the date of enactment of this Act [Dec. 23, 1985], shall perform the functions of the Chairman prescribed for the Chairman by this Act [Pub. L. 99–205, see Short Title of 1985 Amendment note set out under section 2001 of this title].

''(b)(1) Except as provided in paragraph (2), until at least two members of the Farm Credit Administration Board provided under the amendment made by section 201(1) of this Act [see section 2242 of this title] are appointed by the President and confirmed by the Senate, the Governor of the Farm Credit Administration, under the Farm Credit Act of 1971 [this chapter] as in effect on the day before the date of enactment of this Act [Dec. 23, 1985], shall perform the functions of the Farm Credit Administration Board prescribed for such Board by this Act [Pub. L. 99–205, see Short Title of 1985 Amendment note set out under section 2001 of this title].

''(2) When the Chairman of such Board is so appointed and confirmed, the Chairman shall assume any responsibilities and powers of the Board being exercised by the Governor under this subsection.

''(c) In carrying out the duties and functions specified in subsections (a) and (b), the Governor of the Farm Credit Administration shall serve at the pleasure of the President.

''(d) All regulations of the Farm Credit Administration or the institutions of the System, and all charters, bylaws, resolutions, stock classifications, and policy directives issued or approved by the Farm Credit Administration, and all elections held and appointments made under the Farm Credit Act of 1971 [this chapter], before the date of enactment of this Act [Dec. 23, 1985], shall be continuing and remain valid until superseded, modified, or replaced under the authority of this Act [Pub. L. 99–205, see Short Title of 1985 Amendment note set out under section 2001 of this title].''

§ 2242. Farm Credit Administration Board

(a) Appointment

The management of the Farm Credit Administration shall be vested in a Farm Credit Administration Board (referred to in this part as ''the Board''). The Board shall consist of three members, who shall be citizens of the United States and broadly representative of the public interest. Members of the Board shall be appointed by the President, by and with the advice and consent of the Senate. Not more than two members of the Board shall be members of the same political party. Of the persons thus appointed, one shall be designated by the President to serve as Chairman of the Board for the duration of the member's term. The members of the Board shall be ineligible during the time they are in office and for two years thereafter to hold any office, position, or employment in any institution of the Farm Credit System.

(b) Terms of office

The term of office of each member of the Board shall be six years, except that the terms of the two members, other than the Chairman, first appointed under subsection (a) of this section shall expire, one on the expiration of two years after the date of appointment, and one on the expiration of four years after the date of appointment. Members of the Board shall not be appointed to succeed themselves, except that the members first appointed under subsection (a) of this section for a term of less than six years may be reappointed for a full six-year term and members appointed to fill unexpired terms of three years or less may be reappointed for a full six-year term. Any vacancy shall be filled for the unexpired term on like appointment. Any member of the Board shall continue to serve as such after the expiration of the member's term until a successor has been appointed and qualified.

(c) Organization

Each member of the Board, within fifteen days after notice of appointment, shall subscribe to the oath of office. The Board may transact business if a vacancy exists, provided a quorum is present. A quorum shall consist of two members of the Board. The Board shall hold at least one meeting each month and such additional meetings at such times and places as it may fix and determine. Such meetings shall be held on the call of the Chairman or any two Board members. The Board shall adopt such rules as it deems appropriate for the transaction of business by the Board, and shall keep permanent and accurate records and minutes of the actions and proceedings of the Board.

(d) Compensation

The members of the Board shall devote their full time and attention to the business of the Board. The Chairman of the Board shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5. Each of the other members of the Board shall receive compensation at the rate prescribed for level IV of the Executive Schedule under section 5315 of title 5. Each member of the Board shall be reimbursed for necessary travel, subsistence, and other expenses in the discharge of the member's official duties without regard to other laws with respect to allowance for travel and subsistence of officers and employees of the United States. This subsection shall be subject to the provisions of section 2245 of this title.

(e) Qualifications of Farm Credit Administration Board members

The President shall appoint members of the Board who—

(1) are experienced or knowledgeable in agricultural economics and financial reporting and disclosure;

(2) are experienced or knowledgeable in the regulation of financial entities; or

(3) have a strong financial, legal, or regulatory background.

(Pub. L. 92–181, title V, § 5.8, Dec. 10, 1971, 85 Stat. 617; Pub. L. 96–592, title V, § 503, Dec. 24, 1980, 94 Stat. 3449; Pub. L. 99–205, title II, § 201(1), Dec. 23, 1985, 99 Stat. 1688; Pub. L. 100–233, title IV, § 431(a), Jan. 6, 1988, 101 Stat. 1658; Pub. L. 102–552, title I, § 102, Oct. 28, 1992, 106 Stat. 4103.)

AMENDMENTS

1992—Subsec. (e). Pub. L. 102–552 added subsec. (e).

1988—Subsec. (c). Pub. L. 100–233 amended last sentence generally, substituting ''business by the Board,'' for ''its business'' and ''the actions and proceedings of the Board'' for ''its acts and proceedings''.

1985—Pub. L. 99–205 amended section generally, substituting provisions of subsecs. (a) to (d) relating to the Farm Credit Administration Board for provisions of former subsecs. (a) to (i) which related to the Federal Farm Credit Board.

1980—Subsec. (h). Pub. L. 96–592 substituted provisions relating to applicability of compensation under section 5332 of title 5, for provisions setting forth compensation at the rate of $100 a day.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

INTERIM IMPLEMENTATION OF 1985 AMENDMENT

For provisions authorizing interim implementation by Governor of Farm Credit Administration of amendments to this section by Pub. L. 99–205, see section 402 of Pub. L. 99–205, set out as a note under section 2241 of this title.

§ 2243. Powers of Board

The Board shall manage and administer, and establish policies for, the Farm Credit Administration. It—

(1) shall approve the rules and regulations for the implementation of this chapter not inconsistent with its provisions;

(2) shall provide for the examination of the condition of, and general regulation of the performance of the powers, functions, and duties vested in, each institution of the Farm Credit System;

(3) shall provide for the performance of all the powers and duties vested in the Farm Credit Administration; and

(4) may require such reports as it deems necessary from the institutions of the Farm Credit System.

(Pub. L. 92–181, title V, § 5.9, Dec. 10, 1971, 85 Stat. 619; Pub. L. 99–205, title II, § 201(1), Dec. 23, 1985, 99 Stat. 1689; Pub. L. 100–233, title VIII, § 805(w), Jan. 6, 1988, 101 Stat. 1716.)

AMENDMENTS

1988—Pub. L. 100–233 struck out ''; civil proceedings'' in section catchline.

1985—Pub. L. 99–205 substituted requirement that the Board manage and administer, and establish policies for, the Farm Credit Administration for former requirement that the Federal Farm Credit Board establish the general policy for the guidance of the Farm Credit Administration, including matters of broad and general supervisory, advisory, or policy nature; incorporated existing text in provisions designated cls. (1) to (4); substituted in cl. (2) ''general regulation'' for ''general supervision''; and struck out last sentence which read as follows: ''The Board shall function as a unit without delegating any of its functions to individual members, but may appoint committees and subcommittees for studies and reports for consideration by the Board. It shall not operate in an administrative capacity.''

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

INTERIM IMPLEMENTATION OF 1985 AMENDMENT

For provisions authorizing interim implementation by Governor of Farm Credit Administration of amendments to this section by Pub. L. 99–205, see section 402 of Pub. L. 99–205, set out as a note under section 2241 of this title.

§ 2244. Chairman; responsibilities; governing standards

(a) Chairman of Farm Credit Administration Board; power and authority

(1) The Chairman of the Board shall be the chief executive officer of the Farm Credit Administration.

(2) In carrying out the responsibilities of the chief executive officer, the Chairman shall be responsible for directing the implementation of policies and regulations adopted by the Board and, after consultation with the Board, the execution of the administrative functions and duties of the Farm Credit Administration.

(3) In carrying out policies as directed by the Board, the Chairman shall act as spokesperson for the Board and represent the Board and the Farm Credit Administration in their official relations within the Federal Government.

(4) Under policies adopted by the Board, the Chairman shall consult on a regular basis with—

(A) the Secretary of the Treasury concerning the exercise, by the System, of the powers conferred under section 2153 of this title;

(B) the Board of Governors of the Federal Reserve System concerning the effect of System lending activities on national monetary policy; and

(C) the Secretary of Agriculture concerning the effect of System policies on farmers, ranchers, and the agricultural economy.

(b) Governing standards

In carrying out responsibilities under this chapter, the Chairman of the Board shall be governed by general policies adopted by the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make and, as to third persons, all acts of the Chairman of the Board shall be conclusively presumed to be in compliance with such general policies and regulatory decisions, findings, and determinations.

(c) Enforcement of rules, regulations, and orders of Board; civil proceedings; representation by attorneys

The Chairman of the Board shall enforce the rules, regulations, and orders of the Board. Ex-

cept as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Chairman shall represent the Farm Credit Administration in any civil proceeding or civil action brought in connection with the administration of conservatorships and receiverships. Attorneys designated by the Chairman may represent the Farm Credit Administration in any other civil proceedings or civil action when so authorized by the Attorney General under provisions of title 28.

(Pub. L. 92–181, title V, § 5.10, Dec. 10, 1971, 85 Stat. 619; Pub. L. 96–592, title V, § 504, Dec. 24, 1980, 94 Stat. 3449; Pub. L. 99–205, title II, § 201(1), Dec. 23, 1985, 99 Stat. 1689; Pub. L. 100–233, title IV, § 431(b), Jan. 6, 1988, 101 Stat. 1658.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–233 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''The Chairman of the Board shall be the executive officer of the Board and the chief executive officer of the Farm Credit Administration. The Chairman shall be responsible for directing the implementation of the policies and regulations adopted by the Board and the execution of all of the administrative functions and duties of the Farm Credit Administration. The Chairman shall be the spokesman for the Board and the Farm Credit Administration and shall represent the Board and the Farm Credit Administration in their official relations within the Government. Under policies adopted by the Board, the Chairman shall consult on a regular basis with the Secretary of the Treasury in connection with the exercise by the System of the powers conferred under section 2153 of this title, with the Board of Governors of the Federal Reserve System in connection with the effect of System lending activities on national monetary policy, and with the Secretary of Agriculture in connection with the effect of System policies on farmers and the agricultural economy.''

1985—Pub. L. 99–205 substituted provisions relating to the Chairman of the Board, his responsibilities, and governing standards for provisions relating to the Governor of the Farm Credit Administration.

1980—Pub. L. 96–592 inserted provisions relating to requirements of the Governor to consult with the Secretary of the Treasury and the Governors of the Federal Reserve System.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

INTERIM IMPLEMENTATION OF 1985 AMENDMENT

For provisions authorizing interim implementation by Governor of Farm Credit Administration of amendments to this section by Pub. L. 99–205, see section 402 of Pub. L. 99–205, set out as a note under section 2241 of this title.

§ 2245. Organization of Farm Credit Administration

(a) Policies of Board

The Chairman of the Farm Credit Administration Board, in carrying out the powers and duties vested in the Chairman by this chapter, and Acts supplementary thereto, shall be governed by policies of the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make.

(b) Appointments

The Chairman of the Board shall appoint such personnel as may be necessary to carry out the functions of the Farm Credit Administration. The appointment by the Chairman of the heads of major administrative divisions under the Board shall be subject to the approval of the Board.

(c) Personnel

(1) Appointments by Board members

Personnel employed regularly and full-time in the immediate offices of Board members shall be appointed by each such Board member.

(2) Officers and employees

(A) Appointment, compensation, and benefits

The Chairman shall fix the compensation and number of, and appoint and direct, employees of the Administration. The Chairman may set and adjust the rates of basic pay for employees of the Administration without regard to the provisions of chapter 51, or subchapter III of chapter 53, of title 5. The Chairman may provide such additional compensation and benefits to employees of the Administration as is necessary to maintain comparability with the total amount of compensation and benefits provided by other Federal bank regulatory agencies. In setting and adjusting the total amount of compensation and benefits for employees of the Administration, the Chairman shall consult with, and seek to maintain comparability with, other Federal bank regulatory agencies.

(B) "Other Federal bank regulatory agencies" defined

For purposes of this subsection, the term ''other Federal bank regulatory agencies'' has the same meaning given to the term ''appropriate Federal banking agency'' in section 1813(q) of this title.

(C) Ethics in Government

The officers and employees of the agency shall be—

(i) subject to the Ethics in Government Act of 1978; and

(ii) considered officers or employees of the United States for the purposes of sections 201 through 203, and sections 205 through 209, of title 18.

(3) Delegation

The powers of the Chairman as chief executive officer necessary for day to day management may be exercised and performed by the Chairman through such other officers and employees of the Administration as the Chairman shall designate, except that the Chairman may not delegate powers specifically reserved to the Chairman by this chapter without Board approval.

(d) Funding

The operations of the Farm Credit Administration, and the salaries of members of the Board and employees of the Administration, shall be funded and paid for from the fund created under section 2250 of this title.

(Pub. L. 92–181, title V, § 5.11, Dec. 10, 1971, 85 Stat. 620; Pub. L. 99–205, title II, § 201(1), Dec. 23,

1985, 99 Stat. 1690; Pub. L. 100–233, title IV, § 431(c), title VIII, § 805(x), Jan. 6, 1988, 101 Stat. 1659, 1716; Pub. L. 100–399, title IV, § 415(a), title VII, § 702(b), Aug. 17, 1988, 102 Stat. 1004, 1006; Pub. L. 101–73, title XII, § 1210, Aug. 9, 1989, 103 Stat. 523.)

REFERENCES IN TEXT

The Ethics in Government Act of 1978, referred to in subsec. (c)(2)(C)(i), is Pub. L. 95–521, Oct. 26, 1978, 92 Stat. 1824, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Pub. L. 95–521 in the Appendix to Title 5, Government Organization and Employees, and Tables.

AMENDMENTS

1989—Subsec. (c)(2). Pub. L. 101–73 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The officers and employees of the agency shall be—

''(A) subject to the Ethics in Government Act of 1978 (2 U.S.C. 701 et seq.);

''(B) considered officers or employees of the United States for the purposes of sections 201 through 203, and sections 205 through 209, of title 18; and

''(C) subject to section 5373 of title 5.''

1988—Pub. L. 100–233, § 805(x), which directed the amendment of this section by striking out the last sentence, was repealed by Pub. L. 100–399, § 702(b). See Construction of 1988 Amendment note below.

Pub. L. 100–233, § 431(c), amended section generally, substituting subsecs. (a) to (d) for former text consisting of single undesignated paragraph.

Subsec. (c)(2)(C). Pub. L. 100–399, § 415(a), substituted ''5373'' for ''5315''.

1985—Pub. L. 99–205 substituted provisions respecting organization of the Farm Credit Administration for provisions relating to compensation and expense allowance of the Governor of the Farm Credit Administration.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 415(a) of 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.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

CONSTRUCTION OF 1988 AMENDMENT

Section 702(b) of Pub. L. 100–399 provided that section 805(x) of Pub. L. 100–233, cited as a credit to this section, is repealed and that this section shall be applied and administered as if such section had not been enacted.

INTERIM IMPLEMENTATION OF 1985 AMENDMENT

For provisions authorizing interim implementation by Governor of Farm Credit Administration of amendments to this section by Pub. L. 99–205, see section 402 of Pub. L. 99–205, set out as a note under section 2241 of this title.

§ 2246. Advisory committees

The Chairman of the Board, subject to the approval of the Board, may establish one or more advisory committees in accordance with the Federal Advisory Committee Act and may appoint to such committee or committees individuals who are members of the Federal Farm Credit Board when such Board is terminated by the Farm Credit Amendments Act of 1985.

(Pub. L. 92–181, title V, § 5.12, Dec. 10, 1971, 85 Stat. 620; Pub. L. 99–205, title II, § 201(1), Dec. 23, 1985, 99 Stat. 1690; Pub. L. 100–233, title IV, § 431(d), Jan. 6, 1988, 101 Stat. 1660.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in text, is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Farm Credit Amendments Act of 1985, referred to in text, is Pub. L. 99–205, Dec. 23, 1985, 99 Stat. 1678. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 2001 of this title and Tables.

AMENDMENTS

1988—Pub. L. 100–233 inserted '', subject to the approval of the Board,'' after ''Chairman of the Board''.

1985—Pub. L. 99–205 substituted provisions respecting advisory committees for provisions respecting compliance by the Governor with orders of the Federal Farm Credit Board.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

INTERIM IMPLEMENTATION OF 1985 AMENDMENT

For provisions authorizing interim implementation by Governor of Farm Credit Administration of amendments to this section by Pub. L. 99–205, see section 402 of Pub. L. 99–205, set out as a note under section 2241 of this title.

§ 2247. Repealed. Pub. L. 99–205, title II, § 201(2), Dec. 23, 1985, 99 Stat. 1690

Section, Pub. L. 92–181, title V, § 5.13, Dec. 10, 1971, 85 Stat. 620, related to authority of Governor of the Farm Credit Administration to fix powers and duties of divisions and instrumentalities of the Administration.

EFFECTIVE DATE OF REPEAL

Repeal effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2248. Seal of the Farm Credit Administration

The Farm Credit Administration shall have a seal, as adopted by the Board, which shall be judicially noted.

(Pub. L. 92–181, title V, § 5.13, formerly § 5.14, Dec. 10, 1971, 85 Stat. 620; renumbered § 5.13 and amended Pub. L. 99–205, title II, § 201(3), Dec. 23, 1985, 99 Stat. 1690.)

PRIOR PROVISIONS

A prior section 5.13 of Pub. L. 92–181 was classified to section 2247 of this title prior to repeal by Pub. L. 99–205, title II, § 201(2), Dec. 23, 1985, 99 Stat. 1690.

AMENDMENTS

1985—Pub. L. 99–205 substituted ''Board'' for ''Governor''.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

§ 2249. Administrative expenses

The Farm Credit Administration may, within the limits of funds available therefor, make necessary expenditures for personnel services and

rent at the seat of Government and elsewhere; contract stenographic reporting services; purchase and exchange lawbooks, books of reference, periodicals, newspapers, expenses of attendance at meetings and conferences; purchase, operation, and maintenance at the seat of Government and elsewhere of motor-propelled passenger-carrying vehicles and other vehicles; printing and binding; and for such other facilities and services, including temporary employment by contract or otherwise, as it may from time to time find necessary for the proper administration of this chapter. The Farm Credit Administration may dispose of property so acquired and any amounts collected from the disposition of such property shall be deposited in the special fund provided for in section 2250(b) of this title and shall be available to the Administration in the same manner and for the same purposes as the funds collected under section 2250(a) of this title.

(Pub. L. 92–181, title V, § 5.14, formerly § 5.15, Dec. 10, 1971, 85 Stat. 620; Pub. L. 96–592, title V, § 505, Dec. 24, 1980, 94 Stat. 3449; renumbered § 5.14 and amended Pub. L. 99–205, title II, § 201(4), Dec. 23, 1985, 99 Stat. 1690.)

PRIOR PROVISIONS

A prior section 5.14 of Pub. L. 92–181 was renumbered section 5.13 and is classified to section 2248 of this title.

AMENDMENTS

1985—Pub. L. 99–205 made technical amendments to the references to sections 2250(b) and 2250(a) of this title appearing in second sentence to reflect the renumbering of the corresponding section of the original act.

1980—Pub. L. 96–592 inserted provisions relating to disposal of property and deposit of amounts from such disposal.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

§ 2250. Farm Credit Administration operating expenses fund

(a) Determinations required

(1) Generally

Prior to the first day of each fiscal year, the Farm Credit Administration shall determine—

(A) the cost of administering this chapter for the subsequent fiscal year, including expenses for official functions;

(B) the amount of assessments that will be required to pay such administrative expenses, taking into consideration the funds contained in the Administrative Expense Account, and maintain a necessary reserve; and

(C) the amount of assessments that will be required to pay the costs of supervising and examining the Mortgage Corporation established under subchapter VIII of this chapter.

(2) Apportionments

On the basis of the determinations made under paragraph (1), the Farm Credit Administration shall—

(A) apportion the amount of the assessment described in paragraph (1)(B) among the System institutions on a basis that is determined to be equitable by the Farm Credit Administration;

(B) assess and collect such apportioned amounts from time to time during the fiscal year as determined necessary by the Farm Credit Administration; and

(C) assess and collect from the Mortgage Corporation, from time to time during the fiscal year, the amount described in paragraph (1)(C).

(b) Deposits into fund

(1) Treasury fund

The amounts collected under subsection (a) of this section shall be deposited in the Farm Credit Administration Administrative Expense Account. The Expense Account shall be maintained in the Treasury of the United States and shall be available, without regard, for purposes of sequestration, to the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 900 et seq.], to pay the expenses of the Farm Credit Administration.

(2) Nongovernment funds

The funds contained in the Expense Account shall not be construed to be Federal Government funds or appropriated moneys.

(3) Investment

(A) Authority

On request of the Farm Credit Administration, the Secretary of the Treasury shall invest and reinvest such amounts contained in the Expense Account as, in the determination of the Farm Credit Administration, are in excess of the amounts necessary for current expenses of the Farm Credit Administration.

(B) Returns

All income earned from such investments and reinvestments shall be deposited in the Expense Account.

(C) Type

Such investments shall be made in public debt securities with maturities suitable to the needs of the Expense Account, as determined by the Farm Credit Administration, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

(Pub. L. 92–181, title V, § 5.15, formerly § 5.16, Dec. 10, 1971, 85 Stat. 620; renumbered § 5.15 and amended Pub. L. 99–205, title II, §§ 201(5), 205(g)(6), Dec. 23, 1985, 99 Stat. 1690, 1707; Pub. L. 100–233, title IV, § 432(a), Jan. 6, 1988, 101 Stat. 1660; Pub. L. 100–399, title IV, § 416(a), (b), Aug. 17, 1988, 102 Stat. 1004; Pub. L. 102–552, title V, § 510, Oct. 28, 1992, 106 Stat. 4132.)

REFERENCES IN TEXT

The Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (b)(1), is title II of Pub. L. 99–177, Dec. 12, 1985, 99 Stat. 1038, as amended, which enacted chapter 20 (§ 900 et seq.) and sections 654 to 656 of Title 2, The Congress, amended sections 602, 622, 631 to 642, and 651 to 653 of Title 2, sections 1104 to 1106, and 1109 of Title 31, Money and Finance, and sec-

tion 911 of Title 42, The Public Health and Welfare, repealed section 661 of Title 2, enacted provisions set out as notes under section 900 of Title 2 and section 911 of Title 42, and amended provisions set out as a note under section 621 of Title 2. For complete classification of this Act to the Code, see Short Title note set out under section 900 of Title 2 and Tables.

PRIOR PROVISIONS

A prior section 5.15 of Pub. L. 92–181 was renumbered section 5.14 and is classified to section 2249 of this title.

AMENDMENTS

1992—Subsec. (b)(1). Pub. L. 102–552 inserted ", for purposes of sequestration," after "regard" and struck out "or any other law" before ", to pay the expenses".

1988—Pub. L. 100–233 amended section generally. Prior to amendment, section read as follows:

"(a) The Farm Credit Administration shall prior to the first day of each fiscal year estimate the cost of administrative expenses for the ensuing fiscal year in administering this chapter, including official functions, and shall apportion the amount so determined among the institutions of the System on such equitable basis as the Farm Credit Administration shall determine, and shall assess against and collect in advance the amounts so apportioned from the institutions among which the apportionment is made.

"(b) The amounts collected pursuant to subsection (a) of this section shall be covered into the Treasury, and credited to a special fund and, without regard to other law, shall be available to the Farm Credit Administration for expenditure during each fiscal year for salaries and expenses of the Farm Credit Administration. As soon as practicable after the end of each such fiscal year, the Farm Credit Administration shall determine, on a fair and reasonable basis, the cost of operation of the Farm Credit Administration and the part thereof which fairly and equitably should be allocated to each bank and association as its share of the cost during the fiscal year of the Farm Credit Administration. If the amount so allocated is greater than the amount collected from the bank or other institutions, the difference shall be collected from such bank or other institutions, and, if less, shall be refunded from the special fund to the bank or other institutions entitled thereto or credited in the special fund to such bank or other institutions for use for the same purposes in future fiscal years."

Subsec. (a)(2)(A). Pub. L. 100–399, § 416(a), substituted "the assessment described in paragraph (1)(B)" for "such assessment".

Subsec. (a)(2)(C). Pub. L. 100–399, § 416(b), substituted "described" for "specified".

1985—Subsec. (b). Pub. L. 99–205, § 205(g)(6), substituted "the Farm Credit Administration" for "said Administration" twice in first sentence, and for "the Administration" and "such Administration" in second sentence.

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.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

§ 2251. Quarters and facilities for the Farm Credit Administration

As an alternate to the rental of quarters under section 2249 of this title, and without regard to any other provision of law, the banks of the System, with the concurrence of two-thirds of the bank boards, are hereby authorized—

(1) To lease or acquire real property in the District of Columbia or elsewhere for quarters of the Farm Credit Administration.

(2) To construct, develop, furnish, and equip such building thereon and such facilities appurtenant thereto as in their judgment may be appropriate to provide, to the extent the Board may deem advisable, suitable, and adequate quarters and facilities for the Farm Credit Administration.

(3) To enlarge, remodel, or reconstruct the same.

(4) To make or enter into contracts for any of the foregoing.

(5) To sell or otherwise dispose of any interest in property leased or acquired under the foregoing if authorized by the Board.

The Board may require of the respective banks of the System, and they shall make to the Farm Credit Administration, such advances of funds for the purposes set out in this section as in the sole judgment of the Board may from time to time be advisable for the purposes of this section. Such advances shall be in addition to and kept in a separate fund from the assessments authorized in section 2250 of this title and shall be apportioned by the Board among the banks in proportion to the total assets of the respective banks, and determined in such manner and at such times as the Board may prescribe. The powers of the banks of the System and purposes for which obligations may be issued by such banks are hereby enlarged to include the purpose of obtaining funds to permit the making of advances required by this section. The plans and decisions for such building and facilities and for the enlargement, remodeling, or reconstruction thereof shall be such as is approved in the sole discretion of the Board. In actions undertaken by the banks pursuant to the foregoing provisions of this section, the Farm Credit Administration may act as agent for the banks.

(Pub. L. 92–181, title V, § 5.16, formerly § 5.17, Dec. 10, 1971, 85 Stat. 621; Pub. L. 96–592, title V, § 506, Dec. 24, 1980, 94 Stat. 3449; renumbered § 5.16 and amended Pub. L. 99–205, title II, § 201(6), Dec. 23, 1985, 99 Stat. 1690; Pub. L. 100–233, title VIII, § 805(y), Jan. 6, 1988, 101 Stat. 1717; Pub. L. 100–399, title IX, § 901(*l*), Aug. 17, 1988, 102 Stat. 1008.)

PRIOR PROVISIONS

A prior section 5.16 of Pub. L. 92–181 was renumbered section 5.15 and is classified to section 2250 of this title.

AMENDMENTS

1988—Pub. L. 100–399 substituted "bank boards" for "district boards" in introductory provisions.

Pub. L. 100–233 transferred undesignated provisions following par. (4) consisting of four sentences relating to advances of funds for purposes set out in this section as in the sole judgment of the Board may from time to time be advisable for purposes of this section, to a position immediately before last sentence of this section which provides for agency status of Administration for the banks.

1985—Pub. L. 99–205, § 201(6)(A)–(C), made technical amendments to the references to sections 2249 and 2250 of this title in first and third sentences to reflect the renumbering of the corresponding sections of the original act, and struck out "Federal Farm Credit" before "Board" in par. (2) of first sentence.

1980—Pub. L. 96–592 added par. (5) and provisions respecting agency status of Administration for the banks.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

§ 2252. Powers and duties

(a) Enumerated powers

The Farm Credit Administration shall have the following powers, functions, and responsibilities in connection with the institutions of the Farm Credit System and the administration of this chapter:

(1) Modify the boundaries of farm credit districts, with due regard for the farm credit needs of the country, as approved by the Board, with the concurrence of the district banks involved.

(2)(A) Where necessary or appropriate to carry out the policy and objectives of this chapter, issue and approve amendments to Federal charters of institutions of the System; approve change in names of banks operating under this chapter; approve the merger of districts when agreed to by the district bank boards involved and by a majority vote of the voting stockholders and contributors to the guaranty funds of each bank for each of such districts, voting in the same manner as is provided in section 2279a of this title; approve mergers and any related activities as provided for in subchapter VII of this chapter; and approve the consolidation or division of the territories of institutions when agreed to by a majority vote of the voting stockholders or contributors to the guaranty fund of each of the institutions involved; and approve consolidations of boards of directors when agreed to by a majority vote of the voting stockholders or contributors to the guaranty fund of each of the institutions involved. In issuing charters and certificates of territory for district-wide mergers of associations where stockholders of one or more associations did not approve the merger, the charter of the new or merged association shall not include the territory of the disagreeing association or associations; charters issued during calendar year 1985 for district-wide new or merged associations which included the territory of a disagreeing association shall be revoked and reissued to exclude such territory, unless subsequently agreed to by the board of directors of such association or associations. The Farm Credit Administration Board shall ensure that disapproving associations (A) shall not be charged any assessment under this chapter at a rate higher than that charged other like associations in the district, and (B) shall be provided with financial services and assistance on the same basis as other like associations in the district (including, but not limited to, access to credit and rates of interest on loans and discounts) by a district Farm Credit bank to the association and its member-borrowers. The Farm Credit Administration Board, after consultation with the respective boards of directors of the affected banks, may require two or more banks operating under the same or different titles to merge if the Board determines that one of such banks has failed to meet its outstanding obligations.

(B) The Farm Credit Administration shall not issue a charter to, or approve an amendment to the charter of, any institution of the Farm Credit System to operate under subchapter I or II of this chapter that would authorize the institution to exercise lending authority, whether directly or indirectly as an agent of a Farm Credit Bank, in a territory in which the charter of another such institution authorizes the other institution to exercise like authority, whether directly or indirectly as an agent of a Farm Credit Bank, except with the approval of—

(i) in a case affecting only the charter of one or more associations—

(I) a majority of the shareholders (present and voting or voting by proxy) of each of the associations that would have like lending authority (whether directly or indirectly as an agent of a Farm Credit Bank) in any of that territory if the charter action were taken; and

(II) a majority of the board of directors of the Farm Credit Bank with which the affected associations are affiliated; or

(ii) in a case affecting the charter of one or more banks—

(I) a majority of the shareholders (present and voting or voting by proxy) of the affiliated associations of each of the banks that would have like lending authority in any of that territory if the charter action were taken;

(II) a majority of the shareholders (present and voting or voting by proxy) of each of the banks that would have like lending authority in any of that territory if the charter action were taken; and

(III) a majority vote of the boards of directors of each of the banks that would have like lending authority in any of that territory if the charter action were taken.

(C) Subparagraph (B) shall apply only in those geographic areas where, due to the failure of a Federal intermediate credit bank to merge in accordance with section 410(a) of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note), the Federal intermediate credit bank or its successor is chartered to provide short- and intermediate-term credit, and a neighboring Farm Credit Bank that is not the successor to the Federal intermediate credit bank is chartered to provide long-term credit, in the same geographic territory.

(3) Make annual reports directly to Congress on the condition of the System and its institutions, based on the examinations carried out under section 2254 of this title, and on the manner and extent to which the purposes and objectives of this chapter are being carried out and, from time to time, recommend directly

legislative changes. The annual reports shall include a summary and analysis of the reports submitted to the Farm Credit Administration by the Farm Credit Banks under section 2207(b) of this title relating to programs for serving young, beginning, and small farmers and ranchers.

(4) Approve the issuance of obligations of the System under subsections (c) and (d) of section 2153 of this title for the purpose of funding the authorized operations of the institutions of the System, and prescribe collateral therefor.

(5) Grant approvals provided for under this chapter either on a case-by-case basis or through regulations that confer approval on actions of Farm Credit System institutions.

(6) Establish standards for the System institutions with respect to loan security requirements and regulate the borrowing, repayment, and transfer of funds and equities between institutions of the System.

(7) Conduct loan and collateral security review.

(8) Regulate the preparation by System institutions and the dissemination to stockholders and investors of information on the financial condition and operations of such institutions, except that the requirements of the Farm Credit Administration governing the dissemination to stockholders of quarterly reports of System institutions may not be more burdensome or costly than the requirements applicable to national banks, and the Farm Credit Administration may not require any System institution to disclose in any report to stockholders information concerning the condition or classification of a loan—

(A) to a director of the institution—

(i) who has resigned before the time for filing the applicable report with the Farm Credit Administration; or

(ii) whose term of office will expire no later than the date of the meeting of stockholders to which the report relates; or

(B) to a member of the immediate family of a director of the institution unless—

(i) the family member resides in the same household as the director; or

(ii) the director has a material financial or legal interest in the loan or business operation of the family member.

(9) Prescribe rules and regulations necessary or appropriate for carrying out this chapter.

(10) Exercise the powers conferred on it under part C of this subchapter for the purpose of ensuring the safety and soundness of System institutions.

(11) Exercise such incidental powers as may be necessary or appropriate to fulfill its duties and carry out the purposes of this chapter.

(12) Require surety bonds or other provisions for protection of the assets of the institutions of the System against losses occasioned by employees.

(13)(A) Subject to subparagraph (B), the Farm Credit Administration may approve an amendment to the charter of any institution of the Farm Credit System operating under subchapter I or II of this chapter, which would authorize the institution to exercise lending authority in any territory—

(i) in the geographic area served by an association that was reassigned pursuant to section 433 of the Agricultural Credit Act of 1987 (12 U.S.C. 2071 note) (where the geographic area was a part of the association's territory as of the date of the reassignment); and

(ii) in which the charter of an institution that is not seeking the charter amendment authorizes the institution to exercise the type of lending authority that is the subject of the charter request.

(B) The Farm Credit Administration may approve a charter amendment under subparagraph (A) only on the approval of—

(i) the respective boards of directors of the associations that, if the charter request is approved, would exercise like lending authority in any of the territory that is the subject of the charter request;

(ii) a majority of the stockholders of each association described in clause (i) voting, in person or by proxy, at a duly authorized stockholders' meeting; and

(iii) the respective boards of directors of the Farm Credit Banks that, if the charter request is approved, would exercise, either directly or through associations, like lending authority in any of the territory described in subparagraph (A)(i).

(14)(A) Subject to subparagraph (B), the Farm Credit Administration may approve a request to charter an association of the Farm Credit System to operate under subchapter II of this chapter where the proposed charter—

(i) will include any of the geographic area included in the territory served by an association that was reassigned pursuant to section 433 of the Agricultural Credit Act of 1987 (12 U.S.C. 2071 note) (where the geographic area was a part of the association's territory as of the date of the reassignment); and

(ii) will authorize the association to exercise lending authority in any territory in the geographic area in which the charter of an association that is not requesting the charter authorizes the association to exercise the type of lending authority that is the subject of the charter request.

(B) The Farm Credit Administration may approve a charter request under subparagraph (A) only on the approval of—

(i) the respective boards of directors of the associations that, if the charter request is approved, would exercise like lending authority in any of the territory that is the subject of the charter request;

(ii) a majority vote of the stockholders (if any) of each association described in clause (i) voting, in person or by proxy, at a duly authorized stockholder's meeting; and

(iii) the respective boards of directors of the Farm Credit Banks that, if the charter request is approved, would exercise, either directly or through associations, like lending authority in any of the territory described in subparagraph (A)(i).

(b) Exclusions

The Farm Credit Administration shall not have authority, either direct or indirect, to approve bylaws, or any amendments or modifications or changes to bylaws, of System institutions.

(c) Proposed and final regulations; procedures applicable

(1) At least thirty days prior to publishing any proposed regulation in the Federal Register, the Farm Credit Administration shall transmit a copy of the regulation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. The Farm Credit Administration shall also transmit to such committees a copy of any final regulation prior to its publication in the Federal Register. Except as provided in paragraph (2) of this subsection, no final regulation of the Farm Credit Administration shall become effective prior to the expiration of thirty calendar days after it is published in the Federal Register during which either or both Houses of the Congress are in session.

(2) In the case of an emergency, a final regulation of the Farm Credit Administration may become effective without regard to the last sentence of paragraph (1) of this subsection if the Farm Credit Administration notifies in writing the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate setting forth the reasons why it is necessary to make the regulation effective prior to the expiration of the thirty-day period.

(d) Legislative veto of regulations; procedures applicable

(1) If there are any unresolved differences between the Farm Credit Administration and the Board of Governors of the Federal Reserve System as to whether any regulation implementing section 2128(b) of this title or the other provisions of subchapter III relating to the authority under section 2128(b) of this title conforms to national banking policies, objectives and limitations, simultaneously with promulgation of any such regulation under this chapter, and simultaneously with promulgation of any regulation implementing section 2015(b) of this title, the Farm Credit Administration shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), the regulation shall not become effective if, within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: ''That Congress disapproves the regulations promulgated by the Farm Credit Administration dealing with the matter of , which regulation was transmitted to Congress on '', the blank spaces therein being appropriately filled.

(2) If at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the regulation, and neither House has adopted such a resolution, the regulation may go into effect immediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the regulation may go into effect not sooner than ninety calendar days of continuous session of Congress after its promulgation unless disapproved as provided in paragraph (1).

(3) For the purposes of paragraphs (1) and (2) of this subsection—

(i) continuity of session is broken only by an adjournment of Congress sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of sixty and ninety calendar days of continuous session of Congress.

(4) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such regulation.

(Pub. L. 92–181, title V, § 5.17, formerly § 5.18, Dec. 10, 1971, 85 Stat. 621; Pub. L. 96–592, title V, §§ 507, 508, Dec. 24, 1980, 94 Stat. 3449; renumbered § 5.17 and amended Pub. L. 99–205, title II, § 201(7), Dec. 23, 1985, 99 Stat. 1691; Pub. L. 99–509, title I, § 1036, Oct. 21, 1986, 100 Stat. 1878; Pub. L. 100–233, title II, § 207(a)(2), title IV, § 417, formerly § 414, § 418(d), formerly § 415(d), §§ 424(a), 431(e), title VIII, §§ 802(v), 805(z), Jan. 6, 1988, 101 Stat. 1607, 1653, 1656, 1660, 1713, 1717, renumbered §§ 417, 418(d), Pub. L. 100–399, title IV, § 409(a), Aug. 17, 1988, 102 Stat. 1003; Pub. L. 100–399, title II, § 205, title IV, § 409(e), title IX, § 901(m), (n), Aug. 17, 1988, 102 Stat. 993, 1003, 1008; Pub. L. 101–624, title XVIII, § 1843(a)(1), Nov. 28, 1990, 104 Stat. 3836; Pub. L. 102–237, title V, § 502(h), Dec. 13, 1991, 105 Stat. 1869; Pub. L. 102–552, title IV, § 401(c), title V, § 511, Oct. 28, 1992, 106 Stat. 4128, 4132; Pub. L. 104–105, title II, §§ 210, 211, Feb. 10, 1996, 110 Stat. 174; Pub. L. 110–234, title V, § 5407(b), (c)(1), May 22, 2008, 122 Stat. 1160; Pub. L. 110–246, § 4(a), title V, § 5407(b), (c)(1), June 18, 2008, 122 Stat. 1664, 1921, 1922.)

AMENDMENT OF SUBSECTION (a)

Pub. L. 110–246, title V, § 5407(b), (c)(1), (d), June 18, 2008, 122 Stat. 1921, 1922, provided that, effective Jan. 1, 2010, subsection (a) of this section is amended as follows:

(1) in paragraph (2), by substituting ''(2)'' for ''(2)(A)'' and by striking out subparagraphs (B) and (C); and

(2) by adding paragraph (15) at end to read as follows:

(15)(A) Approve amendments to the charters of institutions of the Farm Credit System to implement the equalization of loan-making powers of a Farm Credit System association under section 2279c of this title.

(B) Amendments described in subparagraph (A) to the charters of an association and the related Farm Credit Bank shall be approved by the Farm Credit Administration, subject to any conditions of approval imposed, by not later than 30 days after the date on which the Farm Credit Administration receives all approvals required by section 2279c(a)(2) 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.

PRIOR PROVISIONS

A prior section 5.17 of Pub. L. 92–181 was renumbered section 5.16 and is classified to section 2251 of this title.

AMENDMENTS

1996—Subsec. (a)(2)(A). Pub. L. 104–105, § 210, struck out ''or management agreements'' after ''consolidations of boards of directors'' in first sentence.

Subsec. (a)(8). Pub. L. 104–105, § 211, inserted ''the requirements of the Farm Credit Administration governing the dissemination to stockholders of quarterly reports of System institutions may not be more burdensome or costly than the requirements applicable to national banks, and'' after ''except that''.

1992—Subsec. (a)(2). Pub. L. 102–552, § 401(c), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Subsec. (a)(13), (14). Pub. L. 102–552, § 511, added pars. (13) and (14).

1991—Subsec. (a)(8)(B)(ii). Pub. L. 102–237 struck out second period at end.

1990—Subsec. (a)(13). Pub. L. 101–624 struck out par. (13) which read as follows: ''Except for associations, approve the salary scale for employees of the institutions of the System, and approve the compensation of the chief executive officer of such institutions: *Provided*, That no salary scale or rate of compensation shall be approved under this provision unless determined by the Board to be fair and reasonable. The Board may not delegate its responsibilities under this paragraph.''

1988—Subsec. (a)(1). Pub. L. 100–399, § 901(m)(1), substituted ''district banks'' for ''district boards''.

Subsec. (a)(2). Pub. L. 100–399, § 901(m)(2), substituted ''district bank boards'' for ''boards of the districts''.

Pub. L. 100–399, § 409(e), substituted ''approve the consolidation or division of the territories of institutions when agreed to'' for ''the consolidation or division of the territories that they serve when agreed to''.

Pub. L. 100–233, § 802(v)(1)(A), substituted ''approve amendments to'' for ''amend or modify''.

Pub. L. 100–233, § 415(d), substituted ''section 2279a of this title'' for ''section 2181 of this title'' and ''approve mergers and any related activities as provided for in subchapter VII of this chapter; and'' for ''; approve mergers of banks operating under the same subchapter of this chapter, merger of Federal land bank associations, merger of production credit associations, and''.

Pub. L. 100–233, § 414, substituted ''. The Farm Credit Administration Board shall ensure that disapproving associations (A) shall not be charged any assessment under this chapter at a rate higher than that charged other like associations in the district, and (B) shall be provided with financial services and assistance on the same basis as other like associations in the district'' for ''; and the Farm Credit Administration shall ensure that the board of directors of district banks does not discriminate against the disapproving associations in exercising its supervisory authorities. Such associations shall not be (i) charged any assessment under this chapter at a rate higher than that charged other like associations in the district or (ii) discriminated against in the provision of any financial service and assistance''.

Pub. L. 100–233, § 431(e)(1), substituted ''The Farm Credit Administration Board, after consultation with the respective boards of directors of the affected banks, may require two or more banks operating under the same or different titles to merge if the Board determines that one of such banks has failed to meet its outstanding obligations'' for ''The Chairman of the Farm Credit Administration Board, after consultation with the respective district board or boards and the board of directors of the Capital Corporation may require two or more banks of the Farm Credit System (other than Central Banks for Cooperatives) operating under the same subchapter to merge if the Chairman determines that one of such banks has failed to meet outstanding obligations of such bank.''

Subsec. (a)(3). Pub. L. 100–399, § 901(m)(3), substituted ''Farm Credit Banks under section 2207(b) of this title'' for ''Federal land banks and Federal intermediate credit banks under section 2207(b) of this title''.

Subsec. (a)(5). Pub. L. 100–233, § 802(v)(1)(B), struck out ''that meet standards and criteria established by the Farm Credit Administration, including standards and criteria with respect to (A) interest rates on obligations of Farm Credit System institutions, and (B) the payment of dividends or patronage refunds by Farm Credit System institutions'' after ''Farm Credit institutions''.

Subsec. (a)(8). Pub. L. 100–399, § 205, redesignated par. (9) as (8).

Pub. L. 100–233, § 207(a)(2), struck out par. (8) which read as follows: ''Make investments in stock of the Capital Corporation out of the revolving fund referred to in section 2151 of this title, and require the retirement of such stock.''

Subsec. (a)(9). Pub. L. 100–399, § 205, redesignated par. (10) as (9). Former par. (9) redesignated (8).

Pub. L. 100–233, § 424(a), inserted provisions limiting Farm Credit Administration from requiring System institutions to disclose in reports to stockholders certain information concerning condition or classification of loans to certain directors or members of immediate family of certain directors.

Subsec. (a)(10) to (12). Pub. L. 100–399, § 205, redesignated pars. (11) to (13) as (10) to (12), respectively. Former par. (10) redesignated (9).

Subsec. (a)(13). Pub. L. 100–399, § 205, redesignated par. (14) as (13). Former par. (13) redesignated (12).

Pub. L. 100–233, § 805(z), redesignated par. (14) as (13), and struck out former par. (13) which read as follows: ''Sue and be sued, complain and defend in any court of law or equity, State or Federal. All suits of a civil nature at common law or in equity to which the Farm Credit Administration shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction thereof, without regard to the amount of the controversy; and the Farm Credit Administration may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States district court for the district or division embracing the place where the same is pending by following any procedure for removal now or hereafter in effect. Service of process on the Farm Credit Administration shall be in accordance with provisions of title 28 and rules adopted under title 28 for suits in which an agency of the United States is a party. The Farm Credit Administration shall designate an agent at its principal office to accept service of process.''

Subsec. (a)(14). Pub. L. 100–399, § 205, redesignated par. (14) as (13).

Pub. L. 100–233, §§ 431(e)(2), 805(z), redesignated par. (15) as (14) and inserted ''by the Board'' and ''The Board may not delegate its responsibilities under this paragraph.'' Former subsec. (14) redesignated (13).

Subsec. (a)(15). Pub. L. 100–233, § 805(z), redesignated par. (15) as (14).

Subsecs. (b), (c). Pub. L. 100–233, § 802(v)(2), added subsec. (b) and redesignated former subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 100–233, § 802(v)(2), redesignated subsec. (c) as (d).

Subsec. (d)(1). Pub. L. 100–399, § 901(n)(1), made technical amendment to reference to sections 2015(b) and 2128(b) of this title involving underlying provisions of original act and requiring no change in text.

Pub. L. 100–399, § 901(n), substituted ''section 2015(b) of this title'' for ''section 2074 of this title''.

1986—Subsec. (a)(5)(A). Pub. L. 99–509 struck out ''and on loans made or discounted by such institutions'' after ''Farm Credit System institutions''.

1985—Subsec. (a). Pub. L. 99–205 amended subsec. (a) generally, revising and reorganizing the enumerated powers of the Farm Credit Administration by substituting pars. (1) to (15) for former pars. (1) to (17).

1980—Pub. L. 96–592 designated existing provisions as subsec. (a), in par. (3) inserted provisions relating to summary and analysis of reports, 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, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Pub. L. 110–234, title V, § 5407(d), May 22, 2008, 122 Stat. 1161, and Pub. L. 110–246, § 4(a), title V, § 5407(d), June 18, 2008, 122 Stat. 1664, 1922, provided that: ''The amendments made by this section [enacting section 2279c of this title and amending this section and provisions set out as notes under section 2011 of this title] take effect on January 1, 2010.''

[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 Title 7, Agriculture.]

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)(4) of Pub. L. 102–237, set out as a note under section 1421 of Title 7, Agriculture.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by sections 205 and 409(a), (e) of Pub. L. 100–399 effective as if enacted immediately after enactment of Pub. L. 100–233, which was approved Jan. 6, 1988, and amendment by section 901(m), (n) of Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001 of Pub. L. 100–399, set out as a note under section 2002 of this title.

Amendment by section 207(a)(2) of Pub. L. 100–233 effective 15 days after Jan. 6, 1988, see section 207(b) of Pub. L. 100–233 set out as an Effective Date of Repeal note under section 2152 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

REGULATIONS

Section 424(b) of Pub. L. 100–233 provided that: ''Within 30 days after the date of the enactment of this Act [Jan. 6, 1988], the Farm Credit Administration shall amend its regulations as necessary to implement the amendment made by subsection (a) [amending this section].''

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (a)(3) of this section relating to requirement to make annual reports to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 166 of House Document No. 103–7.

REGULATORY REVIEW

Section 212 of Pub. L. 104–105 provided that:

''(a) FINDINGS.—Congress finds that—

''(1) the Farm Credit Administration, in the role of the Administration as an arms-length safety and soundness regulator, has made considerable progress in reducing the regulatory burden on Farm Credit System institutions;

''(2) the efforts of the Farm Credit Administration described in paragraph (1) have resulted in cost savings for Farm Credit System institutions; and

''(3) the cost savings described in paragraph (2) ultimately benefit the farmers, ranchers, agricultural cooperatives, and rural residents of the United States.

''(b) CONTINUATION OF REGULATORY REVIEW.—The Farm Credit Administration shall continue the comprehensive review of regulations governing the Farm Credit System to identify and eliminate, consistent with law, safety, and soundness, all regulations that are unnecessary, unduly burdensome or costly, or not based on law.''

FORBEARANCE AND RESTRUCTURING FOR FARM LOANS; FARM CREDIT ADMINISTRATION

Pub. L. 100–387, title III, § 313(b), Aug. 11, 1988, 102 Stat. 950, provided that: ''It further is the sense of Congress that the Farm Credit Administration should in its oversight of Farm Credit System institutions, with respect to farmers and ranchers who suffer major losses due to drought, hail, excessive moisture, or related condition in 1988—

''(1) ensure that Farm Credit System institutions exercise forbearance in the collection of principal and interest on loans outstanding to 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 related provisions of law for such farmers and ranchers; and

''(3) encourage other lenders participating with Farm Credit System institutions in mutual loan agreements to exercise forbearance before declaring loans to such farmers and ranchers in default.''

§ 2253. Prior delegations

Any delegations by the Farm Credit Administration and redelegations thereof made in accordance with section 5.19 of the Farm Credit Act of 1971 as in effect prior to the effective date of the Farm Credit Amendments Act of 1985 may continue in full force and effect, at the discretion of the Farm Credit Administration, for the period ending twelve months after December 23, 1985.

(Pub. L. 92–181, title V, § 5.18, as added Pub. L. 99–205, title II, § 202(b), Dec. 23, 1985, 99 Stat. 1693.)

REFERENCES IN TEXT

Section 5.19 of the Farm Credit Act of 1971 as in effect prior to the effective date of the Farm Credit Amendments Act of 1985, referred to in text, is section 5.19 of Pub. L. 92–181 which was classified to this section prior to its repeal by section 202(a) of Pub. L. 99–205, known as the Farm Credit Amendments Act of 1985. See Prior Provisions and Effective Date notes below.

PRIOR PROVISIONS

A prior section 2253, Pub. L. 92–181, title V, § 5.19, Dec. 10, 1971, 85 Stat. 622, related to delegation of duties and powers to financial institutions, prior to repeal, effective thirty days after Dec. 23, 1985, by Pub. L. 99–205, title II, § 202(a), Dec. 23, 1985, 99 Stat. 1693.

A prior section 5.18 of Pub. L. 92–181 was renumbered section 5.17 and is classified to section 2252 of this title.

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2254. Examinations

(a) Scope and frequency of examinations; power, authority, and liability of examiners

Except for Federal land bank associations, each institution of the System shall be examined by Farm Credit Administration examiners at such times as the Board may determine, but in no event less than once during each 18-month period. Each Federal land bank association shall be examined by Farm Credit Administration examiners at such times as the Farm Credit Administration Board may determine, except that each such association shall be examined at least once every three years. Such examinations may include, if appropriate, but are not limited to, an analysis of credit and collateral quality and capitalization of the institution, and appraisals of the effectiveness of the institution's management and application of policies governing the carrying out of this chapter and regulations of the Farm Credit Administration and servicing all eligible borrowers. Examination of banks shall include an analysis of the compensation paid to the chief executive officer and the salary scales of the employees of the bank. At the direction of the Board, Farm Credit Administration examiners also shall make examinations of the condition of any organization, other than federally regulated financial institutions, to, for, or with which any institution of the System contemplates making a loan or discounting paper. For the purposes of this chapter, examiners of the Farm Credit Administration shall be subject to the same requirements, responsibilities, and penalties as are applicable to examiners under the National Bank Act [12 U.S.C. 21 et seq.], the Federal Reserve Act [12 U.S.C. 221 et seq.], and Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.], and other provisions of law and shall have the same powers and privileges as are vested in such examiners by law.

(b) Annual report of condition

(1) Each institution of the System shall make and publish an annual report of condition as prescribed by the Farm Credit Administration. Each such report shall contain financial statements prepared in accordance with generally accepted accounting principles, except with respect to any actions taken by any banks of the System under section 2159(b) of this title, and contain such additional information as the Farm Credit Administration by regulation may require. Notwithstanding the provisions of the preceding sentence and any other provision of this chapter, for the period July 1, 1986, through December 31, 1988, the institutions of the Farm Credit System may, on the prior approval of the Farm Credit Administration and subject to such conditions as it may establish, capitalize annually their provision for losses that is in excess of one-half of 1 percent of loans outstanding and amortize such capitalized amounts over a period not to exceed 20 years. Such financial statements of System institutions shall be audited by an independent public accountant.

(2) In accordance with the regulations of the Farm Credit Administration, for the period ending December 31, 1992, System institutions are authorized to use the authorities contained in the third sentence of paragraph (1) except as otherwise provided in section 2278a–6 of this title.

(3) Any preferred stock issued under section 2278b–7 of this title shall be subordinated to, and impaired before, other stock or equities of the institution.

(c) Report of examination of noncomplying institution; publication; notice of intention

The Farm Credit Administration may publish the report of examination of any System institution that does not, before the end of the 120th day after the date of notification of the recommendations and suggestions of the Farm Credit Administration, based on such examination, comply with such recommendations and suggestions to the satisfaction of the Farm Credit Administration. The Farm Credit Administration shall give notice of intention to publish in the event of such noncompliance at least 90 days before such publication. Such notice of intention may be given any time after such notification of recommendations and suggestions.

(d) Duties of Farm Credit Administration

On receipt of a request made under section 2277a–8(b)(1)(B) of this title with respect to a System institution, the Farm Credit Administration shall—

(1) furnish for the confidential use of the Farm Credit System Insurance Corporation reports of examination of the institution and other reports or information on the institution; and

(2)(A) examine, or obtain other information on, the institution and furnish for the confidential use of the Farm Credit System Insurance Corporation the report of the examination and such other information; or

(B) if the Farm Credit Administration Board determines that compliance with the request would substantially impair the ability of the Farm Credit Administration to carry out the other duties and responsibilities of the Farm Credit Administration under this chapter, notify the Board of Directors of the Farm Credit System Insurance Corporation that the Farm Credit Administration will be unable to comply with the request.

(Pub. L. 92–181, title V, § 5.19, formerly § 5.20, Dec. 10, 1971, 85 Stat. 623; renumbered § 5.19 and amended Pub. L. 99–205, title II, § 203(a), Dec. 23, 1985, 99 Stat. 1693; Pub. L. 99–509, title I, § 1037, Oct. 21, 1986, 100 Stat. 1878; Pub. L. 100–233, title II, § 205(b), title IV, § 432(b), Jan. 6, 1988, 101 Stat. 1607, 1661; Pub. L. 100–399, title II, § 204, title IV, § 416(c), Aug. 17, 1988, 102 Stat. 993, 1004; Pub. L. 101–624, title XVIII, § 1843(b), Nov. 28, 1990, 104 Stat. 3836; Pub. L. 102–552, title V, §§ 512, 513(b), Oct. 28, 1992, 106 Stat. 4133, 4134; Pub. L. 104–105, title II, § 213, Feb. 10, 1996, 110 Stat. 175.)

PRIOR PROVISIONS

A prior section 5.19 of Pub. L. 92–181 was classified to section 2253 of this title prior to repeal by Pub. L. 99–205, title II, § 202(a), Dec. 23, 1985, 99 Stat. 1693.

REFERENCES IN TEXT

The National Bank Act, referred to in subsec. (a), is act June 3, 1864, ch. 106, 13 Stat. 99, as amended, which is classified principally to chapter 2 (§ 21 et seq.) of this

title. For complete classification of this Act to the Code, see References in Text note set out under section 38 of this title.

The Federal Reserve Act, referred to in subsec. (a), is act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, which is classified principally to chapter 3 (§ 221 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

The Federal Deposit Insurance Act, referred to in subsec. (a), is act Sept. 21, 1950, ch. 967, § 2, 64 Stat. 873, as amended, which is classified generally to chapter 16 (§ 1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–105 substituted ''during each 18-month period'' for ''each year'' in first sentence.

1992—Subsec. (a). Pub. L. 102–552, § 512, substituted ''may include, if appropriate'' for ''shall include'' in third sentence.

Subsec. (d). Pub. L. 102–552, § 513(b), added subsec. (d).

1990—Subsec. (a). Pub. L. 101–624 inserted after third sentence ''Examination of banks shall include an analysis of the compensation paid to the chief executive officer and the salary scales of the employees of the bank.''

1988—Subsec. (a). Pub. L. 100–399, § 416(c), substituted ''at least once every three years'' for ''at least once every 5 years''.

Pub. L. 100–233, § 432(b), substituted ''Except for Federal land bank associations, each'' for ''Each'', substituted ''the Board'' for ''the Chairman of the Board'' in two places, and inserted after first sentence ''Each Federal land bank association shall be examined by Farm Credit Administration examiners at such times as the Farm Credit Administration Board may determine, except that each such association shall be examined at least once every 5 years.''

Subsec. (b). Pub. L. 100–233, § 205(b), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (b)(2). Pub. L. 100–399, § 204, substituted ''the third sentence of paragraph (1)'' for ''this section''.

1986—Subsec. (b). Pub. L. 99–509 substituted second and third sentences for former second sentence which read as follows: ''Each such report shall contain financial statements prepared in accordance with generally accepted accounting principles and contain such additional information as the Farm Credit Administration by regulation may require.''

1985—Pub. L. 99–205 in amending section generally, revised and restated existing provisions in subsec. (a) and added subsecs. (b) and (c). Prior to amendment, section read as follows: ''Except as provided herein, each institution of the System, and each of their agents, at such times as the Governor of the Farm Credit Administration may determine, shall be examined and audited by farm credit examiners under the direction of an independent chief Farm Credit Administration examiner, but each bank and each production credit association shall be examined and audited not less frequently than once each year. Such examinations shall include objective appraisals of the effectiveness of management and application of policies in carrying out the provisions of this chapter and in servicing all eligible borrowers. If the Governor determines it to be necessary or appropriate, the required examinations and audits may be made by independent certified public accountants, certified by a regulatory authority of a State, and in accordance with generally accepted auditing standards. Upon request of the Governor or any bank of the System, farm credit examiners shall also make examinations and written reports of the condition of any organization, other than national banks, to which, or with which, any institution of the System contemplates making a loan or discounting paper of such organization. For the purposes of this chapter, examiners of the Farm Credit Administration shall be subject to the same requirements, responsibilities, and penalties as are applicable to examiners under the National Bank Act [12 U.S.C. 21 et seq.], the Federal Reserve Act [12 U.S.C. 221 et seq.], the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.], and other provisions of law and shall have the same powers and privileges as are vested in such examiners by law.''

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.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as a note under section 2001 of this title.

RESTRAINT BY FEDERAL BANK REGULATORY AGENCIES IN OVERSEEING AGRICULTURAL BORROWERS

Pub. L. 99–198, title XIII, § 1326, Dec. 23, 1985, 99 Stat. 1540, provided that:

''(a) Congress finds and declares that—

''(1) high production costs and low commodity prices have combined to reduce farm income to the lowest levels since the depths of the Depression in the 1930's, to subject many agricultural producers, through no fault of their own, to severe economic hardship, and in many cases temporarily but seriously to impair producers' ability to meet loan repayment schedules in a timely fashion; and

''(2) a policy of adverse classification of agricultural loans by bank examiners under these circumstances will trigger a wave of foreclosures and similar actions on the part of banks, thereby depressing land values and prices for agricultural facilities and equipment and having a devastating effect on farmers and the banking industry, and upon rural areas of the United States in general.

''(b) It is therefore the sense of Congress that the Federal bank regulatory agencies should ensure, in their examination procedures, that examiners exercise caution and restraint and give due consideration not only to the current cash flow of agricultural borrowers under financial stress, but to factors such as their loan collateral and ultimate ability to repay as well, for so long as the adverse economic effects of the cost-price squeeze of recent years continue to impair the ability of these borrowers to meet scheduled repayments on their loans.''

§ 2255. Conditions of other banks and lending institutions

The Comptroller of the Currency is authorized and directed, upon request of the Farm Credit Administration to furnish for confidential use of an institution of the System such reports, records, and other information as he may have available relating to the financial condition of national banks through, for, or with which such institution of the System has made or contemplates making discounts or loans and to make such further examination, as may be agreed, of organizations through, for, or with which such institution of the Farm Credit System has made or contemplates making discounts or loans.

(Pub. L. 92–181, title V, § 5.20, formerly § 5.21, Dec. 10, 1971, 85 Stat. 623; renumbered § 5.20, Pub. L. 99–205, title II, § 203(b), Dec. 23, 1985, 99 Stat. 1694.)

PRIOR PROVISIONS

A prior section 5.20 of Pub. L. 92–181 was renumbered section 5.19 and is classified to section 2254 of this title.

§ 2256. Consent to the availability of reports and to examinations

Any organization other than State banks, trust companies, and savings associations shall, as a condition precedent to securing discount privileges with a bank of the Farm Credit System, file with such bank its written consent to examination by farm credit examiners as may be directed by the Farm Credit Administration; and State banks, trust companies, and savings associations may be required in like manner to file a written consent that reports of their examination by constituted State authorities may be furnished by such authorities upon the request of the Farm Credit Administration.

(Pub. L. 92–181, title V, § 5.21, formerly § 5.22, Dec. 10, 1971, 85 Stat. 623; renumbered § 5.21, Pub. L. 99–205, title II, § 203(b), Dec. 23, 1985, 99 Stat. 1694.)

PRIOR PROVISIONS

A prior section 5.21 of Pub. L. 92–181 was renumbered section 5.20 and is classified to section 2255 of this title.

§ 2257. Reports on conditions of institutions receiving loans or deposits

The executive departments, boards, commissions, and independent establishments of the Government of the United States, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Reserve banks are severally authorized under such conditions as they may prescribe, upon request of the Farm Credit Administration, to make available to it or to any institution of the System in confidence all reports, records, or other information relating to the condition of any organization to which such institution of the System has made or contemplates making loan or for which it has or contemplates discounting paper, or which it is using or contemplates using as a custodian of securities or other credit instruments, or a depository. The Federal Reserve banks in their capacity as depositories, agents, and custodians for bonds, debentures, and other obligations issued by the banks of the System or book entries thereof are also authorized and directed, upon request of the Farm Credit Administration, to make available for audit by farm credit examiners all appropriate books, accounts, financial records, files, and other papers.

(Pub. L. 92–181, title V, § 5.22, formerly § 5.23, Dec. 10, 1971, 85 Stat. 624; renumbered § 5.22, Pub. L. 99–205, title II, § 203(b), Dec. 23, 1985, 99 Stat. 1694.)

PRIOR PROVISIONS

A prior section 5.22 of Pub. L. 92–181 was renumbered section 5.21 and is classified to section 2256 of this title.

§ 2257a. Uniform financial reporting instructions

(a) In general

Each System institution shall comply with uniform financial reporting instructions required by the Farm Credit Administration, to standardize and facilitate the reporting of System data.

(b) Computerized system

If the financial reports are maintained by a computer system, each System institution may develop an internal computer system or it may contract out to a vendor under open competitive bidding any or all aspects of the computerized system.

(c) Submission of proposal

Within 6 months of January 6, 1988, each System institution shall submit to the Farm Credit Administration a report on the plan of that institution to bring the operations of the institution into compliance with the uniform financial reporting instructions required by the Farm Credit Administration.

(Pub. L. 92–181, title V, § 5.22A, as added Pub. L. 100–233, title IV, § 429, Jan. 6, 1988, 101 Stat. 1658.)

§ 2258. Jurisdiction

Each institution of the System shall for the purposes of jurisdiction be deemed to be a citizen of the State, commonwealth, or District of Columbia in which its principal office is located.

(Pub. L. 92–181, title V, § 5.23, formerly § 5.24, Dec. 10, 1971, 85 Stat. 624; Pub. L. 94–184, § 1(b), Dec. 31, 1975, 89 Stat. 1060; renumbered § 5.23, Pub. L. 99–205, title II, § 203(b), Dec. 23, 1985, 99 Stat. 1694.)

PRIOR PROVISIONS

A prior section 5.23 of Pub. L. 92–181 was renumbered section 5.22 and is classified to section 2257 of this title.

AMENDMENTS

1975—Pub. L. 94–184 struck out provisions prohibiting district court jurisdiction on the basis of incorporation under this Act or prior Federal law, and prohibiting jurisdiction except in cases by or against the United States or one of its officers, or against a person over whom State courts have no jurisdiction and except in cases by or against a receiver or conservator appointed under this chapter.

§ 2259. State legislation

Whenever it is determined by the Farm Credit Administration, or by judicial decision, that a State law is applicable to the obligations and securities authorized to be held by the institutions of the System under this chapter, which law would provide insufficient protection or inadequate safeguards against loss in the event of default, the Farm Credit Administration may declare such obligations or securities to be ineligible as collateral for the issuance of new notes, bonds, debentures, and other obligations under this chapter.

(Pub. L. 92–181, title V, § 5.24, formerly § 5.25, Dec. 10, 1971, 85 Stat. 624; renumbered § 5.24, Pub. L. 99–205, title II, § 203(b), Dec. 23, 1985, 99 Stat. 1694.)

PRIOR PROVISIONS

A prior section 5.24 of Pub. L. 92–181 was renumbered section 5.23 and is classified to section 2258 of this title.

§ 2260. Transferred

CODIFICATION

Section, Pub. L. 92–181, title V, § 5.30, as added Pub. L. 96–592, title V, § 509, Dec. 24, 1980, 94 Stat. 3450, which re-

lated to audit and report to Congress by the Comptroller General, was renumbered section 5.44 of Pub. L. 92–181 by, Pub. L. 99–205, title II, § 205(a)(2), Dec. 23, 1985, 99 Stat. 1703, and was transferred to section 2275 of this title.

PART C—ENFORCEMENT POWERS OF FARM CREDIT ADMINISTRATION

§ 2261. Cease and desist proceedings

(a) If, in the opinion of the Farm Credit Administration, any institution in the Farm Credit System, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such an institution is engaging or has engaged, or the Farm Credit Administration has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to engage, in an unsafe or unsound practice in conducting the business of such institution, or is violating or has violated, or the Farm Credit Administration has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Farm Credit Administration in connection with the granting of any application or other request by the institution or any written agreement entered into with the Farm Credit Administration, the Farm Credit Administration may issue and serve upon the institution or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Farm Credit Administration at the request of any party so served. Unless the party or parties so served shall appear at the hearing personally or by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease and desist order. In the event of such consent, or if upon the record made at any such hearing, the Farm Credit Administration shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Farm Credit Administration may issue and serve upon the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution an order to cease and desist from any such violation or practice. Such order may, by provisions that may be mandatory or otherwise, require the institution or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such institution to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

(b) A cease and desist order shall become effective at the expiration of thirty days after the service of such order upon the institution or other person concerned (except in the case of a cease and desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein except to such extent as it is stayed, modified, terminated, or set aside by action of the Farm Credit Administration or a reviewing court.

(Pub. L. 92–181, title V, § 5.25, as added Pub. L. 99–205, title II, § 204, Dec. 23, 1985, 99 Stat. 1694.)

PRIOR PROVISIONS

A prior section 5.25 of Pub. L. 92–181 was renumbered section 5.24 and is classified to section 2259 of this title.

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2262. Temporary cease and desist orders

(a) Whenever the Farm Credit Administration shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution under section 2261 of this title, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the institution, or is likely to seriously weaken the condition of the institution or otherwise seriously prejudice the interests of the investors in Farm Credit System obligations or shareholders in the institution prior to the completion of the proceedings conducted under section 2261 of this title, the Farm Credit Administration may issue a temporary order requiring the institution or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the institution or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution and, unless set aside, limited, or suspended by a court in proceedings authorized by subsection (b) of this section, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Farm Credit Administration shall dismiss the charges specified in such notice, or if a cease and desist order is issued against the institution or such director, officer, employee, agent, or other person, until effective date of such order.

(b) Within ten days after the institution concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution has been served with a temporary cease and desist order, the in-

stitution or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the institution is located, or the United States district court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the institution or such director, officer, employee, agent, or other person under section 2261 of this title, and such court shall have jurisdiction to issue such injunction.

(Pub. L. 92–181, title V, § 5.26, as added Pub. L. 99–205, title II, § 204, Dec. 23, 1985, 99 Stat. 1695.)

PRIOR PROVISIONS

A prior section 5.26 of Pub. L. 92–181 was renumbered section 5.40 and is set out in part as notes under section 2001 of this title.

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2263. Enforcement of temporary cease and desist orders

In the case of violation or threatened violation of, or failure to obey, a temporary cease and desist order issued under section 2262 of this title, the Farm Credit Administration may apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the home office of the institution is located, for an injunction to enforce such order, and, if the court shall determine that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.

(Pub. L. 92–181, title V, § 5.27, as added Pub. L. 99–205, title II, § 204, Dec. 23, 1985, 99 Stat. 1696.)

PRIOR PROVISIONS

A prior section 5.27 of Pub. L. 92–181, which amended section 393 of this title and sections 5314 and 5315 of Title 5, Government Organization and Employees, was renumbered section 5.41.

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2264. Suspension or removal of director or officer

(a) Written notice of intention to remove; violation of law, rule, regulation, or final cease and desist order; unsafe or unsound practice; breach of fiduciary duty

Whenever, in the opinion of the Farm Credit Administration, any director or officer of any institution in the Farm Credit System has committed any violation of law, rule, or regulation or of a cease and desist order that has become final, or has engaged or participated in any unsafe or unsound practice in connection with the institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of a fiduciary duty as such director or officer, and the Farm Credit Administration determines that the institution has suffered or will probably suffer substantial financial loss or other damage or that the interests of its shareholders or investors in Farm Credit System obligations could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, or one that demonstrates a willful or continuing disregard for the safety or soundness of the System institution, the Farm Credit Administration may serve upon such director or officer a written notice of its intention to remove him from office.

(b) Written notice of intention to remove or suspend director, officer or other person; personal dishonesty; willful or continuing disregard; unfitness to continue in office or to participate in affairs of institution

Whenever, in the opinion of the Farm Credit Administration, any director or officer of an institution in the Farm Credit System, by conduct or practice with respect to another institution in the Farm Credit System or other business institution that resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness and, in addition, has evidenced his unfitness to continue as a director or officer, and whenever, in the opinion of the Farm Credit Administration, any other person participating in the conduct of the affairs of an institution in the Farm Credit System, by the conduct or practice with respect to such institution or other institution in the Farm Credit System or other business institution that resulted in substantial financial loss or other damage, has evidenced either personal dishonesty or a willful or continuing disregard for its safety and soundness and, in addition, has evidenced his unfitness to participate in the conduct of the affairs of such institution, the Farm Credit Administration may serve upon such director, officer, or other person a written notice of its intention to remove that director, officer, or other person from office or to prohibit his further participation in any manner in the conduct of the affairs of the institution.

(c) Suspension from office; prohibition from further participation in conduct of affairs of institution; service of notice

In respect to any director or officer of an institution in the Farm Credit System or any other person referred to in subsection (a) or (b) of this section, the Farm Credit Administration may, if it deems it necessary for the protection of the institution or the interests of its shareholders and the investors in the Farm Credit System obligations, by written notice to such effect served upon such director, officer, or other person, suspend such director, officer, or other person from office or prohibit such director, officer, or other person from further participation in any manner in the conduct of the af-

fairs of the institution. Such suspension or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (e) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under subsection (a) or (b) of this section and until such time as the Farm Credit Administration shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the institution of which the person is a director or officer or in the conduct of whose affairs the person has participated.

(d) Statement of grounds for removal or prohibition; notice and hearing; order of suspension, removal or prohibition; service of order

A notice of intention to remove a director, officer, or other person from office or to prohibit such director's, officer's, or other person's participation in the conduct of the affairs of an institution in the Farm Credit System, shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the Farm Credit Administration at the request of (1) such director or officer or other person, and for good cause shown, or (2) the Attorney General of the United States. Unless such director, officer, or other person shall appear at the hearing in person or by a duly authorized representative, such director, officer, or other person shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the Farm Credit Administration shall find that any of the grounds specified in such notice have been established, the Farm Credit Administration may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the institution, as it may deem appropriate. A copy of an order issued under this subsection shall be served upon the institution concerned. Any such order shall become effective at the expiration of thirty days after service upon such institution and the director, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.

(e) Stay of suspension or prohibition

Within ten days after any director, officer, or other person has been suspended from office or prohibited from participation in the conduct of the affairs of a System institution under subsection (c) of this section, such director, officer, or other person may apply to the United States district court for the judicial district in which the home office of the institution is located, or the United States district court for the District of Columbia, for a stay of either such suspension or prohibition, or both, pending the completion of the administrative proceedings pursuant to the notice served upon such director, officer, or other person under subsection (a) or (b) of this section, and such court shall have jurisdiction to stay either such suspension or prohibition, or both.

(Pub. L. 92–181, title V, § 5.28, as added Pub. L. 99–205, title II, § 204, Dec. 23, 1985, 99 Stat. 1696; amended Pub. L. 100–233, title VIII, § 805(aa), Jan. 6, 1988, 101 Stat. 1717; Pub. L. 100–399, title VII, § 702(d), Aug. 17, 1988, 102 Stat. 1006.)

PRIOR PROVISIONS

A prior section 5.28 of Pub. L. 92–181 was renumbered section 5.42 and is set out as a note under section 2001 of this title.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–233, § 805(aa)(1), designated provisions preceding subsec. (b) as subsec. (a).

Subsec. (e). Pub. L. 100–399 substituted ''subsection (c)'' for ''subsection (d)''.

Pub. L. 100–233, § 805(aa)(2), substituted ''subsection (d) of this section'' for ''subsection (d)(3) of this section''.

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.

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2265. Suspension or removal of director or officer charged with felony

(a) Whenever any director or officer of an institution in the Farm Credit System, or other person participating in the conduct of the affairs of such institution, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust that is punishable by imprisonment for a term exceeding one year under State or Federal law, the Farm Credit Administration may, if continued service or participation by the individual may pose a threat to the interests of the institution's shareholders or investors in Farm Credit System obligations or threaten to impair public confidence in the institution or the Farm Credit System, by written notice served upon such director, officer, or other person, suspend such director, officer, or other person from office or prohibit such director, officer, or other person from further participation in any manner in the conduct of the affairs of the institution. A copy of such notice shall also be served upon the institution. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Farm Credit Administration. In the event that a judgment of conviction with respect to such crime is entered against such director, offi-

cer, or other person, and at such time as such judgment is not subject to further appellate review, the Farm Credit Administration may, if continued service or participation by the individual may pose a threat to the interests of the institution's shareholders or the investors in Farm Credit System obligations or may threaten to impair public confidence in the institution or the Farm Credit System, issue and serve upon such director, officer, or other person an order removing such director, officer, or other person from office or prohibiting such director, officer, or other person from further participation in any manner in the conduct of the affairs of the institution except with the consent of the Farm Credit Administration. A copy of such order shall also be served upon such institution, whereupon such director or officer shall cease to be a director or officer of such institution. A finding of not guilty or other disposition of the charge shall not preclude the Farm Credit Administration from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in Farm Credit System affairs under section 2264 of this title. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under subsection (b) of this section unless terminated by the Farm Credit Administration.

(b) Within thirty days from service of any notice of suspension or order of removal issued under subsection (a) of this section, the director, officer, or other person concerned may request in writing an opportunity to appear before the Farm Credit Administration to show that the continued service to or participation in the conduct of the affairs of the institution by such individual does not, or is not likely to, pose a threat to the interest of the institution's shareholders or the investors in Farm Credit System obligations or threaten to impair public confidence in the institution or the Farm Credit System. Upon receipt of any such request, the Farm Credit Administration shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before the Chairman of the Farm Credit Administration or designated employees of the Farm Credit Administration to submit written materials (or, at the discretion of the Farm Credit Administration, oral testimony) and oral argument. Within sixty days of such hearing, the Farm Credit Administration shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the institution will be continued, terminated, or otherwise modified, or whether the order removing such director, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the institution will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Farm Credit Administration's decision, if adverse to the director, officer, or other person. The Farm Credit Administration may prescribe such rules as may be necessary to effectuate the purposes of this subsection.

(Pub. L. 92–181, title V, § 5.29, as added Pub. L. 99–205, title II, § 204, Dec. 23, 1985, 99 Stat. 1698; amended Pub. L. 100–233, title VIII, § 805(bb), Jan. 6, 1988, 101 Stat. 1717; Pub. L. 100–399, title VII, § 702(e), Aug. 17, 1988, 102 Stat. 1006.)

PRIOR PROVISIONS

A prior section 5.29 of Pub. L. 92–181 was renumbered section 5.43 and is set out as a note under section 2001 of this title.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–233, § 805(bb)(1), substituted ''may pose a threat to the interests of the institution's shareholders or investors in Farm Credit System obligations or may threaten to impair public confidence in the institution or the Farm Credit System'' for ''may pose a threat to the interest of the institution's shareholders or the investors in the Farm Credit System obligations or may threaten to impair public confidence in the institution or Farm Credit System''.

Subsec. (b). Pub. L. 100–233 struck out ''may'' before ''threaten to impair public confidence''.

Pub. L. 100–233, § 805(bb)(2), substituted ''of the institution's shareholders or the investors in Farm Credit System obligations or may threaten to impair public confidence in the institution or the Farm Credit System'' for ''in Farm Credit System obligations''.

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.

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2266. Hearings and judicial review

(a) Venue; closed hearings; decisions and findings of fact; orders; modification or other action by Farm Credit Administration; judicial review

Any hearing provided for in this part (other than the hearing provided for in section 2265 of this title) shall be held in the Federal judicial district or in the territory in which the home office of the institution is located unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5. Such hearing shall be private, unless the Farm Credit Administration, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest. After such hearing, and within ninety days after the Farm Credit Administration has notified the parties that the case has been submitted to it for final decision, it shall render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this part. Judicial review of any such order shall be exclusively as pro-

vided in this section. Unless a petition for review is timely filed in a court of appeals of the United States, as hereinafter provided in subsection (b) of this section, and thereafter until the record in the proceeding has been filed as so provided, the Farm Credit Administration may at any time, upon such notice and in such manner as it shall deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the Farm Credit Administration may modify, terminate, or set aside any such order with permission of the court.

(b) Judicial review; commencement of proceedings; filing of petition and record; exclusive jurisdiction; finality of judgment and decree

Any party to the proceeding, or any person required by an order issued under this part to cease and desist from any of the violations or practices stated therein, may obtain a review of any order served under subsection (a) of this section (other than an order issued with the consent of the System institution or the director or officer or other person concerned, or an order issued under section 2265 of this title) by the filing in the court of appeals of the United States for the circuit in which the home office of the institution is located, or in the United States Court of Appeals for the District of Columbia Circuit, within thirty days after the date of service of such order, a written petition praying that the order of the Farm Credit Administration be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Farm Credit Administration, and thereupon the Farm Credit Administration shall file in the court the record in the proceeding, as provided in section 2112 of title 28. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall except as provided in the last sentence of subsection (a) of this section be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Farm Credit Administration. Review of such proceedings shall be had as provided in chapter 7 of title 5. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28.

(c) Proceedings operating as stays of orders

The commencement of proceedings for judicial review under subsection (b) of this section shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Farm Credit Administration.

(Pub. L. 92–181, title V, § 5.30, as added Pub. L. 99–205, title II, § 204, Dec. 23, 1985, 99 Stat. 1699; amended Pub. L. 100–233, title VIII, § 805(cc), Jan. 6, 1988, 101 Stat. 1717.)

PRIOR PROVISIONS

A prior section 5.30 of Pub. L. 92–181 was renumbered section 5.44 and transferred from section 2260 to section 2275 of this title.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–233 substituted ''this section'' for ''this subsection (g)''.

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2267. Jurisdiction and enforcement

The Farm Credit Administration may in its discretion apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the home office of the institution is located, for the enforcement of any effective and outstanding notice or order issued under this part, and such courts shall have jurisdiction and power to order and require compliance herewith; but except as otherwise provided in this part no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this part, or to review, modify, suspend, terminate, or set aside any such notice or order. For purposes of this section, any directive issued under section 2154(b)(2), 2154a(e), or 2202a(i) of this title shall be treated as an effective and outstanding order issued under section 2261 of this title that has become final.

(Pub. L. 92–181, title V, § 5.31, as added Pub. L. 99–205, title II, § 204, Dec. 23, 1985, 99 Stat. 1700; amended Pub. L. 100–233, title VIII, § 804(a)(1), Jan. 6, 1988, 101 Stat. 1714.)

AMENDMENTS

1988—Pub. L. 100–233 inserted at end ''For purposes of this section, any directive issued under section 2154(b)(2), 2154a(e), or 2202a(i) of this title shall be treated as an effective and outstanding order issued under section 2261 of this title that has become final.''

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2268. Penalty

(a) Forfeiture and payment; compromise, modification, or remitting by Farm Credit Administration; assessment and collection by written notice

Any institution in the System that violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such an institution who violates the terms of any order that has become final and was issued under section 2261 or 2262 of this title, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. Any such institution or person who violates any provision of this chapter or any regulation issued under this chapter shall forfeit and pay a civil penalty of not more than $500 per day for each day during which such violation continues. Notwithstanding the preceding sentences, the Farm Credit Administration may, in its discretion, compromise, modify, or remit any civil money penalty that is subject to imposition or has been imposed under such authority. The penalty may be assessed and collected by the Farm Credit Administration by written notice.

(b) Factors determining amount

Before determining whether to assess a civil money penalty and determining the amount of

such penalty, the Farm Credit Administration shall notify the institution or person to be assessed of the violation or violations alleged to have occurred or to be occurring, and shall solicit the views of the institution or person regarding the imposition of such penalty. In determining the amount of the penalty, the Farm Credit Administration shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the System institution or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

(c) Notice and hearing; final orders

The System institution or person assessed shall be afforded an opportunity for a hearing by the Farm Credit Administration, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5. The Farm Credit Administration determination shall be made by final order which may be reviewed only as provided in subsection (d) of this section. If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

(d) Judicial review

Any System institution or person against whom an order imposing a civil money penalty has been entered after a Farm Credit Administration hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the System institution is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within twenty days after the service of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Farm Credit Administration. The Farm Credit Administration shall promptly certify and file in such Court the record upon which the penalty was imposed, as provided in section 2112 of title 28. Final orders of the Farm Credit Administration issued under subsection (c) of this section shall be reviewable under chapter 7 of title 5.

(e) Action by Attorney General to recover amount assessed

If any System institution or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the Farm Credit Administration, the Farm Credit Administration shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(f) Rules and regulations

The Farm Credit Administration shall promulgate regulations establishing procedures necessary to implement section 2267 of this title and this section.

(g) Payment into Treasury

All penalties collected under authority of this section shall be covered into the Treasury of the United States.

(h) Directives as final orders

For purposes of this section, any directive issued under section 2154(b)(2), 2154a(e), or 2202a(i) of this title shall be treated as an order that has become final and was issued under section 2261 of this title.

(Pub. L. 92–181, title V, § 5.32, as added Pub. L. 99–205, title II, § 204, Dec. 23, 1985, 99 Stat. 1700; amended Pub. L. 100–233, title IV, § 423, title VIII, §§ 804(a)(2), 805(dd), Jan. 6, 1988, 101 Stat. 1656, 1714, 1717.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–233, § 423(a), substituted ''continues. Any such institution or person who violates any provision of this chapter or any regulation issued under this chapter shall forfeit and pay a civil penalty of not more than $500 per day for each day during which such violation continues. Notwithstanding the preceding sentences,'' for ''continues, but''.

Subsec. (b). Pub. L. 100–233, § 423(b), inserted ''Before determining whether to assess a civil money penalty and determining the amount of such penalty, the Farm Credit Administration shall notify the institution or person to be assessed of the violation or violations alleged to have occurred or to be occurring, and shall solicit the views of the institution or person regarding the imposition of such penalty.''

Subsec. (d). Pub. L. 100–233, § 423(c), substituted ''Final orders of the Farm Credit Administration issued under subsection (c) of this section shall be reviewable under chapter 7 of title 5'' for ''The findings of the Farm Credit Administration shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5''.

Subsec. (f). Pub. L. 100–233, § 805(dd), substituted ''section 2267 of this title and this section'' for ''sections 2267 and 2268 of this title''.

Subsec. (h). Pub. L. 100–233, § 804(a)(2), added subsec. (h).

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2269. Further penalties

Any director or officer, or former director or officer of a System institution, or any other person, against whom there is outstanding and effective any notice or order (which is an order which has become final) served upon such director, officer, or other person under section 2264 or 2265 of this title, and who (1) participates in any manner in the conduct of the affairs of the institution involved, or directly or indirectly solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote, any proxies, consents, or authorizations in respect of any voting rights in such institution, or (2) without the prior written approval of the Farm Credit Administration, votes for a director, serves or acts as a director, officer, or employee of any System institution, shall upon conviction be fined not more than $5,000 or imprisoned for not more than one year, or both.

(Pub. L. 92–181, title V, § 5.33, as added Pub. L. 99–205, title II, § 204, Dec. 23, 1985, 99 Stat. 1701.)

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as an Effective

Date of 1985 Amendment note under section 2001 of this title.

§ 2270. Replacement of suspended or removed directors

If at any time, because of the suspension or removal of one or more directors pursuant to section 2264 or 2265 of this title, there shall be on the board of directors of a System institution less than a quorum of directors not so suspended, the Chairman shall appoint persons to serve temporarily as directors in their place and stead so as to establish a quorum until such time as those who have been removed are reinstated or their respective successors are duly elected and take office.

(Pub. L. 92–181, title V, § 5.34, as added Pub. L. 99–205, title II, § 204, Dec. 23, 1985, 99 Stat. 1701.)

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2271. Definitions

As used in this part—

(1) the terms ''cease and desist order that has become final'' and ''order which has become final'' mean a cease and desist order, or an order, issued by the Farm Credit Administration with the consent of the System institution or the director or officer or other person concerned, or with respect to which no petition for review of the action of the Farm Credit Administration has been filed and perfected in a court of appeals as specified in section 2266(b) of this title, or with respect to which the action of the court in which such petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in section 2266(b) of this title, or an order issued under section 2265 of this title;

(2) the term ''violation'' includes without limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation;

(3) the terms ''institution in the System'', ''System institution'', and ''institution'' mean all institutions enumerated in section 2002 of this title, any service organization chartered under part E of subchapter IV of this chapter, and the Financial Assistance Corporation; and

(4) the term ''unsafe or unsound practice'' shall—

(A) have the meaning given to it by the Farm Credit Administration by regulation, rule, or order;

(B) during the period beginning on January 6, 1988, and ending December 31, 1992, mean any noncompliance by a System institution, as determined by the Farm Credit Administration in consultation with the Assistance Board, with any term or condition imposed on the institution by the Assistance Board under section 2278a–6 of this title; and

(C) after December 31, 1992, mean any significant noncompliance by a System institution (as determined by the Farm Credit Administration, in consultation with the Farm Credit System Insurance Corporation) with any term or condition imposed on the institution by the Farm Credit System Assistance Board under section 2278a–6 of this title or by the Farm Credit System Insurance Corporation under section 2277a–10 of this title.

(Pub. L. 92–181, title V, § 5.35, as added Pub. L. 99–205, title II, § 204, Dec. 23, 1985, 99 Stat. 1701; amended Pub. L. 100–233, title II, §§ 203, 207(d), Jan. 6, 1988, 101 Stat. 1605, 1608; Pub. L. 102–237, title V, § 502(i), Dec. 13, 1991, 105 Stat. 1869; Pub. L. 102–552, title II, § 202(b), Oct. 28, 1992, 106 Stat. 4106.)

CODIFICATION

January 6, 1988, referred to in par. (4)(B), was in the original ''the date of the enactment of this paragraph'' which was translated as meaning the date of enactment of Pub. L. 100–233, which amended par. (4) generally, to reflect the probable intent of Congress.

AMENDMENTS

1992—Par. (4)(C). Pub. L. 102–552 added subpar. (C).

1991—Par. (3). Pub. L. 102–237 substituted ''part E'' for ''part D''.

1988—Par. (3). Pub. L. 100–233, § 207(d), substituted ''Financial Assistance Corporation'' for ''Capital Corporation''.

Par. (4). Pub. L. 100–233, § 203, amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''the term 'unsafe or unsound practice' shall have the meaning given to it by the Farm Credit Administration by regulations, rule, or order.''

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)(4) of Pub. L. 102–237, set out as a note under section 1421 of Title 7, Agriculture.

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2272. Notice of service

Any service required or authorized to be made by the Farm Credit Administration under this section may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Farm Credit Administration may by regulation or otherwise provide. Any such service by mail is complete upon mailing. Copies of any notice or order served by the Farm Credit Administration on any association or any director or officer thereof or other person participating in the conduct of its affairs, under the provisions of this part, shall also be sent to the supervisory bank.

(Pub. L. 92–181, title V, § 5.36, as added Pub. L. 99–205, title II, § 204, Dec. 23, 1985, 99 Stat. 1702.)

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2273. Ancillary provisions; subpena power; etc.

In the course of or in connection with any proceeding under this part or any examination or investigation under this chapter, the Farm Credit Administration or any designated representative thereof, including any person designated to conduct any hearing under this part, shall have the power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpenas and subpenas duces tecum; and the Farm Credit Administration is empowered to make rules and regulations with respect to any such proceedings, examinations, or investigations. The attendance of witnesses and the production of documents provided for in this section may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted. The Farm Credit Administration or any party to proceedings under this part may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpena or subpena duces tecum issued pursuant to this part, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this part by a System institution or a director or officer thereof, may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper; and such expenses and fees shall be paid by the System institution or from its assets. Any person who willfully shall fail or refuse to attend or testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in such person's power so to do, in obedience to the subpena of the Farm Credit Administration, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year or both.

(Pub. L. 92–181, title V, § 5.37, as added Pub. L. 99–205, title II, § 204, Dec. 23, 1985, 99 Stat. 1702; amended Pub. L. 100–233, title VIII, § 805(ee), Jan. 6, 1988, 101 Stat. 1717.)

AMENDMENTS

1988—Pub. L. 100–233 substituted ''proceedings, examinations, or investigations'' for ''proceedings, claims, examinations, or investigations''.

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99–205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2274. Power to remove directors and officers

Notwithstanding any other provision of this chapter, a farm credit district board, bank board, or bank officer or employee shall not remove any director or officer of any production credit association or Federal land bank association.

(Pub. L. 92–181, title V, § 5.38, as added Pub. L. 100–233, title IV, § 432(c), Jan. 6, 1988, 101 Stat. 1661.)

PART D—MISCELLANEOUS

§ 2275. Government Accountability Office audit; report to Congress

(a) The Comptroller General shall conduct an evaluation of the programs and activities authorized under the 1980 amendments to this chapter, and shall make an interim report to the Congress no later than December 31, 1982, and a final report to the Congress no later than December 31, 1984. The Comptroller General shall include in such evaluation the effect that this chapter, as amended, will have on agricultural credit services provided by the Farm Credit System, Federal agencies, and other entities. The Comptroller General may make such interim reports to the Congress on the programs and activities under these amendments as the Comptroller General deems necessary or as requested by Members of Congress.

(b) For the purpose of conducting program evaluations required in subsection (a) of this section, the Comptroller General or his duly authorized representatives shall have access to and the right to examine all books, documents, papers, records, or other recorded information within the possession or control of the Federal land banks and Federal land bank associations, Federal intermediate credit banks and production credit associations and banks for cooperatives.

(Pub. L. 92–181, title V, § 5.44, formerly § 5.30, as added Pub. L. 96–592, title V, § 509, Dec. 24, 1980, 94 Stat. 3450; renumbered § 544, Pub. L. 99–205, title II, § 205(a)(2), Dec. 23, 1985, 99 Stat. 1703; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES IN TEXT

The 1980 amendments to this chapter and these amendments, referred to in subsec. (a), are the amendments made to this chapter by the Farm Credit Act Amendment of 1980, Pub. L. 96–592, Dec. 24, 1980, 94 Stat. 3437. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 2001 of this title and Tables.

CODIFICATION

Section was formerly classified to section 2260 of this title.

Similar provisions relating to general powers of the Comptroller General with respect to access and examination of books, documents, etc., are set out in section 2276 of this title.

AMENDMENTS

2004—Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office'' in section catchline.

§ 2275a. Transition rules relating to amendment of certain FCA approval authorities

(a) In general

Any approvals granted by the Farm Credit Administration before January 6, 1988, shall remain in effect on and after such date.

(b) Authority to issue regulations

(1) In general

Any approval authority of the Farm Credit Administration that, under the amendments made by section 802 of the Agricultural Credit Act of 1987, became an authority to issue regulations may be exercised only until the earlier of the date the Farm Credit Administration issues final regulations under such authority, or 1 year after January 6, 1988.

(2) Enforcement actions

At the close of the 1-year period referred to in paragraph (1), the Farm Credit Administration shall not take any enforcement action against any System institution with respect to any provision so amended, until the Farm Credit Administration issues final regulations under such provision.

(c) Effect of section

This section shall not affect the authority of the Farm Credit Administration to exercise any other approval authority either on a case-by-case basis or through regulation, as provided in section 2252(a)(5) of this title.

(Pub. L. 92–181, title V, § 5.45, as added Pub. L. 100–233, title VIII, § 802(w), Jan. 6, 1988, 101 Stat. 1713.)

REFERENCES IN TEXT

The amendments made by section 802 of the Agricultural Credit Act of 1987, referred to in subsec. (b)(1), are the amendments made by section 802 of Pub. L. 100–233, title VIII, Jan. 6, 1988, 101 Stat. 1710, which enacted section 2275a of this title and amended sections 2011 to 2013, 2017, 2031, 2051, 2052, 2071 to 2073, 2077, 2091, 2121, 2122, 2124, 2126, 2130, 2132, 2212, 2213, 2223, and 2252 of this title. For complete classification of section 802 to the Code, see Tables.

§ 2276. Access to and examination by Comptroller General of books, documents, etc., of farm credit system banks and institutions

On and after December 19, 1985, the Comptroller General or his duly authorized representatives shall have access to and the right to examine all books, documents, papers, records, or other recorded information within the possession or control of the Federal land banks and Federal land bank associations, Federal intermediate credit banks and production credit associations and banks for cooperatives.

(Pub. L. 99–190, § 107, Dec. 19, 1985, 99 Stat. 1316.)

CODIFICATION

Section was not enacted as part of the Farm Credit Act of 1971 which comprises this chapter.

Similar provisions relating to powers of the Comptroller General with respect to access and examination of books, documents, etc., for purposes of conducting program evaluations under section 2275(a) of this title, are set out in section 2275(b) of this title.

PART E—FARM CREDIT SYSTEM INSURANCE CORPORATION

§ 2277a. Definitions

As used in this part:

(1) Board of Directors

The term ''Board of Directors'' means the Board of Directors of the Corporation.

(2) Corporation

The term ''Corporation'' means the Farm Credit System Insurance Corporation established in section 2277a–1 of this title.

(3) Insured obligation

The term ''insured obligation'' means any note, bond, debenture, or other obligation issued under subsection (c) or (d) of section 2153 of this title—

(A) on or before January 5, 1989, on behalf of any System bank; and

(B) after such date, which, when issued, is issued on behalf of any insured System bank.

(4) Insured System bank

The term ''insured System bank'' means any System bank whose participation in notes, bonds, debentures, and other obligations issued under subsection (c) or (d) of section 2153 of this title is insured under this part.

(5) State

The term ''State'' means any of the 50 States, the District of Columbia, any Territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands.

(Pub. L. 92–181, title V, § 5.51, as added Pub. L. 100–233, title III, § 302, Jan. 6, 1988, 101 Stat. 1611; amended Pub. L. 100–399, title III, § 302(a), (b), Aug. 17, 1988, 102 Stat. 994; Pub. L. 104–105, title II, § 214(a), Feb. 10, 1996, 110 Stat. 175.)

AMENDMENTS

1996—Pars. (5), (6). Pub. L. 104–105 redesignated par. (6) as (5) and struck out heading and text of former par. (5). Text read as follows: ''The term 'receiver' means a receiver or conservator appointed by the Farm Credit Administration for a System institution.''

1988—Par. (3)(A), (B). Pub. L. 100–399, § 302(a), amended subpars. (A) and (B) generally. Prior to amendment, subpars. (A) and (B) read as follows:

''(A) on or before January 6, 1988, on behalf of any System bank; and

''(B) after such date, on behalf of any insured System bank.''

Par. (5). Pub. L. 100–399, § 302(b), substituted ''for'' for ''to liquidate''.

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.

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.

§ 2277a–1. Establishment of Farm Credit System Insurance Corporation

There is hereby established the Farm Credit System Insurance Corporation which shall insure, in accordance with this part, the timely payment of principal and interest on notes, bonds, debentures, and other obligations issued under subsection (c) or (d) of section 2153 of this title on behalf of one or more System banks all of which are entitled to the benefits of insurance under this part.

(Pub. L. 92–181, title V, § 5.52, as added Pub. L. 100–233, title III, § 302, Jan. 6, 1988, 101 Stat. 1611.)

§ 2277a–2. Board of Directors

(a) Establishment

The Corporation shall be managed by a Board of Directors that shall consist of the members of the Farm Credit Administration Board.

(b) Chairman

The Board of Directors shall be chaired by any Board member other than the Chairman of the Farm Credit Administration Board.

(Pub. L. 92–181, title V, § 5.53, as added Pub. L. 100–233, title III, § 302, Jan. 6, 1988, 101 Stat. 1611; amended Pub. L. 102–552, title II, § 201(a), Oct. 28, 1992, 106 Stat. 4104; Pub. L. 104–105, title II, § 219(a), Feb. 10, 1996, 110 Stat. 184.)

AMENDMENTS

1996—Pub. L. 104–105 amended section generally. Prior to amendment, section related to Board of Directors, including provisions relating to establishment, appointment, chairperson, postemployment prohibition, terms of office, succession, vacancies, oath, quorum, meetings, rules and records, compensation, and expenses.

1992—Pub. L. 102–552 amended section generally. Prior to amendment, section read as follows:

''(a) ESTABLISHMENT.—The Corporation shall be managed by a Board of Directors that shall consist of the members of the Farm Credit Administration Board.

''(b) CHAIRMAN.—The Board of Directors shall be chaired by any Board member other than the Chairman of the Farm Credit Administration Board.''

EFFECTIVE DATE OF 1992 AMENDMENT; TRANSITION PROVISION

Section 201(c) of Pub. L. 102–552 provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section and sections 5314 and 5315 of Title 5, Government Organization and Employees] shall become effective on January 1, 1996.

''(2) TRANSITIONAL PROVISION.—The Board of Directors of the Farm Credit System Insurance Corporation as established by section 5.53 of the Farm Credit Act of 1971 (12 U.S.C. 2277a–2) (as it existed before the amendments made by subsection (a) of this section) shall continue in existence and continue to manage the Farm Credit System Insurance Corporation until at least two members are appointed by the President, by and with the advice and consent of the Senate, to the new Board established by section 5.53 of such Act (as amended by subsection (a) of this section).''

§ 2277a–3. Commencement of insurance

Effective beginning on January 1, 1989, or 12 months after January 6, 1988, whichever is later, each System bank shall be an insured System bank and shall be subject to this part. Each System bank that is authorized to commence or resume operations under a subchapter of this chapter shall be an insured System bank from the time of such authorization. A bank resulting from the merger or consolidation of insured System banks shall be an insured System bank.

(Pub. L. 92–181, title V, § 5.54, as added Pub. L. 100–233, title III, § 302, Jan. 6, 1988, 101 Stat. 1611.)

§ 2277a–4. Premiums

(a) Amount in Fund not exceeding secure base amount

(1) In general

If at the end of any calendar year the aggregate of amounts in the Farm Credit Insurance Fund does not exceed the secure base amount, subject to paragraph (3), the premium due from any insured System bank for the calendar year shall be equal to the sum of—

(A) the average outstanding insured obligations issued by the bank for the calendar year, after deducting from the obligations the percentages of the guaranteed portions of loans and investments described in paragraph (2), multiplied by 0.0020; and

(B) the product obtained by multiplying—

(i) the sum of—

(I) the average principal outstanding for the calendar year on loans made by the bank that are in nonaccrual status; and

(II) the average amount outstanding for the calendar year of other-than-temporarily impaired investments made by the bank; by

(ii) 0.0010.

(2) Deductions from average outstanding insured obligations

The average outstanding insured obligations issued by the bank for the calendar year referred to in paragraph (1)(A) shall be reduced by deducting from the obligations the sum of (as determined by the Corporation)—

(A) 90 percent of each of—

(i) the average principal outstanding for the calendar year on the guaranteed portions of Federal government-guaranteed loans made by the bank that are in accrual status; and

(ii) the average amount outstanding for the calendar year of the guaranteed portions of Federal government-guaranteed investments made by the bank that are not permanently impaired; and

(B) 80 percent of each of—

(i) the average principal outstanding for the calendar year on the guaranteed portions of State government-guaranteed loans made by the bank that are in accrual status; and

(ii) the average amount outstanding for the calendar year of the guaranteed portions of State government-guaranteed investments made by the bank that are not permanently impaired.

(3) Reduced premiums

The Corporation, in the sole discretion of the Corporation, may reduce by a percentage uniformly applied to all insured System banks the premium due from each insured System bank during any calendar year, as determined under paragraph (1).

(4) Definition of government-guaranteed loans or investments

In this section, the term ''government-guaranteed'', when applied to a loan or an investment, means a loan, credit, or investment, or portion of a loan, credit, or investment, that is guaranteed—

(A) by the full faith and credit of the United States Government or any State government;

(B) by an agency or other entity of the United States Government whose obliga-

tions are explicitly guaranteed by the United States Government; or

(C) by an agency or other entity of a State government whose obligations are explicitly guaranteed by such State government.

(b) Amount in Fund exceeding secure base amount

At any time the aggregate of amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the Corporation shall reduce the premium due from each insured System bank, as determined under subsection (a)(1) of this section, by a percentage determined by the Corporation so that the aggregate of the premiums payable by all System banks is sufficient to ensure that the aggregate of amounts in the Farm Credit Insurance Fund after such premiums are paid is not less than the secure base amount at such time.

(c) Secure base amount

(1) In general

For purposes of this part, the term ''secure base amount'' means, with respect to any point in time, 2 percent of the aggregate outstanding insured obligations of all insured System banks at such time (as adjusted under paragraph (2)), or such other percentage of the aggregate amount as the Corporation in its sole discretion determines is actuarially sound to maintain in the Insurance Fund taking into account the risk of insuring outstanding insured obligations.

(2) Adjustment

The aggregate outstanding insured obligations of all insured System banks under paragraph (1) shall be adjusted downward to exclude an amount equal to the sum of (as determined by the corporation)—

(A) 90 percent of each of—

(i) the guaranteed portions of principal outstanding on Federal government-guaranteed loans in accrual status made by the banks; and

(ii) the guaranteed portions of the amount of Federal government-guaranteed investments made by the banks that are not permanently impaired; and

(B) 80 percent of each of—

(i) the guaranteed portions of principal outstanding on State government-guaranteed loans in accrual status made by the banks; and

(ii) the guaranteed portions of the amount of State government-guaranteed investments made by the banks that are not permanently impaired.

(d) Determination of loan and investment amounts

For the purpose of subsections (a) and (c), the principal outstanding on all loans made by an insured System bank, and the amount outstanding on all investments made by an insured System bank, shall be determined based on—

(1) all loans or investments made by any production credit association, or any other association making direct loans under authority provided under section 2279b of this title, that is able to make such loans or investments because such association is receiving, or has received, funds provided through the insured System bank;

(2) all loans or investments made by any bank, company, institution, corporation, union, or association described in section 2015(b)(1)(B) of this title, that is able to make such loans or investments because such entity is receiving, or has received, funds provided through the insured System bank; and

(3) all loans or investments made by such insured System bank (other than loans made to any party described in paragraph (1) or (2)).

(e) Allocation to System institutions of excess reserves

(1) Establishment of Allocated Insurance Reserves Accounts

There is hereby established in the Farm Credit Insurance Fund an Allocated Insurance Reserves Account—

(A) for each insured System bank; and

(B) subject to paragraph (6)(C), for all holders, in the aggregate, of Financial Assistance Corporation stock.

(2) Treatment

Amounts in any Allocated Insurance Reserves Account shall be considered to be part of the Farm Credit Insurance Fund.

(3) Annual allocations

If, at the end of any calendar year, the aggregate of the amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the Corporation shall allocate to the Allocated Insurance Reserves Accounts the excess amount less the amount that the Corporation, in its sole discretion, determines to be the sum of the estimated operating expenses and estimated insurance obligations of the Corporation for the immediately succeeding calendar year.

(4) Allocation formula

From the total amount required to be allocated at the end of a calendar year under paragraph (3)—

(A) 10 percent of the total amount shall be credited to the Allocated Insurance Reserves Account established under paragraph (1)(B), subject to paragraph (6)(C); and

(B) there shall be credited to the allocated insurance reserves account[1] of each insured system[2] bank an amount that bears the same ratio to the total amount (less any amount credited under subparagraph (A)) as—

(i) the average principal outstanding for the calendar year on insured obligations issued by the bank (after deducting from the principal the percentages of the guaranteed portions of loans and investments described in subsection (a)(2)); bears to

(ii) the average principal outstanding for the calendar year on insured obligations issued by all insured System banks (after deducting from the principal the percent-

[1] So in original. Probably should be ''Allocated Insurance Reserves Account''.

[2] So in original. Probably should be ''System''.

ages of the guaranteed portions of loans and investments described in subsection (a)(2)).

(5) Use of funds in Allocated Insurance Reserves Accounts

To the extent that the sum of the operating expenses of the Corporation and the insurance obligations of the Corporation for a calendar year exceeds the sum of operating expenses and insurance obligations determined under paragraph (3) for the calendar year, the Corporation shall cover the expenses and obligations by—

(A) reducing each Allocated Insurance Reserves Account by the same proportion; and

(B) expending the amounts obtained under subparagraph (A) before expending other amounts in the Fund.

(6) Other disposition of Account funds

(A) In general

As soon as practicable during each calendar year, the Corporation may—

(i) subject to subparagraph (D), pay to each insured System bank, in a manner determined by the Corporation, an amount equal to the balance in the Allocated Insurance Reserves Account of the System bank; and

(ii) subject to subparagraphs (C) and (E), pay to each System bank and association holding Financial Assistance Corporation stock a proportionate share, determined by dividing the number of shares of Financial Assistance Corporation stock held by the institution by the total number of shares of Financial Assistance Corporation stock outstanding at the time of the termination of the Financial Assistance Corporation, of the balance in the Allocated Insurance Reserves Account established under paragraph (1)(B).

(B) Authority to eliminate or reduce payments

The Corporation may eliminate or reduce payments during a calendar year under subparagraph (A) if the Corporation determines, in its sole discretion, that the payments, or other circumstances that might require use of the Farm Credit Insurance Fund, could cause the amount in the Farm Credit Insurance Fund during the calendar year to be less than the secure base amount.

(C) Reimbursement for Financial Assistance Corporation stock

(i) Sufficient funding

Notwithstanding paragraph (4)(A), on provision by the Corporation for the accumulation in the Account established under paragraph (1)(B) of funds in an amount equal to $56,000,000, the Corporation shall not allocate any further funds to the Account except to replenish the Account if funds are diminished below $56,000,000 by the Corporation under paragraph (5).

(ii) Termination of account

On disbursement of an amount equal to $56,000,000, the Corporation shall—

(I) close the account established under paragraph (1)(B); and

(II) transfer any remaining funds in the Account to the remaining Allocated Insurance Reserves Accounts in accordance with paragraph (4)(B) for the calendar year in which the transfer occurs.

(D) Distribution of payments received

Not later than 60 days after receipt of a payment made under subparagraph (A)(i), each insured System bank, in consultation with affiliated associations of the insured System bank, and taking into account the direct or indirect payment of insurance premiums by the associations, shall develop and implement an equitable plan to distribute payments received under subparagraph (A)(i) among the bank and associations of the bank.

(E) Exception for previously reimbursed associations

For purposes of subparagraph (A)(ii), in any Farm Credit district in which the funding bank has reimbursed 1 or more affiliated associations of the bank for the previously unreimbursed portion of the Financial Assistance Corporation stock held by the associations, the funding bank shall be deemed to be the holder of the shares of Financial Assistance Corporation stock for which the funding bank has provided the reimbursement.

(Pub. L. 92–181, title V, § 5.55, as added Pub. L. 100–233, title III, § 302, Jan. 6, 1988, 101 Stat. 1612; amended Pub. L. 100–399, title III, § 302(c)–(e), Aug. 17, 1988, 102 Stat. 994; Pub. L. 101–220, § 6(a), Dec. 12, 1989, 103 Stat. 1879; Pub. L. 104–105, title II, § 215(a)(1), (2)(A), (b), (c), Feb. 10, 1996, 110 Stat. 175, 176, 179; Pub. L. 107–171, title V, § 5403(a)(1), May 13, 2002, 116 Stat. 350; Pub. L. 110–234, title V, § 5404, May 22, 2008, 122 Stat. 1154; Pub. L. 110–246, § 4(a), title V, § 5404, June 18, 2008, 122 Stat. 1664, 1916.)

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. (a)(1). Pub. L. 110–246, § 5404(a)(1)(A), in introductory provisions, substituted ''paragraph (3)'' for ''paragraph (2)'' and struck out ''annual'' before ''premium''.

Subsec. (a)(1)(A) to (D). Pub. L. 110–246, § 5404(a)(1)(B), added subpars. (A) and (B) and struck out former subpars. (A) to (D) which described how to calculate the annual premium due from an insured System bank.

Subsec. (a)(2) to (4). Pub. L. 110–246, § 5404(a)(2)–(6), added par. (2), redesignated former pars. (2) and (3) as (3) and (4), respectively, in par. (3), struck out ''annual'' before ''premium'', in par. (4), inserted ''or investments'' after ''loans'' in heading and, in introductory provisions, substituted ''In this section, the term 'government-guaranteed', when applied to a loan or an investment, means a loan, credit, or investment, or portion of a loan, credit, or investment, that is guaranteed—'' for ''As used in this section and section 2020(b) of this title, the term 'government-guaranteed loans' means loans or credits, or portions of loans or credits, that are guaranteed—'', and struck out former par. (4).

Prior to amendment, text read as follows: ''In this section and sections 2020(b) and 2277a–5(a) of this title, the term 'Government Sponsored Enterprise-guaranteed loan' means a loan or credit, or portion of a loan or credit, that is guaranteed by an entity that is chartered by Congress to serve a public purpose and the debt obligations of which are not explicitly guaranteed by the United States, including the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Bank System, and the Federal Agricultural Mortgage Corporation, but not including any other institution of the Farm Credit System.''

Subsec. (b). Pub. L. 110–246, § 5404(b), struck out ''annual'' before ''premium''.

Subsec. (c). Pub. L. 110–246, § 5404(c), designated existing provisions as par. (1), inserted heading, substituted ''(as adjusted under paragraph (2))'' for ''(adjusted downward to exclude an amount equal to the sum of (1) 90 percent of the guaranteed portions of principal outstanding on Federal Government-guaranteed loans in accrual status made by such banks and (2) 80 percent of the guaranteed portions of principal outstanding on State government-guaranteed loans in accrual status made by such banks, as determined by the Corporation)'', and added par. (2).

Subsec. (d). Pub. L. 110–246, § 5404(d)(1), (2), in heading, substituted ''loan and investment amounts'' for ''principal outstanding'' and, in introductory provisions, substituted ''For the purpose of subsections (a) and (c), the principal outstanding on all loans made by an insured System bank, and the amount outstanding on all investments made by an insured System bank, shall be determined based on—'' for ''For the purpose of subsections (a), (c), and (e) of this section, the principal outstanding on all loans made by an insured System bank shall be determined based on all loans made—''.

Subsec. (d)(1) to (3). Pub. L. 110–246, § 5404(d)(3), (4), in pars. (1) to (3), inserted ''all loans or investments made'' after par. designation and, in pars. (1) and (2), inserted ''or investments'' after ''such loans''.

Subsec. (e)(3). Pub. L. 110–246, § 5404(e)(1), substituted ''the secure base amount'' for ''the average secure base amount for the calendar year (as calculated on an average daily balance basis)''.

Subsec. (e)(4)(B). Pub. L. 110–246, § 5404(e)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: ''there shall be credited to the Allocated Insurance Reserves Account of each insured System bank an amount that bears the same ratio to the total amount (less any amount credited under subparagraph (A)) as the average principal outstanding for the 3-year period ending on the end of the calendar year on loans made by the bank that are in accrual status bears to the average principal outstanding for the 3-year period ending on the end of the calendar year on loans made by all insured System banks that are in accrual status (excluding, in each case, the guaranteed portions of loans described in subparagraph (C) or (D) of subsection (a)(1) of this section).''

Subsec. (e)(6)(A). Pub. L. 110–246, § 5404(e)(3)(A)(i), struck out ''beginning more than 8 years after the date on which the aggregate of the amounts in the Farm Credit Insurance Fund exceeds the secure base amount, but not earlier than January 1, 2005'' after ''calendar year'' in introductory provisions.

Subsec. (e)(6)(A)(i). Pub. L. 110–246, § 5404(e)(3)(A)(ii), added cl. (i) and struck out former cl. (i) which read as follows: ''subject to subparagraphs (D) and (F), pay to each insured System bank, in a manner determined by the Corporation, an amount equal to the lesser of—

''(I) 20 percent of the balance in the insured System bank's Allocated Insurance Reserves Account as of the preceding December 31; or

''(II) 20 percent of the balance in the bank's Allocated Insurance Reserves Account on the date of the payment; and''.

Subsec. (e)(6)(A)(ii). Pub. L. 110–246, § 5404(e)(3)(A)(iii), substituted ''subparagraphs (C) and (E)'' for ''subparagraphs (C), (E), and (F)'' and ''at the time of the termination of the Financial Assistance Corporation, of the balance in the Allocated Insurance Reserves Account established under paragraph (1)(B).'' for '', of the lesser of—

''(I) 20 percent of the balance in the Allocated Insurance Reserves Account established under paragraph (1)(B) as of the preceding December 31; or

''(II) 20 percent of the balance in the Allocated Insurance Reserves Account established under paragraph (1)(B) on the date of the payment.''

Subsec. (e)(6)(C)(i). Pub. L. 110–246, § 5404(e)(3)(B)(i), struck out ''(in addition to the amounts described in subparagraph (F)(ii))'' after ''an amount equal to $56,000,000''.

Subsec. (e)(6)(C)(ii). Pub. L. 110–246, § 5404(e)(3)(B)(ii), added cl. (ii) and struck out former cl. (ii) which related to wind down and termination of the Allocated Insurance Reserves Account established under subsec. (e)(1) of this section.

Subsec. (e)(6)(F). Pub. L. 110–246, § 5404(e)(3)(C), struck out subpar. (F) which related to determination of amount of initial payment made to each payee under subsec. (e)(6)(A) of this section.

2002—Subsec. (a)(1)(A). Pub. L. 107–171, § 5403(a)(1)(A)(i)(I), substituted ''loans provided for in subparagraphs (C) and (D)'' for ''government-guaranteed loans provided for in subparagraph (C)''.

Subsec. (a)(1)(D). Pub. L. 107–171, § 5403(a)(1)(A)(i)(II)–(IV), added subpar. (D).

Subsec. (a)(4). Pub. L. 107–171, § 5403(a)(1)(A)(ii), added par. (4).

Subsec. (e)(4)(B). Pub. L. 107–171, § 5403(a)(1)(B), substituted ''loans described in subparagraph (C) or (D) of subsection (a)(1) of this section'' for ''government-guaranteed loans described in subsection (a)(1)(C) of this section''.

1996—Subsec. (a). Pub. L. 104–105, § 215(a)(1)(A), substituted ''If at the end of any calendar year the aggregate of amounts in the Farm Credit Insurance Fund does not exceed the secure base amount, subject to paragraph (2), the annual premium due from any insured System bank for the calendar year'' for ''Until the aggregate of amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the annual premium due from any insured System bank for any calendar year''.

Subsec. (a)(2), (3). Pub. L. 104–105, § 215(a)(1)(B), (C), added par. (2) and redesignated former par. (2) as (3).

Subsec. (b). Pub. L. 104–105, § 215(a)(2)(A), substituted ''Farm Credit Insurance Fund'' for ''Insurance Fund'' in two places, and ''subsection (a)(1) of this section'' for ''subsection (a) of this section'', and struck out ''for the following calendar year'' after ''each insured System bank''.

Subsec. (d). Pub. L. 104–105, § 215(c), in introductory provisions, substituted ''subsections (a), (c), and (e) of this section'' for ''subsections (a) and (c) of this section'' and ''an insured System bank'' for ''a Farm Credit Bank'', and in pars. (1) through (3), substituted ''insured System bank'' for ''Farm Credit Bank''.

Subsec. (e). Pub. L. 104–105, § 215(b), added subsec. (e).

1989—Subsec. (a). Pub. L. 101–220, § 6(a)(1), added subsec. (a) and struck out former subsec. (a) which read as follows: ''Until the aggregate of amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the annual premium due from any insured System bank for any calendar year shall be equal to the sum of—

''(1) the annual average principal outstanding for such year on loans made by the bank that are in accrual status, multiplied by 0.0015; and

''(2) the annual average principal outstanding for such year on loans made by the bank that are in nonaccrual status, multiplied by 0.0025.''

Subsec. (b). Pub. L. 101–220, § 6(a)(2), inserted '', as determined under subsection (a) of this section,'' after ''calendar year''.

Subsec. (c). Pub. L. 101–220, § 6(a)(3), inserted ''(adjusted downward to exclude an amount equal to the sum of (1) 90 percent of the guaranteed portions of principal outstanding on Federal Government-guaranteed

loans in accrual status made by such banks and (2) 80 percent of the guaranteed portions of principal outstanding on State government-guaranteed loans in accrual status made by such banks, as determined by the Corporation)'' after ''such time''.

Subsec. (d). Pub. L. 101–220, § 6(a)(4), in introductory provisions, substituted ''subsections (a) and (c) of this section'' for ''subsection (a) of this section'' and struck out ''intermediate term'' after ''outstanding on all'', inserted par. (1), and struck out former par. (1) which read as follows: ''by the production credit associations in the district in which such bank is located;''.

1988—Subsec. (d). Pub. L. 100–399, § 302(c), substituted in introductory provisions ''intermediate term loans made by a Farm Credit Bank'' for ''loans made by a Federal intermediate credit bank''.

Subsec. (d)(2). Pub. L. 100–399, § 302(d), (e), substituted ''section 2015(b)(1)(B) of this title'' for ''section 2074(a)(2) of this title'' and ''Farm Credit Bank'' for ''Federal intermediate credit bank''.

Subsec. (d)(3). Pub. L. 100–399, § 302(e), substituted ''Farm Credit Bank'' for ''Federal intermediate credit bank''.

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 Title 7, Agriculture.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–171 applicable with respect to determinations of premiums for calendar year 2002 and for any succeeding calendar year, and to certified statements with respect to such premiums, see section 5403(b) of Pub. L. 107–171, set out as a note under section 2020 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–220 effective for insurance premiums due to the Farm Credit System Insurance Corporation under this chapter on or after Jan. 1, 1990, based on the loan volume of each bank for each calendar year beginning with calendar year 1989, and effective for the calculation of the initial premium payment required under section 2277a–5(c) of this title, see section 6(c) of Pub. L. 101–220, set out as a note under section 2020 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100–399, set out as a note under section 2002 of this title.

GAO REPORTS ON RISK-BASED INSURANCE PREMIUMS, ACCESS TO ASSOCIATION CAPITAL, SUPPLEMENTAL PREMIUMS, AND CONSOLIDATION

Pub. L. 102–552, title II, § 204, Oct. 28, 1992, 106 Stat. 4106, as amended by Pub. L. 104–316, title I, § 106(e), Oct. 19, 1996, 110 Stat. 3831, provided that:

''(a) IN GENERAL.—The Comptroller General of the United States may investigate, review, and evaluate the feasibility and appropriateness, and report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on the advantages and disadvantages of providing the Farm Credit System Insurance Corporation with—

''(1) the authority to directly or indirectly assess associations to ensure that all System capital is available to prevent losses to investors, including a study of—

''(A) the effects of direct assessments by the Insurance Corporation on associations, including interest rate charges to borrowers;

''(B) the effects of requiring that banks pass along the cost of insurance premiums to owner associations and other financing institutions having a discount relationship with the bank;

''(C) the effects of requiring owner associations to purchase stock in the district bank, if needed, to prevent a bank from having to return to the Insurance Corporation for financial assistance once the assistance has been given;

''(D) the effects of the purchase of stock from funds of the association (through funds obtained from other than the district bank) or allowing the bank to increase the direct line of credit to the association in order to fund the purchase; and

''(E) the effect that authorizing the Insurance Corporation to assess the association could have on the association's incentives for building capital;

''(2) the authority to collect supplemental insurance premiums under certain circumstances, including a study of—

''(A) the possibility of the Insurance Fund being depleted more rapidly than it could be replenished under the current premium structure;

''(B) the effects of the depletion under alternate economic scenarios and the probability of the occurrence of each of those scenarios;

''(C) the effects on capital accumulation and interest rates of levying a supplemental premium; and

''(D) limitations on any authority to levy supplemental premiums and the underlying basis for the limitations; and

''(3) the authority to establish an insurance premium rate structure that would take into account, on an institution-by-institution basis, asset quality risk, interest rate risk, earnings, and capital.

''(b) REPORT ON CONSOLIDATION.—

''(1) IN GENERAL.—The Comptroller General of the United States shall evaluate and report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on whether there are likely to be benefits to farmer and rancher borrowers of the Farm Credit System institutions of merging the 10 district Farm Credit Banks (and the Federal Intermediate Credit Bank of Jackson) into fewer regional Farm Credit Banks.

''(2) FACTORS.—In preparing the report, the Comptroller General shall consider—

''(A) the potential reduction in services to farmers and ranchers;

''(B) the potential benefits of jointly providing services to farmers and ranchers among these proposed regional districts;

''(C) any economy of scale effects on a district-by-district basis;

''(D) the potential impact on the cooperative nature of the Farm Credit System;

''(E) the potential impact on bank and association relationships; and

''(F) the potential impact on System-wide bond issuances.

''(c) POTENTIAL SAVINGS.—The Comptroller General of the United States shall evaluate and report to the appropriate committees of Congress on the potential savings to the Farm Credit System and its shareholders that might occur if System institutions and the Farm Credit Administration were required to comply with General Services Administration standards for office space, furniture, and equipment.

''(d) DEADLINE.—The reports required under this section shall be provided to Congress not later than 12 months after the date of enactment of this Act [Oct. 28, 1992].''

§ 2277a–5. Certification of premiums

(a) Filing certified statement

On a date to be determined in the sole discretion of the Board of Directors of the Corporation, each insured System bank that became in-

sured before the beginning of the period for which premiums are being assessed (referred to in this section as the ''period'') shall file with the Corporation a certified statement showing—

(1) the average outstanding insured obligations for the period issued by the bank;

(2)(A) the average principal outstanding for the period on the guaranteed portion of Federal government-guaranteed loans that are in accrual status; and

(B) the average amount outstanding for the period of Federal government-guaranteed investments that are not permanently impaired (as defined in section 2277a–4(a)(4) of this title);

(3)(A) the average principal outstanding for the period on State government-guaranteed loans that are in accrual status; and

(B) the average amount outstanding for the period of State government-guaranteed investments that are not permanently impaired (as defined in section 2277a–4(a)(4) of this title);

(4)(A) the average principal outstanding for the period on loans that are in nonaccrual status; and

(B) the average amount outstanding for the period of other-than-temporarily impaired investments; and

(5) the amount of the premium due the Corporation from the bank for the period.

(b) Contents and form of statement

The certified statement required to be filed with the Corporation under subsection (a) of this section shall be in such form and set forth such supporting information as the Board of Directors shall prescribe, and shall be certified by the president of the bank or any other officer designated by its board of directors that to the best of the person's knowledge and belief the statement is true, correct, complete, and has been prepared in accordance with this part and all regulations issued thereunder.

(c) Premium payments

(1) In general

Except as provided in paragraph (2), each insured System bank shall pay to the Corporation the premium payments required under subsection (a), not more frequently than once in each calendar quarter, in such manner and at such 1 or more times as the Board of Directors shall prescribe.

(2) Premium amount

The amount of the premium shall be established not later than 60 days after filing the certified statement specifying the amount of the premium.

(d) Regulations

The Board of Directors shall prescribe all rules and regulations necessary for the enforcement of this section. The Board of Directors may limit the retroactive effect, if any, of any of its rules or regulations.

(Pub. L. 92–181, title V, § 5.56, as added Pub. L. 100–233, title III, § 302, Jan. 6, 1988, 101 Stat. 1612; amended Pub. L. 100–399, title III, § 302(f), Aug. 17, 1988, 102 Stat. 994; Pub. L. 101–624, title XVIII, § 1835, Nov. 28, 1990, 104 Stat. 3833; Pub. L. 104–105, title II, § 215(a)(2)(B), Feb. 10, 1996, 110 Stat. 176; Pub. L. 107–171, title V, § 5403(a)(2)(B), May 13, 2002, 116 Stat. 351; Pub. L. 110–234, title V, § 5405, May 22, 2008, 122 Stat. 1157; Pub. L. 110–246, § 4(a), title V, § 5405, June 18, 2008, 122 Stat. 1664, 1919.)

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. (a). Pub. L. 110–246, § 5405(a), added subsec. (a) and struck out former subsec. (a) which related to the required annual filing of a certified statement from each insured System bank that became insured before the beginning of the year.

Subsec. (c). Pub. L. 110–246, § 5405(b), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: ''Each System bank shall pay to the Corporation the amount of the initial premium it is required to certify under subsection (a) of this section as soon as practicable after January 1, 1990, based on the application of section 2277a–4 of this title to the accruing loan volume of the bank for calendar year 1989.''

Subsecs. (d), (e). Pub. L. 110–246, § 5405(c), redesignated subsec. (e) as (d) and struck out former subsec. (d). Prior to amendment, text read as follows: ''The premium payments required from insured System banks under subsection (a) of this section shall be made not less frequently than annually in such manner and at such time or times as the Board of Directors shall prescribe, except that the amount of the premium shall be established not later than 60 days after filing the certified statement setting forth the amount of the premium.''

2002—Subsec. (a)(1). Pub. L. 107–171, § 5403(a)(2)(B)(i), inserted ''and Government Sponsored Enterprise-guaranteed loans (as defined in section 2277a–4(a)(4) of this title)'' after ''government-guaranteed loans''.

Subsec. (a)(4) to (6). Pub. L. 107–171, § 5403(a)(2)(B)(ii), (iii), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

1996—Subsec. (a)(2), (3). Pub. L. 104–105 substituted ''2277a–4(a)(3) of this title'' for ''2277a–4(a)(2) of this title''.

1990—Subsec. (a). Pub. L. 101–624 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Annually, on a date to be determined in the sole discretion of the Board of Directors, each insured System bank that became insured before the beginning of the year shall file with the Corporation a certified statement showing the annual average principal outstanding on loans made by the bank that are in accrual status, the annual average principal outstanding on loans that are in nonaccrual status, and the amount of the premium due the Corporation from the bank for such year.''

1988—Subsec. (a). Pub. L. 100–399 substituted ''of the year'' for ''of such year''.

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 Title 7, Agriculture.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–171 applicable with respect to determinations of premiums for calendar year 2002 and for any succeeding calendar year, and to certified statements with respect to such premiums, see section 5403(b) of Pub. L. 107–171, set out as a note under section 2020 of this title.

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.

§ 2277a–6. Overpayment and underpayment of premiums; remedies

(a) Overpayments

The Corporation may refund to any insured System bank any premium payment made by the bank exceeding the amount due the Corporation.

(b) Underpayments

(1) Recovery

The Corporation, in a suit brought at law or in equity in any court of competent jurisdiction, may recover from any insured System bank the amount of any unpaid premium lawfully payable by the bank to the Corporation, whether or not the bank has filed any certified statement under section 2277a–5 of this title, and whether or not suit has been brought to compel the bank to file any such statement.

(2) Limitation

Any action or proceeding for the recovery of any premium due the Corporation under paragraph (1), or for the recovery of any amount paid to the Corporation exceeding the amount due the Corporation, shall be brought within 5 years after the right accrued for which the claim is made. If an insured System bank has filed with the Corporation a false or fraudulent certified statement with the intent to evade, in whole or in part, the payment of a premium, the claim shall not be deemed to have accrued until the Corporation discovers that the certified statement is false or fraudulent.

(c) Failure to file statement or pay premium

(1) Forfeiture of rights

If any insured System bank fails to file any certified statement required to be filed by such bank under section 2277a–5 of this title or fails to pay any premium required to be paid by such bank under any provision of this part, and if the bank does not correct such failure within 30 days after the Corporation gives written notice to an officer of the bank, citing this subsection and stating that the bank has failed to so file or pay as required by law, all the rights, privileges, and franchises of the bank granted to it under this chapter shall be thereby forfeited.

(2) Enforcement

The Corporation may bring an action to enforce this subsection against any such bank in any court of competent jurisdiction for the judicial district in which the bank is located.

(3) Liability of directors

Every director who participated in or assented to a failure (described in paragraph (1)) shall be held personally liable for all consequential damages.

(d) Effect on other remedies

The remedies provided in subsections (b) and (c) of this section shall not be construed as limiting any other remedies against any insured System bank, but shall be in addition thereto.

(Pub. L. 92–181, title V, § 5.57, as added Pub. L. 100–233, title III, § 302, Jan. 6, 1988, 101 Stat. 1613; amended Pub. L. 100–399, title III, § 302(g), (h), Aug. 17, 1988, 102 Stat. 994.)

AMENDMENTS

1988—Subsec. (b)(1). Pub. L. 100–399, § 302(g), struck out ''made any report of condition required under section 2277a–4 of this title or'' after ''bank has'' and ''make any such report or'' after ''bank to''.

Subsec. (b)(2). Pub. L. 100–399, § 302(h), substituted ''bank has filed'' for ''bank has made or filed''.

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.

§ 2277a–7. General corporate powers

On January 6, 1988, the Corporation shall become a body corporate and as such shall have the following powers:

(1) Seal

The Corporation may adopt and use a corporate seal.

(2) Succession

The Corporation may have succession until dissolved by an Act of Congress. The Corporation shall succeed to the rights of the Farm Credit System Assistance Board under agreements between the Farm Credit System Assistance Board and System institutions certifying the institutions as eligible to issue preferred stock pursuant to subchapter VI of this chapter on the termination of the Assistance Board on the date provided in section 2278a–12 of this title.

(3) Contracts

The Corporation may make contracts.

(4) Legal actions

(A) In general

The Corporation may sue and be sued, complain and defend, in any court of law or equity, State or Federal.

(B) Jurisdiction

All suits of a civil nature at common law or in equity to which the Corporation shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction thereof, without regard to the amount in controversy, and the Corporation, in any capacity, without bond or security, may remove any such action, suit, or proceeding from a State court to the United States district court for the district or division embracing the place where the same is pending by following any procedure for removal then in effect.

(C) Attachment and execution

No attachment or execution may be issued against the Corporation or its property before final judgment in any suit, action, or proceeding in any State, county, municipal, or United States court.

(D) Agent for service of process

The Board of Directors shall designate an agent on whom service of process may be

made in any State or jurisdiction in which any insured System bank is located.

(5) Officers and employees

(A) In general

The Corporation may appoint by its Board of Directors such officers and employees as are not otherwise provided for in this part, define their duties, fix their compensation, and require bonds of them and fix the penalty thereof, and dismiss at pleasure such officers or employees.

(B) Employees of the United States

Nothing in this chapter or any other Act shall be construed to prevent the appointment and compensation, as an officer or employee of the Corporation, of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof.

(6) Bylaws

The Corporation may prescribe, by its Board of Directors, bylaws not inconsistent with law, regulating the manner in which its general business may be conducted, and the privileges granted to it by law may be exercised and enjoyed.

(7) Incidental powers

The Corporation may exercise by its Board of Directors, or duly authorized officers or agents, all powers specifically granted by the provisions of this part, and such incidental powers as shall be necessary to carry out the powers so granted.

(8) Information

The Corporation may, when necessary, make examinations of, and require information and reports from, System institutions, as provided in this part.

(9) Conservator or receiver

The Corporation may act as a conservator or receiver.

(10) Rules and regulations

The Corporation may prescribe by its Board of Directors such rules and regulations as it considers necessary to carry out this part and section 2020(b) of this title (except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to any other regulatory agency).

(Pub. L. 92–181, title V, § 5.58, as added Pub. L. 100–233, title III, § 302, Jan. 6, 1988, 101 Stat. 1614; amended Pub. L. 100–399, title III, § 302(i), Aug. 17, 1988, 102 Stat. 994; Pub. L. 102–237, title V, § 502(j), Dec. 13, 1991, 105 Stat. 1869; Pub. L. 102–552, title II, § 202(a), Oct. 28, 1992, 106 Stat. 4105; Pub. L. 104–105, title II, § 214(b), Feb. 10, 1996, 110 Stat. 175; Pub. L. 110–234, title V, § 5401(b), May 22, 2008, 122 Stat. 1154; Pub. L. 110–246, § 4(a), title V, § 5401(b), June 18, 2008, 122 Stat. 1664, 1915.)

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—Par. (10). Pub. L. 110–246, § 5401(b), inserted ''and section 2020(b) of this title'' after ''this part''.

1996—Par. (9). Pub. L. 104–105 added par. (9) and struck out heading and text of former par. (9). Text read as follows: ''The Corporation may act as receiver.''

1992—Par. (2). Pub. L. 102–552 inserted at end ''The Corporation shall succeed to the rights of the Farm Credit System Assistance Board under agreements between the Farm Credit System Assistance Board and System institutions certifying the institutions as eligible to issue preferred stock pursuant to subchapter VI of this chapter on the termination of the Assistance Board on the date provided in section 2278a–12 of this title.''

1991—Par. (4)(B). Pub. L. 102–237 inserted ''in any capacity,'' after ''and the Corporation,''.

1988—Par. (5)(A). Pub. L. 100–399 struck out ''to'' before ''define'' and ''dismiss''.

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 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.

§ 2277a–8. Conduct of corporate affairs; examination of System institutions

(a) Conduct of corporate affairs

(1) Fair administration

The Board of Directors shall administer the affairs of the Corporation fairly and impartially and without discrimination.

(2) Obligations and expenses

The Board of Directors shall determine and prescribe the manner in which the obligations of the Corporation may be incurred and the expenses of the Corporation may be allowed and paid.

(3) Use of mails

The Corporation may use the United States mails in the same manner and under the same conditions as the executive departments of the Federal Government.

(4) Use of information

The Corporation, with the consent of any board, commission, independent establishment, or executive department of the Federal Government, including any field service thereof, may avail itself of the use of information, services, and facilities thereof in carrying out this part.

(5) Use of Farm Credit Administration personnel

To the extent practicable, the Corporation shall use the personnel and resources of the Farm Credit Administration to minimize duplication of effort and to reduce costs.

(b) Examination of System institutions

(1) Examination authority

(A) In general

If the Board of Directors considers it necessary to examine an insured System bank,

a production credit association, an association making direct loans under the authority provided under section 2279b of this title, or any System institution in receivership, the Board may, using Farm Credit Administration examiners, conduct the examination using reports and other information on the System institution prepared or held by the Farm Credit Administration. Notwithstanding any other provision of this chapter, on cancellation of the charter of a System institution, the Corporation shall have authority to examine the system[1] institution in receivership. An examination shall be performed at such intervals as the Corporation shall determine.

(B) Request for additional examination or other information

If the Board determines that such reports or information are not adequate to enable the Corporation to carry out the duties of the Corporation under this subsection, the Board shall request the Farm Credit Administration to examine or to obtain other information from or about the System institution and provide to the Corporation the resulting examination report or such other information.

(2) Appointment of examiners

If the Farm Credit Administration informs the Corporation that the Farm Credit Administration is unable to comply with a request made under paragraph (1)(B) with respect to a System institution, the Board may appoint examiners to examine the institution.

(3) Powers and report

Each examiner appointed under paragraph (2) shall make such examination of the affairs of the System institution as the Board may direct, and shall make a full and detailed report of the examination to the Corporation.

(4) Appointment of claim agents

The Board of Directors of the Corporation shall appoint claim agents who may investigate and examine all claims for insured obligations.

(c) Oath, affirmations, and testimony

In connection with examinations under this section, the Corporation or its designated representatives may administer oaths and affirmations, and may examine, take, and preserve testimony under oath, as to any matter with respect to the affairs of any such institution.

(d) Cooperation with FCA examiners

The examiners appointed by the Board of Directors shall cooperate to the maximum extent possible with examiners of the Farm Credit Administration to minimize duplication of effort and minimize costs.

(Pub. L. 92–181, title V, § 5.59, as added Pub. L. 100–233, title III, § 302, Jan. 6, 1988, 101 Stat. 1615; amended Pub. L. 101–220, § 6(b)(3), Dec. 12, 1989, 103 Stat. 1880; Pub. L. 102–552, title II, § 203, title V, § 513(a), Oct. 28, 1992, 106 Stat. 4106, 4133; Pub. L. 104–105, title II, § 216, Feb. 10, 1996, 110 Stat. 179.)

[1] So in original. Probably should be capitalized.

AMENDMENTS

1996—Subsec. (b)(1)(A). Pub. L. 104–105 inserted at end ''Notwithstanding any other provision of this chapter, on cancellation of the charter of a System institution, the Corporation shall have authority to examine the system institution in receivership. An examination shall be performed at such intervals as the Corporation shall determine.''

1992—Pub. L. 102–552, § 513(a)(1), substituted ''System institutions'' for ''insured System banks'' in section catchline.

Subsec. (a)(5). Pub. L. 102–552, § 203, added par. (5).

Subsec. (b). Pub. L. 102–552, § 513(a)(2), added subsec. (b) and struck out former subsec. (b) which read as follows: ''(b) EXAMINATION OF INSURED SYSTEM BANKS.—

''(1) APPOINTMENT OF EXAMINERS.—The Board of Directors may appoint examiners who may, on behalf of the Corporation, examine any insured System bank, any production credit association, any other association making direct loans under authority provided under section 2279b of this title, and any System institution in receivership, if in the judgment of the Board of Directors an examination of the institution is necessary.

''(2) POWERS AND REPORT.—Each examiner may make a thorough examination of all affairs of the institution, and shall make a full and detailed report of the condition of the institution to the Corporation.

''(3) APPOINTMENT OF CLAIM AGENTS.—The Board of Directors, in like manner, shall appoint claim agents who may investigate and examine all claims for insured obligations.''

1989—Subsec. (b)(1). Pub. L. 101–220 inserted ''any other association making direct loans under authority provided under section 2279b of this title,'' after ''any production credit association,''.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–220 effective for insurance premiums due to the Farm Credit System Insurance Corporation under this chapter on or after Jan. 1, 1990, based on the loan volume of each bank for each calendar year beginning with calendar year 1989, and effective for the calculation of the initial premium payment required under section 2277a–5(c) of this title, see section 6(c) of Pub. L. 101–220, set out as a note under section 2020 of this title.

§ 2277a–9. Insurance Fund

(a) Establishment

There is hereby established a Farm Credit Insurance Fund (hereinafter referred to in this section as the ''Insurance Fund'') for insuring the timely payment of principal and interest on insured obligations. The assets in the Fund shall be held by the Corporation for the uses and purposes of the Corporation.

(b) Amounts in Fund

(1) Revolving fund

All amounts in the revolving fund established by section 2151 of this title shall be transferred into the Farm Credit Insurance Fund on January 1, 1989, or 12 months after January 6, 1988, whichever is later, except that the obligations to, and rights of, any person in such revolving fund arising out of any event or transaction before January 6, 1988, shall remain unimpaired.

(2) Deposit of premiums

The Corporation shall deposit in the Insurance Fund all premium payments received by the Corporation under this part.

(c) Uses of Fund

(1) Mandatory use

Beginning January 1, 1993, the Corporation shall expend amounts in the Insurance Fund to the extent necessary to insure the timely payment of interest and principal on insured obligations.

(2) Other mandatory uses

Beginning January 1, 1993, the Corporation shall use amounts in the Insurance Fund to—

(A) satisfy System institution defaults through the purchase of preferred stock or other payments as provided for in section 2278b–6(d)(3) of this title; and

(B) ensure the retirement of eligible borrower stock at par value under section 2162 of this title.

(3) Permissive uses

The Corporation may expend amounts in the Insurance Fund to carry out section 2277a–10 of this title and to cover the operating costs of the Corporation.

(4) Corporate payment or refunds

The Corporation shall make all payments and refunds required to be made by the Corporation under this part from amounts in the Insurance Fund.

(Pub. L. 92–181, title V, § 5.60, as added Pub. L. 100–233, title III, § 302, Jan. 6, 1988, 101 Stat. 1616; amended Pub. L. 100–399, title III, § 302(j)–(*l*), Aug. 17, 1988, 102 Stat. 994; Pub. L. 101–624, title XVIII, § 1836(a), Nov. 28, 1990, 104 Stat. 3833.)

AMENDMENTS

1990—Subsec. (c)(1), (2). Pub. L. 101–624 substituted ''January 1, 1993'' for ''5 years after the date of the enactment of this part'' in par. (1) and for ''5 years after the date of enactment of this part'' in par. (2).

1988—Subsec. (b)(1). Pub. L. 100–399, § 302(j), struck out ''(in effect immediately before January 6, 1988)'' after ''section 2151 of this title''.

Subsec. (b)(2). Pub. L. 100–399, § 302(k), substituted ''The'' for ''Beginning 5 years after January 6, 1988, the''.

Subsec. (c)(2)(B). Pub. L. 100–399, § 302(*l*), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''ensure the retirement of borrower stock at par value and participation certificates or other similar equities at face value as provided for under section 2162(c)(2) of this title.''

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.

§ 2277a–10. Powers of Corporation with respect to troubled insured System banks

(a) Authority to provide assistance

(1) Stand-alone assistance

The Corporation, in its sole discretion and on such terms and conditions as the Board of Directors may prescribe, may make loans to, purchase the assets or securities of, assume the liabilities of, or make contributions to, any insured System bank if such action is taken—

(A) to prevent the placing of the bank in receivership;

(B) to restore the bank to normal operation; or

(C) to reduce the risk to the Corporation posed by the bank when severe financial conditions threaten the stability of a significant number of insured System banks or of insured System banks possessing significant financial resources.

(2) Facilitation of mergers or consolidation

(A) In general

To facilitate a merger or consolidation of a qualifying insured System bank, the sale of assets of such insured System bank to another insured System bank, the assumption of such insured System bank's liabilities by such other insured System bank, or the acquisition of the stock of such insured System bank by such other insured System bank, the Corporation, in its sole discretion and on such terms and conditions as the Board of Directors may prescribe, may—

(i) purchase any such assets or assume any such liabilities;

(ii) make loans or contributions to, or purchase debt securities of, such other insured System bank;

(iii) guarantee such other insured System bank against loss by reason of such other insured System bank's merging or consolidating with, or assuming the liabilities and purchasing the assets of, such insured System bank; or

(iv) take any combination of the actions referred to in the preceding clauses.

(B) Qualifying insured System bank

For purposes of subparagraph (A), the term ''qualifying insured System bank'' means any insured System bank that—

(i) is in receivership;

(ii) is, in the judgment of the Board of Directors, in danger of being placed in receivership; or

(iii) is, in the sole discretion of the Corporation, an insured System bank that, when severe financial conditions exist that threaten the stability of a significant number of insured System banks or of insured System banks possessing significant financial resources, requires assistance under subparagraph (A) to lessen the risk to the Corporation posed by such insured System bank under such threat of instability.

(3) Limitation

(A) Least-cost resolution

Assistance may not be provided to an insured System bank under this subsection unless the means of providing the assistance is the least costly means of providing the assistance by the Farm Credit Insurance Fund of all possible alternatives available to the Corporation, including liquidation of the bank (including paying the insured obligations issued on behalf of the bank). Before making a least-cost determination under this subparagraph, the Corporation shall accord such other insured System banks as the Corporation determines to be appropriate

the opportunity to submit information relating to the determination.

(B) Determining least costly approach

In determining the least costly alternative under subparagraph (A), the Corporation shall—

(i) evaluate alternatives on a present-value basis, using a reasonable discount rate;

(ii) document the evaluation and the assumptions on which the evaluation is based; and

(iii) retain the documentation for not less than 5 years.

(C) Time of determination

(i) General rule

For purposes of this subsection, the determination of the costs of providing any assistance under any provision of this section with respect to any insured System bank shall be made as of the date on which the Corporation makes the determination to provide the assistance to the institution under this section.

(ii) Rule for liquidations

For purposes of this subsection, the determination of the costs of liquidation of any insured System bank shall be made as of the earliest of—

(I) the date on which a conservator is appointed for the insured System bank;

(II) the date on which a receiver is appointed for the insured System bank; or

(III) the date on which the Corporation makes any determination to provide any assistance under this section with respect to the insured System bank.

(D) Rule for stand-alone assistance

Before providing any assistance under paragraph (1), the Corporation shall evaluate the adequacy of managerial resources of the insured System bank. The continued service of any director or senior ranking officer who serves in a policymaking role for the assisted insured System bank, as determined by the Corporation, shall be subject to approval by the Corporation as a condition of assistance.

(E) Discretionary determinations

Any determination that the Corporation makes under this paragraph shall be in the sole discretion of the Corporation.

(F) Purchase of stock

The Corporation may not use its authority under this subsection to purchase any stock of an insured System bank. The preceding sentence shall not be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect the financial interests of the Corporation.

(4) Subordination

Any assistance provided under this subsection may be in subordination to the rights of owners of obligations and other creditors.

(5) Reports

The Corporation, in its annual report to Congress, shall report the total amount saved, or it estimates to be saved, by the Corporation exercising the authority provided to the Corporation in this subsection.

(b) Authority to pledge or sell assets

The Corporation, in its discretion, may make loans on the security of, or may purchase, and liquidate or sell, any part of the assets of, any insured System bank that is placed in receivership because of the inability of the bank to pay principal or interest on any of its notes, bonds, debentures, or other obligations in a timely manner.

(c) Subrogation

(1) In general

On the payment to an owner of an insured obligation issued on behalf of an insured System bank in receivership, the Corporation shall be subrogated to all rights of the owner against the bank to the extent of the payment.

(2) Receipt of dividends

Subrogation under paragraph (1) shall include the right on the part of the Corporation to receive the same dividends from the proceeds of the assets of the bank as would have been payable to the owner on a claim for the insured obligation.

(d) Right to assets

Any agreement that shall diminish or defeat the right, title, or interest of the Corporation in any asset acquired by such Corporation under this section, either as security for a loan or by purchase, shall not be valid against the Corporation unless the agreement—

(1) is in writing;

(2) is executed by the bank and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the bank;

(3) has been approved by the board of directors of the bank or its loan committee, which approval shall be reflected in the minutes of the board or committee; and

(4) has been, continuously, from the time of its execution, an official record of the bank.

(e) Insured System bank

As used in this section, the terms ''insured System bank'' and ''bank'' include each production credit association and other association making direct loans under the authority provided under section 2279b of this title.

(f) Effective date

The Corporation shall not exercise any authority under this section during the 5-year period prior to January 1, 1993.

(Pub. L. 92–181, title V, § 5.61, as added Pub. L. 100–233, title III, § 302, Jan. 6, 1988, 101 Stat. 1616; amended Pub. L. 101–220, § 6(b)(4), Dec. 12, 1989, 103 Stat. 1880; Pub. L. 101–624, title XVIII, § 1836(b), Nov. 28, 1990, 104 Stat. 3833; Pub. L. 104–105, title II, § 217, Feb. 10, 1996, 110 Stat. 179.)

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–105, § 217(b)(1), substituted ''Stand-alone assistance'' for ''In general'' in par. heading.

Subsec. (a)(2). Pub. L. 104–105, § 217(b)(2)(A), substituted ''Facilitation of mergers or consolidation'' for ''Enumerated powers'' in par. heading.

Subsec. (a)(2)(A). Pub. L. 104–105, § 217(b)(2)(B), substituted ''In general'' for ''Facilitation of mergers or consolidation'' in subpar. heading.

Subsec. (a)(3)(A). Pub. L. 104–105, § 217(a)(2), added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: ''Assistance shall not be provided to an insured System bank under this subsection if the amount of such assistance exceeds an amount determined by the Corporation to be the cost of liquidating the bank (including paying the insured obligations issued on behalf of the bank). This subparagraph shall not apply to the provision of assistance to a bank if the Corporation determines that the continued operation of the bank is essential to provide adequate agricultural credit services in the area of operations of the bank.''

Subsec. (a)(3)(B) to (F). Pub. L. 104–105, § 217(a), added subpars. (B) to (E) and redesignated former subpar. (B) as (F).

1990—Subsec. (f). Pub. L. 101–624 substituted ''prior to January 1, 1993'' for ''beginning on the date of the enactment of this part''.

1989—Subsec. (e). Pub. L. 101–220 inserted ''and other association making direct loans under the authority provided under section 2279b of this title,'' after ''production credit association''.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–220 effective for insurance premiums due to the Farm Credit System Insurance Corporation under this chapter on or after Jan. 1, 1990, based on the loan volume of each bank for each calendar year beginning with calendar year 1989, and effective for the calculation of the initial premium payment required under section 2277a–5(c) of this title, see section 6(c) of Pub. L. 101–220, set out as a note under section 2020 of this title.

§ 2277a–10a. Oversight actions by Corporation

(a) "Institution" defined

In this section, the term ''institution'' means—

(1) an insured System bank; and

(2) a production credit association or other association making loans under section 2279b of this title with a direct loan payable to the funding bank of the association that comprises 20 percent or more of the funding bank's total loan volume net of nonaccrual loans.

(b) Consultation regarding participation of undercapitalized banks in issuance of insured obligations

The Farm Credit Administration shall consult with the Corporation prior to approving an insured obligation that is to be issued by or on behalf of, or participated in by, any insured System bank that fails to meet the minimum level for any capital requirement established by the Farm Credit Administration for the bank.

(c) Consultation regarding applications for mergers and restructurings

(1) Corporation to receive copy of transaction applications

On receiving an application for a merger or restructuring of an institution, the Farm Credit Administration shall forward a copy of the application to the Corporation.

(2) Consultation required

If the proposed merger or restructuring involves an institution that fails to meet the minimum level for any capital requirement established by the Farm Credit Administration applicable to the institution, the Farm Credit Administration shall allow 30 days within which the Corporation may submit the views and recommendations of the Corporation, including any conditions for approval. In determining whether to approve or disapprove any proposed merger or restructuring, the Farm Credit Administration shall give due consideration to the views and recommendations of the Corporation.

(Pub. L. 92–181, title V, § 5.61A, as added Pub. L. 104–105, title II, § 218, Feb. 10, 1996, 110 Stat. 180.)

§ 2277a–10b. Authority to regulate golden parachute and indemnification payments

(a) Definitions

In this section:

(1) Golden parachute payment

The term ''golden parachute payment''—

(A) means a payment (or any agreement to make a payment) in the nature of compensation for the benefit of any institution-related party under an obligation of any Farm Credit System institution that—

(i) is contingent on the termination of the party's relationship with the institution; and

(ii) is received on or after the date on which—

(I) the institution is insolvent;

(II) a conservator or receiver is appointed for the institution;

(III) the institution has been assigned by the Farm Credit Administration a composite CAMEL rating of 4 or 5 under the Farm Credit Administration Rating System, or an equivalent rating; or

(IV) the Corporation otherwise determines that the institution is in a troubled condition (as defined in regulations issued by the Corporation); and

(B) includes a payment that would be a golden parachute payment but for the fact that the payment was made before the date referred to in subparagraph (A)(ii) if the payment was made in contemplation of the occurrence of an event described in any subclause of subparagraph (A); but

(C) does not include—

(i) a payment made under a retirement plan that is qualified (or is intended to be qualified) under section 401 of title 26 or other nondiscriminatory benefit plan;

(ii) a payment made under a bona fide supplemental executive retirement plan, deferred compensation plan, or other arrangement that the Corporation determines, by regulation or order, to be permissible; or

(iii) a payment made by reason of the death or disability of an institution-related party.

(2) Indemnification payment

The term ''indemnification payment'' means a payment (or any agreement to make a payment) by any Farm Credit System institution for the benefit of any person who is or was an institution-related party, to pay or reimburse

the person for any liability or legal expense with regard to any administrative proceeding or civil action instituted by the Farm Credit Administration that results in a final order under which the person—

(A) is assessed a civil money penalty; or

(B) is removed or prohibited from participating in the conduct of the affairs of the institution.

(3) Institution-related party

The term ''institution-related party'' means—

(A) a director, officer, employee, or agent for a Farm Credit System institution or any conservator or receiver of such an institution;

(B) a stockholder (other than another Farm Credit System institution), consultant, joint venture partner, or any other person determined by the Farm Credit Administration to be a participant in the conduct of the affairs of a Farm Credit System institution; and

(C) an independent contractor (including any attorney, appraiser, or accountant) that knowingly or recklessly participates in any violation of any law or regulation, any breach of fiduciary duty, or any unsafe or unsound practice that caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the Farm Credit System institution.

(4) Liability or legal expense

The term ''liability or legal expense'' means—

(A) a legal or other professional expense incurred in connection with any claim, proceeding, or action;

(B) the amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and

(C) the amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

(5) Payment

The term ''payment'' means—

(A) a direct or indirect transfer of any funds or any asset; and

(B) any segregation of any funds or assets for the purpose of making, or under an agreement to make, any payment after the date on which the funds or assets are segregated, without regard to whether the obligation to make the payment is contingent on—

(i) the determination, after that date, of the liability for the payment of the amount; or

(ii) the liquidation, after that date, of the amount of the payment.

(b) Prohibition

The Corporation may prohibit or limit, by regulation or order, any golden parachute payment or indemnification payment by a Farm Credit System institution (including any conservator or receiver of the Federal Agricultural Mortgage Corporation) in troubled condition (as defined in regulations issued by the Corporation).

(c) Factors to be taken into account

The Corporation shall prescribe, by regulation, the factors to be considered by the Corporation in taking any action under subsection (b) of this section. The factors may include—

(1) whether there is a reasonable basis to believe that an institution-related party has committed any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the Farm Credit System institution involved that has had a material effect on the financial condition of the institution;

(2) whether there is a reasonable basis to believe that the institution-related party is substantially responsible for the insolvency of the Farm Credit System institution, the appointment of a conservator or receiver for the institution, or the institution's troubled condition (as defined in regulations prescribed by the Corporation);

(3) whether there is a reasonable basis to believe that the institution-related party has materially violated any applicable law or regulation that has had a material effect on the financial condition of the institution;

(4) whether there is a reasonable basis to believe that the institution-related party has violated or conspired to violate—

(A) section 215, 657, 1006, 1014, or 1344 of title 18; or

(B) section 1341 or 1343 of title 18, affecting a Farm Credit System institution;

(5) whether the institution-related party was in a position of managerial or fiduciary responsibility; and

(6) the length of time that the party was related to the Farm Credit System institution and the degree to which—

(A) the payment reasonably reflects compensation earned over the period of employment; and

(B) the compensation represents a reasonable payment for services rendered.

(d) Certain payments prohibited

No Farm Credit System institution may prepay the salary or any liability or legal expense of any institution-related party if the payment is made—

(1) in contemplation of the insolvency of the institution or after the commission of an act of insolvency; and

(2) with a view to, or with the result of—

(A) preventing the proper application of the assets of the institution to creditors; or

(B) preferring 1 creditor over another creditor.

(e) Rule of construction

Nothing in this section—

(1) prohibits any Farm Credit System institution from purchasing any commercial insurance policy or fidelity bond, so long as the insurance policy or bond does not cover any legal or liability expense of an institution described in subsection (a)(2) of this section; or

(2) limits the powers, functions, or responsibilities of the Farm Credit Administration.

(Pub. L. 92–181, title V, § 5.61B, as added Pub. L. 104–105, title II, § 218, Feb. 10, 1996, 110 Stat. 181.)

§ 2277a–11. Investment of funds

Money of the Corporation not otherwise employed shall be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

(Pub. L. 92–181, title V, § 5.62, as added Pub. L. 100–233, title III, § 302, Jan. 6, 1988, 101 Stat. 1618.)

§ 2277a–12. Exemption from taxation

Notwithstanding any other provision of law, the Corporation, including its franchise, and its capital, reserves, surplus, and income, shall be exempt from all taxation imposed by the United States, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, county, municipal, and local taxation to the same extent according to its value as other real property is taxed.

(Pub. L. 92–181, title V, § 5.63, as added Pub. L. 100–233, title III, § 302, Jan. 6, 1988, 101 Stat. 1618.)

§ 2277a–13. Omitted

CODIFICATION

Section, Pub. L. 92–181, title V, § 5.64, as added Pub. L. 100–233, title III, § 302, Jan. 6, 1988, 101 Stat. 1619, which required the Farm Credit System Insurance Corporation to submit an annual report to Congress on the operations of the Corporation, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 167 of House Document No. 103–7.

§ 2277a–14. Prohibitions

(a) Corporate name

(1) Use of corporate name

It shall be unlawful for any person or entity to use the words ''Farm Credit System Insurance Corporation'' or any combination of such words that would have the effect of leading the public to believe that there is any connection between such person or entity and the Corporation, by virtue of the name under which such person or entity does business.

(2) False representation

(A) By outside person or entities

It shall be unlawful for any person or entity to falsely represent by any device, that the notes, bonds, debentures, or other obligations of the person or entity are insured or in any way guaranteed by the Corporation.

(B) System banks

It shall be unlawful for any insured System bank or person that markets insured obligations to falsely represent the extent to which or the manner in which such obligations are insured by the Corporation.

(3) Penalty

Any person or entity that willfully violates any provision of this subsection shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.

(b) Payments or distributions while in default

(1) In general

It shall be unlawful for any insured System bank to pay any dividends on bank stock or participation certificates or interest on the capital notes or debentures of such bank (if such interest is required to be paid only out of net profits) or distribute any of the capital assets of such bank while the bank remains in default in the payment of any premium due to the Corporation.

(2) Liability of directors

Each director or officer of any insured System bank who willfully participates in the declaration or payment of any dividend or interest or in any distribution in violation of this subsection shall be fined not more than $1,000, imprisoned not more than 1 year, or both.

(3) Applicability

This subsection shall not apply to any default that is due to a dispute between the insured System bank and the Corporation over the amount of such premium if such bank deposits security satisfactory to the Corporation for payment on final determination of the issue.

(c) Failure to file statement or pay premium

(1) In general

Any insured System bank that willfully fails or refuses to file any certified statement or pay any premium required under this part shall be subject to a penalty of not more than $100 for each day that such violations continue, which penalty the Corporation may recover for its use.

(2) Applicability

This subsection shall not apply to conduct with respect to any default that is due to a dispute between the insured System bank and the Corporation over the amount of such premium if such bank deposits security satisfactory to the Corporation for payment on final determination of the issue.

(d) Employment of persons convicted of criminal offenses

(1) In general

Except with the prior written consent of the Farm Credit Administration, it shall be unlawful for any person convicted of any criminal offense involving dishonesty or a breach of trust to serve as a director, officer, or employee of any System institution.

(2) Penalty

For each willful violation of paragraph (1), the institution involved shall be subject to a penalty of not more than $100 for each day during which the violation continues, which the Corporation may recover for its use.

(Pub. L. 92–181, title V, § 5.65, as added Pub. L. 100–233, title III, § 302, Jan. 6, 1988, 101 Stat. 1619; amended Pub. L. 101–624, title XVIII, § 1837, Nov. 28, 1990, 104 Stat. 3834; Pub. L. 102–237, title V, § 502(k), Dec. 13, 1991, 105 Stat. 1869.)

AMENDMENTS

1991—Subsec. (d)(1). Pub. L. 102–237 struck out ''insured'' before ''System''.

1990—Subsec. (d)(1). Pub. L. 101–624, § 1837(1), substituted ''insured System institution'' for ''insured System bank''.

Subsec. (d)(2). Pub. L. 101–624, § 1837(2), substituted ''institution'' for ''bank''.

SUBCHAPTER VI—ASSISTANCE TO FARM CREDIT SYSTEM

PART A—ASSISTANCE BOARD

§ 2278a. Establishment of Board

(a) Charters

On the date which is 15 days after January 6, 1988, the Farm Credit Administration shall revoke the charter of the Farm Credit System Capital Corporation (hereinafter referred to in this subchapter as the ''Capital Corporation'') and shall charter the Farm Credit System Assistance Board (hereinafter referred to in this chapter as the ''Assistance Board'') that, subject to this part, shall be a Federally chartered instrumentality of the United States.

(b) Use of Capital Corporation staff

During the 90-day period beginning on the date of the revocation of the charter of the Capital Corporation, the Assistance Board may temporarily employ, by contract or otherwise under reasonable and necessary terms and conditions, such staff of the Capital Corporation as is necessary to facilitate and effectuate an orderly transition to, and commencement of, the Assistance Board, and the termination of the affairs of the Capital Corporation.

(Pub. L. 92–181, title VI, § 6.0, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1585.)

§ 2278a–1. Purposes

The purposes of the Assistance Board shall be to carry out a program to provide assistance to, and protect the stock of borrowers of, the institutions of the Farm Credit System, and to assist in restoring System institutions to economic viability and permitting such institutions to continue to provide credit to farmers, ranchers, and the cooperatives of such, at reasonable and competitive rates.

(Pub. L. 92–181, title VI, § 6.1, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1585.)

§ 2278a–2. Board of Directors

(a) Membership

The Board of Directors of the Assistance Board (hereinafter referred to in this part as the ''Board of Directors'') shall consist of three members—

(1) one of which shall be the Secretary of the Treasury;

(2) one of which shall be the Secretary of Agriculture; and

(3) one of which shall be an agricultural producer experienced in financial matters, and appointed by the President, by and with the advice and consent of the Senate.

(b) Chairman

The Board of Directors shall elect annually a Chairman from among the members of the Board.

(c) Terms of office, succession, and vacancies

(1) Terms of office and succession

The term of each member of the Board of Directors shall expire when the Assistance Board is terminated.

(2) Vacancies

Vacancies on the Board of Directors shall be filled in the same manner as the vacant position was previously filled.

(d) Compensation of Board members

Members of the Board of Directors—

(1) appointed under paragraphs (1) and (2) of subsection (a) of this section shall receive reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Assistance Board, as set forth in the bylaws issued by the Board of Directors, except that such level shall not exceed the maximum fixed by subchapter I of chapter 57 of title 5 for officers and employees of the United States; and

(2) appointed under paragraph (3) of subsection (a) of this section shall receive compensation for the time devoted to meetings and other activities at a daily rate not to exceed the daily rate of compensation prescribed for Level III of the Executive Schedule under section 5314 of title 5 and reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Assistance Board, as set forth in the bylaws issued by the Board of Directors, except that such level shall not exceed the maximum fixed by subchapter I of chapter 57 of title 5 for officers and employees of the United States.

(e) Rules and records

The Board of Directors of the Assistance Board shall adopt such rules as it may deem appropriate for the transaction of the business of the Assistance Board, and shall keep permanent and accurate records and minutes of its acts and proceedings.

(f) Quorum required

A quorum shall consist of two members of the Board of Directors. All decisions of the Board shall require an affirmative vote of at least a majority of the members voting.

(g) Chief executive officer

A chief executive officer of the Assistance Board shall be selected by the Board of Directors of the Assistance Board and shall serve at the pleasure of the Board.

(Pub. L. 92–181, title VI, § 6.2, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1586; amended Pub. L. 102–237, title V, § 502(*l*), Dec. 13, 1991, 105 Stat. 1869.)

AMENDMENTS

1991—Subsec. (d)(1), (2). Pub. L. 102–237 substituted ''subchapter I'' for ''subchapter 1''.

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)(4) of Pub. L. 102–237, set out as a note under section 1421 of Title 7, Agriculture.

§ 2278a–3. Corporate powers

(a) In general

The Assistance Board shall be a body corporate that shall have the power to—

(1) operate under the direction of its Board of Directors;

(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

(3) provide for one or more vice presidents, a secretary, a treasurer, and such other officers, employees, and agents, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

(4) hire, promote, compensate, and discharge officers and employees of the Assistance Board, without regard to title 5, except that no such officer or employee shall receive an annual rate of basic pay in excess of the rate prescribed for Level III of the Executive Schedule under section 5314 of title 5;

(5) prescribe by its Board of Directors its bylaws, that shall be consistent with law, and that shall provide for the manner in which—

(A) its officers, employees, and agents are selected;

(B) its property is acquired, held, and transferred;

(C) its general operations are to be conducted; and

(D) the privileges granted by law are exercised and enjoyed;

(6) with the consent of any executive department or independent agency, use the information, services, staff, and facilities of such in carrying out this subchapter;

(7) enter into contracts and make advance, progress, or other payments with respect to such contracts;

(8) sue and be sued in its corporate name, and complain and defend in courts of competent jurisdiction;

(9) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to its operations;

(10) obtain insurance against loss;

(11) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this subchapter;

(12) deposit its securities and its current funds with any member bank of the Federal Reserve System or any insured State nonmember bank (within the meaning of section 1813 of this title) and pay fees therefor and receive interest thereon as may be agreed; and

(13) exercise other powers as set forth in this subchapter, and such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this subchapter.

(b) Power to remove; jurisdiction

Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Assistance Board is a party shall be deemed to arise under the laws of the United States, and the United States District Court for the District of Columbia shall have exclusive jurisdiction over such. The Assistance Board may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia.

(Pub. L. 92–181, title VI, § 6.3, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1587; amended Pub. L. 100–399, title II, § 201(a), (b), Aug. 17, 1988, 102 Stat. 990.)

AMENDMENTS

1988—Subsec. (a)(12). Pub. L. 100–399, § 201(a), substituted ''(within the meaning of section 1813 of this title)'' for ''(as defined in section 1813(b) of this title)''.

Subsec. (b). Pub. L. 100–399, § 201(b), substituted ''exclusive'' for ''original''.

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.

HIRING, PROMOTION, COMPENSATION, AND DISCHARGE OF EMPLOYEES

Pub. L. 102–341, title VI, Aug. 14, 1992, 106 Stat. 906, provided: ''That officers and employees of the Farm Credit System Assistance Board shall be hired, promoted, compensated, and discharged in accordance with title 5, United States Code.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–142, title VI, Oct. 28, 1991, 105 Stat. 910.

Pub. L. 101–506, title V, Nov. 5, 1990, 104 Stat. 1345.

Pub. L. 101–161, title V, Nov. 21, 1989, 103 Stat. 981.

Pub. L. 100–460, title V, Oct. 1, 1988, 102 Stat. 2259.

§ 2278a–4. Certification of eligibility to issue preferred stock

(a) Book value less than par value of stock and equities

If the book value of the stock, participation certificates, and other similar equities of a System institution, based on generally accepted accounting principles, is less than the par value of the stock or the face value of the certificates or equities—

(1) the Farm Credit Administration shall notify the Assistance Board of such impairment;

(2) the Assistance Board shall monitor the financial condition, business plans, and operations of the institution; and

(3) the institution may request the Assistance Board to grant certification to issue preferred stock under section 2278b–7(a) of this title.

(b) Book value less than 75 percent of par value of stock and equities

If the book value of the stock, participation certificates, and other similar equities of a System institution, based on generally accepted accounting principles, is less than 75 percent of the par value of the stock or the face value of the certificates or equities, the institution shall request the Assistance Board to grant certification to issue preferred stock under section 2278b–7(a) of this title.

(c) Mandatory determination of eligibility

(1) In general

The Assistance Board shall determine whether to certify a System institution as eligible to issue preferred stock under section 2278b–7 of this title, if—

(A) the institution requests such certification;

(B) the book value of the stock, participation certificates, and other similar equities

of the institution, based on generally accepted accounting principles, has declined to 75 percent of the par value of the stock or the face value of the certificates or equities; and

(C) the institution agrees to meet the terms and conditions specified by the Assistance Board pursuant to section 2278a–6 of this title.

(2) Effective date of certification

If the determination of the Assistance Board is to certify the institution under paragraph (1), such certification shall be effective at the time of such determination.

(d) Implementation

As soon as practicable after January 6, 1988, the Assistance Board shall take such actions as are necessary to carry out this section.

(e) "Other similar equities" defined

Except where otherwise provided in this chapter, the term ''other similar equities'' includes allocated equities.

(Pub. L. 92–181, title VI, § 6.4, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1588; amended Pub. L. 100–399, title II, § 201(c), Aug. 17, 1988, 102 Stat. 991.)

AMENDMENTS

1988—Subsecs. (c) to (e). Pub. L. 100–399 redesignated second subsec. (c) and subsec. (d) as (d) and (e), respectively.

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.

§ 2278a–5. Assistance

(a) In general

The Assistance Board shall assist an institution that has been certified under section 2278a–4 of this title by—

(1) authorizing the institution to issue preferred stock under section 2278b–7 of this title, in amounts necessary to maintain the book value of stock, participation certificates, and other similar equities of the institution, at the level provided for in subsection (c) of this section;

(2) in the case of high-cost debt for which the institution is primarily liable, authorizing the institution to issue preferred stock under section 2278b–7 of this title, in an amount equal to the premium that would be required by the holder of the debt for the institution to retire the debt at the then current market value;

(3) on a request by the institution, authorizing the issuance of preferred stock under section 2278b–7 of this title to facilitate the merger of the requesting institution with one or more other System institutions; or

(4) providing assistance by such other methods as the Assistance Board determines appropriate.

(b) "High-cost debt" defined

For purposes of subsection (a)(2) of this section, the term ''high-cost debt'' means securities or similar obligations issued before January 1, 1986, that mature on or after December 31, 1987, and bear a rate of interest in excess of the then current market rate for similar securities or obligations.

(c) Minimum equity value

The Assistance Board shall authorize a certified institution to issue amounts of preferred stock under section 2278b–7 of this title sufficient to—

(1) maintain the value of stock, participation certificates and other similar equities at no less than 75 percent of the par value of the stock or the face value of the certificates or equities, as determined under generally accepted accounting principles; and

(2) strengthen the institution to a point where it is economically viable, and capable of delivering credit at reasonable and competitive rates.

(d) Limitation

Except as provided in section 410(c) of the Agricultural Credit Act of 1987, no assistance shall be provided in connection with a merger until the stockholders and the institutions involved have approved the merger and the Farm Credit Administration has given final approval to the merger plan.

(Pub. L. 92–181, title VI, § 6.5, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1588; amended Pub. L. 100–399, title II, § 201(d), (e), Aug. 17, 1988, 102 Stat. 991.)

REFERENCES IN TEXT

Section 410(c) of the Agricultural Credit Act of 1987, referred to in subsec. (d), is section 410(c) of Pub. L. 100–233, which is set out as a note under section 2011 of this title.

AMENDMENTS

1988—Subsecs. (a)(1) to (3), (c). Pub. L. 100–399, § 201(e), struck out ''the appropriate provision of'' after ''under'' wherever appearing.

Subsec. (d). Pub. L. 100–399, § 201(d), substituted ''Except as provided in section 410(c) of the Agricultural Credit Act of 1987, no'' for ''No''.

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.

§ 2278a–6. Special powers

(a) In general

In the case of a System institution that requests certification under section 2278a–4 of this title, the Assistance Board may—

(1) require the institution to obtain approval from the Assistance Board before implementing business, operating, and investment plans and policies;

(2) if one or more of the conditions described in section 2183(b) of this title are met, as determined by the Farm Credit Administration, direct the Farm Credit Administration Board to appoint a conservator for the institution, in accordance with such section, and to instruct the conservator to evaluate the operations of the institution and report to the Farm Credit

Administration Board and the Assistance Board on the possibility of restoring the institution to sound financial condition;

(3) request that the Farm Credit Administration Board or the Farm Credit Administration, as appropriate—

(A) approve or require a merger or consolidation of the institution to the extent authorized under this chapter;

(B) initiate action to appoint a receiver under section 2183(b) of this title; or

(C) exercise any enforcement power authorized under this chapter;

(4) require the institution to obtain approval from the Assistance Board before setting the terms and conditions of any debt issuances of the institution;

(5) require the institution to obtain approval from the Assistance Board before setting the policy on credit standards to be used, and the policy on rates of interest to be charged on loans, by the institution, including requiring that—

(A) the institution set interest rates at levels necessary to ensure that the cost of money to the institution reflects the marginal cost to the institution of borrowing an additional amount of money at the time a new loan is made; and

(B) loans primarily secured by real estate mortgages not exceed 85 percent of the appraised agricultural value of the real estate security, or 75 percent of the then current market value of the real estate security, whichever is greater;

(6) require the institution to obtain approval from the Assistance Board for the design of management information and accounting systems at the institution, and of the continued use by the institution of regulatory accounting practices in accordance with sections 2159(b) and 2254(b) of this title;

(7) require that the plans and policies of the institution resulting from the merger of System banks reduce the overhead costs of such institution, to the maximum extent practicable, with respect to the delivery of services to, and performance of duties for, System associations in the district;

(8) require the institution to obtain approval from the Assistance Board of—

(A) the hiring policies of the institution;

(B) the compensation and retirement benefits of the chief executive officer, other managers, and directors of the institution;

(C) any change in the management of the institution; and

(D) policy decisions regarding continued employment and promotion of the officials referred to in subparagraph (B);

(9) suspend for any period of time, or terminate, any certification granted to an institution under section 2278a–4 of this title if the Farm Credit Administration notifies the Assistance Board that the institution has substantially deviated from the institution's business plan or has failed to comply with a term or condition governing the use of any financial assistance provided to the institution under this subchapter; and

(10) take such other action as the Assistance Board determines may be necessary to establish prudent operating practices at the institution and to return the institution to a sound financial condition.

(b) Suspension of assistance

(1) Notification

The Assistance Board shall promptly notify the Farm Credit Administration of any action taken by the Assistance Board under subsection (a)(9) of this section.

(2) Enforcement

The Farm Credit Administration may use any of its enforcement powers, with respect to any institution to which the Assistance Board has provided assistance or has certified the institution to issue preferred stock under section 2278b–7 of this title, to obtain the compliance of the institution with the terms or conditions governing the use of financial assistance provided under this subchapter.

(c) Undated letters of resignation

The Assistance Board shall not, for any reason, request or require any member of the board of directors of any System institution to submit to the Assistance Board an undated letter of resignation. Immediately after January 6, 1988, the Assistance Board shall destroy all such letters over which it has control.

(d) Reports

During the 5-year period beginning on January 6, 1988, the Assistance Board, in coordination with the Financial Assistance Corporation, shall report annually to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the extent to which System institutions translate the savings in the cost of the operations of such institutions due to the Federal assistance provided to the System under this subchapter into lower interest rates charged to System borrowers or enhanced financial solvency of such institutions.

(Pub. L. 92–181, title VI, § 6.6, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1589; amended Pub. L. 100–399, title II, § 201(f)–(i), Aug. 17, 1988, 102 Stat. 991; Pub. L. 101–624, title XVIII, § 1843(a)(2), Nov. 28, 1990, 104 Stat. 3836.)

AMENDMENTS

1990—Subsec. (a)(8)(B). Pub. L. 101–624 struck out before semicolon at end ''notwithstanding the authority of the Farm Credit Administration to approve such matters''.

1988—Subsec. (a)(8)(B). Pub. L. 100–399, § 201(f), struck out ''under sections 2226 and 2252(a)(15) of this title'' after ''such matters''.

Subsec. (a)(9). Pub. L. 100–399, § 201(g), struck out ''may'' before ''suspend''.

Subsec. (b)(1). Pub. L. 100–399, § 201(h), substituted ''(a)(9)'' for ''(a)(8)''.

Subsec. (b)(2). Pub. L. 100–399, § 201(i), struck out ''the appropriate provision of'' after ''stock under''.

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.

§ 2278a–7. Administration

(a) Expenses

The Financial Assistance Corporation shall pay the necessary and reasonable administrative expenses of the Assistance Board from funds in the Assistance Fund established in section 2278b–5 of this title.

(b) Interim funding

Before the availability of funding from the Assistance Fund, the Assistance Board may use the revolving fund established under section 2151 of this title. Such amounts used shall be repaid to the revolving fund out of the Assistance Fund within the same fiscal year that such funds were received by the Assistance Board.

(c) Assistance operations

The Farm Credit Administration shall provide such personnel and facilities to the Assistance Board as the Farm Credit Administration considers are necessary to avoid unnecessary duplication and waste.

(d) Access to FCA documents

The Assistance Board shall have access to all reports of examination and supervisory documents of the Farm Credit Administration, and relevant supporting material, for the purpose of carrying out the special powers of the Assistance Board under section 2278a–6 of this title, under such terms and conditions, acceptable to the Farm Credit Administration Board, as are necessary and appropriate to protect the confidentiality of the documents and materials.

(Pub. L. 92–181, title VI, § 6.7, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1591; amended Pub. L. 100–399, title II, § 201(j), Aug. 17, 1988, 102 Stat. 991.)

AMENDMENTS

1988—Subsec. (d). Pub. L. 100–399 substituted ''material,'' for ''material'' and ''under such terms and conditions, acceptable'' for ''under terms and conditions that are acceptable''.

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.

§ 2278a–8. Limitation of powers

(a) Purposes

The powers of the Assistance Board under this subchapter shall be exercised only for the purposes specified in this subchapter and shall not be exercised in a manner that would result in the Assistance Board supplanting the Farm Credit System lending institutions as the primary providers of credit and other financial services to farmers, ranchers, and the cooperatives of such.

(b) Prohibition

The powers of the Assistance Board under this subchapter shall not include the management, administration, or disposition of any loans or other assets owned by other System institutions, or the providing of technical assistance or other related services to other System institutions in connection with the administration of loans owned by such other institutions.

(Pub. L. 92–181, title VI, § 6.8, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1591.)

§ 2278a–9. Succession

(a) Assets and liabilities

On the issuance by the Farm Credit Administration of the charter for the Assistance Board under this part, the Assistance Board shall succeed to the assets of and assume all debts, obligations, contracts, and other liabilities of the Capital Corporation, matured or unmatured, accrued, absolute, contingent or otherwise, and whether or not reflected or reserved against on balance sheets, books of account, or records of the Capital Corporation.

(b) Contracts

The existing contractual obligations, security instruments, and title instruments of the Capital Corporation shall, by operation of law and without any further action by the Farm Credit Administration, the Capital Corporation, or any court, become and be converted into obligations, entitlements, and instruments of the Assistance Board chartered under this part.

(c) Adjustment of assessments

Not later than 15 days after the issuance of the charter of the Assistance Board, the Board shall retire all debt and equity obligations issued to any System institution under section 2216f(a)(14) or 2216g[1] of this title (as in effect immediately before January 6, 1988) at the book value of such obligations (determined as of January 6, 1988) and shall pay such amounts to the holders of such debt and equity obligations.

(d) Surplus funds

To the extent that, on the extinguishing of liabilities assumed by the Assistance Board under this section, and on full performance or other final disposition of contract obligations of the Assistance Board, there remain surplus funds attributable to such obligations or contracts, the Assistance Board shall distribute such surplus funds among the System institutions that contributed funds to the Capital Corporation on the basis of the relative amount of funds so contributed by each institution.

(e) Preservation agreements

(1) Transfer of obligations

Notwithstanding any other provision of this chapter or the terms and conditions of the Thirty-Seven Banks Capital Preservation Agreement, the Federal Land Banks Capital Preservation Agreement, the Federal Intermediate Credit Banks Capital Preservation Agreement, and the Banks for Cooperatives Loss Sharing Agreement—

(A) at the time the receiving bank receives funds from the Financial Assistance Corporation in an equal and equivalent amount in accordance with this subsection, any amounts received by, or that remain accrued to, any System bank in accordance with the activation of any such agreement for the

[1] See References in Text note below.

calendar quarter ending on September 30, 1986, shall be—

(i) repaid to the contributing bank by the bank that received such payments; or

(ii) cancelled;

(B) on the date the Financial Assistance Corporation is chartered, the accounts payable of each contributing bank under such agreements for the calendar quarter ending on September 30, 1986, shall, by operation of law and without any further action by such contributing bank, any other bank, or any court, become and be converted into accounts payable of the Financial Assistance Corporation to each receiving bank under such agreement for such calendar quarter in the same amounts as previously carried on the books of each such receiving bank; and

(C) on the date the Financial Assistance Corporation is chartered, the accounts receivable of each receiving bank under such agreements for the calendar quarter ending September 30, 1986, shall, by operation of law and without any further action by such receiving bank or any other bank, or any court, become and be converted into accounts receivable to such receiving bank from the Financial Assistance Corporation, in the same amount as previously carried on the books of such receiving bank and such receivables shall, for all financial reporting purposes, be accounted for as an asset on the books of such receiving bank in accordance with generally accepted accounting practices.

(2) Payments to receiving banks

(A) Not later than 30 days after the first issuance of obligations by the Financial Assistance Corporation in accordance with section 2278b–6 of this title, the Corporation shall pay to each receiving bank such sums as are necessary to permit each receiving bank to repay, in accordance with paragraph (1), the amounts each such receiving bank received under any such agreement.

(B) The accruals shall be paid by the Corporation to each receiving bank for the actual net loan charge-offs recorded on the books of each such bank before January 1, 1993, not previously paid by the contributing banks.

(3) Debt obligations

(A) Issuance

For the purpose of obtaining funds to carry out this subsection, the Financial Assistance Corporation shall issue debt obligations under section 2278b–6 of this title. Such obligations shall be subject to the terms and conditions of such section, except as provided for in this paragraph.

(B) Payment of interest

During each year of the 15-year period of such obligation issued pursuant to subparagraph (A), the banks operating under this chapter shall pay to the Financial Assistance Corporation, at such times as the Corporation shall determine, an amount equal to the entire amount of interest due on such obligation. Each bank shall pay a proportion of such interest equal to—

(i) the average accruing loan volume of the bank during the year preceding the year of such payment; divided by

(ii) the average accruing loan volume of all of the banks of the System for the same period.

(C) Payment of principal

(i) In general

After the end of the 15-year period beginning on the date of the issuance of any obligation issued to carry out this subsection, the banks operating under this chapter shall pay to the Financial Assistance Corporation, on demand, an amount equal to the outstanding principal of the obligation. Each bank shall pay a proportion of the principal equal to—

(I) the average accruing loan volume of the bank for the preceding 15 years; divided by

(II) the average accruing loan volume of all banks of the System for the same period.

(ii) Banks leaving system

Any bank leaving the Farm Credit System pursuant to section 2279d of this title shall be required, under regulations of the Farm Credit Administration, to pay to the Financial Assistance Corporation the estimated present value of the payment required under this subparagraph had the bank remained in the System.

(iii) Banks undergoing liquidation

With respect to any bank undergoing liquidation under this chapter, a liability to the Financial Assistance Corporation in the amount of the payment required under this subparagraph (calculated as if the bank had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the Financial Assistance Corporation against the estate of the bank.

(iv) Obligations of other banks

The obligations of other banks shall not be reduced in anticipation of any recoveries under this subparagraph from banks leaving the System or in liquidation, but the Financial Assistance Corporation shall apply the recoveries, when received, and all earnings on the recoveries, to reduce the other banks' payment obligations, or, to the extent the recoveries are received after the other banks have met their entire payment obligation, shall refund the recoveries, when received, to the other banks in proportion to the other banks' payments.

(D) Annual payments

(i) In general

In order to provide for the orderly funding and discharge over time of the obligation of each System bank to the Financial Assistance Corporation under subparagraph (C), each System bank shall enter into or continue in effect an agreement with the Financial Assistance Corporation

under which the bank will make annual annuity-type payments to the Financial Assistance Corporation, beginning no later than December 31, 1992 (except for any bank that did not meet its interim capital requirement on December 31, 1990, in which case the bank shall begin making the payments no later than December 31, 1993) in amounts designed to accumulate, in total, including earnings on the amounts, to 90 percent of the bank's ultimate obligation. The Financial Assistance Corporation shall partially discharge the bank from its obligation under subparagraph (C) to the extent of each such payment and the earnings on the payment as earned.

(ii) Capital requirements

The agreement shall not require payments to be made to the extent that making a particular payment or part of a payment would cause the bank to fail to satisfy applicable regulatory permanent capital requirements, but shall provide for recalculation of subsequent payments accordingly.

(iii) Investment; availability

The funds received by the Financial Assistance Corporation pursuant to the agreements shall be invested in eligible investments as defined in section 2278b–5(a)(1) of this title. The funds and the earnings on the funds shall be available only for the payment of the principal of the bonds issued by the Financial Assistance Corporation under this subsection.

(E) Financial reporting

Until each obligation issued in accordance with this subsection reaches maturity, for all financial reporting purposes, such obligation shall be considered to be the sole obligation of the Financial Assistance Corporation and shall not be considered a liability of any System bank, nor shall the obligation to make future annuity payments to the Financial Assistance Corporation under subparagraph (D) be considered a liability of any System bank.

(4) Funds not considered financial assistance

The funds made available to each bank, whether through the issuance of stock or otherwise, by the Financial Assistance Corporation to meet obligations under any agreement referred to in paragraph (1) or to meet any obligations of the contributing banks under any such agreement, as required by this subsection, shall not be considered financial assistance under this chapter.

(5) Suspension of preservation agreements

During the 5-year period beginning on January 6, 1988, and thereafter whenever funds from the Farm Credit System Insurance Fund are available for use in assisting System institutions to meet their obligations on their debt instruments, activation of the Thirty-Seven Banks Capital Preservation Agreement, the Federal Land Banks Capital Preservation Agreement, the Federal Intermediate Credit Banks Capital Preservation Agreement, and the Banks for Cooperatives Loss Sharing Agreement shall be suspended, in exchange for the benefits flowing to the signatories to such agreements under the Agricultural Credit Act of 1987.

(Pub. L. 92–181, title VI, § 6.9, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1591; amended Pub. L. 100–399, title II, § 201(k), (*l*), Aug. 17, 1988, 102 Stat. 991; Pub. L. 102–552, title III, § 301, Oct. 28, 1992, 106 Stat. 4107.)

REFERENCES IN TEXT

Sections 2216f and 2216g of this title, referred to in subsec. (c), were repealed by Pub. L. 100–233, title II, § 207(a)(3), Jan. 6, 1988, 101 Stat. 1607, effective 15 days after Jan. 6, 1988.

The Agricultural Credit Act of 1987, referred to in subsec. (e)(5), is Pub. L. 100–233, Jan. 6, 1988, 101 Stat. 1568, as amended. For complete classification of this Act to the Code see Short Title of 1988 Amendment note set out under section 2001 of this title and Tables.

AMENDMENTS

1992—Subsec. (e)(3)(C). Pub. L. 102–552, § 301(1), added subpar. (C) and struck out former subpar. (C) which read as follows:

''(C) PAYMENT OF PRINCIPAL.—After the end of the 15-year period beginning on the date of the issuance of any obligation issued to carry out this subsection, the banks operating under this chapter shall pay to the Financial Assistance Corporation, on demand, an amount equal to the outstanding principal of such obligation. Each bank shall pay a proportion of such principal equal to—

''(i) the average accruing loan volume of the bank for the preceding 15 years; divided by

''(ii) the average accruing loan volume of all banks of the System for the same period.''

Subsec. (e)(3)(D). Pub. L. 102–552, § 301(2), (3), added subpar. (D) and redesignated former subpar. (D) as (E).

Subsec. (e)(3)(E). Pub. L. 102–552, § 301(2), (4), redesignated subpar. (D) as (E) and inserted before period at end '', nor shall the obligation to make future annuity payments to the Financial Assistance Corporation under subparagraph (D) be considered a liability of any System bank''.

1988—Subsec. (a). Pub. L. 100–399, § 201(k), inserted in heading ''Assets and''.

Subsec. (e)(5). Pub. L. 100–399, § 201(*l*), inserted ''activation of'' after ''instruments,'' and struck out closing quotation mark and following period, which for purposes of codification had been previously struck out requiring no change in text.

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.

§ 2278a–10. Effect of regulations; audits

(a) Issuance

The Assistance Board may issue such regulations, policies, procedures, guidelines, or statements as the Board considers necessary or appropriate to carry out this subchapter, all of which shall be promulgated and enforced without regard to subchapter II of chapter 5 of title 5.

(b) Regulation by Farm Credit Administration

The Assistance Board shall not be subject to regulation by the Farm Credit Administration.

(c) Audits

The Assistance Board shall not require an audit or examination of a System institution

that would be duplicative of an audit or examination that is conducted under other provisions of law.

(Pub. L. 92–181, title VI, § 6.10, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1594.)

§ 2278a–11. Exemption from taxation

The Assistance Board, the capital, reserves, and surplus thereof, and the income derived therefrom, shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by the Assistance Board to the same extent, according to its value, as other similar property held by other persons is taxed.

(Pub. L. 92–181, title VI, § 6.11, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1594.)

§ 2278a–12. Termination

The Assistance Board and the authority provided to the Assistance Board by this part shall terminate on December 31, 1992.

(Pub. L. 92–181, title VI, § 6.12, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1594; amended Pub. L. 100–399, title II, § 201(m), Aug. 17, 1988, 102 Stat. 991.)

AMENDMENTS

1988—Pub. L. 100–399 inserted ''to the Assistance Board'' after ''provided''.

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.

§ 2278a–13. Transitional provisions

(a) Exercise of powers

The powers of the Assistance Board under this subchapter shall be exercised by the Farm Credit Administration Board until the issuance of the charter of the Assistance Board, or such later date not to exceed 30 days thereafter, as may be requested by the Assistance Board.

(b) Limitation on assistance

Any assistance provided to System institutions by the Farm Credit Administration in accordance with this section shall be provided from, and shall not exceed, the amounts contained in the revolving fund established under section 2151 of this title.

(c) Issuance of stock

Each institution that receives assistance from the Farm Credit Administration during the interim period specified in subsection (a) of this section, in consideration thereof, shall issue preferred stock to the Financial Assistance Corporation in an amount equal to the amount of such assistance. Payments by the Financial Assistance Corporation under subsection (d) of this section shall be considered to be payments to each such institution for such stock.

(d) Repayment

The Financial Assistance Corporation shall pay to the Farm Credit Administration, for return to the revolving fund established under section 2151 of this title, the full amount of all financial assistance provided by the Farm Credit Administration in accordance with this section, from the proceeds from the sale of the first issue of obligations by the Financial Assistance Corporation in accordance with section 2278b–6 of this title.

(Pub. L. 92–181, title VI, § 6.13, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1594; amended Pub. L. 100–399, title II, § 201(n), Aug. 17, 1988, 102 Stat. 991.)

AMENDMENTS

1988—Subsec. (d). Pub. L. 100–399 inserted '', for return to the revolving fund established under section 2151 of this title,'' before ''the full''.

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.

PART B—FINANCIAL ASSISTANCE CORPORATION

§ 2278b. Establishment of Corporation

Not later than 5 days after January 6, 1988, the Farm Credit Administration shall charter the Farm Credit System Financial Assistance Corporation (hereinafter referred to in this chapter as the ''Financial Assistance Corporation'') which shall be—

(1) an institution of the Farm Credit System; and

(2) a Federally chartered instrumentality of the United States.

(Pub. L. 92–181, title VI, § 6.20, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1595.)

FINANCIAL REPORT

Section 206 of Pub. L. 100–233 provided that: ''During the period beginning September 30, 2001, and ending December 31, 2001, the Farm Credit Administration shall review and evaluate the financial condition of the Farm Credit System and report to the Secretary of the Treasury and the appropriate committees of Congress on—

''(1) the general financial condition of each System institution;

''(2) the total outstanding principal of debt obligations issued under section 6.26 of the Farm Credit Act of 1971 (as added by section 201 of this Act) [12 U.S.C. 2278b–6]; and

''(3) the ability of each System institution to retire, at par value, preferred stock issued by the institution in accordance with section 6.27 of the Farm Credit Act of 1971 (as added by section 201 of this Act) [12 U.S.C. 2278b–7].''

§ 2278b–1. Purpose

The purpose of the Financial Assistance Corporation shall be to carry out a program to provide capital to institutions of the Farm Credit System that are experiencing financial difficulty and to assist, pursuant to section 2278a–9(e) of this title and subsections (c) through (g) of section 2278b–6 of this title, in the repayment by System institutions to those persons who provided funds in connection with the program.

(Pub. L. 92–181, title VI, § 6.21, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1595; amended Pub. L. 102–552, title III, § 307(a), Oct. 28, 1992, 106 Stat. 4116.)

AMENDMENTS

1992—Pub. L. 102–552 inserted before period at end ''and to assist, pursuant to section 2278a–9(e) of this title and subsections (c) through (g) of section 2278b–6 of this title, in the repayment by System institutions to those persons who provided funds in connection with the program''.

§ 2278b–2. Board of Directors

(a) Board of Directors

(1) Composition

The Board of Directors of the Financial Assistance Corporation (hereinafter referred to in this part as the ''Board of Directors'') shall consist of the Board of Directors of the Federal Farm Credit Banks Funding Corporation.

(2) Chairman

The Board of Directors shall elect annually a Chairman from among the members of the Board.

(3) Compensation

The members of the Board of Directors shall receive compensation for the time devoted to meetings and other activities of the Board and reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Board of Directors in amounts not exceeding levels set by the Farm Credit Administration Board.

(b) Rules and records

The Board of Directors shall adopt such rules as it may deem appropriate for the transaction of its business and shall keep permanent and accurate records and minutes of its acts and proceedings.

(c) Quorum required

No business may be conducted at a meeting of the Board of Directors unless a quorum of the members of the Board is present, and a vote to approve an action requires a majority vote of the members voting.

(d) Chief executive officer

A chief executive officer of the Financial Assistance Corporation shall be selected by the Board of Directors and shall serve at the pleasure of the Board.

(Pub. L. 92–181, title VI, § 6.22, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1595; amended Pub. L. 100–399, title II, § 201(*o*), Aug. 17, 1988, 102 Stat. 991.)

AMENDMENTS

1988—Subsec. (a)(1). Pub. L. 100–399 substituted ''part'' for ''chapter''.

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.

§ 2278b–3. Stock

The Financial Assistance Corporation shall issue stock with a par value of $5 to System institutions, as provided for in this part, and such stock shall not be transferable, except in the event of a restructuring or liquidation to a successor System institution.

(Pub. L. 92–181, title VI, § 6.23, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1595; amended Pub. L. 102–237, title V, § 502(m), Dec. 13, 1991, 105 Stat. 1869.)

AMENDMENTS

1991—Pub. L. 102–237 inserted before period at end '', except in the event of a restructuring or liquidation to a successor System institution''.

§ 2278b–4. Corporate powers

(a) In general

The Financial Assistance Corporation shall have the power to—

(1) operate under the direction of its Board of Directors;

(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

(3) provide for such officers, employees, and agents, including joint employees with the Funding Corporation, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

(4) adopt a salary scale for officers and employees of the Financial Assistance Corporation, in accordance with the directives of the Board of Directors;

(5) prescribe by its Board of Directors bylaws, that are not inconsistent with law, and that shall provide for the manner in which—

(A) its officers, employees, and agents are selected;

(B) its property is acquired, held, and transferred;

(C) its general business is conducted; and

(D) the privileges granted by law are exercised and enjoyed;

(6) enter into contracts and make advance, progress, or other payments with respect to such contracts;

(7) sue and be sued in its corporate name and complain and defend in courts of competent jurisdiction;

(8) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to its business;

(9) obtain insurance against loss;

(10) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this part;

(11) borrow from any commercial bank on its own individual responsibility and on such terms and conditions as it may determine with the approval of the Farm Credit Administration;

(12) deposit its securities and its current funds with any member bank of the Federal Reserve System or any insured State nonmember bank (within the meaning of section 1813 of this title) and pay fees therefor and receive interest thereon as may be agreed; and

(13) exercise such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with its charter and this part.

(b) Power to remove, and jurisdiction

Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Financial Assistance Corporation is a party shall be deemed to arise under the laws of the United States, and the United States District Court for the District of Columbia shall have exclusive jurisdiction over such. The Financial Assistance Corporation may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia.

(Pub. L. 92–181, title VI, § 6.24, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1596; amended Pub. L. 100–399, title II, § 201(a), (b), Aug. 17, 1988, 102 Stat. 990.)

AMENDMENTS

1988—Subsec. (a)(12). Pub. L. 100–399, § 201(a), substituted ''(within the meaning of section 1813 of this title)'' for ''(as defined in section 1813(b) of this title)''.

Subsec. (b). Pub. L. 100–399, § 201(b), substituted ''exclusive'' for ''original''.

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.

§ 2278b–5. Accounts

(a) Farm Credit Assistance Fund

(1) Establishment

The Financial Assistance Corporation shall establish an account called the Farm Credit Assistance Fund (referred to in this chapter as the ''Assistance Fund'') which shall be available to the Financial Assistance Corporation as a revolving fund to carry out this part. The moneys of such Assistance Fund shall be invested in direct obligations of the United States or obligations guaranteed by the United States or an agency thereof.

(2) Funding

The Assistance Fund shall be funded through the issuance of debt obligations and payments, as provided in section 2278b–6 of this title, and payments, as provided in section 2278b–8 of this title.

(b) Financial Assistance Corporation Trust Fund

The Financial Assistance Corporation shall establish an account called the Financial Assistance Corporation Trust Fund (hereinafter referred to in this chapter as the ''Trust Fund'') that shall consist of securities of the United States Treasury purchased by the Financial Assistance Corporation with the funds received from the purchase of stock by System institutions from the Financial Assistance Corporation under section 2278b–9 of this title.

(Pub. L. 92–181, title VI, § 6.25, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1597.)

§ 2278b–6. Debt obligations

(a) Issuance

During the period beginning 61 days after January 6, 1988, and ending September 30, 1992, the Financial Assistance Corporation, subject to the approval of the Assistance Board, may issue uncollateralized bonds, notes, debentures, and similar obligations, guaranteed as to the timely payment of principal and interest by the Secretary of the Treasury as set forth in subsection (d) of this section, with semiannual interest coupon payments and a maturity period of 15 years—

(1) in an aggregate amount not to exceed $2,800,000,000; and

(2) beginning January 1, 1989, in an additional amount, not to exceed $1,200,000,000, if—

(A) debt obligations have been issued by the Corporation to the full extent authorized under paragraph (1);

(B) the Assistance Board determines that such additional funds are needed to carry out this subchapter; and

(C) at least 90 days before the issuance of any debt obligations under this paragraph, the Assistance Board submits a report to Congress that sets forth the determination of the Assistance Board that such additional debt obligations should be issued, and that contains a detailed evaluation supporting the determination.

(b) Conditions

The debt obligations shall be in such forms and denominations, bear such rates of interest, be subject to such conditions, be issued in such manner, and be sold at such prices as may be prescribed by the Financial Assistance Corporation.

(c) Interest payments

(1) Payment of interest during first 5-year period

During each year of the first 5-year period of the 10-year period beginning on the date of issuance of each obligation under subsection (a) of this section, the Financial Assistance Corporation shall pay, without recourse to System institutions, other than that described in paragraph (5), all of the interest due on such obligation.

(2) Payment of interest during second 5-year period

(A) In general

During each year of the second 5-year period of the 10-year period beginning on the date of issuance of each obligation under subsection (a) of this section, the Financial Assistance Corporation shall pay all of the interest due on such obligation.

(B) Payment by System banks to Financial Assistance Corporation

During each year of the second 5-year period, System banks shall pay to the Financial Assistance Corporation 50 percent of the interest due on the obligations, except that System banks shall pay an additional 10 percent of the interest expense for each 1 percent that the unallocated retained earnings of the System (as determined under generally accepted accounting principles) exceed 5 percent of net assets (total assets less allowance for loan losses) based on a year-end financial statement for the preceding year.

(C) Allocation

During each year of the second 5-year period, each System bank shall pay to the Financial Assistance Corporation a proportion, as calculated by the Financial Assistance Corporation, of the interest due from System banks under this paragraph equal to—

(i) the amount of the average accruing retail loan volume of the bank and its affiliated associations for the preceding year; divided by

(ii) the total average accruing retail loan volume of all such banks and their affiliated associations for the preceding year.

(3) Payments by Treasury

The Secretary of the Treasury, in accordance with section 2278b–8 of this title, shall pay to the Financial Assistance Corporation, in a timely manner, the balance of each interest payment not made by the System banks.

(4) Payment of interest after first 10-year period

During each year of the third 5-year period of the 15-year period beginning on the date of the issuance of each obligation under subsection (a) of this section, the Financial Assistance Corporation shall pay all of the interest due on such obligation. During each year of such 5-year period, System banks shall pay the entire amount of interest due on the obligation allocated in the same manner as under paragraph (2)(C). Such payments shall be made to the Financial Assistance Corporation at such times as the Financial Assistance Corporation shall determine.

(5) Repayment of Treasury-paid interest

(A) In general

On the maturity date of the last-maturing debt obligation issued under subsection (a) of this section, the Financial Assistance Corporation shall repay to the Secretary of the Treasury the total amount of any annual interest charges on the debt obligations that Farm Credit System institutions (other than the Financial Assistance Corporation) have not previously paid, and the Financial Assistance Corporation shall not be required to pay any additional interest charges on the payments.

(B) Assessment

In order to provide for the orderly funding by the banks of the System of the repayment by the Financial Assistance Corporation to the Secretary of the Treasury, the Financial Assistance Corporation shall assess each System bank, on or about December 31 of each year beginning in 1992, and each System bank shall promptly pay to the Financial Assistance Corporation, an annual annuity type payment in an amount designed to accumulate, in total, including earnings thereon, the amount of the bank's ultimate obligation (as determined by the Corporation on a fair and equitable basis), and no greater than .0006 nor less than .0004 times the bank's and its affiliated associations' average accruing retail loan volume for the preceding year, subject to—

(i) upward or downward adjustment, as appropriate, by the Financial Assistance Corporation during each of the last 5 years prior to the date the Financial Assistance Corporation is obligated to make the repayment, in order to ensure that the Financial Assistance Corporation will have the amount of funds needed to make the repayment on the due date; and

(ii) reduction or termination in any year when the funds paid to the Financial Assistance Corporation, including any anticipated future earnings on the funds, are sufficient to make the repayment on the due date.

(C) Investment of funds

The Financial Assistance Corporation shall invest funds derived from the investment in eligible investments as defined in section 2278b–5(a)(1) of this title. The funds and the earnings on the funds shall be available only for the repayment to the Secretary of the Treasury provided for in subparagraph (A).

(D) Pass through

A bank may (and, to the extent necessary to satisfy its obligations, shall) pass on (either directly, or indirectly through loan pricing or otherwise) all or part of the assessments to its affiliated direct lender associations based on proportionate average accruing retail loan volumes for the preceding year, but the bank shall remain primarily liable for the amounts.

(E) Liability

(i) Banks terminating System status or in liquidation

Any bank terminating System status pursuant to section 2279d of this title shall be required, under regulations of the Farm Credit Administration, to pay to the Financial Assistance Corporation the estimated present value of all future such assessments against the bank had the bank remained in the System. A liability to the Financial Assistance Corporation in this amount (calculated as if the bank had left the System on the date the bank was placed in liquidation) shall be recognized as a claim in favor of the Financial Assistance Corporation against the estate of any bank undergoing liquidation.

(ii) No anticipatory reductions in other obligations

The obligations of other banks shall not be reduced in anticipation of any recoveries under this subparagraph from banks leaving the System or in liquidation.

(iii) Refund of recoveries

The Financial Assistance Corporation shall apply the recoveries, when received, and all earnings on the recoveries, to reduce the other banks' payment obligations, or, to the extent the recoveries are received after the other banks have met their entire payment obligation, shall refund the recoveries, when received, to the

other banks in proportion to the other banks' payments.

(F) Associations terminating System status or in liquidation

Any association terminating System status pursuant to section 2279d of this title shall be required, under regulations of the Farm Credit Administration, to pay to its supervising bank a share, based on the association's retail loan volume relative to the retail loan volume of the bank and its affiliated associations had the association remained in the System, of the estimated present value of all future such assessments against the bank. A liability to the bank in this amount (calculated as if the association had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the bank against the estate of any association undergoing liquidation.

(G) Capital requirements

(i) In general

Until the date that is 5 years prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), all assessments paid by banks to the Financial Assistance Corporation pursuant to subparagraph (B), and any part of the obligation to pay future assessments to the Financial Assistance Corporation under subparagraph (B) that is recognized as an expense on the books of any System bank or association, shall nonetheless be included in the capital of the bank or association for purposes of determining its compliance with regulatory capital requirements.

(ii) During the final 5 years prior to repayment

During the—

(I) period beginning 5 years, and ending 4 years, prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), 60 percent;

(II) period beginning 4 years, and ending 3 years, prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), 30 percent; and

(III) period beginning 3 years prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), 0 percent,

of all assessments paid by banks to the Financial Assistance Corporation pursuant to subparagraph (B), and of any part of the obligation to pay future assessments to the Financial Assistance Corporation under subparagraph (B) that is recognized as an expense on the books of any System bank or association, shall nonetheless be included in the capital of the bank or association for purposes of determining its compliance with regulatory capital requirements.

(d) Refinancing and payment of principal; defaults

(1) In general

(A) Time of repayment

On maturity of an obligation issued under subsection (a) of this section, the obligation shall be repaid by the Financial Assistance Corporation.

(B) Payments by institutions

(i) In general

Except as provided in subparagraph (C), in order to enable the Financial Assistance Corporation to repay the obligation referred to in subparagraph (A), each institution that issued preferred stock under section 2278b–7(a) of this title with respect to the obligation (or the successor to the institution) shall pay to the Financial Assistance Corporation, before the maturity date of the obligation, an amount equal to the par value of the stock outstanding for the institution.

(ii) Annual appropriation

Except as provided in clause (iii), each year beginning in 1992, as soon as practicable following the end of the prior year, each such institution (except institutions in receivership and institutions that have previously redeemed their preferred stock) shall appropriate from its earnings in the prior year to an appropriated unallocated surplus account with respect to preferred stock, the sum of—

(I) the greater of—

(aa) such amount as the institution may be required to appropriate under any assistance agreement the institution has with the Farm Credit System Assistance Board or the Farm Credit System Insurance Corporation; or

(bb) the amount that, if appropriated to the account in equal amounts in each year thereafter until the maturity of the obligation referred to in subparagraph (A), would cause the amount in the account to equal the par value of the preferred stock issued by the institution with respect to the obligation; plus

(II) any amount that had been appropriated to the account in a previous year but had thereafter been offset by losses.

(iii) Limitation

An annual appropriation shall not be made to the extent that the appropriation would exceed the institution's net income (as determined pursuant to generally accepted accounting principles) in that year or to the extent that the appropriation would cause the institution's preferred stock to be impaired.

(iv) Use

The amount in the appropriated unallocated surplus account shall be unavailable

to pay dividends or other allocations or distributions to shareholders or holders of participation certificates. The account shall be senior to all other unallocated surplus accounts but junior to all preferred and common stock for purposes of the application of operating losses.

(v) Preferred stock

The appropriations of surplus by an institution shall not affect the treatment of its preferred stock (and of the appropriated unallocated surplus) as equity for purposes of regulatory permanent capital requirements.

(C) Systemwide repayment

(i) In general

In order to enable the Financial Assistance Corporation to repay the obligations issued to provide assistance under subsections (c) and (e) of section 410 of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note) and section 2162(c) of this title, or issued to provide funds to cover the expenses of the Assistance Board or the Financial Assistance Corporation under sections 2278a–7(a) and 2278b–4, respectively, of this title, each System bank shall pay to the Financial Assistance Corporation a proportion, as calculated by the Financial Assistance Corporation, of the obligation equal to—

(I) the average accruing retail loan volume of the bank and its affiliated associations for the preceding 15 years; divided by

(II) the average accruing retail loan volume of all such banks and their affiliated associations for the same period.

(ii) Expense item

The annual increase in the present value of the estimated obligation of each bank to the Financial Assistance Corporation under this subparagraph shall be recorded each year as an expense item, in accordance with generally accepted accounting principles, on the books of the bank.

(iii) Pass through

A bank may (and, to the extent necessary to satisfy its obligations, shall) pass on (either directly, or indirectly through loan pricing or otherwise) all or part of the amount necessary to satisfy the payment requirement to its affiliated direct lender associations based on proportionate average accruing retail loan volumes for the preceding 15 years, except that the bank shall remain primarily liable for the amount.

(iv) Banks leaving System

Any bank leaving the Farm Credit System pursuant to section 2279d of this title shall be required, under regulations of the Farm Credit Administration, to pay to the Financial Assistance Corporation the estimated present value of the payment required under this subparagraph had the bank remained in the System. A liability to the Financial Assistance Corporation in this amount (calculated as if the bank had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the Financial Assistance Corporation against the estate of any bank undergoing liquidation. The obligations of other banks shall not be reduced in anticipation of any such recoveries from banks leaving the System or in liquidation, but the Financial Assistance Corporation shall apply the recoveries, when received, and all earnings on the recoveries, to reduce the other banks' payment obligations, or, to the extent the recoveries are received after the other banks have met their entire payment obligation, shall refund the recoveries, when received, to the other banks in proportion to the other banks' payments.

(v) Associations terminating System status or in liquidation

Any association leaving the Farm Credit System pursuant to section 2279d of this title shall be required, under regulations of the Farm Credit Administration, to pay to its supervising bank a share, based on the association's retail loan volume relative to the retail loan volume of the bank and its affiliated associations had the association remained in the System, of the present value of the future payment obligation of its supervising bank. A liability to the bank in this amount (calculated as if the association had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the bank against the estate of any association undergoing liquidation.

(D) Funds for payments

Payments under subparagraphs (B) and (C) shall be made by each such institution from the funds of the institution or from funds raised by the institution through the issuance of debt obligations, which may be issued without a collateral requirement and without any guarantee by the Secretary of the Treasury.

(2) Refinanced obligations

The refinanced obligations issued under paragraph (1) shall be solely the obligations of the institutions refinancing such, and sections 2154 and 2155 of this title shall not apply to such obligations.

(3) Defaults

(A) Certain principal and interest obligations

(i) Payment by Corporation

If a System bank defaults on the payment of interest due under subsection (c) of this section during the first 15 years after an obligation is issued under subsection (a) of this section, on the payment of principal or interest due under subparagraphs (B) and (C) of section 2278a–9(e)(3) of this title, on the payment of principal due under paragraph (1)(C), or on the payment of an assessment due under subsection (c)(5)(B) of this section, the Finan-

cial Assistance Corporation shall pay the amount due by the System bank out of the Trust Fund, and shall recover the amount due from the defaulting System bank, and such amount shall be paid to the Trust Fund.

(ii) Payment by Insurance Fund

If the Financial Assistance Corporation has not recovered the full amount due from a defaulting bank by the end of the 12-month period beginning on the date of default, any uncollected amount shall be paid to the Trust Fund from the Insurance Fund established under section 2277a–9 of this title, to the full extent of funds available in the Insurance Fund as of the date the Financial Assistance Corporation notified the Farm Credit System Insurance Corporation of amounts due under this section.

(iii) Payment by remaining institutions

To the extent that the payment from the Insurance Fund is insufficient to reimburse the Trust Fund, the remaining balance shall be allocated to other System banks in accordance with the allocation mechanism applicable under this chapter to the particular defaulted obligation.

(B) Principal of bonds issued to fund purchase of preferred stock

(i) Evaluation

Not later than 90 days before the maturity of any obligation issued under subsection (a) of this section, the Farm Credit Administration shall complete an evaluation of the general financial condition of each System institution that issued preferred stock under section 2278b–7(a) of this title with respect to such obligation to determine whether such System institution will be able to redeem such stock at par value on the maturity of the obligation, and remain a viable institution capable of providing credit to eligible borrowers at equitable and competitive interest rates.

(ii) Availability of evaluation

A copy of the evaluation required under clause (i) shall be furnished to the Secretary of the Treasury and the appropriate committees of Congress.

(iii) Redemption by institution; purchase by Secretary of the Treasury

If the Farm Credit Administration determines, in consultation with the Secretary of the Treasury, on the basis of the evaluation required under clause (i), that the redemption of such stock at par value would impair the other stock or equities of such institution or render such institution incapable of meeting its capital adequacy standards, the institution shall be prohibited from redeeming the preferred stock it issued under section 2278b–7 of this title with respect to the maturing obligation. If the Farm Credit Administration determines, in consultation with the Secretary of the Treasury, on the basis of the evaluation required under clause (i), that such institution will be able to redeem, in a timely manner and at par value, the preferred stock it issued under section 2278b–7 of this title with respect to the maturing obligation, and remain a viable and competitive institution, such institution shall have the option of redeeming or not redeeming such stock. If such institution is prohibited from redeeming or elects not to redeem such stock, the Financial Assistance Corporation shall withdraw funds from the Trust Fund in an amount equal to the par value of the preferred stock issued by such institution under section 2278b–7 of this title so as to enable the Financial Assistance Corporation to pay the principal of the maturing obligation. Simultaneously with such withdrawal of funds from the Trust Fund, the Financial Assistance Corporation shall transfer to the Insurance Fund an equal amount, at par value, of preferred stock of such institution. To the extent that the Trust Fund is insufficient to enable the Financial Assistance Corporation to pay the full principal of the maturing obligation, the Insurance Fund shall be used by the Farm Credit System Insurance Corporation to purchase, at par value, the preferred stock issued by such institution under section 2278b–7(a) of this title to enable the Financial Assistance Corporation to pay the principal of the maturing obligation. To the extent that the Insurance Fund is insufficient to enable the Financial Assistance Corporation to pay the full principal of the maturing obligation, the Secretary of the Treasury shall purchase, at par value, the remaining quantity of the preferred stock issued by such institution to enable the Financial Assistance Corporation to make such full payment. For that purpose, the Secretary of the Treasury may use, as a public debt transaction, the proceeds from the sale of any securities issued under chapter 31 of title 31. The purposes for which such securities may be issued under such chapter are extended to include such purchases of stock. Any preferred stock transferred to, or purchased by, the Farm Credit System Insurance Corporation under this clause shall be retired by the issuing institution at such times and under such terms and conditions as are agreed to between the Insurance Corporation and such institution.

(C) Recourse by other System banks

A defaulting bank shall be liable to the remaining System banks for any amounts paid by the remaining banks under this paragraph.

(4) Payment by United States

(A) Inability to pay

Notwithstanding any other provision of this chapter, if the Financial Assistance Corporation is unable to pay the principal or interest of any obligation issued under subsection (a) of this section or section

2278a–9(e)(3)(A) of this title, the Secretary of the Treasury shall pay to the Financial Assistance Corporation the amount due which shall be used by the Financial Assistance Corporation to pay the obligation.

(B) Recovery

(i) Certain principal and interest obligations

In each instance in which the Secretary of the Treasury is required to make a payment under subparagraph (A) to the Financial Assistance Corporation as a result of a default made by a System bank on interest due from such System bank under subsection (c) of this section, on the payment of principal or interest due under subparagraphs (B) and (C) of section 2278a–9(e)(3) of this title, on the payment of principal due under paragraph (1)(C), or on the payment of an assessment due under subsection (c)(5)(B) of this section, the Secretary of the Treasury shall recover the amount of the payments the Secretary made, with respect to each defaulting bank, from such defaulting bank. If the Secretary has not recovered the full amount due from the defaulting bank by the end of the 12-month period beginning on the date of payment by the Secretary, the uncollected amount shall be paid to the Secretary from the Insurance Fund established under section 2277a–9 of this title.

(ii) Principal of bonds issued to fund purchase of preferred stock

In each instance in which the Secretary of the Treasury is required under paragraph (3)(B)(iii) to purchase preferred stock issued by a System institution under section 2278b–7(a) of this title, the Farm Credit System Insurance Corporation shall use funds deposited in the Insurance Fund to repurchase, at par value, from the Secretary of the Treasury such stock required to be purchased under paragraph (3)(B)(iii) as funds become available for such repurchase.

(iii) Priority

Notwithstanding any other provision of this chapter except for section 2277a–9(c)(2)(B) of this title, during any year in which payments are due to the Secretary of the Treasury from the Insurance Fund under clause (i), or preferred stock held by the Secretary is due to be repurchased by the Insurance Fund under clause (ii), the funds in such Fund, and all funds deposited in such Fund during such year, shall be used first for the purposes specified in clauses (i) and (ii).

(e) Administration

(1) "Retail loan volume" defined

As used in this section, the term ''retail loan volume'' means all loans (as defined in accordance with generally accepted accounting principles) by a System bank or association, excluding loans by such a bank or association to another System institution.

(2) Calculation of average annual loan volumes

For purposes of this section and section 2278a–9 of this title, average annual loan volumes shall be calculated using month-end balances.

(3) Exclusion of banks undergoing liquidation

For purposes of this section and section 2278a–9 of this title, the term ''bank'' shall not include a bank that had entered liquidation prior to October 28, 1992.

(Pub. L. 92–181, title VI, § 6.26, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1597; amended Pub. L. 100–399, title II, § 201(p)–(x), Aug. 17, 1988, 102 Stat. 991, 992; Pub. L. 102–552, title III, §§ 302–304(a), 305, 306, Oct. 28, 1992, 106 Stat. 4109–4111, 4114.)

AMENDMENTS

1992—Subsec. (c)(2)(B). Pub. L. 102–552, § 305(1)(A), (B), substituted ''banks'' for ''institutions'' wherever appearing in heading and text.

Subsec. (c)(2)(C), (D). Pub. L. 102–552, § 305(1)(C), added subpar. (C) and struck out former subpars. (C) and (D) which read as follows:

''(C) ALLOCATION.—During each year of the second 5-year period, each System institution shall pay to the Financial Assistance Corporation a proportion of the interest due from System institutions under this paragraph equal to—

''(i) the amount of the performing loan volume of the institution (based on the average loan volume for the preceding year); divided by

''(ii) the total performing loan volume of the System for the preceding year.

''(D) SPECIAL RULE.—For purposes of determining the average loan volume of Farm Credit Banks, loan volume shall consist of loans made by such banks with the exception of loans made to associations.''

Subsec. (c)(3), (4). Pub. L. 102–552, § 305(1)(B), substituted ''banks'' for ''institutions''.

Subsec. (c)(5). Pub. L. 102–552, § 304(a), amended par. (5) generally, substituting present provisions for provisions relating to repayments by System institutions generally, time of payments, and terms of payments.

Subsec. (d)(1)(B). Pub. L. 102–552, § 302, amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''Except as provided in subparagraph (C), in order to enable the Financial Assistance Corporation to repay the obligation referred to in subparagraph (A), each institution that issued preferred stock under section 2278b–7(a) of this title with respect to such obligation (or the successor thereto) shall pay to the Financial Assistance Corporation, before the maturity date of such obligation, an amount equal to the par value of such stock outstanding for such institution.''

Subsec. (d)(1)(C). Pub. L. 102–552, § 303, amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''In order to enable the Financial Assistance Corporation to repay the obligations issued to provide assistance under section 410(c) of the Agricultural Credit Act of 1987 and section 2162(c) of this title, or issued to provide funds to cover the expenses of the Assistance Board under section 2278a–7(a) of this title, each System institution shall pay to the Financial Assistance Corporation a proportion of such obligation equal to—

''(i) the average performing loan volume of the institution for the preceding 15 years; divided by

''(ii) the average performing loan volume of all of the System institutions for the same period.''

Subsec. (d)(1)(D), (E). Pub. L. 102–552, § 305(2), redesignated subpar. (E) as (D) and struck out former subpar. (D) which read as follows: ''(D) SPECIAL RULE.—For purposes of determining the average loan volume of Farm Credit Banks, loan volume shall consist of loans made

by such banks with the exception of loans made to associations.''

Subsec. (d)(3)(A). Pub. L. 102–552, § 306(1)(A), inserted heading and struck out former heading ''Interest'', in cl. (i), inserted ''on the payment of principal or interest due under subparagraphs (B) and (C) of section 2278a–9(e)(3) of this title, on the payment of principal due under paragraph (1)(C), or on the payment of an assessment due under subsection (c)(5)(B) of this section,'', struck out ''of the interest'' after ''the amount'' in two places, and substituted ''bank'' for ''institution'' wherever appearing, in cl. (ii), struck out ''of interest'' after ''the full amount'', and substituted ''defaulting bank'' for ''defaulting institution'' and ''any uncollected amount'' for ''such uncollected interest'', and in cl. (iii), substituted ''allocated to other System banks in accordance with the allocation mechanism applicable under this chapter to the particular defaulted obligation.'' for ''added to the amount of interest due from remaining System institutions, under subsection (c) of this section, and each remaining System institution, subject to the special rule provided in subsection (c)(2)(D) of this section, shall pay to the Trust Fund a proportion of the uncollected interest equal to—

''(I) the amount of the performing loan volume of the institution (based on the average loan volume for the preceding year); divided by

''(II) the total performing loan volume of the System.''

Subsec. (d)(3)(B). Pub. L. 102–552, § 306(1)(B), inserted heading and struck out former heading ''Principal''.

Subsec. (d)(3)(C). Pub. L. 102–552, § 306(1)(C), substituted ''banks'' for ''institutions'' wherever appearing in heading and text, ''bank'' for ''institution'', and ''any amounts'' for ''the amount of any interest''.

Subsec. (d)(4)(A). Pub. L. 102–552, § 306(2)(A), inserted ''or section 2278a–9(e)(3)(A) of this title''.

Subsec. (d)(4)(B)(i). Pub. L. 102–552, § 306(2)(B)(i), inserted heading and struck out former heading ''Interest payments'', substituted ''bank'' for ''institution'' wherever appearing, and inserted ''on the payment of principal or interest due under subparagraphs (B) and (C) of section 2278a–9(e)(3) of this title, on the payment of principal due under paragraph (1)(C), or on the payment of an assessment due under subsection (c)(5)(B) of this section,''.

Subsec. (d)(4)(B)(ii). Pub. L. 102–552, § 306(2)(B)(ii), inserted heading and struck out former heading ''Principal payments''.

Subsec. (e). Pub. L. 102–552, § 305(3), added subsec. (e).

1988—Subsec. (c)(2)(D). Pub. L. 100–399, § 201(q), substituted ''Farm Credit Banks'' for ''Federal intermediate credit banks and Federal land banks''.

Pub. L. 100–399, § 201(p), inserted ''and Federal land banks'' after ''credit banks'' and struck out ''production credit'' before ''associations''.

Subsec. (c)(5)(B). Pub. L. 100–399, § 201(r)(1), substituted ''payments under this paragraph'' for ''interest payments''.

Pub. L. 100–399, § 201(r)(2), substituted ''referred to in subsection (d)(1)(E)'' for ''issued under subsection (d)(1)(C)''.

Subsec. (c)(5)(C)(i). Pub. L. 100–399, § 201(r)(1), substituted ''payments under this paragraph'' for ''interest payments''.

Subsec. (d). Pub. L. 100–399, § 201(s), inserted ''; defaults'' after ''principal'' in heading.

Subsec. (d)(1)(C). Pub. L. 100–399, § 201(t), in introductory provisions substituted ''issued to provide assistance under section 410(c) of the Agricultural Credit Act of 1987 and section 2162(c) of this title, or issued to provide funds to cover the expenses of the Assistance Board under section 2278a–7(a) of this title,'' for ''referred to in section 410(c) of the Agricultural Credit Act of 1987,'' and ''such obligation'' for ''such principal'', in cl. (i) substituted ''institution'' for ''bank'', and in cl. (ii) substituted ''institutions'' for ''banks''.

Subsec. (d)(1)(D). Pub. L. 100–399, § 201(q), substituted ''Farm Credit banks'' for ''Federal intermediate credit banks and Federal land banks''.

Pub. L. 100–399, § 201(p), inserted ''and Federal land banks'' after ''credit banks'' and struck out ''production credit'' before ''associations''.

Subsec. (d)(1)(E). Pub. L. 100–399, § 201(u), substituted ''subparagraphs (B) and (C)'' for ''subparagraph (B)''.

Subsec. (d)(3)(A)(i), (iii). Pub. L. 100–399, § 201(v), substituted ''subsection (c) of this section'' for ''this subsection''.

Subsec. (d)(3)(B)(iii). Pub. L. 100–399, § 201(w), inserted ''is prohibited from redeeming or'' after ''If such institution''.

Subsec. (d)(4)(B)(iii). Pub. L. 100–399, § 201(x), substituted ''section 2277a–9(c)(2)(B) of this title'' for ''section 2277a–9 of this title''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 201(q) of Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, and amendment by section 201(p), (r)–(x) of 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 of Pub. L. 100–399, set out as a note under section 2002 of this title.

§ 2278b–7. Preferred stock

(a) Issuance

(1) In general

Each System institution that is certified under section 2278a–4 of this title may issue a special class of preferred stock only in an amount, and subject to such terms and conditions, as authorized by the Assistance Board.

(2) Dividends

(A) In general

Except as provided in subparagraph (B), dividends shall not be payable on stock issued under this section.

(B) Exception

Stock issued under this section shall be issued under such terms and conditions as to enable the Secretary of the Treasury, with respect to any of such stock the Secretary purchases under section 2278b–6(d)(3)(B)(iii) of this title, and the Farm Credit System Insurance Corporation, with respect to any of such stock that the Insurance Corporation purchases or otherwise acquires under section 2278b–6(d)(3)(B)(iii) of this title or section 2278b–6(d)(4)(B)(ii) of this title, to establish for such stock a stated dividend rate equal to the current market yield on outstanding, marketable obligations of the United States with maturities of 30 years, plus a premium to reflect the cost of capital for institutions in financial distress.

(3) Voting rights

A holder of stock issued under this subsection shall have no voting rights with respect to the stock.

(b) Purchase

The Financial Assistance Corporation shall purchase shares of stock issued by certified System institutions under subsection (a) of this section to the extent that the issuance of such stock is approved by the Assistance Board.

(Pub. L. 92–181, title VI, § 6.27, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1602; amended Pub. L. 100–399, title II, § 201(y)–(aa), Aug. 17, 1988, 102 Stat. 992.)

AMENDMENTS

1988—Subsec. (a)(1). Pub. L. 100–399, § 201(y), struck out ''(a) or (b)'' after ''section 2278a–4''.

Subsec. (a)(2)(B). Pub. L. 100–399, § 201(z), substituted ''Farm Credit System Insurance Corporation'' for ''Reserve Account Board'' and ''Insurance Corporation purchases'' for ''Board purchases''.

Subsec. (b). Pub. L. 100–399, § 201(aa), substituted ''subsection (a)'' for ''subsections (a) and (b)''.

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.

§ 2278b–8. Payments

(a) In general

Beginning in fiscal year 1989, the Secretary of the Treasury shall reimburse the Financial Assistance Corporation for any amounts such Corporation pays in interest charges under section 2278b–6(c) of this title during fiscal year 1988, and thereafter the Secretary shall pay the Financial Assistance Corporation any amounts due from the Secretary to such Corporation under section 2278b–6(c) of this title.

(b) Authorization of appropriations

There is authorized to be appropriated to the Secretary of the Treasury such sums on an annual basis as may be necessary to carry out this part.

(Pub. L. 92–181, title VI, § 6.28, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1603; amended Pub. L. 100–399, title II, § 201(bb), Aug. 17, 1988, 102 Stat. 992; Pub. L. 102–552, title III, § 304(b), Oct. 28, 1992, 106 Stat. 4114.)

AMENDMENTS

1992—Subsecs. (b), (c). Pub. L. 102–552 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows:

''(b) REPAYMENT OF INTEREST PAID BY SECRETARY OF THE TREASURY.—

''(1) IN GENERAL.—Any amounts paid into the Assistance Fund by the Secretary of the Treasury pursuant to subsection (a) of this section exceeding $2,000,000,000 shall be repaid by System institutions in accordance with a schedule to be established by the Farm Credit Administration Board.

''(2) ALLOCATION.—Until such repayment is completed, each System institution shall pay a proportionate share of the amount due under paragraph (1) equal to—

''(A) the amount of the performing loan volume of the institution, determined in accordance with section 2278b–6(c)(2)(D) of this title (based on the average loan volume for the preceding year); divided by

''(B) the total performing loan volume of the System for the preceding year.''

1988—Subsec. (b)(2). Pub. L. 100–399 in introductory provision substituted ''paragraph (1) equal'' for ''this paragraph'' and in subpar. (A) substituted ''section 2278b–6(c)(2)(D) of this title'' for ''subsection (c)(1)(D) of this section''.

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.

§ 2278b–9. One-time stock purchase

(a) Amount of stock purchase

(1) In general

Except as provided in paragraphs (2) and (3), for the purpose of obtaining funds for the Trust Fund, each System institution shall purchase from the Financial Assistance Corporation stock issued in accordance with section 2278b–3 of this title in an amount equal to the amount by which the unallocated retained earnings of the institution (after taking into account any funds received by the institution under section 2278a–9(c) of this title) exceeds—

(A) in the case of a System bank, 5 percent of assets; or

(B) in the case of a production credit association or a Federal land bank association, 13 percent of assets.

(2) Reallocation

The district board of a district, subject to the unanimous consent of the bank and associations in the district that would be affected by the reallocation, may reallocate the amount of stock required to be purchased by banks and associations in the district under paragraph (1) to equitably reflect the ability of the banks and associations to pay, except that—

(A) the total amount of stock purchased by banks and associations in the district under this paragraph shall equal the total amount of stock required to be purchased by the banks and associations under paragraph (1); and

(B) the board may not impair the stock of an association in carrying out this paragraph; and

(C) a district board's authority to reallocate stock purchases under this paragraph shall be limited to reallocation among like associations of the amount of stock required to be purchased by such associations; reallocation of the amount of stock required to be purchased by production credit associations among such associations and the district Federal intermediate credit bank; and reallocation of the amount of stock required to be purchased by Federal land bank associations among such associations and the district Federal land bank. Other reallocations than those enumerated above shall not be permitted.

(3) Periodic purchases

(A) Notwithstanding any other provision of this section, the Financial Assistance Corporation shall establish a program under which System institutions shall purchase, as debt obligations are issued under section 2278b–6(a) of this title, stock of the Corporation in amounts described in this paragraph.

(B) The program shall provide, with respect to each issuance of debt obligations under section 2278b–6(a) of this title, that each System institution originally required to purchase stock under paragraph (1), or the successor thereto, shall purchase Corporation stock in an amount determined by multiplying the amount of stock such institution was origi-

nally required to purchase under that paragraph by a percentage equal to the percentage which the amount of the issuance bears to $4,000,000,000.

(C) The Financial Assistance Corporation shall promptly rescind purchases of stock of the Corporation made under paragraph (1) or (2) by System institutions and refund to such institutions, or their successors, the purchase price for the stock, except that, with respect to each issuance of debt obligations that occurs before October 1, 1988, the Corporation shall deduct from any refund due any System institution, and retain, the amount payable by such institution.

(b) Computations

For purposes of subsection (a) of this section, the unallocated retained earnings and assets of a System institution shall be computed in accordance with generally accepted accounting principles on the basis of the financial statement of the institution on December 31, 1986.

(c) Notice

(1) Within 15 days after the retirement of the obligations of the Capital Corporation under section 2278a–9 of this title—

(A) the Financial Assistance Corporation shall notify each System institution of the amount of stock such institution is required to purchase under subsection (a) of this section; or

(B) in the case of a district in which the district board has reallocated the stock purchase requirement in accordance with subsection (a)(2) of this section, the district board shall notify each System institution in the district of the amount of stock such institution is required to purchase under subsection (a) of this section.

(2) Not later than 15 days before each issuance of debt obligations under section 2278b–6(a) of this title occurring after September 30, 1988, the Financial Assistance Corporation shall notify each System institution required to purchase Corporation stock under subsection (a)(3) of this section of the amount of the stock it is required to purchase.

(d) Institution requirements after notice

Within 15 days after a System institution is notified of the amounts due under subsection (c) of this section, the institution shall purchase from the Financial Assistance Corporation the amount of stock required to be purchased by the institution under this section. No further stock purchases, obligations, or assessments shall be required beyond that provided in section 2278b–6 of this title and this section.

(e) Jurisdiction over actions

Notwithstanding any other provision of law, the United States district court for the District of Columbia shall have exclusive jurisdiction over any action brought under or arising out of this section. No suit or proceeding shall be maintained for the recovery of any amount of stock alleged to have been erroneously or illegally purchased, and no suit or proceeding shall be maintained to enjoin or otherwise prevent or impede the giving of notice or the purchase of stock required under this section, unless the amount of stock required to be purchased under this section has been purchased and paid for in full.

(Pub. L. 92–181, title VI, § 6.29, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1603; amended Pub. L. 100–460, title VI, § 646, Oct. 1, 1988, 102 Stat. 2266.)

AMENDMENTS

1988—Subsec. (a)(1). Pub. L. 100–460, § 646(1), substituted "paragraphs (2) and (3)" for "paragraph (2)" in introductory provisions.

Subsec. (a)(3). Pub. L. 100–460, § 646(2), added par. (3).

Subsec. (c). Pub. L. 100–460, § 646(3), (4), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

EFFECTIVE DATE OF 1988 AMENDMENTS

Pub. L. 101–220, § 7(a), Dec. 12, 1989, 103 Stat. 1881, and Pub. L. 101–239, title I, § 1006(a), Dec. 19, 1989, 103 Stat. 2109, provided that: "Notwithstanding any other provision of law, the amendments to section 6.29 of the Farm Credit Act of 1971 (12 U.S.C. 2278b–9) made by section 646 of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989 (Public Law 100–460; 102 Stat. 2266) shall be effective on October 1, 1992."

Section 646 of Pub. L. 100–460 provided that the amendment made by that section is effective Oct. 1, 1989.

PAYMENTS TO FARM CREDIT SYSTEM INSTITUTIONS FOR PURCHASES OF FINANCIAL ASSISTANCE CORPORATION STOCK

Pub. L. 101–239, title I, § 1006(b), Dec. 19, 1989, 103 Stat. 2109, directed Financial Assistance Corporation to pay, out of Financial Assistance Corporation Trust Fund established under section 2278b–5(b) of this title, to each of institutions of Farm Credit System that purchased stock in Financial Assistance Corporation under section 2278b–9 of this title, four annual payments, required the annual payments to be made available as soon as practicable after October 1 of each of calendar years 1989 through 1992, established method of calculating payments, and provided that payments be made available to such institutions in an amount equal to total amount of annual payments to be made available times the ratio of the amount of stock each institution purchased divided by $177,000,000.

Similar provisions were contained in Pub. L. 101–220, § 7(b), Dec. 12, 1989, 103 Stat. 1881.

§ 2278b–10. Exemption from taxation

(a) Assets

The Financial Assistance Corporation, and the capital, reserves, and surplus thereof, and the income derived therefrom, shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by the Financial Assistance Corporation to the same extent, according to its value, as other similar property held by other persons is taxed.

(b) Obligations

The notes, bonds, debentures, and other obligations issued by the Financial Assistance Corporation shall be accorded the same tax treatment as System-wide obligations.

(Pub. L. 92–181, title VI, § 6.30, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1604.)

§ 2278b–11. Termination

(a) Financial Assistance Corporation

The Financial Assistance Corporation and the authority provided to such Corporation by this

part shall terminate on the complete discharge by the Financial Assistance Corporation of its responsibilities under section 2278a–9(e) of this title and subsections (c) through (g) of section 2278b–6 of this title with regard to repayments by System institutions, but in no event later than 2 years following the maturity and full payment of all debt obligations issued under section 2278b–6(a) of this title.

(b) Accounts

Simultaneously with the termination of the Financial Assistance Corporation as provided in subsection (a) of this section, any funds in the accounts established under section 2278b–5 of this title shall be transferred to the Insurance Fund established under section 2277a–9 of this title.

(Pub. L. 92–181, title VI, § 6.31, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1605; amended Pub. L. 102–552, title III, § 307(b), Oct. 28, 1992, 106 Stat. 4116.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–552 substituted ''terminate on the complete discharge by the Financial Assistance Corporation of its responsibilities under section 2278a–9(e) of this title and subsections (c) through (g) of section 2278b–6 of this title with regard to repayments by System institutions, but in no event later than 2 years following'' for ''terminate on''.

SUBCHAPTER VII—RESTRUCTURING OF SYSTEM INSTITUTIONS

AMENDMENTS

1988—Pub. L. 100–399, title IV, § 408(a), Aug. 17, 1988, 102 Stat. 1001, substituted ''RESTRUCTURING OF'' for ''MERGERS OF'' in subchapter heading.

PART A—MERGER OF BANKS WITHIN A DISTRICT

§ 2279a. Power to merge

The banks within a district may merge into a single entity (hereinafter in this subchapter referred to as a ''merged bank'') if the plan of merger is approved by—

(1) the Farm Credit Administration Board;

(2) the respective boards of directors of the banks involved;

(3) a majority of the stockholders of each bank voting, in person or by proxy, at a duly authorized stockholders' meeting with each association entitled to cast a number of votes equal to the number of its voting stockholders; and

(4) in the case of a bank for cooperatives, a majority of the total equity interests in such merging bank for cooperatives (including allocated, but not unallocated, surplus and reserves) held by those stockholders or subscribers to the guaranty fund of the bank voting.

(Pub. L. 92–181, title VII, § 7.0, as added Pub. L. 100–233, title IV, § 416, Jan. 6, 1988, 101 Stat. 1645; amended Pub. L. 100–399, title IV, § 408(b), Aug. 17, 1988, 102 Stat. 1001.)

AMENDMENTS

1988—Pub. L. 100–399 substituted ''The banks'' for ''Two or more banks'' in introductory provisions, and in par. (3) substituted ''with each association entitled to cast a number of votes equal to the number of its voting'' for ''in accordance with the provisions of section 2223(c) of this title relating to the casting of votes by''.

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.

§ 2279a–1. Board of directors

Each merged bank shall elect a board of directors of such number, for such term, in such manner, and with such qualifications, as may be required in its bylaws, except that at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.

(Pub. L. 92–181, title VII, § 7.1, as added Pub. L. 100–233, title IV, § 416, Jan. 6, 1988, 101 Stat. 1645; amended Pub. L. 100–399, title IV, § 408(c), Aug. 17, 1988, 102 Stat. 1001.)

AMENDMENTS

1988—Pub. L. 100–399 struck out ''for the district'' in section catchline and amended text generally, revising and restating as a single unlettered paragraph provisions of former subsecs. (a) and (b).

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.

§ 2279a–2. Powers of merged banks

(a) In general

Except as otherwise provided in this subchapter, a merged bank shall have all of the powers granted to, and shall be subject to all of the obligations imposed on, any of the constituent entities of the merged bank.

(b) Regulations

The Farm Credit Administration shall issue regulations that establish the manner in which the powers and obligations of the banks that form the merged bank are consolidated, and to the extent necessary, reconciled in the merged bank.

(Pub. L. 92–181, title VII, § 7.2, as added Pub. L. 100–233, title IV, § 416, Jan. 6, 1988, 101 Stat. 1645.)

§ 2279a–3. Capitalization

In accordance with section 2154a of this title, each merged bank shall provide, through bylaws and subject to Farm Credit Administration regulations, for the capitalization of the bank and the manner in which bank stock shall be issued, held, transferred, and retired and bank earnings distributed.

(Pub. L. 92–181, title VII, § 7.3, as added Pub. L. 100–399, title IV, § 408(d), Aug. 17, 1988, 102 Stat. 1001.)

PRIOR PROVISIONS

A prior section 2279a–3, Pub. L. 92–181, title VII, § 7.3, as added Pub. L. 100–233, title IV, § 416, Jan. 6, 1988, 101 Stat. 1645, related to issuance of shares of capital stock, prior to repeal by Pub. L. 100–399, title IV, § 408(d), Aug. 17, 1988, 102 Stat. 1001.

EFFECTIVE DATE

Section 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 an Effective Date of 1988 Amendment note under section 2002 of this title.

§ 2279a–4. Repealed. Pub. L. 100–399, title IV, § 408(d), Aug. 17, 1988, 102 Stat. 1001

Section, Pub. L. 92–181, title VII, § 7.4, as added Pub. L. 100–233, title IV, § 416, Jan. 6, 1988, 101 Stat. 1646, related to earnings, reserves, and distributions with regard to merged banks. See section 2279a–3 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective as if repealing provisions had been 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 an Effective Date of 1988 Amendment note under section 2002 of this title.

§ 2279a–5. Transferred

CODIFICATION

Section, Pub. L. 92–181, title VII, § 7.5, as added Pub. L. 100–233, title IV, § 416, Jan. 6, 1988, 101 Stat. 1646, which required reports by merged banks for cooperatives, was renumbered section 3.29 of title III of Pub. L. 92–181 by Pub. L. 100–399, title IV, § 408(e), Aug. 17, 1988, 102 Stat. 1001, and is classified to section 2149a of this title.

PART B—MERGERS, TRANSFERS OF ASSETS, AND POWERS OF ASSOCIATIONS WITHIN A DISTRICT

SUBPART 1—TRANSFERS BY FEDERAL LAND BANKS TO FEDERAL LAND BANK ASSOCIATIONS

§ 2279b. Transfer of lending authority

(a) Voluntary transfers

A Federal land bank or a merged bank having a Federal land bank as one of its constituents, may transfer to a Federal land bank association, and the association may assume, the authority of the transferring bank in the territorial area served by the association, to make and participate in long-term real estate mortgage loans under this chapter if the transfer is approved by—

(1) the Farm Credit Administration Board;

(2) the Board of Directors of both institutions; and

(3) a majority of the stockholders of the bank and of the association, in accordance with the voting provisions of sections 2279a and 2279c–1 of this title, respectively.

(b) Direct loans and financial assistance

After a transfer described in subsection (a) or (d) of this section—

(1) the Federal land bank association shall possess all of the direct long-term real estate mortgage loan authority, formerly possessed by the transferring bank, in the territory served by the association; and

(2) the bank may provide and extend financial assistance to, and discount for, or purchase from, the transferee Federal land bank association any note, draft, or other obligation with the endorsement or guarantee of the association, the proceeds of which have been advanced to persons eligible and for purposes of financing by the association under subsection (a) of this section.

(c) Regulations

The Farm Credit Administration shall issue regulations that establish the manner in which the powers and obligations of the banks that make transfers are consolidated and, to the extent necessary, reconciled in the association referred to in subsection (a) of this section.

(d) Mandatory transfer

On the merger of one or more production credit associations with one or more Federal land bank associations, the bank supervising the Federal land bank association shall transfer all of the direct lending authority of the bank in the territory served by such Federal land bank association to such merged association.

(Pub. L. 92–181, title VII, § 7.6, formerly §§ 7.6, 7.7, as added Pub. L. 100–233, title IV, § 416, Jan. 6, 1988, 101 Stat. 1647; amended Pub. L. 100–399, title IV, § 408(f)–(j), Aug. 17, 1988, 102 Stat. 1001, 1002.)

CODIFICATION

Pub. L. 100–399, § 408(j), transferred section 7.7 of Pub. L. 92–181, which was classified to section 2279c of this title, to subsec. (d) of this section.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–399, § 408(f), substituted ''Voluntary transfers'' for ''Assignments'' as subsection heading, and in text substituted ''may transfer'' for ''may assign'', ''this chapter'' for ''sections 2014 through 2017 of this title'', and ''transfer is approved'' for ''assignment is approved'' in introductory provisions, and ''sections 2279a and 2279c–1 of this title, respectively'' for ''sections 2279a and 2279b of this title'' in par. (3).

Subsec. (b). Pub. L. 100–399, § 408(g), substituted ''a transfer described in subsection (a) or (d)'' for ''an assignment described in subsection (a)'' in introductory provisions and ''the bank may provide'' for ''the Federal land bank may provide'' in par. (2).

Subsec. (c). Pub. L. 100–399, § 408(h), struck out ''assignments or'' before ''transfers are consolidated'' and struck out second sentence, which provided that, following a transfer or assignment under subsection (a) of this section, the provisions of section 2154a of this title were to be applicable to the association.

Subsec. (d). Pub. L. 100–399, § 408(i), (j), transferred section 2279c of this title to subsec. (d) of this section, substituted heading for former section heading, and amended text generally. Prior to amendment, text read as follows: ''On the merger of one or more production credit associations with one or more Federal land bank associations, the bank supervising the Federal land bank association shall transfer all of its direct lending authority of the bank to such association under section 2279c–1 of this title.''

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.

§ 2279c. Equalization of loan-making powers of certain district associations

(a) Equalization of loan-making powers

(1) In general

(A) Federal land bank associations

Subject to paragraph (2), any association that owns a Federal land bank association authorized as of January 1, 2007, to make long-term loans under subchapter I in its

chartered territory within the geographic area described in subsection (b) may make short- and intermediate-term loans and otherwise operate as a production credit association under subchapter II within that same chartered territory.

(B) Production credit associations

Subject to paragraph (2), any association that under its charter has subchapter I lending authority and that owns a production credit association authorized as of January 1, 2007, to make short- and intermediate-term loans under subchapter II in the geographic area described in subsection (b) may make long-term loans and otherwise operate, directly or through a subsidiary association, as a Federal land bank association or Federal land credit association under subchapter I in the geographic area.

(C) Farm credit bank

Notwithstanding section 2252(a) of this title, the Farm Credit Bank with which any association had a written financing agreement as of January 1, 2007, may make loans and extend other comparable financial assistance with respect to, and may purchase, any loans made under the new authority provided under subparagraph (A) or (B) by an association exercising such authority.

(2) Required approvals

An association may exercise the additional authority provided for in paragraph (1) only after the exercise of the authority is approved by—

(A) the board of directors of the association; and

(B) a majority of the voting stockholders of the association (or, if the association is a subsidiary of another association, the voting stockholders of the parent association) voting, in person or by proxy, at a duly authorized meeting of stockholders in accordance with the process described in section 2279e of this title.

(b) Applicability

This section applies only to associations the chartered territory of which was within the geographic area served by the Federal intermediate credit bank immediately prior to its merger with a Farm Credit Bank under section 410(e)(1) of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note; Public Law 100–233).

(Pub. L. 92–181, title VII, § 7.7, as added Pub. L. 110–234, title V, § 5407(a), May 22, 2008, 122 Stat. 1159, and Pub. L. 110–246, § 4(a), title V, § 5407(a), June 18, 2008, 122 Stat. 1664, 1921.)

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 2279c, Pub. L. 92–181, title VII, § 7.7, as added Pub. L. 100–233, title IV, § 416, Jan. 6, 1988, 101 Stat. 1647; amended Pub. L. 100–399, title IV, § 408(i), (j), Aug. 17, 1988, 102 Stat. 1002, related to mergers of unlike associations, prior to renumbering as section 7.6(d) of Pub. L. 92–181 and transfer to section 2279b(d) 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, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.

Section effective Jan. 1, 2010, see section 5407(d) of Pub. L. 110–246, set out as an Effective Date of 2008 Amendment note under section 2252 of this title.

SUBPART 2—MERGER OF LIKE AND UNLIKE ASSOCIATIONS

§ 2279c–1. Merger of associations

(a) In general

Two or more associations within the same district, whether or not organized under the same subchapter of this chapter, may merge into a single entity (hereinafter in this subchapter referred to as a ''merged association'') if the plan of merger is approved by—

(1) the Farm Credit Administration Board;

(2) the boards of directors of the associations;

(3) a majority of the shareholders of each association voting, in person or by proxy, at a duly authorized stockholders' meeting; and

(4) the Farm Credit Bank.

(b) Powers, obligations, and consolidation

(1) Powers and obligations

Except as otherwise provided by this subchapter, a merged association shall—

(A) possess all powers granted under this chapter to the associations forming the merged association; and

(B) be subject to all of the obligations imposed under this chapter on the associations forming the merged association.

(2) Consolidation

The Farm Credit Administration shall issue regulations that establish the manner in which the powers and obligations of the associations that form the merged association are consolidated and, to the extent necessary, reconciled in the merged association.

(c) Stock issuance

(1) Plan of merger

Subject to section 2154a of this title, the number of shares of capital stock issued by a merged association to the stockholders of any association forming such merged association, and the rights and privileges of such shares (including voting power, preferences on liquidation, and the right to dividends), shall be determined by the plan of merger adopted by the merged associations.

(2) Capitalization

In accordance with section 2154a of this title, each merged association shall provide, through bylaws and subject to Farm Credit Administration regulations, for the capitalization of the association and the manner in which association stock shall be issued, held, transferred, and retired, and association earnings shall be distributed.

(Pub. L. 92–181, title VII, § 7.8, as added Pub. L. 100–233, title IV, § 416, Jan. 6, 1988, 101 Stat. 1647;

amended Pub. L. 100–399, title IV, § 408(k), (*l*), Aug. 17, 1988, 102 Stat. 1002.)

AMENDMENTS

1988—Subsec. (b)(2). Pub. L. 100–399, § 408(k), struck out second sentence, which directed that, following a merger under subsection (a) of this section, the provisions of section 2154a of this title were to be applicable to the merged association.

Subsec. (c)(2). Pub. L. 100–399, § 408(*l*), substituted ''Capitalization'' for ''Plan of capitalization'' as par. (2) heading and amended text generally. Prior to amendment, text read as follows: ''The number of shares of capital stock, and the rights and privileges thereof, issued by a merged association after a merger shall be determined by the Board of Directors of the merged association, with the approval of the supervising bank, and shall be consistent with section 2154a of this title and the regulations issued by the Farm Credit Administration.''

Subsec. (c)(3). Pub. L. 100–399, § 408(*l*), struck out par. (3) which read as follows: ''Voting stock of a merged association shall be issued to and held by farmers, ranchers, or producers or harvesters of aquatic products who are or were, immediately prior to the merger, direct borrowers from one of the associations forming the merged association or the supervising bank of such merged association.''

Subsec. (d). Pub. L. 100–399, § 408(*l*), struck out subsec. (d) which read as follows: ''The plan of merger shall provide for the issuance, transfer, and retirement of stock and the distribution of earnings in accordance with the provisions of section 2154a of this title.''

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.

SUBPART 3—RECONSIDERATION

§ 2279c–2. Reconsideration

(a) Period

A stockholder vote in favor of—

(1) the merger of districts under this chapter;

(2) the merger of banks within a district under section 2279a of this title;

(3) the transfer of the lending authority of a Federal land bank or a merged bank having a Federal land bank as one of its constituents, under section 2279b of this title;

(4) the merger of two or more associations under section 2279c–1 or 2279f–1 of this title;

(5) the termination of the status of an institution as a System institution under section 2279d of this title; or

(6) the merger of similar banks under section 2279f of this title;

shall not take effect except in accordance with subsection (b) of this section.

(b) Reconsideration

(1) Notice

Not later than 30 days after a stockholder vote in favor of any of the actions described in subsection (a) of this section, the officer or employee that records such vote shall ensure that all stockholders of the voting entity receive notice of the final results of the vote.

(2) Effective date

A voluntary merger, transfer, or termination that is approved by a vote of the stockholders of two or more banks or associations shall not take effect until the expiration of 30 days after the date on which the stockholders of such banks or associations are notified of the final result of the vote in accordance with paragraph (1).

(3) Petition filed

If a petition for reconsideration of a merger, transfer, or termination vote, signed by at least 15 percent of the stockholders of one or more of the affected banks or associations, is presented to the Farm Credit Administration within 30 days after the date of the notification required under paragraph (1)—

(A) a voluntary merger, transfer, or termination shall not take effect until the expiration of 60 days after the date on which the stockholders were notified of the final result of the vote; and

(B) a special meeting of the stockholders of the affected banks or associations shall be held during the period referred to in subparagraph (A) to reconsider the vote.

(4) Vote on reconsideration

If a majority of stockholders of any one of the affected banks or associations voting, in person or by written proxy, at a duly authorized stockholders' meeting, vote against the proposed merger, transfer, or termination, such action shall not take place.

(5) Failure to file petition

If a petition for reconsideration of such vote is either not filed prior to the 60th day after the vote or, if timely filed, is not signed by at least 15 percent of the stockholders, the merger, transfer, or termination shall become effective in accordance with the plan of merger, transfer, or termination.

(c) Special reconsideration

(1) Issuance of regulations

Notwithstanding any other provision of this chapter, the Farm Credit Administration shall issue regulations under which the stockholders of any association that voluntarily merged with one or more associations after December 23, 1985, and before January 6, 1988, may petition for the opportunity to organize as a separate association.

(2) Requirements

The regulations issued by the Farm Credit Administration shall require that—

(A) the petition be filed within 1 year after the date of the implementation of such regulations;

(B) the petition be signed by at least 15 percent of the stockholders of any one of the associations that merged during the period;

(C) the petition describe the territory in which the proposed separate association will operate;

(D) if the petition is approved—

(i) the loans of the members of the new association will be transferred from the current association to such new association;

(ii) the stock, participation certificates, and other similar equities of the current

association held by members of the new association will be retired at book value and the proceeds of such will be transferred to the new association, and an equivalent amount of stock, participation certificates, and other similar equities will be issued to the members by the new association; and

(iii) the other assets of the current association will be distributed equitably among the current association and any resulting new association.

(3) Notification

(A) In general

Not later than 30 days after the filing of the petition for organization, the current association shall notify its stockholders that a petition to establish the separate association has been filed.

(B) Contents

The notification required under this paragraph shall contain—

(i) the date of a special stockholders' meeting to consider the petition for organization; and

(ii) an enumerated statement of the anticipated benefits and the potential disadvantages to such stockholders if the new association is established.

(C) FCA approval

(i) In general

All notifications under this paragraph shall be submitted to the Farm Credit Administration Board for approval prior to being distributed to the stockholders.

(ii) Amending notification

The Farm Credit Administration Board shall require that, prior to the distribution of the notification to the stockholders, the notification be amended as determined necessary by the Board to provide accurate information to the stockholders that will enable such stockholders to make an informed decision as to the advisability of establishing a new association.

(D) Special stockholders' meeting

(i) Timing of meeting

The special stockholders' meeting to consider the petition shall be held within 60 days after the filing of the petition.

(ii) Approval

If, at the special stockholders' meeting, a majority of the stockholders of the current association who would be served by the new association approve, by voting in person or by proxy, the establishment of the separate association, the Farm Credit Administration shall, within 30 days of such vote, issue a charter to the new association and amend the charter of the current association to reflect the territory to be served by the new association.

(Pub. L. 92–181, title VII, § 7.9, as added Pub. L. 100–233, title IV, § 416, Jan. 6, 1988, 101 Stat. 1648; amended Pub. L. 100–399, title IV, § 408(n), (*o*), Aug. 17, 1988, 102 Stat. 1002.)

AMENDMENTS

1988—Subsec. (a)(1). Pub. L. 100–399, § 408(n)(1), substituted ''this chapter'' for ''section 2252(a)(2) of this title''.

Subsec. (a)(4). Pub. L. 100–399, § 408(n)(5), redesignated par. (5) as (4).

Pub. L. 100–399, § 408(n)(2), inserted reference to section 2279f–1 of this title.

Subsec. (a)(5). Pub. L. 100–399, § 408(n)(5), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Pub. L. 100–399, § 408(n)(3), substituted ''or'' for ''and''.

Subsec. (a)(6). Pub. L. 100–399, § 408(n)(5), redesignated par. (7) as (6). Former par. (6) redesignated (5).

Pub. L. 100–399, § 408(n)(4), substituted ''section 2279f'' for ''section 2279f–1''.

Subsec. (a)(7). Pub. L. 100–399, § 408(n)(5), redesignated par. (7) as (6).

Subsec. (b)(2). Pub. L. 100–399, § 408(*o*), struck out comma before ''shall not take effect'' and substituted ''such banks or'' for ''such''.

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.

SUBPART 4—TERMINATION AND DISSOLUTION OF INSTITUTIONS

AMENDMENTS

1988—Pub. L. 100–399, title IV, § 408(m), Aug. 17, 1988, 102 Stat. 1002, redesignated subpart 3 as 4.

§ 2279d. Termination of System institution status

(a) Conditions

A System institution may terminate the status of the institution as a System institution if—

(1) the institution provides written notice to the Farm Credit Administration Board not later than 90 days prior to the proposed termination date;

(2) the termination is approved by the Farm Credit Administration Board;

(3) the appropriate Federal or State authority grants approval to charter the institution as a bank, savings and loan association, or other financial institution;

(4) the institution pays to the Farm Credit Assistance Fund, as created under section 2278b–5 of this title, if the termination is prior to January 1, 1992, or pays to the Farm Credit Insurance Fund, if the termination is after such date, the amount by which the total capital of the institution exceeds, 6 percent of the assets;

(5) the institution pays or makes adequate provision for payment of all outstanding debt obligations of the institution;

(6) the termination is approved by a majority of the stockholders of the institution voting, in person or by written proxy, at a duly authorized stockholders' meeting, held prior to giving notice to the Farm Credit Administration Board; and

(7) the institution meets such other conditions as the Farm Credit Administration Board by regulation considers appropriate.

(b) Effect

On termination of its status as a System institution—

(1) the Farm Credit Administration Board shall revoke the charter of the institution; and

(2) the institution shall no longer be an instrumentality of the United States under this chapter.

(Pub. L. 92–181, title VII, § 7.10, as added Pub. L. 100–233, title IV, § 416, Jan. 6, 1988, 101 Stat. 1650.)

PART C—APPROVAL OF DISCLOSURE INFORMATION AND ISSUANCE OF CHARTERS BY THE FARM CREDIT ADMINISTRATION BOARD

§ 2279e. Approval of disclosure information and issuance of charters

(a) Disclosure of information

(1) Approval of plan

With respect to any plan of merger, transfer of lending authority, dissolution, or termination, prior to submission to the voters (voting stockholders and, where required, contributors to guaranty funds) of the institutions involved, such plan shall be submitted to the Farm Credit Administration Board, together with all information that is to be distributed to the voters with respect to the contemplated action, including an enumerated statement of the anticipated benefits and potential disadvantages of such action.

(2) Notice of approval

On notification that the Farm Credit Administration Board has approved such plan for submission to the stockholders, or after 60 days of no action on the plan by the Board, the submitting institutions may submit the plan, together with the disclosure information, to the voters for the prescribed vote.

(b) Notice of reasons for disapproval

If the Farm Credit Administration Board disapproves the plan for submission to the stockholders, notification to the submitting institutions shall specify the reasons for the determination by the Board. If such plan is determined to be inadequate, it shall not be submitted to the voters for a vote.

(c) Federal charter

Each plan of merger or transfer of lending authority may include a proposed new or revised Federal charter for the merged or transferee entity. The Farm Credit Administration Board shall issue such charter on the approval of the plan, as prescribed in this subchapter, unless the Board determines that the charter submitted is not consistent with this chapter.

(Pub. L. 92–181, title VII, § 7.11, as added Pub. L. 100–233, title IV, § 416, Jan. 6, 1988, 101 Stat. 1651; amended Pub. L. 100–399, title IV, § 408(p), Aug. 17, 1988, 102 Stat. 1002; Pub. L. 102–237, title V, § 502(n), Dec. 13, 1991, 105 Stat. 1870.)

AMENDMENTS

1991—Subsec. (a)(2). Pub. L. 102–237 substituted ''60 days'' for ''30 days''.

1988—Subsec. (a)(1). Pub. L. 100–399 substituted ''transfer of lending authority'' for ''transfer or assignment of lending authority'' and ''the institutions involved'' for ''such institutions''.

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.

PART D—MERGERS OF LIKE ENTITIES

§ 2279f. Merger of similar banks

(a) In general

Banks organized or operating under this chapter may merge with banks in other districts operating under the same subchapter if the plan of merger is approved by—

(1) the Farm Credit Administration Board;

(2) the respective Boards of Directors of the banks involved;

(3) a majority vote of the stockholders of each bank voting, in person or by proxy, at a duly authorized stockholders' meeting, with each association having a number of votes equal to the number of such association's voting stockholders; and

(4) in the case of a bank for cooperatives, a majority of the total equity interests in such merging bank for cooperatives (including allocated, but not unallocated, surplus and reserves) held by those stockholders or subscribers to the guaranty fund of the bank voting.

(b) Powers and capitalization

Sections 2279a–2 and 2279a–3 of this title shall apply to banks merged under this section.

(c) Board of directors

(1) In general

After a merger under subsection (a) of this section, a board of directors shall be created for the resulting bank.

(2) Composition

The board shall be composed of—

(A) two directors elected by each of the bank boards, with at least one such director from each bank being elected by the eligible stockholders of, or subscribers to, the guaranty fund of the merging banks; and

(B) one outside director elected by the directors elected under subparagraph (A).

(3) Outside director

(A) Qualifications

The outside director elected under paragraph (2)(B) shall be experienced in financial services and credit, and within the 2-year period prior to such election, shall not have been a borrower from, shareholder in, or director, officer, employee, or agent of any institution of the Farm Credit System.

(B) Failure to elect

If the other members of the board fail to elect an outside director, the Farm Credit Administration Board shall appoint a qualified person to serve on the board of directors until such member is so elected.

(4) Bylaws

Notwithstanding paragraph (2), the bylaws of the merged bank may, with the approval of the Farm Credit Administration, provide for a different number of directors to be selected in a different manner, except that the bylaws shall provide for at least one outside director.

(Pub. L. 92–181, title VII, § 7.12, as added Pub. L. 100–233, title IV, § 416, Jan. 6, 1988, 101 Stat. 1652;

amended Pub. L. 100–399, title IV, § 408(q), (r), Aug. 17, 1988, 102 Stat. 1002, 1003.)

AMENDMENTS

1988—Subsec. (b). Pub. L. 100–399, § 408(q), substituted ''Powers and capitalization'' for ''Procedures'' in heading and, in amending text generally, substituted ''Sections 2279a–2 and 2279a–3 of this title'' for ''The provisions of sections 2279a–2 through 2279a–4 of this title''.

Subsec. (c)(2)(B). Pub. L. 100–399, § 408(r), substituted ''directors'' for ''members''.

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.

§ 2279f–1. Merger of similar associations

(a) In general

Associations may voluntarily merge with other like associations if the plan of merger is approved by—

(1) the Farm Credit Administration Board;

(2) the respective Boards of Directors of the associations involved;

(3) a majority vote of the stockholders of each association voting, in person or by proxy, at a duly authorized stockholders' meeting; and

(4) the Farm Credit Banks involved.

(b) Procedures

The provisions of subsections (b) and (c) of section 2279c–1 of this title shall apply to associations merged under this section.

(Pub. L. 92–181, title VII, § 7.13, as added Pub. L. 100–233, title IV, § 416, Jan. 6, 1988, 101 Stat. 1653; amended Pub. L. 100–399, title IV, § 408(s), (t), Aug. 17, 1988, 102 Stat. 1003.)

AMENDMENTS

1988—Subsec. (a)(4). Pub. L. 100–399, § 408(s), substituted ''the Farm Credit Banks involved'' for ''the Farm Credit Bank''.

Subsec. (b). Pub. L. 100–399, § 408(t), substituted ''subsections (b) and (c)'' for ''subsections (b), (c), and (d)''.

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.

PART E—TAXATION OF MERGER TRANSACTIONS

§ 2279g. Transactions to accomplish mergers exempt from certain State taxes

No State or political subdivision thereof may treat the merger or consolidation of two or more institutions of the Farm Credit System under this subchapter or title IV of the Agricultural Credit Act of 1987 as resulting in a change of ownership of any property owned by any of such merging or consolidating institutions, for purposes of any law of such State or political subdivision providing for reassessment of property on the occurrence of a change of ownership or imposing a tax on the ownership or transfer of property.

(Pub. L. 92–181, title VII, § 7.14, as added Pub. L. 100–399, title IV, § 408(u), Aug. 17, 1988, 102 Stat. 1003.)

REFERENCES IN TEXT

The Agricultural Credit Act of 1987, referred to in text, is Pub. L. 100–233, Jan. 6, 1988, 101 Stat. 1568, as amended. Title IV of that Act amended this chapter. For complete classification of this Act to the Code see Short Title of 1988 Amendment note set out under section 2001 of this title and Tables.

EFFECTIVE DATE

Section 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 an Effective Date of 1988 Amendment note under section 2002 of this title.

SUBCHAPTER VIII—AGRICULTURAL MORTGAGE SECONDARY MARKET

§ 2279aa. Definitions

For purposes of this subchapter:

(1) Agricultural real estate

The term ''agricultural real estate'' means—

(A) a parcel or parcels of land, or a building or structure affixed to the parcel or parcels, that—

(i) is used for the production of one or more agricultural commodities or products; and

(ii) consists of a minimum acreage or is used in producing minimum annual receipts, as determined by the Corporation; or

(B) a principal residence that is a single family, moderate-priced residential dwelling located in a rural area, excluding—

(i) any community having a population in excess of 2,500 inhabitants; and

(ii) any dwelling, excluding the land to which the dwelling is affixed, with a value exceeding $100,000 (as adjusted for inflation).

(2) Board

The term ''Board'' means—

(A) the interim board of directors established in section 2279aa–2(a) of this title; and

(B) the permanent board of directors established in section 2279aa–2(b) of this title;

as the case may be.

(3) Certified facility

The term ''certified facility'' means—

(A) an agricultural mortgage marketing facility that is certified under section 2279aa–5 of this title; or

(B) the Corporation and any affiliate thereof.

(4) Corporation

The term ''Corporation'' means the Federal Agricultural Mortgage Corporation established in section 2279aa–1 of this title.

(5) Guarantee

The term ''guarantee'' means the guarantee of timely payment of the principal and interest on securities representing interests in, or obligations backed by, pools of qualified loans, in accordance with this subchapter.

(6) Interim board

The term ''interim board'' means the interim board of directors established in section 2279aa–2(a) of this title.

(7) Originator

The term ''originator'' means any Farm Credit System institution, bank, insurance company, business and industrial development company, savings and loan association, association of agricultural producers, agricultural cooperative, commercial finance company, trust company, credit union, or other entity that originates and services agricultural mortgage loans.

(8) Permanent board

The term ''permanent board'' means the permanent board of directors established in section 2279aa–2(b) of this title.

(9) Qualified loan

The term ''qualified loan'' means an obligation—

(A)(i) that is secured by a fee-simple or leasehold mortgage with status as a first lien, on agricultural real estate located in the United States that is not subject to any legal or equitable claims deriving from a preceding fee-simple or leasehold mortgage;

(ii) of—

(I) a citizen or national of the United States or an alien lawfully admitted for permanent residence in the United States; or

(II) a private corporation or partnership whose members, stockholders, or partners holding a majority interest in the corporation or partnership are individuals described in subclause (I); and

(iii) of a person, corporation, or partnership that has training or farming experience that, under criteria established by the Corporation, is sufficient to ensure a reasonable likelihood that the loan will be repaid according to its terms;

(B) that is the portion of a loan guaranteed by the Secretary of Agriculture pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), except that—

(i) subsections (b) through (d) of section 2279aa–6 of this title, and sections 2279aa–8 and 2279aa–9 of this title, shall not apply to the portion of a loan guaranteed by the Secretary or to an obligation, pool, or security representing an interest in or obligation backed by a pool of obligations relating to the portion of a loan guaranteed by the Secretary; and

(ii) the portion of a loan guaranteed by the Secretary shall be considered to meet all standards for qualified loans for all purposes under this chapter; or

(C) that is a loan, or an interest in a loan, for an electric or telephone facility by a cooperative lender to a borrower that has received, or is eligible to receive, a loan under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.).

(10) State

The term ''State'' has the meaning given such term in section 2277a of this title.

(Pub. L. 92–181, title VIII, § 8.0, as added Pub. L. 100–233, title VII, § 702, Jan. 6, 1988, 101 Stat. 1686; amended Pub. L. 100–399, title VI, § 601(a), Aug. 17, 1988, 102 Stat. 1005; Pub. L. 101–624, title XVIII, § 1839, Nov. 28, 1990, 104 Stat. 3834; Pub. L. 104–105, title I, §§ 101, 102, 108(c)(1), 109(b)(1), Feb. 10, 1996, 110 Stat. 163–165; Pub. L. 110–234, title V, § 5406(a), May 22, 2008, 122 Stat. 1158; Pub. L. 110–246, § 4(a), title V, § 5406(a), June 18, 2008, 122 Stat. 1664, 1920.)

REFERENCES IN TEXT

The Consolidated Farm and Rural Development Act, referred to in par. (9)(B), is title III of Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 307, as amended, which is classified principally to chapter 50 (§ 1921 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables.

The Rural Electrification Act of 1936, referred to in par. (9)(C), 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.

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—Par. (9)(C). Pub. L. 110–246, § 5406(a), added subpar. (C).

1996—Par. (1)(B)(ii). Pub. L. 104–105, § 101, substituted '', excluding the land to which the dwelling is affixed, with a value'' for ''with a purchase price''.

Par. (3)(A). Pub. L. 104–105, § 102(1), substituted ''an agricultural mortgage marketing'' for ''a secondary marketing agricultural loan''.

Par. (3)(B). Pub. L. 104–105, § 102(2), struck out '', but only with respect to qualified loans described in paragraph (9)(B)'' after ''thereof''.

Par. (9)(B)(i). Pub. L. 104–105, §§ 108(c)(1), 109(b)(1), substituted ''(d)'' for ''(f)'' and ''2279aa–8'' for ''2279aa–7, 2279aa–8,''.

1990—Par. (3). Pub. L. 101–624, § 1839(a), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The term 'certified facility' means a secondary marketing agricultural loan facility that is certified under section 2279aa–5 of this title.''

Par. (9). Pub. L. 101–624, § 1839(b), amended par. (9) generally. Prior to amendment, par. (9) read as follows: ''The term 'qualified loan' means an obligation that—

''(A) is secured by a fee-simple or leasehold mortgage with status as a first lien on agricultural real estate located in the United States that is not subject to any legal or equitable claims deriving from a preceding fee-simple or leasehold mortgage;

''(B) is an obligation of—

''(i) a citizen or national of the United States or an alien lawfully admitted for permanent residence in the United States; or

''(ii) a private corporation or partnership whose members, stockholders, or partners holding a majority interest in the corporation or partnership are individuals described in clause (i); and

''(C) is an obligation of a person, corporation, or partnership that has training or farming experience that, under criteria established by the Corporation, is sufficient to ensure a reasonable likelihood that the loan will be repaid according to its terms.''

1988—Par. (9)(B)(ii). Pub. L. 100–399 substituted ''holding'' for ''hold'' and struck out ''and'' before ''are''.

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 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.

STATEMENT OF PURPOSE

Section 701 of subtitle A (§§ 701–705) of title VII of Pub. L. 100–233 provided that: ''It is the purpose of this subtitle [enacting this subchapter, amending sections 2012, 2033, 2072, and 2093 of this title and section 9105 of Title 31, Money and Finance, and enacting provisions set out as a note below]—

''(1) to establish a corporation chartered by the Federal Government;

''(2) to authorize the certification of agricultural mortgage marketing facilities by the corporation;

''(3) to provide for a secondary marketing arrangement for agricultural real estate mortgages that meet the underwriting standards of the corporation—

''(A) to increase the availability of long-term credit to farmers and ranchers at stable interest rates;

''(B) to provide greater liquidity and lending capacity in extending credit to farmers and ranchers; and

''(C) to provide an arrangement for new lending to facilitate capital market investments in providing long-term agricultural funding, including funds at fixed rates of interest; and

''(4) to enhance the ability of individuals in small rural communities to obtain financing for moderate-priced homes.''

GAO STUDIES

Section 704 of subtitle A (§§ 701–705) of title VII of Pub. L. 100–233, as amended by Pub. L. 100–399, title VI, § 603, Aug. 17, 1988, 102 Stat. 1006, directed Comptroller General of United States to conduct studies of (1) implementation of amendments made by subtitle A of title VII of Pub. L. 100–233 (which enacted this subchapter and amended sections 2012, 2033, 2072, and 2093 of this title and section 9105 of Title 31, Money and Finance) by Federal Agricultural Mortgage Corporation and effect of operations of Corporation on producers, Farm Credit System, and other lenders, and capital markets, (2) feasibility and appropriateness of promoting establishment of a secondary market for securities representing interests in, or obligations backed by, pools of agricultural real estate loans for which a guarantee had not been provided by Federal Agricultural Mortgage Corporation, and (3) feasibility of expanding authority granted under amendments made by such subtitle A to authorize sale of securities based on or backed by a trust or pool consisting of loans made to farm-related and rural small businesses, and required, not later than Jan. 6, 1990, Comptroller General to transmit to Congress a report on the studies, including therein such recommendations for administrative action and legislation as might be appropriate.

PART A—ESTABLISHMENT AND ACTIVITIES OF FEDERAL AGRICULTURAL MORTGAGE CORPORATION

§ 2279aa–1. Federal Agricultural Mortgage Corporation

(a) Establishment

(1) In general

There is hereby established a corporation to be known as the Federal Agricultural Mortgage Corporation, which shall be a federally chartered instrumentality of the United States.

(2) Institution within Farm Credit System

The Corporation shall be an institution of the Farm Credit System.

(3) Liability

(A) Corporation

The Corporation shall not be liable for any debt or obligation of any other institution of the Farm Credit System.

(B) System institutions

The Farm Credit System and System institutions (other than the Corporation) shall not be liable for any debt or obligation of the Corporation.

(b) Duties

The Corporation shall—

(1) in consultation with originators, develop uniform underwriting, security appraisal, and repayment standards for qualified loans;

(2) determine the eligibility of agricultural mortgage marketing facilities to contract with the Corporation for the provision of guarantees for specific mortgage pools;

(3) provide guarantees for the timely repayment of principal and interest on securities representing interests in, or obligations backed by, pools of qualified loans; and

(4) purchase qualified loans and issue securities representing interests in, or obligations backed by, the qualified loans, guaranteed for the timely repayment of principal and interest.

(Pub. L. 92–181, title VIII, § 8.1, as added Pub. L. 100–233, title VII, § 702, Jan. 6, 1988, 101 Stat. 1687; amended Pub. L. 104–105, title I, § 103, Feb. 10, 1996, 110 Stat. 163.)

AMENDMENTS

1996—Subsec. (b)(4). Pub. L. 104–105 added par. (4).

§ 2279aa–2. Board of directors

(a) Interim board

(1) Number and appointment

Until the permanent board of directors established in subsection (b) of this section first meets with a quorum of its members present, the Corporation shall be under the management of an interim board of directors composed of 9 members appointed by the President within 90 days after January 6, 1988, as follows:

(A) 3 members appointed from among persons who are representatives of banks, other financial institutions or entities, and insurance companies.

(B) 3 members appointed from among persons who are representatives of the Farm Credit System institutions.

(C) 2 members appointed from among persons who are farmers or ranchers who are not serving, and have not served, as directors or officers of any financial institution or entity, of which not more than 1 may be a stockholder of any Farm Credit System institution.

(D) 1 member appointed from among persons who represent the interests of the general public and are not serving, and have not served, as directors or officers of any financial institution or entity.

(2) Political affiliation

Not more than 5 members of the interim board shall be of the same political party.

(3) Vacancy

A vacancy in the interim board shall be filled in the manner in which the original appointment was made.

(4) Continuation of membership

If—

(A) any member of the interim board who was appointed to such board from among persons who are representatives of banks, other financial institutions or entities, insurance companies, or Farm Credit System institutions ceases to be such a representative; or

(B) any member who was appointed from among persons who are not or have not been directors or officers of any financial institution or entity becomes a director or an officer of any financial institution or entity;

such member may continue as a member for not longer than the 45-day period beginning on the date such member ceases to be such a representative or becomes such a director or officer, as the case may be.

(5) Terms

The members of the interim board shall be appointed for the life of such board.

(6) Quorum

5 members of the interim board shall constitute a quorum.

(7) Chairperson

The President shall designate 1 of the members of the interim board as the chairperson of the interim board.

(8) Meetings

The interim board shall meet at the call of the chairperson or a majority of its members.

(9) Voting common stock

(A) Initial offering

Upon the appointment of sufficient members of the interim board to convene a meeting with a quorum present, the interim board shall arrange for an initial offering of common stock and shall take whatever other actions are necessary to proceed with the operations of the Corporation.

(B) Purchasers

Subject to subparagraph (C), the voting common stock shall be offered to banks, other financial entities, insurance companies, and System institutions under such terms and conditions as the interim board may adopt.

(C) Distribution

The voting stock shall be fairly and broadly offered to ensure that no institution or institutions acquire a disproportionate amount of the total amount of voting common stock outstanding of a class and that capital contributions and issuances of voting common stock for the contributions are fairly distributed between entities eligible to hold class A and class B stock, as provided under section 2279aa–4 of this title.

(10) Termination

The interim board shall terminate when the permanent board of directors established in subsection (b) of this section first meets with a quorum present.

(b) Permanent board

(1) Establishment

Immediately after the date that banks, other financial institutions or entities, insurance companies, and System institutions have subscribed and fully paid for at least $20,000,000 of common stock of the Corporation, the Corporation shall arrange for the election and appointment of a permanent board of directors. After the termination of the interim board, the Corporation shall be under the management of the permanent board.

(2) Composition

The permanent board shall consist of 15 members, of which—

(A) 5 members shall be elected by holders of common stock that are insurance companies, banks, or other financial institutions or entities;

(B) 5 members shall be elected by holders of common stock that are Farm Credit System institutions; and

(C) 5 members shall be appointed by the President, by and with the advice and consent of the Senate—

(i) which members shall not be, or have been, officers or directors of any financial institutions or entities;

(ii) which members shall be representatives of the general public;

(iii) of which members not more than 3 shall be members of the same political party; and

(iv) of which members at least 2 shall be experienced in farming or ranching.

(3) Presidential appointees

The President shall appoint the members of the permanent board referred to in paragraph (2)(C) not later than the later of—

(A) the date referred to in paragraph (1); or

(B) the expiration of the 270-day period beginning on January 6, 1988.

(4) Vacancy

(A) Elected members

Subject to paragraph (6), a vacancy among the members elected to the permanent board in the manner described in subparagraph (A) or (B) of paragraph (2) shall be filled by the permanent board from among persons eligible for election to the position for which the vacancy exists.

(B) Appointed members

A vacancy among the members appointed to the permanent board under paragraph (2)(C) shall be filled in the manner in which the original appointment was made.

(5) Continuation of membership

If—

(A) any member of the permanent board who was appointed or elected to the perma-

nent board from among persons who are representatives of banks, other financial institutions or entities, insurance companies, or Farm Credit System institutions ceases to be such a representative; or

(B) any member who was appointed from persons who are not or have not been directors or officers of any financial institution or entity becomes a director or an officer of any financial institution or entity;

such member may continue as a member for not longer than the 45-day period beginning on the date such member ceases to be such a representative, officer, or employee or becomes such a director or officer, as the case may be.

(6) Terms

(A) Appointed members

The members appointed by the President shall serve at the pleasure of the President.

(B) Elected members

The members elected under subparagraphs (A) and (B) of subsection (b)(2) of this section shall each be elected annually for a term ending on the date of the next annual meeting of the common stockholders of the Corporation and shall serve until their successors are elected and qualified. Any seat on the permanent board that becomes vacant after the annual election of the directors shall be filled by the members of the permanent board from the same category of directors, but only for the unexpired portion of the term.

(C) Vacancy appointment

Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed only for the remainder of such term.

(D) Service after expiration of term

A member may serve after the expiration of the term of the member until the successor of the member has taken office.

(7) Quorum

8 members of the permanent board shall constitute a quorum.

(8) No additional pay for Federal officers or employees

Members of the permanent board who are fulltime officers or employees of the United States shall receive no additional pay by reason of service on the permanent board.

(9) Chairperson

The President shall designate 1 of the members of the permanent board who are appointed by the President as the chairperson of the permanent board.

(10) Meetings

The permanent board shall meet at the call of the chairperson or a majority of its members.

(c) Officers and staff

The Board may appoint, employ, fix the pay of, and provide other allowances and benefits for such officers and employees of the Corporation as the Board determines to be appropriate.

(Pub. L. 92–181, title VIII, § 8.2, as added Pub. L. 100–233, title VII, § 702, Jan. 6, 1988, 101 Stat. 1688; amended Pub. L. 100–399, title VI, § 601(b), Aug. 17, 1988, 102 Stat. 1005.)

AMENDMENTS

1988—Subsecs. (a)(1), (b)(3)(B). Pub. L. 100–399 substituted ''date of the enactment'' for ''effective date'', both of which for purposes of codification were translated as ''January 6, 1988,''.

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.

§ 2279aa–3. Powers and duties of Corporation and Board

(a) Guarantees

After the Board has been duly constituted, subject to the other provisions of this subchapter and other commitments and requirements established pursuant to law, the Corporation may provide guarantees on terms and conditions determined by the Corporation of securities issued on the security of, or in participation in, pooled interests in qualified loans.

(b) Duties of Board

(1) In general

The Board shall—

(A) determine the general policies that shall govern the operations of the Corporation;

(B) select, appoint, and determine the compensation of qualified persons to fill such offices as may be provided for in the bylaws of the Corporation; and

(C) assign to such persons such executive functions, powers, and duties as may be prescribed by the bylaws of the Corporation or by the Board.

(2) Executive officers and functions

The persons elected or appointed under paragraph (1)(B) shall be the executive officers of the Corporation and shall discharge the executive functions, powers, and duties of the Corporation.

(c) Powers of Corporation

The Corporation shall be a body corporate and shall have the following powers:

(1) To operate under the direction of its Board.

(2) To issue stock in the manner provided in section 2279aa–4 of this title.

(3) To adopt, alter, and use a corporate seal, which shall be judicially noted.

(4) To provide for a president, 1 or more vice presidents, secretary, treasurer, and such other officers, employees, and agents, as may be necessary, define their duties and compensation levels, all without regard to title 5, and require surety bonds or make other provisions against losses occasioned by acts of such persons.

(5) To provide guarantees in the manner provided under section 2279aa–6 of this title.

(6) To have succession until dissolved by a law enacted by the Congress.

(7) To prescribe bylaws, through the Board, not inconsistent with law, that shall provide for—

(A) the classes of the stock of the Corporation; and

(B) the manner in which—

(i) the stock shall be issued, transferred, and retired;

(ii) the officers, employees, and agents of the Corporation are selected;

(iii) the property of the Corporation is acquired, held, and transferred;

(iv) the commitments and other financial assistance of the Corporation are made;

(v) the general business of the Corporation is conducted; and

(vi) the privileges granted by law to the Corporation are exercised and enjoyed;

(8) To prescribe such standards as may be necessary to carry out this subchapter.

(9) To enter into contracts and make payments with respect to the contracts.

(10) To sue and be sued in its corporate capacity and to complain and defend in any action brought by or against the Corporation in any State or Federal court of competent jurisdiction.

(11) To make and perform contracts, agreements, and commitments with persons and entities both inside and outside of the Farm Credit System.

(12) To acquire, hold, lease, mortgage or dispose of, at public or private sale, real and personal property, purchase or sell any securities or obligations, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to the business of the Corporation.

(13) To purchase, hold, sell, or assign a qualified loan, to issue a guaranteed security, representing an interest in, or an obligation backed by, the qualified loan, and to perform all the functions and responsibilities of an agricultural mortgage marketing facility operating as a certified facility under this subchapter.

(14) To establish, acquire, and maintain affiliates (as such term is defined in section 2279aa–11(e) of this title) under applicable State laws to carry out any activities that otherwise would be performed directly by the Corporation under this subchapter.

(15) To exercise such other incidental powers as are necessary to carry out the powers, duties, and functions of the Corporation in accordance with this subchapter.

(d) Federal Reserve banks as depositaries and fiscal agents

The Federal Reserve banks shall act as depositories for, and as fiscal agents or custodians of, the Corporation.

(e) Access to book-entry system

The Corporation shall have access to the book-entry system of the Federal Reserve System.

(Pub. L. 92–181, title VIII, § 8.3, as added Pub. L. 100–233, title VII, § 702, Jan. 6, 1988, 101 Stat. 1691; amended Pub. L. 100–399, title VI, § 601(c), Aug. 17, 1988, 102 Stat. 1005; Pub. L. 102–237, title V, § 503(c), Dec. 13, 1991, 105 Stat. 1877; Pub. L. 102–552, title III, § 308(b)(1), Oct. 28, 1992, 106 Stat. 4116; Pub. L. 104–105, title I, §§ 104, 105, Feb. 10, 1996, 110 Stat. 163.)

AMENDMENTS

1996—Subsec. (c)(13) to (15). Pub. L. 104–105, § 104, added par. (13) and redesignated former pars. (13) and (14) as (14) and (15), respectively.

Subsec. (d). Pub. L. 104–105, § 105(1), which directed the amendment of subsec. (d) by substituting ''shall act as depositories for, and'' for ''may act as depositories for, or'', was executed by making the substitution for ''may act as depositaries for, or'' to reflect the probable intent of Congress.

Subsec. (e). Pub. L. 104–105, § 105(2), substituted ''Corporation shall have access to'' for ''Secretary of the Treasury may authorize the Corporation to use''.

1992—Subsec. (c)(13). Pub. L. 102–552 substituted ''2279aa–11(e)'' for ''2279aa–11(g)''.

1991—Subsec. (c)(13), (14). Pub. L. 102–237 added par. (13) and redesignated former par. (13) as (14).

1988—Subsec. (c)(4). Pub. L. 100–399 substituted ''such persons'' for ''the persons''.

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.

§ 2279aa–4. Stock issuance

(a) Voting common stock

(1) Issue

The Corporation shall issue voting common stock having such par value as may be fixed by the Board from time to time. Each share of voting common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors. Voting shall be by classes as described in section 2279aa–2(a)(9) of this title. The stock shall be divided into two classes with the same par value per share. Class A stock may be held only by entities that are not Farm Credit System institutions and that are entitled to vote for directors specified in section 2279aa–2(b)(2)(A) of this title, including national banking associations (which shall be allowed to purchase and hold such stock). Class B stock may be held only by Farm Credit System institutions that are entitled to vote for directors specified in section 2279aa–2(b)(2)(B) of this title.

(2) Limitation on issue

After the date the permanent board first meets with a quorum of its members present, voting common stock of the Corporation may be issued only to originators and certified facilities.

(3) Authority of Board to establish terms and procedures

The Board shall adopt such terms, conditions, and procedures with regard to the issue of stock under this section as may be necessary, including the establishment of a maximum amount limitation on the number of shares of voting common stock that may be outstanding at any time.

(4) Transferability

Subject to such limitations as the Board may impose, any share of any class of voting

common stock issued under this section shall be transferable among the institutions or entities to which shares of such class of common stock may be offered under paragraph (1), except that, as to the Corporation, such shares shall be transferable only on the books of the Corporation.

(5) Maximum number of shares

No stockholder, other than a holder of class B stock, may own, directly or indirectly, more than 33 percent of the outstanding shares of such class of the voting common stock of the Corporation.

(b) Required capital contributions

(1) In general

The Corporation may require each originator and each certified facility to make, or commit to make, such nonrefundable capital contributions to the Corporation as are reasonable and necessary to meet the administrative expenses of the Corporation.

(2) Stock issued as consideration for contribution

The Corporation, from time to time, shall issue to each originator or certified facility voting common stock evidencing any capital contributions made pursuant to this subsection.

(c) Dividends

(1) In general

Such dividends as may be declared by the Board, in the discretion of the Board, shall be paid by the Corporation to the holders of the voting common stock of the Corporation pro rata based on the total number of shares of both classes of stock outstanding.

(2) Reserves requirement

No dividend may be declared or paid by the Board under this section unless the Board determines that adequate provision has been made for the reserve required under section 2279aa–10(c)(1) of this title.

(3) Dividends prohibited while obligations are outstanding

No dividend may be declared or paid by the Board under this section while any obligation issued by the Corporation to the Secretary of the Treasury under section 2279aa–13 of this title remains outstanding.

(d) Nonvoting common stock

The Corporation is authorized to issue nonvoting common stock having such par value as may be fixed by the Board from time to time. Such nonvoting common stock shall be freely transferable, except that, as to the Corporation, such stock shall be transferable only on the books of the Corporation. Such dividends as may be declared by the Board, in the discretion of the Board, may be paid by the Corporation to the holders of the nonvoting common stock of the Corporation, subject to paragraphs (2) and (3) of subsection (c) of this section.

(e) Preferred stock

(1) Authority of Board

The Corporation is authorized to issue nonvoting preferred stock having such par value as may be fixed by the Board from time to time. Such preferred stock issued shall be freely transferable, except that, as to the Corporation, such stock shall be transferred only on the books of the Corporation.

(2) Rights of preferred stock

Subject to paragraphs (2) and (3) of subsection (c) of this section, the holders of the preferred stock shall be entitled to such rate of cumulative dividends, and such holders shall be subject to such redemption or other conversion provisions, as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

(3) Preference on termination of business

In the event of any liquidation, dissolution, or winding up of the business of the Corporation, the holders of the preferred shares of stock shall be paid in full at the par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

(Pub. L. 92–181, title VIII, § 8.4, as added Pub. L. 100–233, title VII, § 702, Jan. 6, 1988, 101 Stat. 1692; amended Pub. L. 100–399, title VI, § 601(d), (e), Aug. 17, 1988, 102 Stat. 1005.)

AMENDMENTS

1988—Subsec. (a)(1). Pub. L. 100–399, § 601(d), in penultimate sentence, inserted ''and'' after ''institutions'' and inserted '', including national banking associations (which shall be allowed to purchase and hold such stock)'' before period at end.

Subsec. (e)(1). Pub. L. 100–399, § 601(e), substituted ''books of the Corporation'' for ''books of the Association''.

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.

§ 2279aa–5. Certification of agricultural mortgage marketing facilities

(a) Eligibility standards

(1) Establishment required

Within 120 days after the date on which the permanent board first meets with a quorum present, the Corporation shall issue standards for the certification of agricultural mortgage marketing facilities (other than the Corporation), including eligibility standards in accordance with paragraph (2).

(2) Minimum requirements

To be eligible to be certified under the standards referred to in paragraph (1), an agricultural mortgage marketing facility (other than the Corporation) shall—

(A) be an institution of the Farm Credit System or a corporation, association, or trust organized under the laws of the United States or of any State;

(B) meet or exceed capital standards established by the Board;

(C) have as one of the purposes of the facility, the sale or resale of securities represent-

ing interests in, or obligations backed by, pools of qualified loans that have been provided guarantees by the Corporation;

(D) demonstrate managerial ability with respect to agricultural mortgage loan underwriting, servicing, and marketing that is acceptable to the Corporation;

(E) adopt appropriate agricultural mortgage loan underwriting, appraisal, and servicing standards and procedures that meet or exceed the standards established by the Board;

(F) for purposes of enabling the Corporation to examine the facility, agree to allow officers or employees of the Corporation to have access to all books, accounts, financial records, reports, files, and all other papers, things, or property, of any type whatsoever, belonging to or used by the Corporation that are necessary to facilitate an examination of the operations of the facility in connection with securities, and the pools of qualified loans that back securities, for which the Corporation has provided guarantees; and

(G) adopt appropriate minimum standards and procedures relating to loan administration and disclosure to borrowers concerning the terms and rights applicable to loans for which guarantee is provided, in conformity with uniform standards established by the Corporation.

(3) Nondiscrimination requirement

The standards established under this subsection shall not discriminate between or against Farm Credit System and non-Farm Credit System applicants.

(b) Certification by Corporation

Within 60 days after receiving an application for certification under this section, the Corporation shall certify the facility if the facility meets the standards established by the Corporation under subsection (a)(1) of this section.

(c) Maximum time period for certification

Any certification by the Corporation of an agricultural mortgage marketing facility shall be effective for a period determined by the Corporation of not to exceed 5 years.

(d) Revocation

(1) In general

After notice and an opportunity for a hearing, the Corporation may revoke the certification of an agricultural mortgage marketing facility if the Corporation determines that the facility no longer meets the standards referred to in subsection (a) of this section.

(2) Effect of revocation

Revocation of a certification shall not affect any pool guarantee that has been issued by the Corporation.

(e) Affiliation of FCS institutions with facility

(1) Establishment of affiliate authorized

Notwithstanding any other provision of this chapter, any Farm Credit System institution, acting for such institution alone or in conjunction with one or more other such institutions, may establish and operate, as an affiliate, an agricultural mortgage marketing facility if, within a reasonable time after such establishment, such facility obtains and thereafter retains certification under subsection (b) of this section as a certified facility.

(2) Exclusive agency agreement authorized

Any number of Farm Credit System institutions (other than the Corporation) may enter into an agreement with any certified facility (including an affiliate established under paragraph (1)) to sell the qualified loans of such institutions exclusively to or through the facility.

(Pub. L. 92–181, title VIII, § 8.5, as added Pub. L. 100–233, title VII, § 702, Jan. 6, 1988, 101 Stat. 1694; amended Pub. L. 104–105, title I, § 106, Feb. 10, 1996, 110 Stat. 164.)

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–105, § 106(1)(A), inserted ''(other than the Corporation)'' after ''facilities''.

Subsec. (a)(2). Pub. L. 104–105, § 106(1)(B), inserted ''(other than the Corporation)'' after ''facility'' in introductory provisions.

Subsec. (e)(1). Pub. L. 104–105, § 106(2), struck out ''(other than the Corporation)'' after ''System institution''.

§ 2279aa–6. Guarantee of qualified loans

(a) Guarantee authorized for certified facilities

(1) In general

Subject to the requirements of this section and on such other terms and conditions as the Corporation shall consider appropriate, the Corporation—

(A) shall guarantee the timely payment of principal and interest on the securities issued by a certified facility that represents interests solely in, or obligations fully backed by, any pool consisting solely of qualified loans which meet the applicable standards established under section 2279aa–8 of this title and which are held by such facility; and

(B) may issue a security, guaranteed as to the timely payment of principal and interest, that represents an interest solely in, or an obligation fully backed by, a pool consisting of qualified loans that—

(i) meet the applicable standards established under section 2279aa–8 of this title; and

(ii) have been purchased and held by the Corporation.

(2) Inability of facility to pay

If the facility is unable to make any payment of principal or interest on any security for which a guarantee has been provided by the Corporation under paragraph (1), the Corporation shall make such payment as and when due in cash, and on such payment shall be subrogated fully to the rights satisfied by such payment.

(3) Power of Corporation

Notwithstanding any other provision of law, the Corporation is empowered, in connection with any guarantee under this subsection, whether before or after any default, to provide

by contract with the facility for the extinguishment, on default by the facility, of any redemption, equitable, legal, or other right, title, or interest of the facility in any mortgage or mortgages constituting the pool against which the guaranteed securities are issued. With respect to any issue of guaranteed securities, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute such pool shall become the absolute property of the Corporation subject only to the unsatisfied rights of the holders of the securities based on and backed by such pool.

(b) Other responsibilities of and limitations on certified facilities

As a condition for providing any guarantees under this section for securities issued by a certified facility that represent interests in, or obligations backed by, any pool of qualified loans, the Corporation shall require such facility to agree to comply with the following requirements:

(1) Loan default resolution

The facility shall act in accordance with the standards of a prudent institutional lender to resolve loan defaults.

(2) Subrogation of United States and Corporation to interests of facility

The proceeds of any collateral, judgments, settlements, or guarantees received by the facility with respect to any loan in such pool, shall be applied, after payment of costs of collection—

(A) first, to reduce the amount of any principal outstanding on any obligation of the Corporation that was purchased by the Secretary of the Treasury under section 2279aa–13 of this title to the extent the proceeds of such obligation were used to make guarantees in connection with such securities; and

(B) second, to reimburse the Corporation for any such guarantee payments.

(3) Loan servicing

The originator of any loan in such pool shall be permitted to retain the right to service the loan.

(4) Minority participation in public offerings

The facility shall take such steps as may be necessary to ensure that minority owned or controlled investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public offering of securities.

(5) No discrimination against States with borrowers rights

The facility may not refuse to purchase qualified loans originating in States that have established borrowers rights laws either by statute or under the constitution of such States, except that the facility may require discounts or charge fees reasonably related to costs and expenses arising from such statutes or constitutional provisions.

(c) Additional authority of Board

To ensure the liquidity of securities for which guarantees have been provided under this section, the Board shall adopt appropriate standards regarding—

(1) the characteristics of any pool of qualified loans serving as collateral for such securities; and

(2) transfer requirements.

(d) Aggregate principal amounts of qualified loans

(1) Initial year

During the first year after January 6, 1988, the Corporation may not provide guarantees for securities representing interests in, or obligations backed by, qualified loans (other than loans which back securities issued by Farm Credit System institutions for which the Corporation provides a guarantee) in an aggregate principal amount in excess of 2 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year (as published by the Board of Governors of the Federal Reserve System), less all Farmers Home Administration agricultural real estate debt.

(2) Second year

During the year following the year referred to in paragraph (1), the Corporation may not provide guarantees for securities representing interests in, or obligations backed by, qualified loans (other than loans which back securities issued by Farm Credit System institutions for which the Corporation provides a guarantee) in an additional principal amount in excess of 4 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year, less all Farmers Home Administration agricultural real estate debt.

(3) Third year

During the year following the year referred to in paragraph (2), the Corporation may not provide guarantees for securities representing interests in, or obligations backed by, qualified loans (other than loans which back securities issued by Farm Credit System institutions for which the Corporation provides a guarantee) in an additional principal amount in excess of 8 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year, less all Farmers Home Administration agricultural real estate debt.

(4) Subsequent years

In years subsequent to the year referred to in paragraph (3), the Corporation may provide guarantees without regard to the principal amount of the qualified loans guaranteed.

(e) Purchase of guaranteed securities

(1) Purchase authority

The Corporation (and affiliates) may purchase, hold, and sell any securities guaranteed under this section by the Corporation that represent interests in, or obligations backed by, pools of qualified loans. Securities issued under this section shall have maturities and bear rates of interest as determined by the Corporation.

(2) Issuance of debt obligations

The Corporation (and affiliates) may issue debt obligations solely for the purpose of ob-

taining amounts for the purchase of any securities under paragraph (1), for the purchase of qualified loans (as defined in section 2279aa(9) of this title), and for maintaining reasonable amounts for business operations (including adequate liquidity) relating to activities under this subsection.

(3) Terms and limitations

(A) Terms

The obligations issued under this subsection shall have maturities and bear rates of interest as determined by the Corporation, and may be redeemable at the option of the Corporation before maturity in the manner stipulated in the obligations.

(B) Requirement

Each obligation shall clearly indicate that the obligation is not an obligation of, and is not guaranteed as to principal and interest by, the Farm Credit Administration, the United States, or any other agency or instrumentality of the United States (other than the Corporation).

(C) Authority

The Corporation may not issue obligations pursuant to paragraph (2) under this subsection while any obligation issued by the Corporation under section 2279aa–13(a) of this title remains outstanding.

(Pub. L. 92–181, title VIII, § 8.6, as added Pub. L. 100–233, title VII, § 702, Jan. 6, 1988, 101 Stat. 1695; amended Pub. L. 100–399, title VI, § 601(f)–(h), Aug. 17, 1988, 102 Stat. 1005; Pub. L. 102–237, title V, § 503(d), Dec. 13, 1991, 105 Stat. 1877; Pub. L. 104–105, title I, §§ 107, 108(a), (c)(2), 109(a), (b)(4), Feb. 10, 1996, 110 Stat. 164, 165; Pub. L. 110–234, title V, § 5406(b), May 22, 2008, 122 Stat. 1158; Pub. L. 110–246, § 4(a), title V, § 5406(b), June 18, 2008, 122 Stat. 1664, 1920.)

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. (a)(1)(A), (B)(i). Pub. L. 110–246, § 5406(b), inserted ''applicable'' before ''standards''.

1996—Subsec. (a)(1). Pub. L. 104–105, § 107(1), designated part of existing text as subpar. (A) and added subpar. (B).

Subsec. (a)(2). Pub. L. 104–105, § 108(c)(2), struck out ''subject to the provisions of subsection (b) of this section'' after ''paragraph (1),''.

Subsec. (b). Pub. L. 104–105, §§ 108(a), 109(a)(2), redesignated subsec. (d) as (b) and struck out heading and text of former subsec.(b). Text read as follows: ''In the case of any pool referred to in subsection (a) of this section, the Corporation shall—

''(1) provide a guarantee only with respect to an individual pool of qualified loans on application of a certified facility;

''(2) provide a guarantee only if a reserve, or retained subordinated participating interests, in an amount equal to at least 10 percent of the outstanding principal amount of the loans constituting the pool has been established in accordance with this subchapter;

''(3) require that full recourse be taken against reserves and retained subordinated participating interests before any demand be made by the certified facility with respect to the guarantee of the Corporation; and

''(4) ensure the timely receipt of principal and interest due to security or obligation holders only after full recourse has been taken against such reserves and retained subordinated participating interests.''

Subsec. (b)(4) to (6). Pub. L. 104–105, § 109(b)(4), redesignated pars. (5) and (6) as (4) and (5), respectively, and struck out heading and text of former par. (4). Text read as follows: ''The facility shall comply with the standards adopted by the Board under subsection (c) of this section in establishing and maintaining the pool.''

Subsec. (c). Pub. L. 104–105, § 109(a), redesignated subsec. (e) as (c) and struck out heading and text of former subsec. (c) which related to standards requiring diversified pools, including establishment of minimum criteria for pools of qualified loans, provisions to encourage loans to small farms and family farmers, and requirements for congressional review of standards.

Subsec. (d). Pub. L. 104–105, § 109(a)(2), redesignated subsec. (f) as (d). Former subsec. (d) redesignated (b).

Subsec. (d)(4) to (7). Pub. L. 104–105, § 107(2), redesignated pars. (5) to (7) as (4) to (6), respectively, and struck out heading and text of former par. (4). Text read as follows: ''Each loan in the pool shall have been sold to the certified facility without recourse to the originator of such loan (other than recourse to any interest of such originator in a reserve established in connection with such loan or any subordinated participation interest of such originator in such loan).''

Subsecs. (e), (f). Pub. L. 104–105, § 109(a)(2), redesignated subsecs. (f) and (g) as (d) and (e), respectively. Former subsec. (e) redesignated (c).

Subsec. (g). Pub. L. 104–105, § 109(a)(2), redesignated subsec. (g) as (e).

Subsec. (g)(2). Pub. L. 104–105, § 107(3), substituted ''2279aa(9) of this title'' for ''2279aa(9)(B) of this title''.

1991—Subsec. (g). Pub. L. 102–237 added subsec. (g).

1988—Subsec. (a)(1). Pub. L. 100–399, § 601(f), substituted ''represents interests solely in, or obligations fully backed by, any pool consisting solely of qualified loans which meet the standards established under section 2279aa–8 of this title and which are'' for ''represents interests in, or obligations backed by, any pool of qualified loans''.

Subsec. (e). Pub. L. 100–399, § 601(g), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: ''registration requirements (if any) with respect to such securities; and''.

Subsec. (f)(1). Pub. L. 100–399, § 601(h), substituted ''date of the enactment'' for ''effective date'', both of which for purposes of codification were translated as ''January 6, 1988,''.

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 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.

§ 2279aa–7. Repealed. Pub. L. 104–105, title I, § 108(b), Feb. 10, 1996, 110 Stat. 164

Section, Pub. L. 92–181, title VIII, § 8.7, as added Pub. L. 100–233, title VII, § 702, Jan. 6, 1988, 101 Stat. 1698, related to reserves and subordinated participation interests of certified facilities, including provisions relating to cash contributions, retention of subordinated participation interests, additional requirements relating to reserves under section 2279aa–6(b)(2) of this title, and authority of Board of Directors of Federal Agricultural

Mortgage Corporation to establish other policies and procedures.

§ 2279aa–8. Standards for qualified loans

(a) Standards

(1) In general

The Corporation shall establish underwriting, security appraisal, and repayment standards for qualified loans taking into account the nature, risk profile, and other differences between different categories of qualified loans.

(2) Supervision, examination, and report of condition

The standards shall be subject to the authorities of the Farm Credit Administration under section 2279aa–11 of this title.

(3) Mortgage loans

In establishing standards for qualified loans, the Corporation shall confine corporate operations, so far as practicable, to mortgage loans that are deemed by the Board to be of such quality so as to meet, substantially and generally, the purchase standards imposed by private institutional mortgage investors.

(b) Minimum criteria

To further the purpose of this subchapter to provide a new source of long-term fixed rate financing to assist farmers and ranchers to purchase agricultural real estate, the standards established by the Board pursuant to subsection (a) of this section with respect to loans secured by agricultural real estate shall, at a minimum—

(1) provide that no agricultural mortgage loan with a loan-to-value ratio in excess of 80 percent may be treated as a qualified loan;

(2) require each borrower to demonstrate sufficient cash-flow to adequately service the agricultural mortgage loan;

(3) contain sufficient documentation standards;

(4) contain adequate standards to protect the integrity of the appraisal process with respect to any agricultural mortgage loans;

(5) contain adequate standards to ensure that the farmer or rancher is or will be actively engaged in agricultural production, and require the borrower to certify to the originator that the borrower intends to continue agricultural production on the farm or ranch involved;

(6) minimize speculation in agricultural real estate for nonagricultural purposes; and

(7) in establishing the value of agricultural real estate, consider the purpose for which the real estate is taxed.

(c) Loan amount limitation

(1) In general

A loan secured by agricultural real estate may not be treated as a qualified loan if the principal amount of such loan exceeds $2,500,000, adjusted for inflation, except as provided in paragraph (2).

(2) Acreage exception

Paragraph (1) shall not apply with respect to any agricultural mortgage loan described in such paragraph if such loan is secured by agricultural real estate that, in the aggregate, comprises not more than 1,000 acres.

(d) Nondiscrimination requirement

The standards established under subsection (a) of this section shall not discriminate against small originators or small agricultural mortgage loans that are at least $50,000. The Board shall promote and encourage the inclusion of qualified loans for small farms and family farmers in the agricultural mortgage secondary market.

(Pub. L. 92–181, title VIII, § 8.8, as added Pub. L. 100–233, title VII, § 702, Jan. 6, 1988, 101 Stat. 1700; amended Pub. L. 100–399, title VI, § 601(i), Aug. 17, 1988, 102 Stat. 1005; Pub. L. 104–105, title I, § 110, Feb. 10, 1996, 110 Stat. 165; Pub. L. 110–234, title V, § 5406(c), May 22, 2008, 122 Stat. 1158; Pub. L. 110–246, § 4(a), title V, § 5406(c), June 18, 2008, 122 Stat. 1664, 1920.)

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. (a). Pub. L. 110–246, § 5406(c)(1), added pars. (1) and (2), designated last sentence as par. (3) and inserted heading, and struck out former first sentence which read as follows: ''Not later than 120 days after the appointment and election of the permanent Board, the Corporation, in consultation with originators, shall establish uniform underwriting, security appraisal, and repayment standards for qualified loans.''

Subsec. (b). Pub. L. 110–246, § 5406(c)(2)(A), inserted ''with respect to loans secured by agricultural real estate'' after ''subsection (a) of this section'' in introductory provisions.

Subsec. (b)(5). Pub. L. 110–246, § 5406(c)(2)(B), substituted ''ensure that the farmer or rancher'' for ''ensure that the borrower'' and ''farm or ranch'' for ''site''.

Subsec. (c)(1). Pub. L. 110–246, § 5406(c)(3), inserted ''secured by agricultural real estate'' after ''A loan''.

Subsecs. (d), (e). Pub. L. 110–246, § 5406(c)(4), (5), redesignated subsec. (e) as (d) and struck out former subsec. (d). Prior to amendment, text read as follows: ''No standard prescribed under subsection (a) of this section shall take effect before the later of—

''(1) the end of a period consisting of 30 legislative days and beginning on the date such standards are submitted to the Congress; or

''(2) the end of a period consisting of 90 calendar days and beginning on such date.''

1996—Subsec. (e). Pub. L. 104–105 inserted at end ''The Board shall promote and encourage the inclusion of qualified loans for small farms and family farmers in the agricultural mortgage secondary market.''

1988—Subsec. (a). Pub. L. 100–399 inserted ''permanent'' after ''appointment and election of the''.

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 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.

§ 2279aa–9. Exemption from restructuring and borrowers rights provisions for pooled loans

(a) Restructuring

Notwithstanding any other provision of law, sections 2202, 2202a, 2202b, 2202c, 2202d, and 2219a of this title shall not apply to any loan included in a pool of qualified loans backing securities or obligations for which the Corporation provides guarantee. The loan servicing standards established by the Corporation shall be patterned after similar standards adopted by other federally sponsored secondary market facilities.

(b) Borrowers rights

At the time of application for a loan (as defined in section 2202a(a)(5) of this title), originators that are Farm Credit System institutions shall give written notice to each applicant of the terms and conditions of the loan, setting forth separately terms and conditions for pooled loans and loans that are not pooled. This notice shall include a statement, if applicable, that the loan may be pooled and that, if pooled, sections 2202, 2202a, 2202b, 2202c, 2202d, and 2219a of this title shall not apply. This notice also shall inform the applicant that he or she has the right not to have the loan pooled. Within 3 days from the time of commitment, an applicant has the right to refuse to allow the loan to be pooled, thereby retaining rights under sections 2202, 2202a, 2202b, 2202c, 2202d, and 2219a of this title, if applicable.

(Pub. L. 92–181, title VIII, § 8.9, as added Pub. L. 100–233, title VII, § 702, Jan. 6, 1988, 101 Stat. 1701; amended Pub. L. 100–399, title VI, § 601(j), Aug. 17, 1988, 102 Stat. 1005; Pub. L. 104–105, title II, § 208(b), Feb. 10, 1996, 110 Stat. 174.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–105 inserted ''(as defined in section 2202a(a)(5) of this title)'' after ''application for a loan''.

1988—Subsecs. (a), (b). Pub. L. 100–399 substituted ''2202d, and 2219a'' for ''and 2219b'' wherever appearing.

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.

§ 2279aa–10. Funding for guarantee; reserves of Corporation

(a) Guarantee

The Corporation shall provide guarantees for securities representing interests in, or obligations backed by, pools of qualified loans through commitments issued by the Corporation providing for guarantees.

(b) Guarantee fees

(1) Initial fee

At the time a guarantee is issued by the Corporation, the Corporation shall assess the certified facility a fee of not more than ½ of 1 percent of the initial principal amount of each pool of qualified loans.

(2) Annual fees

Beginning in the second year after the date the guarantee is issued under paragraph (1), the Corporation may, at the end of each year, assess the certified facility an annual fee of not more than ½ of 1 percent of the principal amount of the loans then constituting the pool.

(3) Determination of amount

The Corporation shall establish such fees on the amount of risk incurred by the Corporation in providing the guarantees with respect to which such fee is assessed, as determined by the Corporation. Fees assessed under paragraphs (1) and (2) shall be established on an actuarially sound basis.

(4) Review by GAO

The Comptroller General of the United States may review, and submit to the Congress a report regarding, the actuarial soundness and reasonableness of the fees established by the Corporation under this subsection.

(c) Corporation reserve against guarantees losses required

(1) In general

So much of the fees assessed under this section as the Board determines to be necessary shall be set aside by the Corporation in a segregated account as a reserve against losses arising out of the guarantee activities of the Corporation.

(2) Exhaustion of reserve required

The Corporation may not issue obligations to the Secretary of the Treasury under section 2279aa–13 of this title in order to meet the obligations of the Corporation with respect to any guarantees provided under this subchapter until the reserve established under paragraph (1) has been exhausted.

(d) Fees to cover administrative costs authorized

The Corporation may impose charges or fees in reasonable amounts in connection with the administration of its activities under this subchapter to recover its costs for performing such administration.

(Pub. L. 92–181, title VIII, § 8.10, as added Pub. L. 100–233, title VII, § 702, Jan. 6, 1988, 101 Stat. 1701; amended Pub. L. 104–316, title I, § 106(f), Oct. 19, 1996, 110 Stat. 3831.)

AMENDMENTS

1996—Subsec. (b)(4). Pub. L. 104–316 substituted ''Review'' for ''Annual review'' in heading and ''may review'' for ''shall annually review'' in text.

§ 2279aa–11. Supervision, examination, and report of condition

(a) Regulation

(1) Authority

Notwithstanding any other provision of this chapter, the Farm Credit Administration shall have the authority to provide, acting through the Office of Secondary Market Oversight—

(A) for the examination of the Corporation and its affiliates; and

(B) for the general supervision of the safe and sound performance of the powers, functions, and duties vested in the Corporation and its affiliates by this subchapter, includ-

ing through the use of the authorities granted to the Farm Credit Administration under—

(i) part C of subchapter V of this chapter; and

(ii) beginning 6 months after December 13, 1991, section 2252(a)(9) of this title.

(2) Considerations

In exercising its authority pursuant to this section, the Farm Credit Administration shall consider—

(A) the purposes for which the Corporation was created;

(B) the practices appropriate to the conduct of secondary markets in agricultural loans; and

(C) the reduced levels of risk associated with appropriately structured secondary market transactions.

(3) Office of Secondary Market Oversight

(A) Not later than 180 days after December 13, 1991, the Farm Credit Administration Board shall establish within the Farm Credit Administration the Office of Secondary Market Oversight.

(B) The Farm Credit Administration Board shall carry out the authority set forth in this section through the Office of Secondary Market Oversight.

(C) The Office of Secondary Market Oversight shall be managed by a full-time Director who shall be selected by and report to the Farm Credit Administration Board.

(b) Examinations and audits

(1) In general

The financial transactions of the Corporation shall be examined by examiners of the Farm Credit Administration in accordance with the principles and procedures applicable to commercial corporate transactions under such rules and regulations as may be prescribed by the Administration.

(2) Frequency

The examinations shall occur at such times as the Farm Credit Administration Board may determine, but in no event less than once each year.

(3) Access

The examiners shall—

(A) have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit; and

(B) be afforded full access for verifying transactions with certified facilities and other entities with whom the Corporation conducts transactions.

(c) Annual report of condition

The Corporation shall make and publish an annual report of condition as prescribed by the Farm Credit Administration. Each report shall contain financial statements prepared in accordance with generally accepted accounting principles and contain such additional information as the Farm Credit Administration may by regulation prescribe. The financial statements of the Corporation shall be audited by an independent public accountant.

(d) FCA assessments to cover costs

The Farm Credit Administration shall assess the Corporation for the cost to the Administration of any regulatory activities conducted under this section, including the cost of any examination.

(e) "Affiliate" defined

As used in this subchapter, the term ''affiliate'' shall mean an entity effectively controlled or owned by the Corporation, except that such term shall not include an originator (as defined in section 2279aa(7) of this title).

(f) Employees and personnel

The Farm Credit Administration Board shall ensure that—

(1) the Office of Secondary Market Oversight has access to a sufficient number of qualified and trained employees to adequately supervise the secondary market activities of the Corporation; and

(2) the supervision of the powers, functions, and duties of the Corporation is performed, to the extent practicable, by personnel who are not responsible for the supervision of the banks and associations of the Farm Credit System.

(Pub. L. 92–181, title VIII, § 8.11, as added Pub. L. 100–233, title VII, § 702, Jan. 6, 1988, 101 Stat. 1702; amended Pub. L. 101–624, title XVIII, § 1840, Nov. 28, 1990, 104 Stat. 3835; Pub. L. 102–237, title V, § 503(a), Dec. 13, 1991, 105 Stat. 1870; Pub. L. 102–552, title III, § 308(b)(2), Oct. 28, 1992, 106 Stat. 4116; Pub. L. 104–105, title I, § 111, Feb. 10, 1996, 110 Stat. 165.)

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–105 substituted ''section 2279aa(7) of this title'' for ''paragraphs (3) and (7), respectively, of section 2279aa of this title'' and struck out ''a certified facility or'' before ''an originator''.

1992—Subsec. (a)(1)(B)(ii). Pub. L. 102–552 substituted ''December 13, 1991'' for ''the date of enactment of this section''.

1991—Subsec. (a)(1). Pub. L. 102–237, § 503(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Notwithstanding any other provision of this chapter, the Farm Credit Administration shall have the authority to—

''(A) provide for the examination of the condition of the Corporation and its affiliates; and

''(B) provide for the general supervision of the safe and sound performance of the powers, functions, and duties vested in the Corporation and its affiliates by this subchapter, including through the use of the enforcement powers of the Farm Credit Administration under part C of subchapter V of this chapter.''

Subsec. (a)(3). Pub. L. 102–237, § 503(a)(2), added par. (3).

Subsec. (f). Pub. L. 102–237, § 503(a)(3), added subsec. (f).

1990—Subsec. (a)(1). Pub. L. 101–624, § 1840(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Notwithstanding any other provision of this chapter, the regulatory authority of the Farm Credit Administration with respect to the Corporation shall be confined to—

''(A) providing for the examination of the condition of the Corporation; and

''(B) providing for the general supervision of the safe and sound performance of the powers, functions,

and duties vested in the Corporation by this subchapter, including through the use of the enforcement powers of the Farm Credit Administration under part C of subchapter V of this chapter.''

Subsec. (e). Pub. L. 101–624, § 1840(2), added subsec. (e).

§ 2279aa–12. Securities in credit enhanced pools

(a) Federal laws

(1) Applicability of certain Federal securities laws

For purposes of section 77c(a)(2) of title 15, no security representing an interest in, or obligations backed by, a pool of qualified loans for which guarantees have been provided by the Corporation shall be deemed to be a security issued or guaranteed by a person controlled or supervised by, or acting as an instrumentality of, the Government of the United States. No such security shall be deemed to be a ''government security'' for purposes of the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.] or for purposes of the Investment Company Act of 1940 [15 U.S.C. 80a–1 et seq.].

(2) No full faith and credit of the United States

Each security for which credit enhancement has been provided by the Corporation shall clearly indicate that the security is not an obligation of, and is not guaranteed as to principal or interest by, the Farm Credit Administration, the United States, or any other agency or instrumentality of the United States (other than the Corporation).

(b) State securities laws

(1) General exemption

Any security or obligation that has been provided a guarantee by the Corporation shall be exempt from any law of any State with respect to or requiring registration or qualification of securities or real estate to the same extent as any obligation issued by, or guaranteed as to principal and interest by, the United States or any agency or instrumentality of the United States.

(2) State override

The provisions of paragraph (1) shall not be applicable to any State that, during the 8-year period beginning on January 6, 1988, enacts a law that—

(A) specifically refers to this subsection; and

(B) expressly provides that paragraph (1) shall not apply to the State.

(c) Authorized investments

(1) In general

Securities representing an interest in, or obligations backed by, pools of qualified loans with respect to which the Corporation has provided a guarantee shall be authorized investments of any person, trust, corporation, partnership, association, business trust, or business entity created pursuant to or existing under the laws of the United States or any State to the same extent that the person, trust, corporation, partnership, association, business trust, or business entity is authorized under any applicable law to purchase, hold, or invest in obligations issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality of the United States. Such securities or obligations may be accepted as security for all fiduciary, trust, and public funds, the investment or deposits of which shall be under the authority and control of the United States or any State or any officers of either.

(2) State limitations on purchase, holding, or investment

If State law limits the purchase, holding, or investment in obligations issued by the United States by the person, trust, corporation, partnership, association, business trust, or business entity, securities or obligations of a certified facility issued on which the Corporation has provided a guarantee shall be considered to be obligations issued by the United States for purposes of the limitation.

(3) Nonapplicability of provisions

(A) Subsequent State law

Paragraphs (1) and (2) shall not apply with respect to a particular person, trust, corporation, partnership, association, business trust, or business entity, or class thereof, in any State that, prior to the expiration of the 8-year period beginning on January 6, 1988, enacts a law that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in the securities by any person, trust, corporation, partnership, association, business trust, or business entity, or class thereof, than is provided in paragraphs (1) and (2).

(B) Effect of subsequent State law

The enactment by any State of a law of the type described in subparagraph (A) shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior to the effective date of the law and shall not require the sale or other disposition of any securities acquired prior to the effective date of the law.

(d) State usury laws superseded

A provision of the Constitution or law of any State shall not apply to an agricultural loan made by an originator or a certified facility in accordance with this subchapter for sale to the Corporation or to a certified facility for inclusion in a pool for which the Corporation has provided, or has committed to provide, a guarantee, if the loan, not later than 180 days after the date the loan was made, is sold to the Corporation or included in a pool for which the Corporation has provided a guarantee, if the provision—

(1) limits the rate or amount of interest, discount points, finance charges, or other charges that may be charged, taken, received, or reserved by an agricultural lender or a certified facility; or

(2) limits or prohibits a prepayment penalty (either fixed or declining), yield maintenance, or make-whole payment that may be charged, taken, or received by an agricultural lender or a certified facility in connection with the full or partial payment of the principal amount due on a loan by a borrower in advance of the

scheduled date for the payment under the terms of the loan, otherwise known as a prepayment of the loan principal.

(Pub. L. 92–181, title VIII, § 8.12, as added Pub. L. 100–233, title VII, § 702, Jan. 6, 1988, 101 Stat. 1703; amended Pub. L. 100–399, title VI, § 601(k), (*l*), Aug. 17, 1988, 102 Stat. 1006; Pub. L. 104–105, title I, § 112, Feb. 10, 1996, 110 Stat. 165.)

REFERENCES IN TEXT

The Securities Exchange Act of 1934, referred to in subsec. (a)(1), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (§ 78a et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

The Investment Company Act of 1940, referred to in subsec. (a)(1), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, as amended, which is classified generally to subchapter I (§ 80a–1 et seq.) of chapter 2D of Title 15. For complete classification of this Act to the Code, see section 80a–51 of Title 15 and Tables.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–105 added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows: ''Any provision of the constitution or law of any State which expressly limits the rate or amount of interest, discount points, finance charges, or other charges that may be charged, taken, received, or reserved by agricultural lenders or certified facilities shall not apply to any agricultural loan made by an originator or a certified facility in accordance with this subchapter that is included in a pool for which the Corporation has provided a guarantee.''

1988—Subsec. (a)(1). Pub. L. 100–399, § 601(k), inserted '', or obligations backed by,'' before ''a pool''.

Subsec. (b)(2). Pub. L. 100–399, § 601(*l*), substituted ''date of the enactment'' for ''effective date'' both of which for purposes of codification was translated as ''January 6, 1988,''.

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.

§ 2279aa–13. Authority to issue obligations to cover guarantee losses of Corporation

(a) Sale of obligations to Treasury

(1) In general

Subject to the limitations contained in section 2279aa–10(c) of this title and the requirement of paragraph (2), the Corporation may issue obligations to the Secretary of the Treasury the proceeds of which may be used by the Corporation solely for the purpose of fulfilling the obligations of the Corporation under any guarantee provided by the Corporation under this subchapter.

(2) Certification

The Secretary of the Treasury may purchase obligations of the Corporation under paragraph (1) only if the Corporation certifies to the Secretary that—

(A) the requirements of section 2279aa–10(c) of this title have been fulfilled; and

(B) the proceeds of the sale of such obligations are needed to fulfill the obligations of the Corporation under any guarantee provided by the Corporation under this subchapter.

(b) Expeditious transaction required

Not later than 10 business days after receipt by the Secretary of the Treasury of any certification by the Corporation under subsection (a)(2) of this section, the Secretary of the Treasury shall purchase obligations issued by the Corporation in an amount determined by the Corporation to be sufficient to meet the guarantee liabilities of the Corporation.

(c) Limitation on amount of outstanding obligations

The aggregate amount of obligations issued by the Corporation under subsection (a)(1) of this section which may be held by the Secretary of the Treasury at any time (as determined by the Secretary) shall not exceed $1,500,000,000.

(d) Terms of obligation

(1) Interest

Each obligation purchased by the Secretary of the Treasury shall bear interest at a rate determined by the Secretary, taking into consideration the average rate on outstanding marketable obligations of the United States as of the last day of the last calendar month ending before the date of the purchase of such obligation.

(2) Redemption

The Secretary of the Treasury shall require that such obligations be repurchased by the Corporation within a reasonable time.

(e) Coordination with title 31

(1) Authority to use proceeds from sale of Treasury securities

For the purpose of purchasing obligations of the Corporation, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale by the Secretary of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under such chapter are extended to include such purchases.

(2) Treatment of transactions

All purchases and sales by the Secretary of the Treasury of obligations issued by the Corporation under this section shall be treated as public debt transactions of the United States.

(f) Authorization of appropriations

There is authorized to be appropriated to the Secretary of the Treasury $1,500,000,000, without fiscal year limitation, to carry out the purposes of this subchapter.

(Pub. L. 92–181, title VIII, § 8.13, as added Pub. L. 100–233, title VII, § 702, Jan. 6, 1988, 101 Stat. 1704; amended Pub. L. 104–105, title I, § 109(b)(2), Feb. 10, 1996, 110 Stat. 165.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–105 substituted ''section'' for ''sections 2279aa–6(b) and'' in pars. (1) and (2)(A).

§ 2279aa–14. Federal jurisdiction

Notwithstanding section 1349 of title 28 or any other provision of law:

(1) The Corporation shall be considered an agency under sections 1345 and 1442 of such title.

(2) All civil actions to which the Corporation is a party shall be deemed to arise under the laws of the United States and, to the extent applicable, shall be deemed to be governed by Federal common law. The district courts of the United States shall have original jurisdiction of all such actions, without regard to amount of value.

(3) Any civil or other action, case, or controversy in a court of a State or any court, other than a district court of the United States, to which the Corporation is a party may at any time before trial be removed by the Corporation, without the giving of any bond or security—

(A) to the District Court of the United States for the district and division embracing the place where the same is pending; or

(B) if there is no such district court, to the District Court of the United States for the district in which the principal office of the Corporation is located;

by following any procedure for removal for causes in effect at the time of such removal.

(4) No attachment or execution shall be issued against the Corporation or any of the property of the Corporation before final judgment in any Federal, State, or other court.

(Pub. L. 92–181, title VIII, § 8.14, as added Pub. L. 100–233, title VII, § 702, Jan. 6, 1988, 101 Stat. 1705.)

PART B—REGULATION OF FINANCIAL SAFETY AND SOUNDNESS OF FEDERAL AGRICULTURAL MORTGAGE CORPORATION

§ 2279bb. Definitions

For purposes of this part:

(1) Compensation

The term ''compensation'' means any payment of money or the provision of any other thing of current or potential value in connection with employment.

(2) Core capital

The term ''core capital'' means, with respect to the Corporation, the sum of the following (as determined in accordance with generally accepted accounting principles):

(A) The par value of outstanding common stock.

(B) The par value of outstanding preferred stock.

(C) Paid-in capital.

(D) Retained earnings.

(3) Director

The term ''Director'' means the Director of the Office of Secondary Market Oversight of the Farm Credit Administration, selected under section 2279aa–11(a)(3) of this title.

(4) Office

The term ''Office'' means the Office of Secondary Market Oversight of the Farm Credit Administration, established in section 2279aa–11(a) of this title.

(5) Regulatory capital

The term ''regulatory capital'' means, with respect to the Corporation, the core capital of the Corporation plus an allowance for losses and guarantee claims, as determined in accordance with generally accepted accounting principles.

(6) State

The term ''State'' means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(Pub. L. 92–181, title VIII, § 8.31, as added Pub. L. 102–237, title V, § 503(b)(2), Dec. 13, 1991, 105 Stat. 1871.)

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.

§ 2279bb–1. Risk-based capital levels

(a) Risk-based capital test

Not sooner than the expiration of the 3-year period beginning on February 10, 1996, the Director of the Office of Secondary Market Oversight shall, by regulation, establish a risk-based capital test under this section for the Corporation. When applied to the Corporation, the risk-based capital test shall determine the amount of regulatory capital for the Corporation that is sufficient for the Corporation to maintain positive capital during a 10-year period in which both of the following circumstances occur:

(1) Credit risk

(A) In general

With respect to securities representing an interest in, or obligations backed by, a pool of qualified loans owned or guaranteed by the Corporation and other obligations of the Corporation, losses on the underlying qualified loans occur throughout the United States at a rate of default and severity (based on any measurements of default reasonably related to prevailing industry practice in determining capital adequacy) reasonably related to the rate and severity that occurred in contiguous areas of the United States containing an aggregate of not less than 5 percent of the total population of the United States that, for a period of not less than 2 years (as established by the Director), experienced the highest rates of default and severity of agricultural mortgage losses, in comparison with such rates of default and severity of agricultural mortgage losses in other such areas for any period of such duration, as determined by the Director.

(B) Rural utility loans

With respect to securities representing an interest in, or obligation backed by, a pool of qualified loans described in section 2279aa(9)(C) of this title owned or guaranteed by the Corporation, losses occur at a rate of default and severity reasonably related to risks in electric and telephone facility loans

(as applicable), as determined by the Director.

(2) Interest rate risk

Interest rates on Treasury obligations of varying terms increase or decrease over the first 12 months of such 10-year period by not more than the lesser of (A) 50 percent (with respect to the average interest rates on such obligations during the 12-month period preceding the 10-year period), or (B) 600 basis points, and remain at such level for the remainder of the period. This paragraph may not be construed to require the Director to determine interest rate risk under this paragraph based on the interest rates for various long-term and short-term obligations all increasing or all decreasing concurrently.

(b) Considerations

(1) Establishment of test

In establishing the risk-based capital test under subsection (a) of this section—

(A) the Director shall take into account appropriate distinctions based on various types of agricultural mortgage products, varying terms of Treasury obligations, and any other factors the Director considers appropriate;

(B) the Director shall conform loan data used in determining credit risk to the minimum geographic and commodity diversification standards applicable to pools of qualified loans eligible for guarantee;

(C) the Director may take into account retained subordinated participating interests under section 2279aa–6(b)(2) of this title (as in effect before February 10, 1996);

(D) the Director may take into account other methods or tests to determine credit risk developed by the Corporation before December 13, 1991; and

(E) the Director shall consider any other information submitted by the Corporation in writing during the 180-day period beginning on December 13, 1991.

(2) Revising test

Upon the expiration of the 8-year period beginning on December 13, 1991, the Director shall examine the risk-based capital test under subsection (a) of this section and may revise the test. In making examinations and revisions under this paragraph, the Director shall take into account that, before December 13, 1991, the Corporation has not issued guarantees for pools of qualified loans. To the extent that the revision of the risk-based capital test causes a change in the classification of the Corporation within the enforcement levels established under section 2279bb–4 of this title, the Director shall waive the applicability of any additional enforcement actions available because of such change for a reasonable period of time, to permit the Corporation to increase the amount of regulatory capital of the Corporation accordingly.

(c) Risk-based capital level

For purposes of this part, the risk-based capital level for the Corporation shall be equal to the sum of the following amounts:

(1) Credit and interest rate risk

The amount of regulatory capital determined by applying the risk-based capital test under subsection (a) of this section to the Corporation, adjusted to account for foreign exchange risk.

(2) Management and operations risk

To provide for management and operations risk, 30 percent of the amount of regulatory capital determined by applying the risk-based capital test under subsection (a) of this section to the Corporation.

(d) Specified contents

(1) In general

The regulations establishing the risk-based capital test under this section shall—

(A) be issued by the Director for public comment in the form of a notice of proposed rulemaking, to be first published after the expiration of the period referred to in subsection (a) of this section; and

(B) contain specific requirements, definitions, methods, variables, and parameters used under the risk-based capital test and in implementing the test (such as loan loss severity, float income, loan-to-value ratios, taxes, yield curve slopes, default experience, prepayment rates, and performance of pools of qualified loans).

(2) Specificity

The regulations referred to in paragraph (1) shall be sufficiently specific to permit an individual other than the Director to apply the test in the same manner as the Director.

(e) Availability of model

The Director shall make copies of the statistical model or models used to implement the risk-based capital test under this section available for public acquisition and may charge a reasonable fee for such copies.

(Pub. L. 92–181, title VIII, § 8.32, as added Pub. L. 102–237, title V, § 503(b)(2), Dec. 13, 1991, 105 Stat. 1871; amended Pub. L. 102–552, title III, § 308(b)(3), Oct. 28, 1992, 106 Stat. 4116; Pub. L. 104–105, title I, §§ 109(b)(3), 113, Feb. 10, 1996, 110 Stat. 165, 166; Pub. L. 110–234, title V, § 5406(d), May 22, 2008, 122 Stat. 1159; Pub. L. 110–246, § 4(a), title V, § 5406(d), June 18, 2008, 122 Stat. 1664, 1920.)

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. (a)(1). Pub. L. 110–246, § 5406(d), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

1996—Subsec. (a). Pub. L. 104–105, § 113(1), in first sentence, substituted ''Not sooner than the expiration of the 3-year period beginning on February 10, 1996,'' for ''Not later than the expiration of the 2-year period beginning on December 13, 1991,''.

Subsec. (b)(1)(C). Pub. L. 104–105, § 109(b)(3), substituted ''Director may'' for ''Director shall'' and inserted before semicolon at end ''(as in effect before February 10, 1996)''.

Subsec. (b)(2). Pub. L. 104–105, § 113(2), substituted ''8-year'' for ''5-year'' in first sentence.

Subsec. (d). Pub. L. 104–105, § 113(3), designated first sentence of existing provisions as par. (1), inserted heading, added subpar. (A), and designated part of first sentence as subpar. (B), designated second sentence of existing provisions as par. (2), inserted heading, and substituted ''The regulations referred to in paragraph (1) shall'' for ''The regulations shall''.

1992—Subsecs. (a), (b)(1)(D). Pub. L. 102–552, § 308(b)(3)(A), substituted ''December 13, 1991'' for ''the date of the enactment of this section''.

Subsec. (b)(1)(E). Pub. L. 102–552, § 308(b)(3)(B), substituted ''December 13, 1991'' for ''the date of the enactment of such Act''.

Subsec. (b)(2). Pub. L. 102–552, § 308(b)(3)(A), substituted ''December 13, 1991'' for ''the date of the enactment of this section'' in two places.

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 Title 7, Agriculture.

§ 2279bb–2. Minimum capital level

(a) In general

Except as provided in subsection (b) of this section, for purposes of this part, the minimum capital level for the Corporation shall be an amount of core capital equal to the sum of

(1) 2.75 percent of the aggregate on-balance sheet assets of the Corporation, as determined in accordance with generally accepted accounting principles; and

(2) 0.75 percent of the aggregate off-balance sheet obligations of the Corporation, which, for the purposes of this part, shall include

(A) the unpaid principal balance of outstanding securities that are guaranteed by the Corporation and backed by pools of qualified loans;

(B) instruments that are issued or guaranteed by the Corporation and are substantially equivalent to instruments described in subparagraph (A); and

(C) other off-balance sheet obligations of the Corporation.

(b) Transition period

(1) In general

For purposes of this part, the minimum capital level for the Corporation—

(A) prior to January 1, 1997, shall be the amount of core capital equal to the sum of—

(i) 0.45 percent of aggregate off-balance sheet obligations of the Corporation;

(ii) 0.45 percent of designated on-balance sheet assets of the Corporation, as determined under paragraph (2); and

(iii) 2.50 percent of on-balance sheet assets of the Corporation other than assets designated under paragraph (2);

(B) during the 1-year period ending December 31, 1997, shall be the amount of core capital equal to the sum of—

(i) 0.55 percent of aggregate off-balance sheet obligations of the Corporation;

(ii) 1.20 percent of designated on-balance sheet assets of the Corporation, as determined under paragraph (2); and

(iii) 2.55 percent of on-balance sheet assets of the Corporation other than assets designated under paragraph (2);

(C) during the 1-year period ending December 31, 1998, shall be the amount of core capital equal to—

(i) if the Corporation's core capital is not less than $25,000,000 on January 1, 1998, the sum of—

(I) 0.65 percent of aggregate off-balance sheet obligations of the Corporation;

(II) 1.95 percent of designated on-balance sheet assets of the Corporation, as determined under paragraph (2); and

(III) 2.65 percent of on-balance sheet assets of the Corporation other than assets designated under paragraph (2); or

(ii) if the Corporation's core capital is less than $25,000,000 on January 1, 1998, the amount determined under subsection (a) of this section; and

(D) on and after January 1, 1999, shall be the amount determined under subsection (a) of this section.

(2) Designated on-balance sheet assets

For purposes of this subsection, the designated on-balance sheet assets of the Corporation shall be—

(A) the aggregate on-balance sheet assets of the Corporation acquired under section 2279aa–6(e) of this title; and

(B) the aggregate amount of qualified loans purchased and held by the Corporation under section 2279aa–3(c)(13) of this title.

(Pub. L. 92–181, title VIII, § 8.33, as added Pub. L. 102–237, title V, § 503(b)(2), Dec. 13, 1991, 105 Stat. 1873; amended Pub. L. 104–105, title I, § 114, Feb. 10, 1996, 110 Stat. 166.)

AMENDMENTS

1996—Pub. L. 104–105 amended section generally, substituting present provisions for provisions relating to minimum capital level, including general provisions, provisions relating to 18-month transition, and provisions relating to linked portfolio assets.

§ 2279bb–3. Critical capital level

For purposes of this part, the critical capital level for the Corporation shall be an amount of core capital equal to 50 percent of the total minimum capital amount determined under section 2279bb–2 of this title.

(Pub. L. 92–181, title VIII, § 8.34, as added Pub. L. 102–237, title V, § 503(b)(2), Dec. 13, 1991, 105 Stat. 1874; amended Pub. L. 104–105, title I, § 115, Feb. 10, 1996, 110 Stat. 167.)

AMENDMENTS

1996—Pub. L. 104–105 amended section generally. Prior to amendment, section read as follows: ''For purposes of this part, the critical capital level for the Corporation shall be an amount of core capital equal to the sum of—

''(1) 1.25 percent of the aggregate on-balance sheet assets of the Corporation (other than assets referred to in paragraph (3)), as determined in accordance with generally accepted accounting principles;

''(2) 0.25 percent of the unpaid principal balance of outstanding securities guaranteed by the Corporation and backed by pools of qualified loans and substantially equivalent instruments issued or guaranteed by the Corporation, and other off-balance sheet obligations of the Corporation; and

''(3) a percentage of any aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 2279aa–6(g) of this title, which shall be—

''(A) during the 5-year period beginning on December 13, 1991, one-half of the percentage that is determined under section 2279bb–2(c)(1) of this title; and

''(B) after the expiration of such 5-year period, 1.25 percent of any such aggregate assets.''

§ 2279bb–4. Enforcement levels

(a) In general

The Director shall classify the Corporation, for purposes of this part, according to the following enforcement levels:

(1) Level I

The Corporation shall be classified as within level I if the Corporation—

(A) maintains an amount of regulatory capital that is equal to or exceeds the risk-based capital level established under section 2279bb–1 of this title; and

(B) equals or exceeds the minimum capital level established under section 2279bb–2 of this title.

(2) Level II

The Corporation shall be classified as within level II if—

(A) the Corporation—

(i) maintains an amount of regulatory capital that is less than the risk-based capital level; and

(ii) equals or exceeds the minimum capital level; or

(B) the Corporation is otherwise classified as within level II under subsection (b) of this section.

(3) Level III

The Corporation shall be classified as within level III if—

(A) the Corporation—

(i) does not equal or exceed the minimum capital level; and

(ii) equals or exceeds the critical capital level established under section 2279bb–3 of this title; or

(B) the Corporation is otherwise classified as within level III under subsection (b) of this section.

(4) Level IV

The Corporation shall be classified as within level IV if the Corporation—

(A) does not equal or exceed the critical capital level; or

(B) is otherwise classified as within level IV under subsection (b) of this section.

(b) Discretionary classification

If at any time the Director determines in writing (and provides written notification to the Corporation and the Farm Credit Administration) that the Corporation is taking any action not approved by the Director that could result in a rapid depletion of core capital or that the value of the property subject to mortgages securitized by the Corporation or property underlying securities guaranteed by the Corporation, has decreased significantly, the Director may classify the Corporation—

(1) as within level II, if the Corporation is otherwise within level I;

(2) as within level III, if the Corporation is otherwise within level II; or

(3) as within level IV, if the Corporation is otherwise within level III.

(c) Quarterly determination

The Director shall determine the classification of the Corporation for purposes of this part on not less than a quarterly basis (and as appropriate under subsection (b) of this section). The first such determination shall be made for the quarter ending March 31, 1992.

(d) Notice

Upon determining under subsection (b) or (c) of this section that the Corporation is within level II or III, the Director shall provide written notice to the Congress and to the Corporation—

(1) that the Corporation is within such level;

(2) that the Corporation is subject to the provisions of section 2279bb–5 or 2279bb–6 of this title, as applicable; and

(3) stating the reasons for the classification of the Corporation within such level.

(e) Implementation

Notwithstanding paragraphs (1) and (2) of subsection (a) of this section, during the period beginning on December 13, 1991, and ending on the effective date of the risk based capital regulation issued by the Director under section 2279bb–1 of this title, the Corporation shall be classified as within level I if the Corporation equals or exceeds the minimum capital level established under section 2279bb–2 of this title.

(Pub. L. 92–181, title VIII, § 8.35, as added Pub. L. 102–237, title V, § 503(b)(2), Dec. 13, 1991, 105 Stat. 1874; amended Pub. L. 104–105, title I, § 116, Feb. 10, 1996, 110 Stat. 168.)

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–105 substituted ''during the period beginning on December 13, 1991, and ending on the effective date of the risk based capital regulation issued by the Director under section 2279bb–1 of this title,'' for ''during the 30-month period beginning on December 13, 1991,''.

§ 2279bb–5. Mandatory actions applicable to level II

(a) Capital restoration plan

If the Corporation is classified as within level II, the Corporation shall, within the time period determined by the Director, submit to the Director a capital restoration plan and, after approval, carry out the plan.

(b) Restriction on dividends

If the Corporation is classified as within level II, the Corporation may not make any payment of dividends that would result in the Corporation being reclassified as within level III or IV.

(c) Reclassification from level II to level III

The Director shall immediately reclassify the Corporation as within level III (and the Corporation shall be subject to the provisions of section 2279bb–6 of this title), if—

(1) the Corporation is within level II; and

(2)(A) the Corporation does not submit a capital restoration plan that is approved by the Director; or

(B) the Director determines that the Corporation has failed to make, in good faith, reasonable efforts necessary to comply with such a capital restoration plan and fulfill the schedule for the plan approved by the Director.

(d) Effective date

This section shall take effect upon the expiration of the 30-month period beginning on December 13, 1991.

(Pub. L. 92–181, title VIII, § 8.36, as added Pub. L. 102–237, title V, § 503(b)(2), Dec. 13, 1991, 105 Stat. 1876.)

§ 2279bb–6. Supervisory actions applicable to level III

(a) Mandatory supervisory actions

(1) Capital restoration plan

If the Corporation is classified as within level III, the Corporation shall, within the time period determined by the Director, submit to the Director a capital restoration plan and, after approval, carry out the plan.

(2) Restrictions on dividends

(A) Prior approval

If the Corporation is classified as within level III, the Corporation—

(i) may not make any payment of dividends that would result in the Corporation being reclassified as within level IV; and

(ii) may make any other payment of dividends only if the Director approves the payment before the payment.

(B) Standard for approval

If the Corporation is classified as within level III, the Director may approve a payment of dividends by the Corporation only if the Director determines that the payment (i) will enhance the ability of the Corporation to meet the risk-based capital level and the minimum capital level promptly, (ii) will contribute to the long-term safety and soundness of the Corporation, or (iii) is otherwise in the public interest.

(3) Reclassification from level III to level IV

The Director shall immediately reclassify the Corporation as within level IV if—

(A) the Corporation is classified as within level III; and

(B)(i) the Corporation does not submit a capital restoration plan that is approved by the Director; or

(ii) the Director determines that the Corporation has failed to make, in good faith, reasonable efforts necessary to comply with such a capital restoration plan and fulfill the schedule for the plan approved by the Director.

(b) Discretionary supervisory actions

In addition to any other actions taken by the Director (including actions under subsection (a) of this section), the Director may, at any time, take any of the following actions if the Corporation is classified as within level III:

(1) Limitation on increase in obligations

Limit any increase in, or order the reduction of, any obligations of the Corporation, including off-balance sheet obligations.

(2) Limitation on growth

Limit or prohibit the growth of the assets of the Corporation or require contraction of the assets of the Corporation.

(3) Prohibition on dividends

Prohibit the Corporation from making any payment of dividends.

(4) Acquisition of new capital

Require the Corporation to acquire new capital in any form and in any amount sufficient to provide for the reclassification of the Corporation as within level II.

(5) Restriction of activities

Require the Corporation to terminate, reduce, or modify any activity that the Director determines creates excessive risk to the Corporation.

(6) Conservatorship

Appoint a conservator for the Corporation consistent with this chapter.

(c) Effective date

This section shall take effect on January 1, 1992.

(Pub. L. 92–181, title VIII, § 8.37, as added Pub. L. 102–237, title V, § 503(b)(2), Dec. 13, 1991, 105 Stat. 1876.)

§ 2279bb–7. Recapitalization of Corporation

(a) Mandatory recapitalization

The Corporation shall increase the core capital of the Corporation to an amount equal to or greater than $25,000,000, not later than the earlier of—

(1) the date that is 2 years after February 10, 1996; or

(2) the date that is 180 days after the end of the first calendar quarter that the aggregate on-balance sheet assets of the Corporation, plus the outstanding principal of the off-balance sheet obligations of the Corporation, equal or exceed $2,000,000,000.

(b) Raising core capital

In carrying out this section, the Corporation may issue stock under section 2279aa–4 of this title and otherwise employ any recognized and legitimate means of raising core capital in the power of the Corporation under section 2279aa–3 of this title.

(c) Limitation on growth of total assets

During the 2-year period beginning on February 10, 1996, the aggregate on-balance sheet assets of the Corporation plus the outstanding principal of the off-balance sheet obligations of the Corporation may not exceed $3,000,000,000 if the core capital of the Corporation is less than $25,000,000.

(d) Enforcement

If the Corporation fails to carry out subsection (a) of this section by the date required under paragraph (1) or (2) of subsection (a) of this sec-

tion, the Corporation may not purchase a new qualified loan or issue or guarantee a new loan-backed security until the core capital of the Corporation is increased to an amount equal to or greater than $25,000,000.

(Pub. L. 92–181, title VIII, § 8.38, as added Pub. L. 104–105, title I, § 117, Feb. 10, 1996, 110 Stat. 168.)

PART C—RECEIVERSHIP, CONSERVATORSHIP, AND LIQUIDATION OF FEDERAL AGRICULTURAL MORTGAGE CORPORATION

§ 2279cc. Conservatorship; liquidation; receivership

(a) Voluntary liquidation

The Corporation may voluntarily liquidate only with the consent of, and in accordance with a plan of liquidation approved by, the Farm Credit Administration Board.

(b) Involuntary liquidation

(1) In general

The Farm Credit Administration Board may appoint a conservator or receiver for the Corporation under the circumstances specified in section 2183(b) of this title.

(2) Application

In applying section 2183(b) of this title to the Corporation under paragraph (1)—

(A) the Corporation shall also be considered insolvent if the Corporation is unable to pay its debts as they fall due in the ordinary course of business;

(B) a conservator may also be appointed for the Corporation if the authority of the Corporation to purchase qualified loans or issue or guarantee loan-backed securities is suspended; and

(C) a receiver may also be appointed for the Corporation if—

(i)(I) the authority of the Corporation to purchase qualified loans or issue or guarantee loan-backed securities is suspended; or

(II) the Corporation is classified under section 2279bb–4 of this title as within level III or IV and the alternative actions available under part B are not satisfactory; and

(ii) the Farm Credit Administration determines that the appointment of a conservator would not be appropriate.

(3) No effect on supervisory actions

The grounds for appointment of a conservator for the Corporation under this subsection shall be in addition to those in section 2279bb–6 of this title.

(c) Appointment of conservator or receiver

(1) Qualifications

Notwithstanding section 2183(b) of this title, if a conservator or receiver is appointed for the Corporation, the conservator or receiver shall be—

(A) the Farm Credit Administration or any other governmental entity or employee, including the Farm Credit System Insurance Corporation; or

(B) any person that—

(i) has no claim against, or financial interest in, the Corporation or other basis for a conflict of interest as the conservator or receiver; and

(ii) has the financial and management expertise necessary to direct the operations and affairs of the Corporation and, if necessary, to liquidate the Corporation.

(2) Compensation

(A) In general

A conservator or receiver for the Corporation and professional personnel (other than a Federal employee) employed to represent or assist the conservator or receiver may be compensated for activities conducted as, or for, a conservator or receiver.

(B) Limit on compensation

Compensation may not be provided in amounts greater than the compensation paid to employees of the Federal Government for similar services, except that the Farm Credit Administration may provide for compensation at higher rates that are not in excess of rates prevailing in the private sector if the Farm Credit Administration determines that compensation at higher rates is necessary in order to recruit and retain competent personnel.

(C) Contractual arrangements

The conservator or receiver may contract with any governmental entity, including the Farm Credit System Insurance Corporation, to make personnel, services, and facilities of the entity available to the conservator or receiver on such terms and compensation arrangements as shall be mutually agreed, and each entity may provide the same to the conservator or receiver.

(3) Expenses

A valid claim for expenses of the conservatorship or receivership (including compensation under paragraph (2)) and a valid claim with respect to a loan made under subsection (f) of this section shall—

(A) be paid by the conservator or receiver from funds of the Corporation before any other valid claim against the Corporation; and

(B) may be secured by a lien, on such property of the Corporation as the conservator or receiver may determine, that shall have priority over any other lien.

(4) Liability

If the conservator or receiver for the Corporation is not a Federal entity, or an officer or employee of the Federal Government, the conservator or receiver shall not be personally liable for damages in tort or otherwise for an act or omission performed pursuant to and in the course of the conservatorship or receivership, unless the act or omission constitutes gross negligence or any form of intentional tortious conduct or criminal conduct.

(5) Indemnification

The Farm Credit Administration may allow indemnification of the conservator or receiver from the assets of the conservatorship or receivership on such terms as the Farm Credit Administration considers appropriate.

(d) Judicial review of appointment

(1) In general

Notwithstanding subsection (i)(1) of this section, not later than 30 days after a conservator or receiver is appointed under subsection (b) of this section, the Corporation may bring an action in the United States District Court for the District of Columbia for an order requiring the Farm Credit Administration Board to remove the conservator or receiver. The court shall, on the merits, dismiss the action or direct the Farm Credit Administration Board to remove the conservator or receiver.

(2) Stay of other actions

On the commencement of an action under paragraph (1), any court having jurisdiction of any other action or enforcement proceeding authorized under this chapter to which the Corporation is a party shall stay the action or proceeding during the pendency of the action for removal of the conservator or receiver.

(e) General powers of conservator or receiver

The conservator or receiver for the Corporation shall have such powers to conduct the conservatorship or receivership as shall be provided pursuant to regulations adopted by the Farm Credit Administration Board. Such powers shall be comparable to the powers available to a conservator or receiver appointed pursuant to section 2183(b) of this title.

(f) Borrowings for working capital

(1) In general

If the conservator or receiver of the Corporation determines that it is likely that there will be insufficient funds to pay the ongoing administrative expenses of the conservatorship or receivership or that there will be insufficient liquidity to fund maturing obligations of the conservatorship or receivership, the conservator or receiver may borrow funds in such amounts, from such sources, and at such rates of interest as the conservator or receiver considers necessary or appropriate to meet the administrative expenses or liquidity needs of the conservatorship or receivership.

(2) Working capital from Farm Credit banks

A Farm Credit bank may loan funds to the conservator or receiver for a loan authorized under paragraph (1) or, in the event of receivership, a Farm Credit bank may purchase assets of the Corporation.

(g) Agreements against interests of conservator or receiver

No agreement that tends to diminish or defeat the right, title, or interest of the conservator or receiver for the Corporation in any asset acquired by the conservator or receiver as conservator or receiver for the Corporation shall be valid against the conservator or receiver unless the agreement—

(1) is in writing;

(2) is executed by the Corporation and any person claiming an adverse interest under the agreement, including the obligor, contemporaneously with the acquisition of the asset by the Corporation;

(3) is approved by the Board or an appropriate committee of the Board, which approval shall be reflected in the minutes of the Board or committee; and

(4) has been, continuously, from the time of the agreement's execution, an official record of the Corporation.

(h) Report to Congress

On a determination by the receiver for the Corporation that there are insufficient assets of the receivership to pay all valid claims against the receivership, the receiver shall submit to the Secretary of the Treasury, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the financial condition of the receivership.

(i) Termination of authorities

(1) Corporation

The charter of the Corporation shall be canceled, and the authority provided to the Corporation by this subchapter shall terminate, on such date as the Farm Credit Administration Board determines is appropriate following the placement of the Corporation in receivership, but not later than the conclusion of the receivership and discharge of the receiver.

(2) Oversight

The Office of Secondary Market Oversight established under section 2279aa–11 of this title shall be abolished, and section 2279aa–11(a) of this title and part B shall have no force or effect, on such date as the Farm Credit Administration Board determines is appropriate following the placement of the Corporation in receivership, but not later than the conclusion of the receivership and discharge of the receiver.

(Pub. L. 92–181, title VIII, § 8.41, as added Pub. L. 104–105, title I, § 118, Feb. 10, 1996, 110 Stat. 168.)

CHAPTER 24—FEDERAL FINANCING BANK

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§ 2281. Congressional findings and declaration of purpose

The Congress finds that demands for funds through Federal and federally assisted borrow-