Public Law 100-233
100th Congress

An Act

Jan. 6, 1988
[H.R. 3030]

To provide credit assistance to farmers, to strengthen the Farm Credit System, to facilitate the establishment of secondary markets for agricultural loans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Agricultural Credit Act of 1987.
Banks and banking.
Rural areas.
Securities.
12 USC 2001 note.

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TITLE I—ASSISTANCE TO FARM CREDIT SYSTEM BORROWERS

SEC. 101. PROTECTION OF BORROWER STOCK.

Part A of title IV (12 U.S.C. 2151 et seq.) is amended by adding at the end thereof the following new section:

12 USC 2162.

"SEC. 4.9A. PROTECTION OF BORROWER STOCK.

"(a) RETIREMENT OF STOCK.—Notwithstanding any other section of this Act, each institution of the Farm Credit System, when retiring eligible borrower stock in accordance with this Act, shall retire such stock at par value. Any such institution whose capital stock is impaired (as determined in accordance with generally accepted accounting principles) shall coordinate such retirement of stock under this section with the activities of the Assistance Board and the Financial Assistance Corporation.

"(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 4.14B; 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), the par value of borrower stock frozen in such liquidation.

"(c) INABILITY TO RETIRE AT PAR VALUE.—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.

"(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 the date of the enactment of this section;

"(B) is required to be purchased, and is purchased, as a condition of obtaining a loan made after the date of the enactment of this section, 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 4.9B; or

"(ii) the date that is 9 months after the date of the enactment of this section;

"(C) was, after January 1, 1983, but before the date of the enactment of this section, 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 the date of the enactment of this section.

"(3) INSTITUTION.—The term 'institution' means a bank or association chartered under this Act.

"(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 Act, 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.".

SEC. 102. RESTRUCTURING DISTRESSED LOANS.

(a) IN GENERAL.—Part C of title IV is amended by inserting after section 4.14 (12 U.S.C. 2202) the following new sections:

12 USC 2202a.

"SEC. 4.14A. RESTRUCTURING DISTRESSED LOANS.

"(a) DEFINITIONS.—As used in this part (other than in sections 4.17 and 4.18):

"(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 title I or II, to effect collection of a nonaccrual or distressed loan.

"(5) LOAN.—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.

"(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 2.3(a)(2) but only with respect to loans discounted or pledged under section 2.3(a).

"(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) 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 a 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 farm credit district board of directors shall develop a policy within 60 days after the date of the enactment of this section, 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 4.14 of a denial of an application for restructuring.

"(3) SUBMISSION OF POLICY TO FCA.—Each district 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 the date of the enactment of this section.

"(h) REPORTS.—During the 5-year period beginning on the date of the enactment of this section, 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), and the requirements of subsection (c), shall not apply to a loan that became a distressed loan before the date of the enactment of this section 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 Federal intermediate credit bank, on request of any production credit association, may assist the association in restructuring loans under this section.

"SEC. 4.14B. EFFECT OF RESTRUCTURING ON BORROWER STOCK. 12 USC 2202b.

"(a) FEDERAL LAND BANK.—If a Federal land bank forgives and writes off, under section 4.14A, 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 the Federal land 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 4.14A, 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), 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.

12 USC 2202c.

"SEC. 4.14C. 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 6.4, 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 6.27, the district board of such district 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 6.27, and by special asset groups established under subsection (b); 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 6.4

shall take into consideration the factors specified in section 4.14A(d)(1).".

(b) SENSE OF CONGRESS.—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 buy-down 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.

State and local governments. 12 USC 2202a note.

SEC. 103. DISCLOSURE BY BANKS AND ASSOCIATIONS.

Section 4.13 (12 U.S.C. 2199) is amended to read as follows:

"SEC. 4.13. DISCLOSURE.

"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;

"(5) except with respect to stock guaranteed under section 4.9A, 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.".

SEC. 104. ACCESS TO DOCUMENTS AND INFORMATION.

Section 4.13A (12 U.S.C. 2200) is amended—

(1) by striking out "System institutions" and inserting in lieu thereof "qualified lenders"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof: "and copies of each appraisal of the borrower's assets made or used by the qualified lender.".

SEC. 105. NOTICE OF ACTION ON APPLICATION FOR LOANS OR RESTRUCTURING.

Section 4.13B (12 U.S.C. 2201) is amended to read as follows:

"SEC. 4.13B. 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 4.14.

"(b) DISTRESSED LOANS.—Each qualified lender that has a distressed loan outstanding that is subject to restructuring requirements under this Act 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 4.14A;

"(2) if restructuring is denied, the reasons for such action; and

"(3) the borrower's right to review under section 4.14.".

SEC. 106. RECONSIDERATION OF ACTIONS.

Section 4.14 (12 U.S.C. 2202) is amended to read as follows:

"SEC. 4.14. 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 4.13B 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 by a credit review committee.

"(2) DENIALS OF RESTRUCTURING.—A borrower of a loan from a qualified lender that has received notice, under section 4.13B, 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), 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.".

SEC. 107. PROTECTION OF BORROWERS WHO MEET ALL LOAN OBLIGATIONS.

Part C of title IV is amended by inserting after the sections added by section 102(a) of this Act the following new section:

"SEC. 4.14D. PROTECTION OF BORROWERS WHO MEET ALL LOAN OBLIGATIONS. 12 USC 2202d.

"(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 4.14.

"(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.".

SEC. 108. RIGHT OF FIRST REFUSAL.

Section 4.36 (12 U.S.C. 2219a) is amended to read as follows:

"SEC. 4.36. 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 15 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 30 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 former borrower.

"(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.".

SEC. 109. DIFFERENTIAL INTEREST RATES.

12 USC 2199.

Section 4.13 (12 U.S.C. 2201) (as amended by section 103(a) of this Act) is further amended—

(1) by striking out "In" and inserting in lieu thereof "(a) IN GENERAL.—In"; and

(2) by adding at the end thereof the following new subsection:

"(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.".

SEC. 110. APPLICATION OF UNINSURED ACCOUNTS.

Part F of title IV (12 U.S.C. 2219 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 4.37. APPLICATION OF UNINSURED ACCOUNTS. 12 USC 2219b.

"(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 the date of the enactment of this section), 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.".

TITLE II—ASSISTANCE TO FARM CREDIT SYSTEM

SEC. 201. ASSISTANCE TO FARM CREDIT SYSTEM.

The Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VI—ASSISTANCE TO FARM CREDIT SYSTEM

"Subtitle A—Assistance Board

"SEC. 6.0. ESTABLISHMENT OF BOARD. 12 USC 2278a.

"(a) CHARTERS.—On the date which is 15 days after the date of the enactment of this title, the Farm Credit Administration shall revoke the charter of the Farm Credit System Capital Corporation (hereinafter referred to in this title as the 'Capital Corporation') and shall charter the Farm Credit System Assistance Board (hereinafter referred to in this Act as the 'Assistance Board') that, subject to this subtitle, 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. Contracts.

"SEC. 6.1. PURPOSES. 12 USC 2278a-1.

"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.

12 USC 2278a-2.

"SEC. 6.2. BOARD OF DIRECTORS.

"(a) MEMBERSHIP.—The Board of Directors of the Assistance Board (hereinafter referred to in this subtitle 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

President of U.S.

"(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) 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 1 of chapter 57 of title 5, United States Code, for officers and employees of the United States; and

"(2) appointed under paragraph (3) of subsection (a) 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, United States Code, 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 1 of chapter 57 of title 5, United States Code, 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.

"SEC. 6.3. CORPORATE POWERS. 12 USC 2278a-3.

"(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, United States Code, 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, United States Code;

"(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 title;

"(7) enter into contracts and make advance, progress, or other payments with respect to such contracts; 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 title; Contracts.

"(12) deposit its securities and its current funds with any member bank of the Federal Reserve System or any insured State nonmember bank (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) and pay fees therefor and receive interest thereon as may be agreed; and

"(13) exercise other powers as set forth in this title, and such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this title.

"(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 original 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.

12 USC 2278a-4.

"SEC. 6.4. 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 6.27(a).

"(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 6.27(a).

"(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 6.27, 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 6.6.

"(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.

"(c) IMPLEMENTATION.—As soon as practicable after the date of the enactment of this title, the Assistance Board shall take such actions as are necessary to carry out this section.

"(d) DEFINITION.—Except where otherwise provided in this Act, the term 'other similar equities' includes allocated equities.

12 USC 2278a-5.

"SEC. 6.5. ASSISTANCE.

"(a) IN GENERAL.—The Assistance Board shall assist an institution that has been certified under section 6.4 by—

"(1) authorizing the institution to issue preferred stock under the appropriate provision of section 6.27, 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);

"(2) in the case of high-cost debt for which the institution is primarily liable, authorizing the institution to issue preferred stock under the appropriate provision of section 6.27, 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 the appropriate provision of section 6.27 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) DEFINITION OF HIGH-COST DEBT.—For purposes of subsection (a)(2), 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 the appropriate provision of section 6.27 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.—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.

"SEC. 6.6. SPECIAL POWERS.

12 USC 2278a-6.

"(a) IN GENERAL.—In the case of a System institution that requests certification under section 6.4, 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 4.12(b) 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 Act;

"(B) initiate action to appoint a receiver under section 4.12(b); or

"(C) exercise any enforcement power authorized under this Act;

"(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 4.8(b) and 5.19(b);

"(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 notwithstanding the authority of the Farm Credit Administration to approve such matters under sections 5.5 and 5.17(a)(15);

"(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) may suspend for any period of time, or terminate, any certification granted to an institution under section 6.4 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 title; 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)(8).

"(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 the appropriate provision of section 6.27, to obtain the compliance of the institution with the terms or conditions governing the use of financial assistance provided under this title.

"(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 the

date of the enactment of this title, the Assistance Board shall destroy all such letters over which it has control.

"(d) REPORTS.—During the 5-year period beginning on the date of the enactment of this title, 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 title into lower interest rates charged to System borrowers or enhanced financial solvency of such institutions.

"SEC. 6.7. ADMINISTRATION. 12 USC 2278a-7.

"(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 6.25.

"(b) INTERIM FUNDING.—Before the availability of funding from the Assistance Fund, the Assistance Board may use the revolving fund established under section 4.0. 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 6.6, under terms and conditions that are acceptable to the Farm Credit Administration Board, as are necessary and appropriate to protect the confidentiality of the documents and materials. Classified information.

"SEC. 6.8. LIMITATION OF POWERS. 12 USC 2278a-8.

"(a) PURPOSES.—The powers of the Assistance Board under this title shall be exercised only for the purposes specified in this title 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 title 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.

"SEC. 6.9. SUCCESSION. 12 USC 2278a-9.

"(a) LIABILITIES.—On the issuance by the Farm Credit Administration of the charter for the Assistance Board under this subtitle, 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 other- Contracts.

wise, 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 subtitle.

"(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 4.28G(a)(14) or 4.28H (as in effect immediately before the date of the enactment of this title) at the book value of such obligations (determined as of such date of enactment) and shall pay such amounts to the holders of such debt and equity obligations.

Contracts.

"(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 Act 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 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 Assist-

ance 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)(A) Not later than 30 days after the first issuance of obligations by the Financial Assistance Corporation in accordance with section 6.26, 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 6.26. 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 Act 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.—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 Act 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.

"(D) 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.

"(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 Act.

"(5) SUSPENSION OF PRESERVATION AGREEMENTS.—During the 5-year period beginning on the date of enactment of this subsection 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, 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.".

12 USC 2278a-10.

"SEC. 6.10. 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 title, all of which shall be promulgated and enforced without regard to subchapter II of chapter 5 of title 5, United States Code.

"(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.

12 USC 2278a-11.
State and local governments.

"SEC. 6.11. 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.

12 USC 2278a-12.

"SEC. 6.12. TERMINATION.

"The Assistance Board and the authority provided by this subtitle shall terminate on December 31, 1992.

12 USC 2278a-13.

"SEC. 6.13. TRANSITIONAL PROVISIONS.

"(a) EXERCISE OF POWERS.—The powers of the Assistance Board under this title 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 4.0.

"(c) ISSUANCE OF STOCK.—Each institution that receives assistance from the Farm Credit Administration during the interim period specified in subsection (a), 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) 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 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 6.26.

"Subtitle B—Financial Assistance Corporation

"SEC. 6.20. ESTABLISHMENT OF CORPORATION. 12 USC 2278b.

"Not later than 5 days after the date of the enactment of this title, the Farm Credit Administration shall charter the Farm Credit System Financial Assistance Corporation (hereinafter referred to in this Act 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.

"SEC. 6.21. PURPOSE. 12 USC 2278b-1.

"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.

"SEC. 6.22. BOARD OF DIRECTORS. 12 USC 2278b-2.

"(a) BOARD OF DIRECTORS.—

"(1) COMPOSITION.—The Board of Directors of the Financial Assistance Corporation (hereinafter referred to in this Act 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.

"SEC. 6.23. STOCK. 12 USC 2278b-3.

"The Financial Assistance Corporation shall issue stock with a par value of $5 to System institutions, as provided for in this subtitle, and such stock shall not be transferable.

12 USC 2278b-4.

"SEC. 6.24. 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;

Contracts.

"(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;

Contracts.

"(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 subtitle;

"(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 (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) 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 subtitle.

"(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 original 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.

"SEC. 6.25. ACCOUNTS. 12 USC 2278b-5.

"(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 Act as the 'Assistance Fund') which shall be available to the Financial Assistance Corporation as a revolving fund to carry out this subtitle. 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 6.26, and payments, as provided in section 6.28.

"(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 Act 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 6.29.

"SEC. 6.26. DEBT OBLIGATIONS. 12 USC 2278b-6.

"(a) ISSUANCE.—During the period beginning 61 days after the date of the enactment of this title 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), 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 title; 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. Reports.

"(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), 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), the Financial Assistance Corporation shall pay all of the interest due on such obligation.

"(B) PAYMENT BY SYSTEM INSTITUTIONS TO FINANCIAL ASSISTANCE CORPORATION.—During each year of the second 5-year period, System institutions shall pay to the Financial Assistance Corporation 50 percent of the interest due on the obligations, except that System institutions 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 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 Federal intermediate credit banks, loan volume shall consist of loans made by such banks with the exception of loans made to production credit associations.

"(3) PAYMENTS BY TREASURY.—The Secretary of the Treasury, in accordance with section 6.28, shall pay to the Financial Assistance Corporation, in a timely manner, the balance of each interest payment not made by the System institutions.

"(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), the Financial Assistance Corporation shall pay all of the interest due on such obligation. During each year of such 5-year period, System institutions 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 BY SYSTEM INSTITUTIONS.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph, the institutions of the Farm Credit System shall, on a fair and equitable basis, repay to the Secretary of the Treasury the total amount of any annual interest charges on debt obligations issued under subsection (a) that such institutions have not previously paid, and such institutions shall not be required to pay any additional interest charges on such payments.

"(B) TIME OF PAYMENT.—The institutions of the Farm Credit System shall begin making interest payments when the Farm Credit Administration, in consultation with the Secretary of the Treasury, determines that such institu-

tions possess the financial viability to make such payments, except that such institutions shall not be required to begin making such payments until the obligations issued under subsection (d)(1)(C) have been fully repaid.

"(C) TERMS OF PAYMENTS.—

"(i) IN GENERAL.—The institutions of the Farm Credit System shall make interest payments at such levels, and on such dates, as the Farm Credit Administration determines appropriate, except that the Farm Credit Administration shall not set payment levels or dates that would jeopardize the financial viability of any such institution.

"(ii) LIMITATIONS.—The institutions of the Farm Credit System shall not be required to make such repayments in a manner that—

"(I) impairs the stock of such institution; or

"(II) jeopardizes the minimum capital requirements of the institution.

"(iii) UNCOLLATERALIZED OBLIGATION.—Obligations to make repayments under this paragraph shall not be required to be collateralized.

"(d) REFINANCING AND PAYMENT OF PRINCIPAL.—

"(1) IN GENERAL.—

"(A) TIME OF REPAYMENT.—On maturity of an obligation issued under subsection (a), the obligation shall be repaid by the Financial Assistance Corporation.

"(B) PAYMENTS BY INSTITUTIONS.—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 6.27(a) 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.

"(C) SYSTEMWIDE REPAYMENT.—In order to enable the Financial Assistance Corporation to repay the obligations referred to in section 410(c) of the Agricultural Credit Act of 1987, each System institution shall pay to the Financial Assistance Corporation a proportion of such principal equal to—

"(i) the average performing loan volume of the bank for the preceding 15 years; divided by

"(ii) the average performing loan volume of all of the System banks for the same period.

"(D) SPECIAL RULE.—For purposes of determining the average loan volume of Federal intermediate credit banks, loan volume shall consist of loans made by such banks with the exception of loans made to production credit associations.

"(E) FUNDS FOR PAYMENTS.—Payments under subparagraph (B) 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 4.3 and 4.4 shall not apply to such obligations.

"(3) DEFAULTS.—

"(A) INTEREST.—

"(i) PAYMENT BY CORPORATION.—If a System institution defaults on the payment of interest due under this subsection during the first 15 years after an obligation is issued under subsection (a), the Financial Assistance Corporation shall pay the amount of the interest due by the System institution out of the Trust Fund, and shall recover the amount of the interest due from the defaulting System institution, 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 of interest due from a defaulting institution by the end of the 12-month period beginning on the date of default, such uncollected interest shall be paid to the Trust Fund from the Insurance Fund established under section 5.60, 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 added to the amount of interest due from remaining System institutions, under this subsection, and each remaining System institution, subject to the special rule provided in subsection (c)(2)(D), 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.

"(B) PRINCIPAL.—

"(i) EVALUATION.—Not later than 90 days before the maturity of any obligation issued under subsection (a), the Farm Credit Administration shall complete an evaluation of the general financial condition of each System institution that issued preferred stock under section 6.27(a) 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 Adminis-

tration 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 6.27 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 6.27 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 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 6.27 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 6.27(a) 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, United States Code. 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 INSTITUTIONS.—A defaulting institution shall be liable to the remaining System institutions for the amount of any interest paid by the remaining institutions under this paragraph.

"(4) PAYMENT BY UNITED STATES.—

"(A) INABILITY TO PAY.—Notwithstanding any other provision of this Act, if the Financial Assistance Corporation is unable to pay the principal or interest of any obligation issued under subsection (a), 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) INTEREST PAYMENTS.—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 institution on interest due from such System institution under subsection (c), the Secretary of the Treasury shall recover the amount of the payments the Secretary made, with respect to each defaulting institution, from such defaulting institution. If the Secretary has not recovered the full amount due from the defaulting institution 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 5.60.

"(ii) PRINCIPAL PAYMENTS.—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 6.27(a), 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 Act except for section 5.60, 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).

12 USC 2278b-7.

"SEC. 6.27. PREFERRED STOCK.

"(a) ISSUANCE.—

"(1) IN GENERAL.—Each System institution that is certified under section 6.4 (a) or (b) 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 6.26(d)(3)(B)(iii), and the Reserve Account Board, with respect to any of such

stock that the Board purchases or otherwise acquires under section 6.26(d)(3)(B)(iii) or section 6.26(d)(4)(B)(ii), 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 subsections (a) and (b) to the extent that the issuance of such stock is approved by the Assistance Board.

"SEC. 6.28. PAYMENTS. 12 USC 2278b-8.

"(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 6.26(c) 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 6.26(c).

"(b) REPAYMENT OF INTEREST PAID BY SECRETARY OF TREASURY.—

"(1) IN GENERAL.—Any amounts paid into the Assistance Fund by the Secretary of the Treasury pursuant to subsection (a) 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 this paragraph to—

"(A) the amount of the performing loan volume of the institution, determined in accordance with subsection (c)(1)(D) (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.

"(c) 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 subtitle.

"SEC. 6.29. ONE-TIME STOCK PURCHASE. 12 USC 2278b-9.

"(a) AMOUNT OF STOCK PURCHASE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), 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 6.23 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 6.9(c)) 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.

"(b) COMPUTATIONS.—For purposes of subsection (a), 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.—Within 15 days after the retirement of the obligations of the Capital Corporation under section 6.9—

"(1) the Financial Assistance Corporation shall notify each System institution of the amount of stock such institution is required to purchase under subsection (a); or

"(2) in the case of a district in which the district board has reallocated the stock purchase requirement in accordance with subsection (a)(2), 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).

"(d) INSTITUTION REQUIREMENTS AFTER NOTICE.—Within 15 days after a System institution is notified of the amounts due under subsection (c), 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 6.26 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.

12 USC 2278b-10. State and local governments.

"SEC. 6.30. 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 Assist-

ance 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.

"SEC. 6.31. TERMINATION.

12 USC 2278b-11.

"(a) FINANCIAL ASSISTANCE CORPORATION.—The Financial Assistance Corporation and the authority provided to such Corporation by this subtitle shall terminate on the maturity and full payment of all debt obligations issued under section 6.26(a).

"(b) ACCOUNTS.—Simultaneously with the termination of the Financial Assistance Corporation as provided in subsection (a), any funds in the accounts established under section 6.25 shall be transferred to the Insurance Fund established under section 5.60.".

SEC. 202. REVOLVING FUND.

Section 4.0 (12 U.S.C. 2151) is amended to read as follows:

"SEC. 4.0. REVOLVING FUND.

"(a) REVOLVING FUND.—The revolving fund established by this section (in effect immediately before the date of the enactment of the Agricultural Credit Act of 1987) shall be available to the Farm Credit Administration during the period, and for the purposes provided for, in sections 6.7(b) and 6.13.

"(b) FARM CREDIT INSURANCE FUND.—On the date the first premium is due and payable under section 5.56(c), 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.".

SEC. 203. UNSAFE OR UNSOUND PRACTICES.

Paragraph (4) of section 5.35 (12 U.S.C. 2271(4)) is amended to read as follows:

"(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; and

"(B) during the period beginning on the date of the enactment of this paragraph 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 6.6.".

SEC. 204. FEDERAL FARM CREDIT BANKS FUNDING CORPORATION.

(a) IN GENERAL.—Section 4.9 (12 U.S.C. 2160) is amended to read as follows:

"SEC. 4.9. 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 Funding Corporation in accordance with its charter issued under section 4.25, in effect immediately before the date of the enactment of the Agricultural Credit Act of 1987.

"(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) NONVOTING 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 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 Federal Farm Credit Banks Funding 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 Federal Farm Credit Banks Funding Corporation.

"(e) TRANSITIONAL AUTHORITY.—Until a quorum of the board of directors of the Corporation is elected or appointed, the finance committee established under section 4.5 in effect before the date of the enactment of this section, and the fiscal agency established under section 4.9 in effect before such date of enactment, shall continue to operate as if this section had not been enacted.".

(b) CONFORMING REPEALER.—Section 4.5 (12 U.S.C. 2156) is repealed.

SEC. 205. REGULATORY ACCOUNTING PROCEDURES.

(a) DATES FOR PURCHASE AND SALE OF OBLIGATIONS.—Section 4.8(b) (12 U.S.C. 2159(b)) is amended by striking out "1988" each place it appears and inserting in lieu thereof "1992".

(b) ANNUAL REPORTS.—Section 5.19(b) (12 U.S.C. 2253(b)) is amended— 12 USC 2254.

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraphs:

"(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 this section except as otherwise provided in section 6.6.

"(3) Any preferred stock issued under section 6.27 shall be subordinated to, and impaired before, other stock or equities of the institution.".

SEC. 206. FINANCIAL REPORT. 12 USC 2278b note.

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); 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).

SEC. 207. CONFORMING AMENDMENTS.

(a) REPEAL.—The following provisions are hereby repealed:

(1) Section 4.1 (12 U.S.C. 2152).

(2) Section 5.17(a)(8) (12 U.S.C. 2252(a)(8)).

(3) Part D1 of title IV (12 U.S.C. 2216 et seq.).

(b) EFFECTIVE DATE.—The repeals made by subsection (a) shall take effect 15 days after the date of the enactment of this Act. 12 USC 2152 note.

(c) DEFINITION OF BANK.—Section 4.4 (12 U.S.C. 2155) is amended by striking out subsection (c) and by redesignating subsection (d) as subsection (c).

(d) REDESIGNATION.—Section 5.35(3) (12 U.S.C. 2271(3)) is amended by striking out "Capital Corporation" and inserting in lieu thereof "Financial Assistance Corporation.".

TITLE III—CAPITALIZATION OF SYSTEM INSTITUTIONS

12 USC 2154 note.

SEC. 301. CAPITALIZATION OF SYSTEM INSTITUTIONS.

(a) MINIMUM CAPITAL ADEQUACY STANDARDS.—

(1) IN GENERAL.—

Regulations.

(A) ESTABLISHMENT.—Within 120 days after the date of the enactment of this Act, 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)) that establish minimum permanent capital adequacy standards for Farm Credit System institutions.

(B) BASIS FOR ESTABLISHMENT.—The standards established under subparagraph (A) shall be 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.

(2) EMERGENCY POWER NOT AVAILABLE.—The Farm Credit Administration shall not invoke the emergency provisions of section 5.17(b)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2251(b)(2)) with respect to the issuance of the proposed regulations required under paragraph (1)(A).

(3) PROHIBITIONS DURING TRANSITION PERIOD.—During the 5-year period specified in paragraph (1)(C), 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), 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).

(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.

(b) CAPITALIZATION BYLAWS.—Title IV (12 U.S.C. 2151 et seq.) is amended by inserting after section 4.3 the following new section:

"SEC. 4.3A. CAPITALIZATION OF SYSTEM INSTITUTIONS. 12 USC 2154a.

"(a) DEFINITIONS.—As used in this section:

"(1) PERMANENT CAPITAL.—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 4.9B or is otherwise not at risk.

"(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), 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).

"(c) REQUIREMENTS OF BYLAWS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, the bylaws adopted under subsection (b)—

"(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 4.3(a);

"(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 Act;

"(ii) in the case of a Central Bank for Cooperatives, other banks for cooperatives; and

"(iii) 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 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;

"(I) shall permit the retirement of stock at the discretion of the institution if the institution meets the capital adequacy standards established under standards issued under section 4.3(a); 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) 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) and in section 4.9A, 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 or allocated equities 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 4.3(a).

Taxes.

"(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), to the board of directors of any System institution that fails to comply therewith.

"(f) CONSTRUCTION.—This section shall not be construed to affect the provisions of this Act 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.

"(g) CONTROLLING AUTHORITY.—To the extent that any provision of this section is inconsistent with any other provision of this Act (other than section 4.9A), the provision of this section shall control.".

SEC. 302. INSURANCE OF OBLIGATIONS OF FARM CREDIT SYSTEM.

Title V (12 U.S.C. 2221 et seq.) is amended by adding at the end thereof the following new part:

"PART E—FARM CREDIT SYSTEM INSURANCE CORPORATION

"SEC. 5.51. DEFINITIONS. 12 USC 2277a.

"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 5.52.

"(3) INSURED OBLIGATION.—The term 'insured obligation' means any note, bond, debenture, or other obligation issued under subsection (c) or (d) of section 4.2—

"(A) on or before the date of the enactment of this part, on behalf of any System bank; and

"(B) after such date, 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 4.2 is insured under this part.

"(5) RECEIVER.—The term 'receiver' means a receiver or conservator appointed by the Farm Credit Administration to liquidate a System institution.

"(6) 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.

"SEC. 5.52. ESTABLISHMENT OF FARM CREDIT SYSTEM INSURANCE CORPORATION. 12 USC 2277a-1.

"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 4.2 on behalf of one or more System banks all of which are entitled to the benefits of insurance under this part.

"SEC. 5.53. BOARD OF DIRECTORS. 12 USC 2277a-2.

"(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.

"SEC. 5.54. COMMENCEMENT OF INSURANCE. 12 USC 2277a-3.

"Effective beginning on January 1, 1989, or 12 months after the date of the enactment of this part, 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 title of this Act 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.

12 USC 2277a-4.

"SEC. 5.55. PREMIUMS.

"(a) AMOUNT IN FUND NOT EXCEEDING SECURE BASE AMOUNT.—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.

"(b) AMOUNT IN FUND EXCEEDING SECURE BASE AMOUNT.—At any time the aggregate of amounts in the Insurance Fund exceeds the secure base amount, the Corporation shall reduce the annual premium due from each insured System bank for the following calendar year 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 Insurance Fund after such premiums are paid is not less than the secure base amount at such time.

"(c) SECURE BASE AMOUNT.—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, 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.

"(d) DETERMINATION OF PRINCIPAL OUTSTANDING.—For the purpose of subsection (a), the principal outstanding on all loans made by a Federal intermediate credit bank shall be determined based on all loans made—

"(1) by the production credit associations in the district in which such bank is located;

"(2) by any bank, company, institution, corporation, union, or association described in section 2.3(a)(2), that is able to make such loans because such entity is receiving, or has received, funds provided through the Federal intermediate credit bank; and

"(3) by such Federal intermediate credit bank (other than loans made to any party described in paragraph (1) or (2)).

12 USC 2277a-5.

"SEC. 5.56. CERTIFICATION OF PREMIUMS.

"(a) FILING CERTIFIED STATEMENT.—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 such 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.

"(b) CONTENTS AND FORM OF STATEMENT.—The certified statement required to be filed with the Corporation under subsection (a) 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) INITIAL PREMIUM PAYMENT.—Each System bank shall pay to the Corporation the amount of the initial premium it is required to certify under subsection (a) as soon as practicable after January 1, 1990, based on the application of section 5.55 to the accruing loan volume of the bank for calendar year 1989.

"(d) SUBSEQUENT PREMIUM PAYMENTS.—The premium payments required from insured System banks under subsection (a) 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.

"(e) 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.

"SEC. 5.57. OVERPAYMENT AND UNDERPAYMENT OF PREMIUMS; REMEDIES. 12 USC 2277a-6.

"(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 made any report of condition required under section 5.55 or filed any certified statement under section 5.56, and whether or not suit has been brought to compel the bank to make any such report or 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 made or 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 5.56 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 Act 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) shall not be construed as limiting any other remedies against any insured System bank, but shall be in addition thereto.

12 USC 2277a-7.

"SEC. 5.58. GENERAL CORPORATE POWERS.

"On the date of the enactment of this part, 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.

"(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, 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, to define their duties, fix their compensation, and require bonds of them and fix the penalty thereof, and to dismiss at pleasure such officers or employees.

"(B) EMPLOYEES OF THE UNITED STATES.—Nothing in this 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. Reports.

"(9) RECEIVER.—The Corporation may act as 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 (except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to any other regulatory agency).

"SEC. 5.59. CONDUCT OF CORPORATE AFFAIRS; EXAMINATION OF INSURED SYSTEM BANKS. 12 USC 2277a-8.

"(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.

"(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, 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.

"(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.

12 USC 2277a-9.

"SEC. 5.60. 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.—

Effective date.

"(1) REVOLVING FUND.—All amounts in the revolving fund established by section 4.0 (in effect immediately before the date of the enactment of this part) shall be transferred into the Farm Credit Insurance Fund on January 1, 1989, or 12 months after the date of the enactment of this part, 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 the date of the enactment of this part shall remain unimpaired.

"(2) DEPOSIT OF PREMIUMS.—Beginning 5 years after the date of the enactment of this part, 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 5 years after the date of the enactment of this part, 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 5 years after the date of enactment of this part, 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 6.26(d)(3); and

"(B) ensure the retirement of borrower stock at par value and participation certificates or other similar equities at face value as provided for under section 4.9A(c)(2).

"(3) PERMISSIVE USES.—The Corporation may expend amounts in the Insurance Fund to carry out section 5.61 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.

12 USC 2277a-10.

"SEC. 5.61. POWERS OF CORPORATION WITH RESPECT TO TROUBLED INSURED SYSTEM BANKS.

"(a) AUTHORITY TO PROVIDE ASSISTANCE.—

"(1) IN GENERAL.—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) ENUMERATED POWERS.—

"(A) FACILITATION OF MERGERS OR CONSOLIDATION.—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) COST OF LIQUIDATION.—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.

"(B) 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.

Claims.

"(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.

"(f) EFFECTIVE DATE.—The Corporation shall not exercise any authority under this section during the 5-year period beginning on the date of the enactment of this part.

12 USC 2277a-11.

"SEC. 5.62. 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.

12 USC 2277a-12.

"SEC. 5.63. EXEMPTION FROM TAXATION.

State and local governments.

"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.

"SEC. 5.64. REPORTS.

12 USC 2277a-13.

"(a) IN GENERAL.—The Corporation annually shall prepare and submit to Congress a report of the operations of the Corporation, as soon as practicable after the first day of January in each calendar year.

"(b) CONTENTS.—Reports submitted under subsection (a) shall include information concerning the—

"(1) aggregate amount in the Insurance Fund at the close of the preceding calendar year;

"(2) projections of the costs to be incurred by the Corporation during the calendar year; and

"(3) estimates of the aggregate amount to be collected as premiums during the calendar year.

"SEC. 5.65. PROHIBITIONS.

12 USC 2277a-14.

"(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 insured System bank.

"(2) PENALTY.—For each willful violation of paragraph (1), the bank 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.".

SEC. 303. JOINT AND SEVERAL LIABILITY OF BANKS.

(a) CLARIFICATION OF JOINT AND SEVERAL LIABILITY.—Subsection (a) of section 4.4 (12 U.S.C. 2155(a)) is amended to read as follows:

"(a)(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 title of this Act.

"(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 4.3 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) INSURANCE FUND CALLED ON BEFORE INVOKING JOINT AND SEVERAL LIABILITY.—Section 4.4 (12 U.S.C. 2155) is amended by adding at the end thereof the following new subsection:

"(e) Beginning 5 years after the date of the enactment of this subsection, 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.".

SEC. 304. ENHANCEMENT OF CAPITAL ADEQUACY OF BANKS.

Subsection (c) of section 4.3 (12 U.S.C. 2154(c)) is amended to read as follows:

"(c) 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 Act or real or personal property acquired in connection with loans made under this Act, 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.".

SEC. 305. FEDERAL INTERMEDIATE CREDIT BANK ASSESSMENT POWER.

Section 2.5 (12 U.S.C. 2076) is amended—

(1) in the title, by inserting "; AUTHORITY TO PASS ALONG COST OF INSURANCE PREMIUMS" before the period;

(2) by inserting "(a)" before "The Federal"; and

(3) by adding at the end thereof the following new subsection:

"(b) Each Federal intermediate credit bank may assess each production credit association and other financing institution described in section 2.3(a)(2) in the district in which the bank is located to cover the costs of making premium payments under part E of title V. The assessment on any such association or other financing institution for any calendar year shall not exceed the sum of—

"(1) the annual average principal outstanding for such year on loans made by the association, or on loans made by the other financing institution and discounted with the Federal intermediate credit 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 association, or on loans made by the other financing institution and discounted with the Federal intermediate credit bank, that are in nonaccrual status, multiplied by 0.0025.".

SEC. 306. CONSERVATORS AND RECEIVERS.

Section 4.12(b) (12 U.S.C. 2183(b)) is amended—

(1) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon;

(2) by inserting after paragraph (5) the following new paragraph: "(6) the institution is unable to timely pay principal or interest on any insured obligation (as defined in section 5.51(3)) issued by the institution."; and

(3) in the second sentence by inserting before the period at the end thereof the following: ", and such receiver or conservator, after the 5-year period beginning on the date of the enactment of the Agricultural Credit Act of 1987, shall be the Farm Credit System Insurance Corporation".

TITLE IV—RESTRUCTURING THE FARM CREDIT SYSTEM

Subtitle A—Creation of Farm Credit Banks

SEC. 401. FARM CREDIT BANKS AND ASSOCIATIONS CHARTERS.

Effective date. 12 USC 2011 note.

Effective 6 months after the date of enactment of this Act, titles I and II of the Farm Credit Act of 1971 (12 U.S.C. 2000 et seq.) are amended to read as follows:

"TITLE I—FARM CREDIT BANKS

12 USC 2011.

"SEC. 1.3. 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 title as 'Farm Credit Banks') shall be Federally chartered instrumentalities of the United States.

"(b) CHARTERS.—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 title, as may be necessary or expedient to implement this Act.

"(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.

12 USC 2012.

"SEC. 1.4. BOARD OF DIRECTORS.

"Each Farm Credit Bank 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.

"SEC. 1.5. GENERAL CORPORATE POWERS. 12 USC 2013.

"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 Act or other Act of Congress;

"(3) make contracts; 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 Act, 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 Act, define their duties, and require surety bonds or make other provision against losses occasioned by employees;

"(9) 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;

"(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 Act;

"(11) purchase nonvoting stock in, or pay in surplus to, and accept deposits or securities of 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 title on such terms as may be agreed on among such banks;

"(B) participate with one or more other Farm Credit System institutions in loans made under this title or other titles on the basis prescribed in section 4.18; and

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

"(13) approve the salary scale of the officers and employees of the associations in its district, and the appointment and compensation of the chief executive officer thereof, 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 as defined in section 3 of the Federal Deposit Insurance Act 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 Federal land bank associations such functions as the bank determines appropriate;

Contracts. "(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 as authorized by the Farm Credit Administration; and

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

12 USC 2014. **"SEC. 1.6. FARM CREDIT BANK CAPITALIZATION.**

"In accordance with section 4.3A, 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.

"SEC. 1.7. LENDING AUTHORITY. 12 USC 2015.

"(a) REAL ESTATE LOANS.—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.

"(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 Act.

"(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 title or other titles of this Act on the basis prescribed in section 4.18 of this Act. The banks may own and lease or lease with option to purchase to persons eligible for assistance under this title, equipment needed in the operations of such persons.

"(3) LIMITATIONS ON EXTENSION OF FINANCIAL ASSISTANCE.—

"(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 herein contained.

"(4) FCA REGULATIONS.—

"(A) IN GENERAL.—All of the loans, financial assistance, discounts and purchases authorized by this section 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 title II.

"(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 the effective date of the Farm Credit Act Amendments of 1980.

12 USC 2016.

"SEC. 1.8. INTEREST RATES AND OTHER CHARGES.

"(a) IN GENERAL.—Loans and discounts made by a Farm Credit Bank shall bear interest at a rate or rates, and 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.

12 USC 2017.

"SEC. 1.9. ELIGIBILITY.

"The credit and financial services authorized in this title 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.

"SEC. 1.10. SECURITY; TERMS. 12 USC 2018.

"(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 paragraphs (2) and (3).

"(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. State and local governments.

"(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 approved by the Farm Credit Administration.

"(3) VALUE OF SECURITY.—To adequately secure the loan, the value of security shall be determined by appraisal under appraisal standards prescribed by the bank and approved by 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.

"(5) FINANCIAL STATEMENT.—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.

"(b) INTERMEDIATE CREDIT.—Loans, other than real estate loans, and discounts made under the provisions of this title shall be repayable in not more than 7 years (15 years if made to producers or harvester 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.

"SEC. 1.11. PURPOSES FOR EXTENSIONS OF CREDIT. 12 USC 2019.

"(a) AGRICULTURAL OR AQUATIC PURPOSES.—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 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, of the total processing or marketing for which financing is extended.

"(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 title 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 title, facilities needed in the operations of such persons.

12 USC 2020.

"SEC. 1.12. RELATED SERVICES.

"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 each district bank, under regulations of the Farm Credit Administration.

12 USC 2021.

"SEC. 1.13. 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 1.7(a) 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.

"SEC. 1.14. LIENS ON STOCK. 12 USC 2022.

"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.

"SEC. 1.15. TAXATION. 12 USC 2023.

State and local governments.

"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. 742(a)).

"TITLE II—FARM CREDIT ASSOCIATIONS

"Subtitle A—Production Credit Associations

"SEC. 2.0. ORGANIZATION AND CHARTERS. 12 USC 2071.

"(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 title.

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

"(C) the 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 or by approval of bylaws of the association 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) direct at any time such changes in the charter as the Farm Credit Administration finds necessary for the accomplishment of the purposes of this Act.

12 USC 2072.

"SEC. 2.1. 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, or stockholder of a System institution.

12 USC 2073.

"SEC. 2.2. 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 Act or any other Act of Congress;

"(2) adopt and use a corporate seal;

Contracts.

"(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 Act;

"(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 subtitle 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 title or other titles of this Act on the basis prescribed in section 4.18 of this Act;

"(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 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;

"(17) elect by the board of directors of the association 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 Act, 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, be elected or designated 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; and

"(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.

12 USC 2074.

"SEC. 2.3. PRODUCTION CREDIT ASSOCIATION CAPITALIZATION.

"(a) IN GENERAL.—In accordance with section 4.3A, 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), its earnings distributed.

"(b) APPLICATION OF EARNINGS.—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.

"(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.

12 USC 2075.

"SEC. 2.4. 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 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;

"(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 title 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, 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) hereof 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 4.17 of this Act, 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.

"SEC. 2.5. OTHER SERVICES.

12 USC 2076.

"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.

"SEC. 2.6. TAXATION.

State and local governments.
12 USC 2077.

"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.

"Subtitle B—Federal Land Bank Associations

12 USC 2091.

"SEC. 2.10. 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, 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 FCA.—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 for, and request or need of the individual of 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 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 Act.

"SEC. 2.11. BOARD OF DIRECTORS. 12 USC 2092.

"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, or stockholder of a System institution.

"SEC. 2.12. GENERAL CORPORATE POWERS. 12 USC 2093.

"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 Act or other Act of Congress;

"(3) make contracts; 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 Act;

"(7) elect by its board of directors 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 Act, 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, be elected or designated a salaried employee of the association on the board of which such director served;

"(8) 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;

"(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 or delegated to 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; and

"(21) contribute to the capital of the bank.

12 USC 2094.

"SEC. 2.13. FEDERAL LAND BANK ASSOCIATION CAPITALIZATION.

"In accordance with section 4.3A, 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.

12 USC 2095.

"SEC. 2.14. LIQUIDATION.

"Whenever any Federal land bank association is liquidated, a sum equal to its reserve account as required in this Act shall be paid and become the property of the bank in which such association is a shareholder.

12 USC 2096.

"SEC. 2.15. 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.

"SEC. 2.16. LIENS ON STOCK. 12 USC 2097.

"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.

"SEC. 2.17. TAXATION. State and local governments. 12 USC 2098.

"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 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. 742(a))."

Subtitle B—Merger of System Institutions

SEC. 410. MANDATORY MERGER. 12 USC 2011 note.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this section, the Federal land bank and the Federal intermediate credit bank of each 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.

(b) CAPITAL STOCK.—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 and the regulations issued by the Farm Credit Administration.

(c) ASSISTANCE.—The Assistance Board shall direct the Financial Assistance Corporation 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.

(d) INITIAL BOARD.—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 USC 2071 note.

SEC. 411. MERGER OF PRODUCTION CREDIT ASSOCIATIONS AND FEDERAL LAND BANK ASSOCIATIONS.

(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 6-month period beginning on the date of the enactment of this section, the plan of merger under subsection (a), together 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 6-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.

12 USC 2221 note.

SEC. 412. CONSOLIDATION OF FARM CREDIT SYSTEM DISTRICTS.

(a) SUBMISSION OF PROPOSAL.—

(1) SPECIAL COMMITTEE.—

(A) IN GENERAL.—Not later than 6 months after the date of the enactment of this section, 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 System

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.

(b) PREREQUISITES TO CONSOLIDATION.—

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

(2) PREREQUISITES.—Proposals 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, 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.

SEC. 413. VOLUNTARY MERGER OF THE BANKS FOR COOPERATIVES.

12 USC 2121 note.

(a) SUBMISSION OF PROPOSAL.—

(1) SPECIAL COMMITTEE.—

(A) IN GENERAL.—Not later than 15 days after the date of the enactment of this section, 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, 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 subparagraph (C), the special committee shall submit the proposed plan, together with all information that is to be distributed 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 and subscribers to the guaranty funds of the district banks 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), each cooperative that is the holder of voting stock in, or a subscriber to the guaranty fund of 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; 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 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, or to any borrower otherwise eligible under section 3.7(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, 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).

(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.

(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, 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 (a).

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

SEC. 414. BANK FOR COOPERATIVES BOARD OF DIRECTORS.

12 USC 2121 note.

(a) INITIAL BOARD.—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.

(b) PERMANENT BOARD.—Section 3.0 of the Act shall be amended— 12 USC 2121.

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) 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.".

SEC. 415. ORGANIZATION AND OPERATION OF THE MERGED BANK FOR COOPERATIVES.

Title III (12 U.S.C. 2121 et seq.) is amended—

(1) by inserting after the title designation the following:

"PART A—BANKS FOR COOPERATIVES"; and

(2) by adding at the end thereof the following new part:

"PART B—UNITED AND NATIONAL BANKS FOR COOPERATIVES

12 USC 2141.

"SEC. 3.20. 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 in this section as the 'consolidated bank') 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, as otherwise provided for in this Act.

"(c) OPERATION.—The consolidated bank shall be organized and operated on a cooperative basis.

12 USC 2142.

"SEC. 3.21. 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 the date of the enactment of this section) 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 the date of the enactment of this section, 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 3.3(d).

"(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) as of the final date of the 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.

"(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).

"(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) 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.

"SEC. 3.22. CREDIT DELIVERY OFFICE. 12 USC 2143.

"On a determination by the board of directors of the United Bank for Cooperatives or the National Bank for Cooperatives 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 merger), the bank may consider the creation of regional service centers to accommodate such loan concentrations.

12 USC 2144. **"SEC. 3.23. CONSOLIDATION OF FUNCTIONS.**

"Subject to section 3.22, to the greatest extent practicable, the functions of the consolidated bank shall be consolidated in the central office of the bank.

12 USC 2145. **"SEC. 3.24. 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.

12 USC 2146. **"SEC. 3.25. CAPITALIZATION.**

"The board of directors of the consolidated bank shall provide for the capitalization of such bank in accordance with the provisions of section 4.3A.

12 USC 2147. **"SEC. 3.26. 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 the date of the enactment of this section, establish separate patronage pools consisting of loans to eligible borrowers located in each constituent farm credit district (as such district existed on the date of the enactment of this section); and

"(2) allocate revenues, expenses, and net savings among such pools on an equitable basis.

12 USC 2148. **"SEC. 3.27. TRANSACTIONS TO ACCOMPLISH THE 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 taxable institution 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).

12 USC 2149. **"SEC. 3.28. 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.".

SEC. 416. MERGER OF SYSTEM INSTITUTIONS.

The Act (12 U.S.C. 2001 et seq.) (as amended by section 201 of this Act) is further amended by adding at the end thereof the following new title:

"TITLE VII—MERGERS OF SYSTEM INSTITUTIONS

"Subtitle A—Merger of Banks Within a District

"SEC. 7.0. POWER TO MERGE. 12 USC 2279a.

"Two or more banks within a district may merge into a single entity (hereinafter in this title 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 in accordance with the provisions of section 5.2(c) relating to the casting of votes by 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.

"SEC. 7.1. BOARD OF DIRECTORS FOR THE DISTRICT. 12 USC 2279a-1.

"(a) COMPOSITION.—

"(1) IN GENERAL.—Following a merger pursuant to section 7.1, the district Board of Directors shall continue to be composed of seven members as provided in section 5.1.

"(2) REGULATIONS.—The Farm Credit Administration shall issue regulations to ensure the fair and equitable representation of the associations of each of the merging banks on the initial Board of Directors of the merged bank.

"(b) ELECTION.—Following a merger pursuant to section 7.8, the members of the district board shall be elected pursuant to regulations issued by the Farm Credit Administration prescribing procedures that are as consistent as practicable with those set forth in section 5.2.

"SEC. 7.2. POWERS OF MERGED BANKS. 12 USC 2279a-2.

"(a) IN GENERAL.—Except as otherwise provided in this title, 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.

"SEC. 7.3. CAPITAL STOCK. 12 USC 2279a-3.

"(a) PLAN OF MERGER.—Subject to subsection (c), the number of shares of capital stock issued by a merged bank to stockholders and other owners of any 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

banks involved, and shall be consistent with section 4.3A and the regulations issued by the Farm Credit Administration.

"(b) BOARD OF DIRECTORS.—Subject to subsection (a), the number of shares of capital stock issued by a merged bank, and the rights and privileges thereof, shall be determined by the Board of Directors of the merged bank established under this subtitle.

"(c) VOTING STOCK.—Voting stock of a merged bank shall be held only—

"(1) by associations or cooperatives that were, immediately prior to the merger, entitled to hold voting stock of one of the banks that merged; or

"(2) by farmers, ranchers, or producers or harvesters of aquatic products that are or were, immediately prior to the merger, direct borrowers from the merged bank or one of the banks that comprise the merged bank.

12 USC 2279a-4.

"SEC. 7.4. EARNINGS, RESERVES, AND DISTRIBUTIONS.

"(a) USE OF NET EARNINGS.—The Board of Directors of a merged bank shall determine the use or other application of net earnings after payment of operating expenses.

"(b) RESTORATION OF VALUE OF IMPAIRED CAPITAL STOCK.—Net earnings shall first be applied to restore the value of impaired capital stock.

"(c) OTHER USES.—After restoration, the application of net earnings may include (but not necessarily in the following order)—

"(1) additions to an allocated reserve account;

"(2) additions to an unallocated reserve account;

"(3) payment of a dividend on capital stock; and

"(4) payment of patronage refunds in cash or in stock or other notices of allocation.

"(d) USE OF CAPITAL AND RETAINED EARNINGS.—All capital and retained earnings of a merged bank shall be available for use in the activities of the merged bank as the Board of Directors shall determine, without regard to the activities giving rise to such earnings.

12 USC 2279a-5.

"SEC. 7.5. 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) 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.

"Subtitle B—Mergers, Transfers of Assets, and Powers of Associations Within a District

"Chapter 1—Transfers by Federal Land Banks to Federal Land Bank Associations

"SEC. 7.6. TRANSFER OF LENDING AUTHORITY. 12 USC 2279b.

"(a) ASSIGNMENTS.—A Federal land bank or a merged bank having a Federal land bank as one of its constituents, may assign 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 sections 1.6 through 1.9 if the assignment 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 7.0 and 7.6.

"(b) DIRECT LOANS AND FINANCIAL ASSISTANCE.—After an assignment described in subsection (a)—

"(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 Federal land 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).

"(c) REGULATIONS.—The Farm Credit Administration shall issue regulations that establish the manner in which the powers and obligations of the banks that make assignments or transfers are consolidated and, to the extent necessary, reconciled in the association referred to in subsection (a). Following a transfer or assignment under subsection (a), the provisions of section 4.3A shall be applicable to the association.

"Chapter 2—Merger of Like and Unlike Associations

"SEC. 7.7. MERGERS OF UNLIKE ASSOCIATIONS. 12 USC 2279c.

"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 7.8.

"SEC. 7.8. MERGER OF ASSOCIATIONS. 12 USC 2279c-1.

"(a) IN GENERAL.—Two or more associations within the same district, whether or not organized under the same title of this Act, may merge into a single entity (hereinafter in this title 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 title, a merged association shall—

"(A) possess all powers granted under this Act to the associations forming the merged association; and

"(B) be subject to all of the obligations imposed under this Act on the associations forming the merged association.

Regulations. "(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. Following a merger under subsection (a), the provisions of section 4.3A shall be applicable to the merged association.

"(c) STOCK ISSUANCE.—

"(1) PLAN OF MERGER.—Subject to section 4.3A, 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) PLAN OF CAPITALIZATION.—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 4.3A and the regulations issued by the Farm Credit Administration.

"(3) VOTING STOCK.—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.

"(d) CAPITALIZATION.—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 4.3A.

12 USC 2279c-2. "SEC. 7.9. RECONSIDERATION.

"(a) PERIOD.—A stockholder vote in favor of—

"(1) the merger of districts under section 5.17(a)(2);

"(2) the merger of banks within a district under section 7.0;

"(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 7.6;

"(5) the merger of two or more associations under section 7.8;

"(6) the termination of the status of an institution as a System institution under section 7.10; and

"(7) the merger of similar banks under section 7.13;

shall not take effect except in accordance with subsection (b).

"(b) RECONSIDERATION.—

"(1) NOTICE.—Not later than 30 days after a stockholder vote in favor of any of the actions described in subsection (a), 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 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 Act, 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 the date of the enactment of this section, 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.

"Chapter 3—Termination and Dissolution of Institutions

12 USC 2279d.

"SEC. 7.10. 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 6.25, 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 Act.

"Subtitle C—Approval of Disclosure Information and Issuance of Charters by the Farm Credit Administration Board

"SEC. 7.11. APPROVAL OF DISCLOSURE INFORMATION AND ISSUANCE OF CHARTERS.

12 USC 2279e.

"(a) DISCLOSURE OF INFORMATION.—

"(1) APPROVAL OF PLAN.—With respect to any plan of merger, transfer or assignment of lending authority, dissolution, or termination, prior to submission to the voters (voting stockholders and, where required, contributors to guaranty funds) of such institutions, 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 30 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 title, unless the Board determines that the charter submitted is not consistent with this Act.

"Subtitle D—Mergers of Like Entities

12 USC 2279f.

"SEC. 7.12. MERGER OF SIMILAR BANKS.

"(a) IN GENERAL.—Banks organized or operating under this Act may merge with banks in other districts operating under the same title 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) PROCEDURES.—The provisions of sections 7.2 through 7.4 shall apply to banks merged under this section.

"(c) BOARD OF DIRECTORS.—

"(1) IN GENERAL.—After a merger under subsection (a), 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 members 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.

"SEC. 7.13. MERGER OF SIMILAR ASSOCIATIONS. 12 USC 2279f-1.

"(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 Bank.

"(b) PROCEDURES.—The provisions of subsections (b), (c), and (d) of section 7.8 shall apply to associations merged under this section.".

SEC. 414. NONDISCRIMINATION. 12 USC 2252.

The second sentence of section 5.17(a)(2) (12 U.S.C. 2251(a)(2)) is amended by striking out "; and the Farm Credit Administration shall ensure" and all that follows through "discriminated against in the provision of any financial service and assistance" and inserting in lieu thereof ". The Farm Credit Administration Board shall ensure that disapproving associations (A) shall not be charged any assessment under this Act 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".

SEC. 415. CONFORMING AMENDMENTS.

(a) DISSOLUTION AND MERGER.—

(1) PART HEADING.—The part heading of part B of title IV (12 U.S.C. 2181 et seq.) is amended by striking out "AND MERGER".

(2) MERGER.—Section 4.10 (12 U.S.C. 2181) is repealed.

(3) BOARDS OF DIRECTORS.—Section 4.11 (12 U.S.C. 2182) is repealed.

(4) DISSOLUTION.—Section 4.12(a) (12 U.S.C. 2183(a)) is amended—

(A) by striking out the third sentence; and

(B) in the fourth sentence, by striking out "may require such merger" and inserting in lieu thereof "Board may require an association to merge with another association".

(b) ISSUANCE OF OBLIGATIONS.—Section 4.2(d) (12 U.S.C. 2174(d)) is amended by striking out "each of the 12 districts and the Central Bank for Cooperatives" and inserting in lieu thereof "each bank". 12 USC 2153.

(c) DISTRICT AND FARM CREDIT ADMINISTRATION ORGANIZATION.—Sections 5.1 through 5.6 (12 U.S.C. 2222-2227) are repealed.

(d) FARM CREDIT ADMINISTRATION POWERS.—Section 5.17(a)(2) (12 U.S.C. 2252(a)(2)) is amended—

(1) by striking out "; approve mergers of banks" and all that follows through "territories" and inserting in lieu thereof "approve mergers and any related activities as provided for in title VII; and the consolidation or division of the territories"; and

(2) by striking out "4.10" and inserting in lieu thereof "7.0".

Subtitle C—Other Restructuring Provisions

SEC. 420. COMMUNICATIONS WITH STOCKHOLDERS.

Part B of title IV (12 U.S.C. 2181 et seq.) is amended by adding at the end thereof the following new section:

12 USC 2184.

"SEC. 4.12A. 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.".

SEC. 421. ELIGIBILITY TO BORROW FROM A BANK FOR COOPERATIVES.

Section 3.8 (12 U.S.C. 2129) is amended by striking out subsection (2) and inserting in lieu thereof the following new subsection:

"(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 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.

"(B) 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) 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).

"(C) Any legal entity that (i) holds more than 50 percent of the voting control of an association or other entity that is eligible to borrow from a bank for cooperatives under subsection (a) or subparagraph (A) of this paragraph, and (ii) borrows for the purpose of making funds available to that association or entity, and make funds available to that

association or entity under the same terms and conditions that the funds are borrowed from a bank for cooperatives.

"(2) Notwithstanding the provisions of section 3.9, 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 3.7(a), 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 the date of the enactment of this subsection, of cooperatives and other entities for any other credit assistance under Federal law.".

SEC. 422. SALES OF INSURANCE BY SYSTEM INSTITUTIONS.

(a) IN GENERAL.—Section 4.29 (12 U.S.C. 2218) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after the subsection designation;

(B) by striking out "of this Act";

(C) by inserting "or borrower from" before "any such bank";

(D) by adding at the end thereof the following new sentence: "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."; and

(E) by adding at the end thereof the following new paragraph:

"(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. 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 Federal intermediate credit banks."; and

(2) in paragraph (2) of subsection (b)—

(A) by redesignating clauses (i), (ii), and (iii), as subparagraphs (A), (B), and (C), respectively;

(B) by striking out "and" in subparagraph (B) as so redesignated;

(C) by striking out "and" in subparagraph (C) as so redesignated; and

(D) by adding at the end thereof the following new subparagraphs:

"(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

State and local governments.

"(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; and".

12 USC 2218 note.

(b) CONTINUATION OF PROGRAM.—Notwithstanding the amendments made to section 4.29 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 that does not meet the requirements of section 4.29, as so amended, may be continued until July 1, 1988.

SEC. 423. CIVIL MONEY PENALTIES.

(a) ASSESSMENT AUTHORITY.—Section 5.32(a) (12 U.S.C. 2268(a)) is amended by striking out "continues, but" and inserting in lieu thereof the following: "continues. Any such institution or person who violates any provision of this Act or any regulation issued under this Act 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,".

(b) NOTIFICATION OF ALLEGED VIOLATORS.—Section 5.32(b) (12 U.S.C. 2268(b)) is amended by inserting after the subsection designation the following new sentence: "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.".

(c) REVIEW OF FINAL ORDERS.—Section 5.32(d) (12 U.S.C. 2268(d)) is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "Final orders of the Farm Credit Administration issued under subsection (c) shall be reviewable under chapter 7 of title 5, United States Code.".

SEC. 424. LIMITATION ON FCA AUTHORITY TO REQUIRE DISCLOSURE OF INFORMATION.

(a) IN GENERAL.—Section 5.17(a)(9) (12 U.S.C. 2252(a)(9)) is amended by inserting before the period the following: ", except that 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.".

12 USC 2252 note.

(b) REGULATIONS.—Within 30 days after the date of the enactment of this Act, the Farm Credit Administration shall amend its regulations as necessary to implement the amendment made by subsection (a).

SEC. 425. REMOVAL OF CERTAIN SUNSET PROVISIONS; PROHIBITION AGAINST USE OF SIGNED BALLOTS.

Section 4.20 (12 U.S.C. 2208) is amended to read as follows:

"SEC. 4.20. 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.".

SEC. 426. FEDERAL LAND BANK LOAN SECURITY.

Section 1.9 (12 U.S.C. 2017) is amended to read as follows:

"SEC. 1.9. FEDERAL LAND BANK LOAN SECURITY.

"(a) MAXIMUM LEVEL OF LOANS.—

"(1) IN GENERAL.—Loans originated by a Federal land bank, or in which a Federal land 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 paragraphs (2) and (3).

"(2) REGULATION.—The Farm Credit Administration may, by regulation, require that loans not exceed 75 percent of the appraised value of the real estate security.

"(3) 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. State and local governments.

"(b) 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 approved by the Farm Credit Administration.

"(c) VALUE OF SECURITY.—To adequately secure the loan, the value of security shall be determined by appraisal under appraisal standards prescribed by the bank and approved by the Farm Credit Administration.

"(d) 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.

"(e) FINANCIAL STATEMENT.—Each Federal land 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.".

SEC. 427. AFFIRMATIVE ACTION.

Part F of title IV (12 U.S.C. 2219 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 4.37. AFFIRMATIVE ACTION.

Contracts.
12 USC 2219c.

The Assistance Board established under section 6.0 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.".

SEC. 428. ENCOURAGEMENT OF CONSERVATION PRACTICES.

Part F of title IV (12 U.S.C. 2219 et seq.) is amended by adding at the end thereof the following new section:

12 USC 2219d.

"SEC. 4.38. ENCOURAGEMENT OF CONSERVATION PRACTICES.

"At the time a System institution or an agricultural mortgage loan originator (as defined in section 8.0(7)) 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.".

SEC. 429. UNIFORM FINANCIAL REPORTING INSTRUCTIONS.

Part B of title V is amended by inserting after section 5.22 (12 U.S.C. 2257) the following new section:

12 USC 2257a.

"SEC. 5.22A. 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 the date of the enactment of this section, 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.".

SEC. 430. COMPENSATION FOR DIRECTORS.

Section 5.5 (12 U.S.C. 2226) is amended by inserting before the period at the end thereof the following: "No director may receive compensation under this section during any year in a total amount exceeding $15,000.".

SEC. 431. FARM CREDIT ADMINISTRATION BOARD.

(a) RULES AND RECORDS.—Section 5.8(c) (12 U.S.C. 2242) is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "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.".

(b) CHAIRMAN.—Subsection (a) of section 5.10 (12 U.S.C. 2244(a)) is amended to read as follows:

"(a)(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 4.2;

"(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.".

(c) FUNCTIONS AND APPOINTMENTS.—Section 5.11 (12 U.S.C. 2245) is amended to read as follows:

"SEC. 5.11. ORGANIZATION OF THE FARM CREDIT ADMINISTRATION.

"(a) POLICIES OF THE BOARD.—The Chairman of the Farm Credit Administration Board, in carrying out the powers and duties vested in the Chairman by this Act, 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.—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, United States Code; and

"(C) subject to section 5315 of title 5, United States Code.

"(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 Act 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 5.15.".

SEC. 604. ADDITIONAL COLLATERAL.

Section 307 (7 U.S.C. 1927) is amended by adding at the end thereof the following new subsection:

"(e) The Secretary may not—

"(1) require any borrower to provide additional collateral to secure a farmer program loan made or insured under this title, if the borrower is current in the payment of principal and interest on the loan; or

"(2) bring any action to foreclose, or otherwise liquidate, any such loan as a result of the failure of a borrower to provide additional collateral to secure a loan, if the borrower was current in the payment of principal and interest on the loan at the time the additional collateral was requested.".

SEC. 605. NOTICE OF LOAN SERVICE PROGRAMS.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by inserting after section 331C the following new section:

7 USC 1981d.

"SEC. 331D. NOTICE OF LOAN SERVICE PROGRAMS.

"(a) REQUIREMENT.—The Secretary shall provide notice by certified mail to each borrower who is at least 180 days delinquent in the payment of principal or interest on a loan made or insured under this title.

"(b) CONTENTS.—The notice required under subsection (a) shall—

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

"(2) include a summary of the manner in which the borrower may apply, and be considered, for all such programs, except that the Secretary shall not require the borrower to select among such programs or waive any right in order to be considered for any program carried out by the Secretary;

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

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

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

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

"(c) CONTAINED IN REGULATIONS.—All notices required by this section shall be contained in the regulations implementing this title.

"(d) TIMING.—The notice described in subsection (b) shall be provided—

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

"(2) on written request of the borrower; and

"(3) before the earliest of—

"(A) initiating any liquidation;

"(B) requesting the conveyance of security property;

"(C) accelerating the loan;

"(D) repossessing property;

"(E) foreclosing on property; or

"(F) taking any other collection action.

"(e) CONSIDERATION OF BORROWERS FOR LOAN SERVICE PROGRAMS.—The Secretary shall consider a farmer program borrower

for all loan service programs if, within 45 days after receipt of the notice required in this section, the borrower requests such consideration in writing. In considering a borrower for loan service programs, the Secretary shall place the highest priority on the preservation of the borrower's farming operations.".

SEC. 606. PLANTING AND PRODUCTION HISTORY GUIDELINES.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by inserting after the section added by section 605 of this Act the following new section:

"SEC. 331E. PLANTING AND PRODUCTION HISTORY GUIDELINES.

State and local governments. Disaster assistance. 7 USC 1981e.

"The Secretary shall ensure that appropriate procedures, including to the extent practicable onsite inspections, or use of county or State yield averages, are used in calculating future yields for an applicant for a loan, when an accurate projection cannot be made because the applicant's past production history has been affected by natural disasters declared under the Disaster Relief Act of 1974.".

SEC. 607. COUNTY COMMITTEES.

Section 332(a) (7 U.S.C. 1982(a)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in the second sentence, by striking out "deriving the principal part of their income from farming";

(3) by inserting before the period at the end thereof the following: "before conducting any county committee election. The Secretary shall publish any regulation promulgated under this subsection"; and

Regulations.

(4) by adding at the end thereof the following new paragraphs:

"(2) The Secretary shall ensure that farmers have—

"(A) at least 45 days to submit nominations following general public notice of any procedure by which to submit nominations for county committee elections in each county; and

"(B) at least 30 days after general public notice of an election in each county, before the election is held.

"(3) Any farmer eligible for a loan made or insured under subtitle A shall be eligible to serve as an elected or appointed county committee member, subject to section 336(c).

"(4) Not more than one farmer eligible for a loan made or insured under subtitle A may serve on a county committee at the same time.

"(5) For purposes of this subsection, the term 'farmer' shall include the spouse of a farmer otherwise eligible under this section.".

SEC. 608. ADMINISTRATIVE APPEALS.

Section 333B (7 U.S.C. 1983b) is amended by adding at the end thereof the following new subsections:

"(d) The Secretary shall establish and maintain within the Farmers Home Administration a national appeals division, which shall consist of a director, hearing officers, and such other personnel necessary to the administration of the division, all of whom shall be employees of the Farmers Home Administration who shall have no duties other than hearing and determining formal appeals arising under this section.

"(e)(1) Hearing officers within the appeals division in a State shall hear and determine all formal appeals of decisions which are subject to this section and are made by county supervisors, county committees, district directors, State directors, or other employees of the Secretary working in the State. Such hearings shall be held in the

State of residence of the appellant. The decisions of hearing officers shall, on the request and election of the borrower, be reviewed by the State director of the State of residence of the appellant or shall be referred directly to the director of the national appeals division. If the borrower elects review by the State director, the decisions of the State director shall, on request of the borrower, be subject to further review by the director of the national appeals division.

"(2) Each hearing before a hearing officer in the appeals division shall be recorded verbatim by voice recorder, stenographer, or other method, and a transcript of the hearing, together with all documents and evidence submitted, shall be made available to the appellant, on request, if the decision of the hearing officer is appealed. The record of the hearing shall consist of copies of all documents and other evidence presented to the hearing officer and the transcript of the hearing.

"(3) If a decision of a hearing officer is appealed, the hearing officer shall certify the record and deliver or otherwise provide the certified record to the director of the national appeals division and the Secretary. The national appeals division shall base its review of the hearing on the transcript of the hearing and the evidence presented to the hearing officer.

"(f) All hearing officers within the national appeals division shall report to the principal officers of the division, and shall not be under the direction or control of, or receive administrative support (except on a reimbursable basis) from, offices other than the national appeals division.

"(g) The Secretary shall ensure that the national appeals division has resources and personnel adequate to hear and determine all initial appeals in the State of residence of the appellant on a timely basis, and that hearing officers receive training and retraining adequate for their duties on initial employment and at regular intervals thereafter. The Secretary may expend sums available in the Farmers Home Administration's various revolving insurance funds for the purposes of this subsection in the event that necessary appropriations sufficient to fund the division are not available.".

7 USC 1983c.

SEC. 609. BORROWERS' RIGHT TO INFORMATION.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by inserting after section 333B the following new section:

"SEC. 333C. PROVISION OF INFORMATION TO BORROWERS.

"(a) IN GENERAL.—On request of a farm borrower of a farmer program loan, the Secretary shall make available to the borrower the following:

"(1) One copy of each document signed by the borrower.

"(2) One copy of each appraisal performed with respect to the loan.

"(3) All documents that the Secretary otherwise is required to provide to the borrower under any law or rule of law in effect on the date of such request.

"(b) CONSTRUCTION OF SECTION.—Subsection (a) shall not be construed to supersede any duty imposed on the Secretary by any law or rule of law in effect immediately before the date of the enactment of this section, unless such duty is in direct conflict with any duty imposed by subsection (a).".

SEC. 610. DISPOSITION AND LEASING OF FARMLAND.

(a) CLASSIFICATION OF PROPERTY.—Section 335(c) (7 U.S.C. 1985(c)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by inserting after the first sentence the following new sentence: "The County Committee shall classify or reclassify real property (including real property administered by the Secretary on the date of the enactment of this sentence) that is farmland, as being suitable for farming operation for such disposition unless the property, including property subdivided in accordance with subsection (e)(5), cannot be used to meet any of the purposes of section 303 (including being used as a start-up or add-on parcel of farmland)."; and

(3) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law, the Secretary shall sell suitable farmland administered under this subtitle to operators (as of the time immediately after such contract for sale or lease is entered into) of not larger than family sized farms, as determined by the county committee. In selling such land, the county committee shall— Contracts.

"(A) grant a priority to persons eligible for loans under subtitle A, including individuals approved for, but who, as of the date of the enactment of this paragraph, have not yet received, such loans;

"(B) offer suitable land at a price not greater than that which reflects the appraised market value of such land;

"(C) select from among qualified applicants the applicant who has the greatest need for farm income and best meets the criteria for eligibility to receive loans under subtitle A; and

"(D) publish or caused to be published three consecutive weekly announcements at least twice annually of the availability of such farmland, in at least one newspaper that is widely circulated in the county in which the land is located until the property is sold.". Public information.

(b) DISPOSITION AND LEASING.—Section 335(e) (7 U.S.C. 1985(e)) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1)(A)(i) During the 180-day period beginning on the date of acquisition, or during the applicable period under State law, the Secretary shall allow the borrower from whom the Secretary acquired real property used to secure any loan made to the borrower under this title (hereinafter referred to in this paragraph as the 'borrower-owner') to purchase or lease such property.

"(ii) The period for the purchase or lease of real property described under clause (i), by a person described in clauses (i) or (ii) of subparagraph (C), shall expire 190 days after the date of acquisition, or after the applicable period under State law.

"(iii) The rights regarding the purchase or lease of real property provided by this paragraph and accorded a person described in subparagraph (C) may be freely and knowingly waived by such person.

"(B) Any purchase or lease under subparagraph (A) shall be on such terms and conditions as are established in regulations promulgated by the Secretary.

"(C) The Secretary shall give preference in the sale or lease, with option to purchase, of property that has been foreclosed, purchased, redeemed, or otherwise acquired by the Secretary to persons in the following order:

"(i) The immediate previous borrower-owner of the acquired property.

"(ii) If actively engaged in farming—

"(I) the spouse or child of the previous borrower-owner; or

"(II) a stockholder in the corporation, if the borrower-owner is a corporation held exclusively by members of the same family.

"(iii) The immediate previous family size farm operator of such acquired property.

"(iv) Operators (as of the time immediately after such sale or lease is entered into) of not larger than family-size farms.

Indians.

"(D)(i) If—

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

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

"(III) the period in which the right to purchase or lease such real property provided in clauses (i) and (ii) of subparagraph (A) has expired,

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

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

"(iii) The Secretary shall, within 90 days after the expiration of the period for which the right to purchase or lease real property described in clause (i) is provided in clauses (i) and (ii) of subparagraph (A), afford an opportunity to purchase or lease the real property in accordance with the order of priority established under clause (iv) by the Indian tribe having jurisdiction over the Indian reservation within which the real property is located or, if no order of priority is established by such Indian tribe under clause (iv), in the following order:

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

"(II) to an Indian corporate entity;

"(III) to such Indian tribe.

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

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

"(II) Indian corporate entities that are authorized by such Indian tribe to lease or purchase lands within the boundaries of such reservation, or

"(III) such Indian tribe itself.

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

Contracts.
State and local governments.
Taxes.

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

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

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

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

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

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

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

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

"(ix) Notwithstanding any other clause of this subparagraph, the Indian tribe having jurisdiction over the Indian reservation within

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

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

(2) in paragraph (3)—

(A) by striking out subparagraph (A);

(B) by redesignating subparagraphs (B), (C), and (D), as subparagraphs (A), (B), and (C), respectively;

(C) in subparagraph (B) (as so redesignated), by striking out "give special consideration to a previous owner or operator of such land if such owner or operator" and inserting in lieu thereof "determine if the lessee"; and

(D) by adding at the end thereof the following new subparagraph:

Contracts.

"(D) The Secretary may enter into a contract with a borrower of a farmer program loan made or insured under this title, to provide for the subsequent sale or lease of land that will be acquired from the borrower in the future, before the Secretary takes possession of such land.";

(3) by amending subparagraph (A) of paragraph (5) to read as follows:

"(A) If the Secretary determines that farmland administered under this chapter is not suitable for sale or lease to persons eligible for a loan made or insured under subtitle A because such farmland is in a tract or tracts that the Secretary determines to be larger than that necessary for such eligible persons, the Secretary shall, to the greatest extent practicable, subdivide such land into tracts suitable for sale under subsection (c). Such land shall be subdivided into parcels of land the shape and size of which are suitable for farming, the value of which shall not exceed the individual loan limits as prescribed under section 305.";

(4) in paragraph (6)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

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

(5) by adding at the end thereof the following new paragraphs:

"(9) Denials of applications for or disputes over terms and conditions of a lease or purchase agreement under this section are appealable under section 333B.

"(10) In the event of any conflict between any provision of this subsection and any provision of the law of any State providing a

right of first refusal to the owner of farmland or the operator of a farm before the sale or lease of land to any other person, such provision of State law shall prevail.".

SEC. 611. INCOME RELEASE.

Subsection (f) of section 335 (7 U.S.C. 1985(f)) is amended to read as follows:

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

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

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

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

"(B) as of the deadline for responding to the notice provided for under paragraph (5), requests restructuring of such loans pursuant to section 353.

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

"(5)(A) Within 45 days after the date of the enactment of this subsection, the Secretary shall provide to the borrowers described in paragraph (3) notice by certified mail of the right of such borrowers to apply for the benefits under such paragraph.

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

"(C) Within 12 months after a borrower has requested restructuring under section 353, the Secretary shall make a final determination on the request. Notwithstanding the 12-month limitation provided for in paragraph (3), releases shall continue to be made to the borrower until a denial or dismissal of the application of the borrower for restructuring under section 353 is made. The amount of essential household and farm operating expenses which may be released to any borrower eligible for such releases after 12 months may exceed $18,000, by an amount proportionate to the period of time beyond 12 months before a final determination is made by the Secretary.

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

"(A) notify the borrower of such requirement; and

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

Regulations.

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

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

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

SEC. 612. CONSERVATION EASEMENTS.

Section 349 (7 U.S.C. 1997) is amended—

(1) in subsection (c)(4), by inserting "and other wildlife habitat" after "wetland"; and

(2) in subsection (e), by striking out the last period and inserting in lieu thereof the following: "or the difference between the amount of the outstanding loan secured by the land and the current value of the land, whichever is greater.".

SEC. 613. INTEREST RATE REDUCTION PROGRAM; DEMONSTRATION PROJECT FOR PURCHASE OF SYSTEM LAND.

7 USC 1999 note.
7 USC 1999.

(a) EXTENSION OF PROGRAM FOR 5 YEARS.—Section 1320 of the Food Security Act of 1985 (99 Stat. 1532) is amended by striking out "1988" and inserting in lieu thereof "1993".

(b) AMENDMENTS TO PROGRAM.—Section 351 (7 U.S.C. 1999) is amended—

(1) in subsection (b)(1)(C), by striking out "12-month" and inserting in lieu thereof "24-month"; and

(2) by adding at the end thereof the following new subsections:

"(f) Each Farmers Home Administration county supervisor shall make available to farmers, on request, a list of approved lenders in the area that participate in the Farmers Home Administration guaranteed farm loan programs and other lenders in the area that express a desire to participate in such programs and that request inclusion in the list.

Contracts.

"(g) Notwithstanding any other provision of law, each contract of guarantee on a farm loan entered into under this title after the date of the enactment of this subsection shall contain a condition that the lender of the guaranteed loan may not initiate foreclosure action on the loan until 60 days after a determination is made with respect to the eligibility of the borrower thereof to participate in the program under this section.".

(c) DEMONSTRATION PROJECT FOR PURCHASE OF SYSTEM LAND.—Section 351 (7 U.S.C. 1999) is amended by adding after the subsection added by subsection (b) of this section the following new subsection:

"(h)(1) During the 3-year period beginning on the date of the enactment of this subsection, the Secretary shall establish and carry out a demonstration project in accordance with this subsection under which the Secretary may issue certificates of eligibility to Farmers Home Administration eligible borrowers to reduce the interest rate paid by the borrowers on loans obtained from legally organized lending institutions and Farm Credit System institutions

to purchase acquired properties owned by institutions of the Farm Credit System certified to issue preferred stock under section 6.27 of the Farm Credit Act of 1971.

"(2) To be eligible to participate in the project, a borrower must—

"(A) meet the requirements of subsection (b)(1);

"(B) provide a down payment to purchase the land, using personal funds of the borrower, equal to at least 15 percent of the purchase price of the land; and

"(C) meet all conservation requirements for the land that are imposed on borrowers of guaranteed farm ownership loans under this title.

"(3) A certificate of eligibility issued under this subsection may be used to reduce the interest rate payable by an eligible borrower on a guaranteed loan by not more than 4 percent.

"(4) A certificate of eligibility issued under this subsection shall reduce the interest rate on a guaranteed loan for a term equal to the outstanding term of such loan, or 5 years, whichever is less.

"(5) Notwithstanding any other provision of law, if the lender of a guaranteed loan assisted under this subsection reduces the interest rate payable on the loan by at least 1 full percentage point, the Secretary may guarantee the repayment of 95 percent of the principal and interest due on the loan.

"(6) In carrying out this subsection, the Secretary may—

"(A) certify the eligibility of borrowers to participate in the demonstration project;

"(B) process applications for participation in the project;

"(C) provide certificate of eligibility to eligible borrowers on a timely basis consistent with the availability of acquired property owned by institutions of the Farm Credit System certified to issue preferred stock under section 6.27 of the Farm Credit Act of 1971; and

"(D) set aside the largest practicable portion of funds made available to guarantee farm ownership loans under this title (including unobligated funds) to carry out this subsection.

"(7) To carry out this subsection, the Secretary may transfer such amounts as may be necessary from farm operating guaranteed loans to farm ownership guaranteed loans.

"(8) In carrying out this subsection, Farm Credit System institutions shall—

"(A) sell land to eligible borrowers under this subsection at fair market value;

"(B) to the extent practicable, set aside each fiscal year land acquired or owned by such institutions of the Farm Credit System in an aggregate amount not to exceed $250,000,000 at fair market value, for purchase by eligible borrowers in accordance with this subsection; and

"(C) if necessary, subdivide tracts of land made available under this subsection into parcels that permit eligible borrowers to purchase the parcels consistent with limits placed on the size of loans made, insured, or guaranteed under this title.

"(9) Not later than 60 days after the date of the enactment of this subsection, the Secretary and the Farm Credit Administration shall develop a joint memorandum of understanding governing the implementation of this subsection.".

SEC. 614. HOMESTEAD PROTECTION.

Section 352 (7 U.S.C. 2000) is amended—

(1) in subsection (a)(3), by inserting before the period ", including a reasonable number of farm outbuildings located on the adjoining land that are useful to the occupants of the homestead, and no more than 10 acres of adjoining land that is used to maintain the family of the individual";

(2) in subsection (b), by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) The Secretary or the Administrator shall, on application by a borrower who meets the eligibility requirements of subsection (c)(1), permit the borrower to retain possession and occupancy of homestead property under the terms set forth, and until the action described in this section has been completed, if—

"(A) the Secretary forecloses, holds in inventory on the date of the enactment of this paragraph, or takes into inventory, property securing a loan made or insured under this title;

"(B) the Administrator forecloses, holds in inventory on the date of the enactment of this paragraph, or takes into inventory, property securing a farm program loan made under the Small Business Act (15 U.S.C. 631 et seq.); or

"(C) the borrower of a loan made or insured by the Secretary or the Administrator files a petition in bankruptcy that results in the conveyance of the homestead property to the Secretary or the Administrator, or agrees to voluntarily liquidate or convey such property in whole or in part.";

(3) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) To be eligible to occupy homestead property, a borrower of a loan made or insured by the Secretary or the Administrator shall—

"(A) apply for such occupancy not later than 90 days after the property is acquired by the Secretary or Administrator, or for property in inventory on the date of the enactment of this subsection, the borrower shall apply for occupancy not later than 90 days after such date;

"(B) have received from farming or ranching operations gross farm income reasonably commensurate with—

"(i) the size and location of the farming unit of the borrower; and

"(ii) local agricultural conditions (including natural and economic conditions), in at least 2 calendar years during the 6-year period preceding the calendar year in which the application is made;

"(C) have received from farming or ranching operations at least 60 percent of the gross annual income of the borrower and any spouse of the borrower in at least 2 calendar years during any 6-year period described in subparagraph (B);

"(D) have continuously occupied the homestead property during the 6-year period described in subparagraph (B), except that such requirement may be waived if a borrower has, due to circumstances beyond the control of the borrower, had to leave the homestead property for a period of time not to exceed 12 months during the 6-year period;

"(E) during the period of the occupancy of the homestead property, pay a reasonable sum as rent for such property to the Secretary or the Administrator in an amount substantially equivalent to rents charged for similar residential properties in the area in which the homestead property is located;

"(F) during the period of the occupancy of the homestead property, maintain the property in good condition; and

"(G) meet such other reasonable and necessary terms and conditions as the Secretary may require consistent with this section.

"(2) For purposes of subparagraphs (B) and (C) of paragraph (1), the term 'farming or ranching operations' shall include rent paid by lessees of agricultural land during any period in which the borrower, due to circumstances beyond the control of the borrower, is unable to actively farm such land.

"(3) For the purposes of paragraph (1)(E), the failure of the borrower to make timely rental payments shall constitute cause for the termination of all rights of such borrower to possession and occupancy of the homestead property under this section. In effecting any such termination, the Secretary shall afford the borrower or lessee the notice and hearing procedural rights described in section 333B and shall comply with all applicable State and local laws governing eviction from residential property.

"(4)(A) The period of occupancy allowed the prior owner of homestead property under this section shall be the period requested in writing by the prior owner, except that such period shall not exceed 5 years.

"(B) At any time during the period of occupancy, the borrower shall have a right of first refusal to reacquire the homestead property on such terms and conditions as the Secretary shall determine, except that the Secretary may not demand a payment for the homestead property that is in excess of the current market value of the homestead property as established by an independent appraisal. The independent appraisal shall be conducted by an appraiser selected by the borrower from a list of three appraisers approved by the county supervisor.

"(5) No rights of a borrower under this section, and no agreement entered into between the borrower and the Secretary for occupancy of the homestead property, shall be transferable or assignable by the borrower or by operation of any law, except that in the case of death or incompetency of such borrower, such rights and agreements shall be transferable to the spouse of the borrower if the spouse agrees to comply with the terms and conditions thereof.

"(6) Within 30 days of the acquisition of the homestead property securing a loan made or insured under this title, the Secretary shall notify the borrower from whom the property was acquired of the availability of homestead protection rights under this section. For property in inventory on the date of the enactment of this subsection, the Secretary shall make a good faith effort to notify the borrower of the availability of homestead protection rights under this section within 60 days after such date.";

(3) in subsection (d), by adding at the end thereof the following new sentence: "Such terms and conditions shall not be less favorable than those intended to be offered to any other buyer."; and

(4) by adding at the end thereof the following new subsections:

"(f) The Secretary may enter into contracts authorized by this section before the Secretary acquires title to the homestead property. Contracts.

"(g) In the event of any conflict between this section and any provision of the law of any State relating to the right of a borrower to designate for separate sale or redeem part or all of the real

property securing a loan foreclosed on by the lender thereof, such provision of State law shall prevail.".

SEC. 615. DEBT RESTRUCTURING AND LOAN SERVICING.

(a) IN GENERAL.—Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding at the end thereof the following new section:

7 USC 2001.

"SEC. 353. DEBT RESTRUCTURING AND LOAN SERVICING.

"(a) IN GENERAL.—The Secretary shall modify delinquent farmer program loans made or insured under this title, or purchased from the lender or the Federal Deposit Insurance Corporation under section 309B, to the maximum extent possible—

"(1) to avoid losses to the Secretary on such loans, with priority consideration being placed on writing-down the loan principal and interest (subject to subsections (d) and (e)), and debt set-aside (subject to subsection (e)), whenever these procedures would facilitate keeping the borrower on the farm or ranch, or otherwise through the use of primary loan service programs as provided in this section; and

"(2) to ensure that borrowers are able to continue farming or ranching operations.

"(b) ELIGIBILITY.—To be eligible to obtain assistance under subsection (a)—

"(1) the delinquency must be due to circumstances beyond the control of the borrower, as defined in regulations issued by the Secretary;

"(2) the borrower must have acted in good faith with the Secretary in connection with the loan as defined in regulations issued by the Secretary;

"(3) the borrower must present a preliminary plan to the Secretary that contains reasonable assumptions that demonstrate that the borrower will be able to—

"(A) meet the necessary family living and farm operating expenses; and

"(B) service all debts, including those of the loans restructured; and

"(4) the loan, if restructured, must result in a net recovery to the Federal Government, during the term of the loan as restructured, that would be more than or equal to the net recovery to the Federal Government from an involuntary liquidation or foreclosure on the property securing the loan.

"(c) RESTRUCTURING DETERMINATIONS.—

"(1) DETERMINATION OF NET RECOVERY.—In determining the net recovery from the involuntary liquidation of a loan under this section, the Secretary shall calculate—

"(A) the recovery value of the collateral securing the loan, in accordance with paragraph (2); and

"(B) the value of the restructured loan, in accordance with paragraph (3).

"(2) RECOVERY VALUE.—For the purpose of paragraph (1), the recovery value of the collateral securing the loan shall be based on—

"(A) the amount of the current appraised value of the property securing the loan; less

"(B) the estimated administrative, legal, and other expenses associated with the liquidation and disposition of the loan and collateral, including—

"(i) the payment of prior liens;

"(ii) taxes and assessments, depreciation, management costs, the yearly percentage decrease or increase in the value of the property, and lost interest income, each calculated for the average holding period for the type of property involved; Taxes.

"(iii) resale expenses, such as repairs, commissions, and advertising; and

"(iv) other administrative and attorney's costs.

"(3) VALUE OF THE RESTRUCTURED LOAN.—

"(A) IN GENERAL.—For the purpose of paragraph (1), the value of the restructured loan shall be based on the present value of payments that the borrower would make to the Federal Government if the terms of such loan were modified under any combination of primary loan service programs to ensure that the borrower is able to meet such obligations and continue farming operations.

"(B) PRESENT VALUE.—For the purpose of calculating the present value referred to in subparagraph (A), the Secretary shall use a discount rate of not more than the current rate on 90-day Treasury bills.

"(4) NOTIFICATION.—Within 60 days after receipt of a written request for restructuring from the borrower, the Secretary shall—

"(A) make the calculations specified in paragraphs (2) and (3);

"(B) notify the borrower in writing of the results of such calculations; and

"(C) provide documentation for the calculations.

"(5) RESTRUCTURING OF LOANS.—If the value of the restructured loan is greater than or equal to the recovery value, the Secretary shall, within 45 days after notifying the borrower of such calculations, offer to restructure the loan obligations of the borrower under this title through primary loan service programs that would enable the borrower to meet the obligations (as modified) under the loan and to continue the farming operations of the borrower. If the borrower accepts such offer, within 45 days after receipt of notice of acceptance, the Secretary shall restructure the loan accordingly.

"(6) TERMINATION OF LOAN OBLIGATIONS.—If the value of the restructured loan is less than the recovery value and if, within 45 days after receipt of the notification described in paragraph (4)(B), the borrower pays (or obtains third-party financing to pay) the Secretary an amount equal to the recovery value, the obligations of the borrower to the Secretary under the loan shall terminate, except that the Secretary may require, as a condition of such termination of loan obligations, that the borrower enter into an agreement with the Secretary if the borrower sells or otherwise conveys the real property used to secure such loan within 2 years after the date of such agreement. Any such agreement shall provide for the recapture of part or all of the difference between the recovery value of the loan and the fair market value (on the date of such agreement) of the property securing the loan if the borrower realizes a gain on the sale or conveyance over the amount of the recovery value of the loan. In no event shall any such agreement provide for recapture of an amount that exceeds the difference between such recovery

value and the fair market value of the property securing the loan on the date of such agreement.

"(d) PRINCIPAL AND INTEREST WRITE-DOWN.—

"(1) IN GENERAL.—

"(A) PRIORITY CONSIDERATION.—In selecting the restructuring alternatives to be used in the case of a borrower who has requested restructuring under this section, the Secretary shall give priority consideration to the use of principal and interest write-down, except that this procedure shall not be given first priority in the case of a borrower unless other creditors of such borrower (other than those creditors who are fully collateralized) representing a substantial portion of the total debt of the borrower held by such creditors, agree to participate in the development of the restructuring plan or agree to participate in a State mediation program.

"(B) FAILURE OF CREDITORS TO AGREE.—Failure of creditors to agree to participate in the restructuring plan or mediation program shall not preclude the use of principal and interest write-down by the Secretary if the Secretary determines that this restructuring alternative results in the least cost to the Secretary.

"(2) PARTICIPATION OF CREDITORS.—Before eliminating the option to use debt write-down in the case of a borrower, the Secretary shall make a reasonable effort to contact the creditors of such borrower, either directly or through the borrower, and encourage such creditors to participate with the Secretary in the development of a restructuring plan for the borrower.

"(e) SHARED APPRECIATION ARRANGEMENTS.—

"(1) IN GENERAL.—As a condition of restructuring a loan in accordance with this section, the borrower of the loan may be required to enter into a shared appreciation arrangement that requires the repayment of amounts written off or set aside.

"(2) TERMS.—Shared appreciation agreements shall have a term not to exceed 10 years, and shall provide for recapture based on the difference between the appraised values of the real security property at the time of restructuring and at the time of recapture.

"(3) PERCENTAGE OF RECAPTURE.—The amount of the appreciation to be recaptured by the Secretary shall be 75 percent of the appreciation in the value of such real security property if the recapture occurs within 4 years of the restructuring, and 50 percent if the recapture occurs during the remainder of the term of the agreement.

"(4) TIME OF RECAPTURE.—Recapture shall take place at the end of the term of the agreement, or sooner—

"(A) on the conveyance of the real security property;

"(B) on the repayment of the loans; or

"(C) if the borrower ceases farming operations.

"(5) TRANSFER OF TITLE.—Transfer of title to the spouse of a borrower on the death of such borrower shall not be treated as a conveyance for the purpose of paragraph (4).

"(f) DETERMINATION TO RESTRUCTURE.—If the appeal process results in a determination that a loan is eligible for restructuring, the Secretary shall restructure the loan in the manner consistent with this section, taking into consideration the restructuring recommendations, if any, of the appeals officer.

"(g) PREREQUISITES TO FORECLOSURE OR LIQUIDATION.—No foreclosure or other similar actions shall be taken to liquidate any loan determined to be ineligible for restructuring by the Secretary under this section—

"(1) until the borrower has been given the opportunity to appeal such decision; and

"(2) if the borrower appeals, the appeals process has been completed, and a determination has been made that the loan is ineligible for restructuring.

"(h) TIME LIMITS FOR RESTRUCTURING.—Once an appeal has been filed under section 333B, a decision shall be made at each level in the appeals process within 45 days after the receipt of the appeal or request for further review.

"(i) NOTICE OF INELIGIBILITY FOR RESTRUCTURING.—

"(1) IN GENERAL.—A notice of ineligibility for restructuring shall be sent to the borrower by registered or certified mail within 15 days after such determination.

"(2) CONTENTS.—The notice required under paragraph (1) shall contain—

"(A) the determination and the reasons for the determination;

"(B) the computations used to make the determination, including the calculation of the recovery value of the collateral securing the loan; and

"(C) a statement of the right of the borrower to appeal the decision to the appeals division, and to appear before a hearing officer.

"(j) INDEPENDENT APPRAISALS.—An appeal filed with the appeals division under section 333B may include a request by the borrower for an independent appraisal of any property securing the loan. On such request, the appeals division shall present the borrower with a list of three appraisers approved by the county supervisor, from which the borrower shall select an appraiser to conduct the appraisal, the cost of which shall be borne by the borrower. The results of such appraisal shall be considered in any final determination concerning the loan. A copy of any appraisal made under this paragraph shall be provided to the borrower.

"(k) FUTURE CREDITWORTHINESS OF BORROWER DETERMINED WITHOUT REGARD TO RESTRUCTURING.—The creditworthiness of, or the adequacy of collateral offered by, any borrower whose loan obligations are restructured under this section shall be determined without regard to such restructuring.".

(b) OTHER RESTRUCTURING PROVISIONS.—

(1) OPTION TO RESTRUCTURE INTEREST RATES FOR CERTAIN WATER AND WASTE DISPOSAL AND COMMUNITY FACILITY BORROWERS.—

(A) IN GENERAL.—The item designated "Loan Programs" under the subheading "Farmers Home Administration" in chapter I of title I of the Supplemental Appropriations Act, 1985 (7 U.S.C. 1927a; 99 Stat. 296) is amended—

(i) by striking out "Effective November 12, 1983, and thereafter," and inserting in lieu thereof "Effective October 1, 1981, and thereafter, in the case of water and waste disposal and community facility borrowers, and effective November 12, 1983, and thereafter, in the case of housing and farm borrowers,"; and

(ii) by striking out "housing, farm, water and waste disposal, and community facility" and inserting in lieu thereof "such".

7 USC 1927a note.

(B) CERTAIN OBLIGATIONS EXCEPTED.—The amendment made by subparagraph (A) shall not apply to any note or other obligation sold under section 1001 of the Omnibus Reconciliation Act of 1986 on or before the date of the enactment of this paragraph.

7 USC 1926 note.

(2) INTEREST RATE RESTRUCTURING FOR CERTAIN OTHER BORROWERS.—Effective July 29, 1987, the interest rate charged on any loan of $2,000,000 or more made on such date under section 306 to any nonprofit corporation shall be the interest rate quoted to such nonprofit corporation by the Farmers Home Administration on June 22, 1987, in the request for obligation of funds made with respect to the loan.

(c) LIQUIDATION NOT REQUIRED AS PREREQUISITE TO DEBT RESTRUCTURING AND LOAN SERVICING.—Subsection (d) of section 331 (7 U.S.C. 1981(d)) is amended—

(1) by inserting "debts or" before "claims"; and

(2) by adding at the end of the first sentence the following: "The Secretary may not require liquidation of property securing any farmer program loan or acceleration of any payment required under any farmer program loan as a prerequisite to initiating an action authorized under this subsection.".

7 USC 2001 note.

(d) SUSPENSION OF COLLECTION ACTIVITIES DURING TRANSITION PERIOD.—The Secretary of Agriculture shall not initiate any acceleration, foreclosure, or liquidation in connection with any delinquent farmer program loan before the date the Secretary has issued final regulations to carry out the amendments made by this section. The preceding sentence shall not prohibit the Secretary from taking any action with respect to waste, fraud, or abuse by the borrower.

Fraud.

SEC. 616. TRANSFER OF INVENTORY LANDS.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 615(a) of this Act the following new section:

State and local governments.
7 USC 2002.

"SEC. 354. TRANSFER OF INVENTORY LANDS.

"The Secretary, without reimbursement, may transfer to any Federal or State agency, for conservation purposes any real property, or interest therein, administered by the Secretary under this Act—

"(1) with respect to which the rights of all prior owners and operators have expired;

"(2) that is determined by the Secretary to be suitable or surplus; and

"(3) that—

"(A) has marginal value for agricultural production;

"(B) is environmentally sensitive; or

"(C) has special management importance.".

SEC. 617. TARGET PARTICIPATION RATES.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 616 of this Act the following new section:

Disadvantaged persons.
7 USC 2003.

"SEC. 355. TARGET PARTICIPATION RATES.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish annual target participation rates, on a county wide basis, that shall ensure that members of socially disadvantaged groups will receive loans made or insured under subtitle A and will have the opportunity to purchase or lease inventory farmland.

"(2) GROUP POPULATION.—In establishing such target rates the Secretary shall take into consideration the portion of the population of the county made up of such groups, and the availability of inventory farmland in such county.

"(b) RESERVATION AND ALLOCATION.—

"(1) RESERVATION.—The Secretary shall, to the greatest extent practicable, reserve sufficient loan funds made available under subtitle A, for use by members of socially disadvantaged groups identified under target participation rates established under subsection (a).

"(2) ALLOCATION.—The Secretary shall allocate such loans on the basis of the proportion of members of socially disadvantaged groups in a county and the availability of inventory farmland, with the greatest amount of loan funds being distributed in the county with the greatest proportion of socially disadvantaged group members and the greatest amount of available inventory farmland.

"(c) REPORT.—The Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that describes the annual target participation rates and the success in meeting such rates.

"(d) DEFINITION.—As used in this section, the term 'socially disadvantaged group' means a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities.".

SEC. 618. EXPEDITED CLEARING OF TITLE TO INVENTORY PROPERTY.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 617 of this Act the following:

"SEC. 356. EXPEDITED CLEARING OF TITLE TO INVENTORY PROPERTY. 7 USC 2004.

"The Farmers Home Administration may employ local attorneys, on a case-by-case basis, to process all legal procedures necessary to clear the title to foreclosed properties in the inventory of the Farmers Home Administration. Such attorneys shall be compensated at not more than their usual and customary charges for such work.".

SEC. 619. PAYMENT OF LOSSES ON GUARANTEED LOANS.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 357. PAYMENT OF LOSSES ON GUARANTEED LOANS. 7 USC 2005.

"(a) PAYMENTS TO LENDERS.—

"(1) REQUIREMENT.—Within 3 months after a court of competent jurisdiction confirms a plan of reorganization under chapter 12 of title 11, United States Code, for any borrower to whom a lender has made a loan guaranteed under this title, the Secretary shall pay the lender an amount estimated by the Secretary to be equal to the loss incurred by the lender for purposes of the guarantee.

"(2) PAYMENT TOWARD LOAN GUARANTEE.—Any amount paid to a lender under this subsection with respect to a loan guaranteed under this title shall be treated as payment towards satisfaction of the loan guarantee.

"(b) ADMINISTRATION.—

"(1) LOSS BY LENDER.—If the lender of a guaranteed farmer program loan takes any action described in section 331(d) with respect to the loan and the Secretary approves such action, then, for purposes of the guarantee, the lender shall be treated as having sustained a loss equal to the amount by which—

"(A) the outstanding balance of the loan immediately before such action, exceeds

"(B) the outstanding balance of the loan immediately after such action.

"(2) NET PRESENT VALUE OF LOAN.—The Secretary shall approve the taking of an action described in section 331(d) by the lender of a guaranteed farmer program loan with respect to the loan if such action reduces the net present value of the loan to an amount equal to not less than the greater of—

"(A) the greatest net present value of a loan the borrower could reasonably be expected to repay; and

"(B) the greatest amount that the lender of the loan could reasonably expect to recover from the borrower through bankruptcy, or liquidation of the property securing the loan, less all reasonable and necessary costs and expenses that the lender of the loan could reasonably expect to incur to preserve or dispose of such property (including all associated legal and property management costs) in the course of such a bankruptcy or liquidation.

"(3) CONSTRUCTION OF SUBSECTION.—This subsection shall not be construed to limit the authority of the Secretary to enter into a shared appreciation arrangement with a borrower, or the terms and conditions which shall be required of a borrower, under section 353(e).".

7 USC 1926 note.

SEC. 620. LEASE OF CERTAIN ACQUIRED PROPERTY.

Notwithstanding any other provision of law, the Secretary of Agriculture may lease to public or private nonprofit organizations, for a nominal rent, any facilities acquired in connection with the disposition of a loan made by the Secretary under section 306. Any such lease shall be for such reasonable period of time as the Secretary determines is appropriate.

7 USC 1989 note.

SEC. 621. STUDY AND REPORT TO CONGRESS BEFORE ISSUANCE OF CERTAIN FINAL REGULATIONS.

Not later than 60 days before the Secretary of Agriculture issues final regulations providing for the use of ratios and standards as part of loan applications or preapplications, for determining the degree of potential loan risk on loans insured or guaranteed under the Consolidated Farm and Rural Development Act, the Secretary shall complete a study and report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives on the effects of such regulations on a representative sample of persons who, as of the date of the enactment of this Act, are borrowers or potential borrowers of such loans, and shall demonstrate in such study that the implementation of such final regulations will not result in a port-

folio of borrowers that is inconsistent with the purposes of the Consolidated Farm and Rural Development Act.

SEC. 622. CONTINUATION OF LIMITED RESOURCE FARMERS' INITIATIVE.

The Secretary of Agriculture shall maintain substantially at the levels in effect on the date of the enactment of this title, the limited resource farmers' initiative in the office of the Director of the Office of Advocacy and Enterprise.

SEC. 623. FARM OWNERSHIP OUTREACH PROGRAM TO SOCIALLY DISADVANTAGED INDIVIDUALS. 7 USC 1985 note.

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

(1) informing persons eligible for assistance under any other provision of this Act of—

(A) the possiblity of acquiring such inventory farmland; and

(B) various farm ownership loan programs; and

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

SEC. 624. REGULATIONS. 7 USC 1989 note.

Within 150 days after the date of the enactment of this title, and after considering public comment obtained under section 553 of title 5, United States Code, the Secretary shall issue final regulations to carry out the amendments made by this title.

SEC. 625. SENSE OF CONGRESS REGARDING GUARANTEED LOAN PROGRAM.

It is the sense of Congress that the Secretary of Agriculture should issue guarantees for loans under the Consolidated Farm and Rural Development Act, to the maximum extent practicable, to assist eligible borrowers whose loans are restructured by institutions of the Farm Credit System, commercial banks, insurance companies, and other lending institutions.

SEC. 626. SENSE OF CONGRESS REGARDING NATIONAL RURAL CRISIS RESPONSE CENTER.

It is the sense of Congress that efforts by various State and local public agencies, citizens' groups, church and civic organizations, and individuals to focus attention on and respond to rural problems throughout the Nation are deserving of the recognition, encouragement, and support of Congress and the American people for the valuable services they provide.

TITLE VII—AGRICULTURAL MORTGAGE SECONDARY MARKETS

Housing.

Subtitle A—The Federal Agricultural Mortgage Corporation

12 USC 2279aa note.

SEC. 701. STATEMENT OF PURPOSE.

It is the purpose of this subtitle—

(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.

SEC. 702. AGRICULTURAL MORTGAGE SECONDARY MARKET.

The Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) is amended by adding after title VII (as added by section 401 of this Act) the following new title:

"TITLE VIII—AGRICULTURAL MORTGAGE SECONDARY MARKET

12 USC 2279aa.

"SEC. 8.0. DEFINITIONS.

"For purposes of this title:

"(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 with a purchase price exceeding $100,000 (as adjusted for inflation).

"(2) BOARD.—The term 'Board' means—

"(A) the interim board of directors established in section 8.2(a); and

"(B) the permanent board of directors established in section 8.2(b);

as the case may be.

"(3) CERTIFIED FACILITY.—The term 'certified facility' means a secondary marketing agricultural loan facility that is certified under section 8.5.

"(4) CORPORATION.—The term 'Corporation' means the Federal Agricultural Mortgage Corporation established in section 8.1.

"(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 title.

"(6) INTERIM BOARD.—The term 'interim board' means the interim board of directors established in section 8.2(a).

"(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 8.2(b).

"(9) QUALIFIED LOAN.—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 hold a majority interest in the corporation or partnership and 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.

"(10) STATE.—The term 'State' has the meaning given such term in section 5.51.

"SEC. 8.1. FEDERAL AGRICULTURAL MORTGAGE CORPORATION. 12 USC 2279aa-1.

"(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; and

"(3) provide guarantees for the timely repayment of principal and interest on securities representing interests in, or obligations backed by, pools of qualified loans.

12 USC 2279aa-2.

"SEC. 8.2. BOARD OF DIRECTORS.

"(a) INTERIM BOARD.—

President of U.S.

"(1) NUMBER AND APPOINTMENT.—Until the permanent board of directors established in subsection (b) 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 the effective date of this title 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. President of U.S.

"(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 8.4.

"(10) TERMINATION.—The interim board shall terminate when the permanent board of directors established in subsection (b) 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 the effective date of this title.

"(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 permanent 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) 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. President of U.S.

"(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.

"SEC. 8.3. POWERS AND DUTIES OF CORPORATION AND BOARD. 12 USC 2279aa-3.

"(a) GUARANTEES.—After the Board has been duly constituted, subject to the other provisions of this title 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 THE 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 THE 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 8.4.

"(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, United States Code, and require surety bonds or make other provisions against losses occasioned by acts of the persons.

"(5) To provide guarantees in the manner provided under section 8.6.

"(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 title.

Contracts. "(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.

Contracts. "(11) To make and perform contracts, agreements, and commitments with persons and entities both inside and outside of the Farm Credit System.

Real property. "(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 exercise such other incidental powers as are necessary to carry out the powers, duties, and functions of the Corporation in accordance with this title.

"(d) FEDERAL RESERVE BANKS AS DEPOSITARIES AND FISCAL AGENTS.—The Federal Reserve banks may act as depositaries for, or as fiscal agents or custodians of, the Corporation.

"(e) ACCESS TO BOOK-ENTRY SYSTEM.—The Secretary of the Treasury may authorize the Corporation to use the book-entry system of the Federal Reserve System.

12 USC 2279aa-4. "SEC. 8.4. 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 8.2(a)(9). 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 that are entitled to vote for directors specified in section 8.2(b)(2)(A). Class B stock may be held only by Farm Credit System institutions that are entitled to vote for directors specified in section 8.2(b)(2)(B).

"(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 8.10(c)(1).

"(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 8.13 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).

"(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 Association.

"(2) RIGHTS OF PREFERRED STOCK.—Subject to paragraphs (2) and (3) of subsection (c), 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.

12 USC 2279aa-5.

"SEC. 8.5. 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, 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 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 representing 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).

"(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).

"(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 Act, any Farm Credit System institution (other than the Corporation), 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) 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.

"SEC. 8.6. GUARANTEE OF QUALIFIED LOANS. 12 USC 2279aa-6.

"(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 shall guarantee the timely payment of principal and interest on the securities issued by a certified facility that represents interests in, or obligations backed by, any pool of qualified loans held by such facility.

"(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), subject to the provisions of subsection (b) 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, Contracts.

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) RESERVE OR SUBORDINATED PARTICIPATION REQUIREMENTS.—In the case of any pool referred to in subsection (a), 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 title;

"(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.

"(c) STANDARDS REQUIRING DIVERSIFIED POOLS.—

"(1) IN GENERAL.—To reduce the risks incurred by the Corporation in providing guarantees under this section and to further the purposes of this title, the Board shall establish standards governing the composition of each pool of qualified loans (in connection with which such guarantees are provided) over the period during which the commitment to provide guarantees is effective.

"(2) MINIMUM CRITERIA.—The standards established by the Board pursuant to paragraph (1) for pools of qualified loans shall, at a minimum—

"(A) require that each pool consist of loans that—

"(i) are secured by agricultural real estate that is widely distributed geographically;

"(ii) vary widely in terms of amounts of principal; and

"(iii) in the case of land used in the production of agricultural commodities, are secured by agricultural real estate that, in the aggregate, is used to produce a wide range of agricultural commodities;

"(B) prohibit the inclusion in any such pool of—

"(i) any loan the principal amount of which exceeds 3.5 percent of the aggregate amount of principal of all loans in such pool; and

"(ii) 2 or more loans to related borrowers; and

"(C) require that each pool consist of not less than 50 loans.

"(3) SMALL FARMS AND FAMILY FARMERS.—In establishing the standards described in paragraph (2)(A)(ii), the Board shall include provisions that promote and encourage the inclusion of

loans for small farms and family farmers in pools of qualified loans.

"(4) CONGRESSIONAL REVIEW.—No standard prescribed under this subsection shall take effect before the later of—

"(A) the end of a period consisting of 30 legislative days and beginning on the date such standards are submitted to Congress; or

"(B) the end of a period consisting of 90 calendar days and beginning on such date.

"(d) 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 8.13 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) LOANS WITH RECOURSE TO ORIGINATOR PROHIBITED.—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).

"(5) COMPLIANCE WITH DIVERSIFIED POOL STANDARDS.—The facility shall comply with the standards adopted by the Board under subsection (c) in establishing and maintaining the pool.

"(6) 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.

"(7) 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.

"(e) ADDITIONAL AUTHORITY OF THE 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;

"(2) registration requirements (if any) with respect to such securities; and

"(3) transfer requirements.

"(f) AGGREGATE PRINCIPAL AMOUNTS OF QUALIFIED LOANS.—

"(1) INITIAL YEAR.—During the first year after the effective date of this title, 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.

12 USC 2279aa-7.

"SEC. 8.7. RESERVES AND SUBORDINATED PARTICIPATION INTERESTS OF CERTIFIED FACILITIES.

"(a) CASH CONTRIBUTIONS.—

"(1) CONTRIBUTIONS BY ORIGINATORS.—For each pool of loans, a certified facility and the participating originators may each contribute a share of the minimum reserve required under section 8.6(b)(2).

"(2) COMPOSITION OF RESERVES.—The reserves required under this section, other than retained subordinated participation interests, shall be held in the form of United States Treasury securities or other securities issued, guaranteed, or insured by an agency or instrumentality of the United States Government.

"(3) USE AND DISPOSITION OF ASSETS IN RESERVE.—Subject to the requirements of subsection (c), any certified facility that establishes a reserve pursuant to this subsection shall be required by the Corporation to maintain such reserve as a segregated account consisting of the amounts contributed (but not

the earnings accruing on such amounts) to ensure the repayment of principal of, and the payment of interest on, the securities representing an interest in, or obligations backed by, the pool of qualified loans with respect to which such reserve is established.

"(b) RETENTION OF SUBORDINATED PARTICIPATION INTERESTS.—

"(1) IN GENERAL.—A certified facility may meet the requirements of section 8.6(b)(2) with respect to any pool of qualified loans by retaining a subordinated participation interest in each loan included in each such pool in an amount not less than the amount that is equal to 10 percent of the principal amount of such loan.

"(2) RETENTION OF SUCH INTERESTS BY LOAN ORIGINATORS.—Under the terms of the sale of any qualified loan by the originator of such loan to a certified facility, the originator of such loan may agree to retain a subordinated participation interest in such loan and the amount of the subordinated interest so retained by such loan originator shall be attributed to the facility for purposes of determining whether the requirements of paragraph (1) have been met.

"(3) DISTRIBUTION RIGHTS OF HOLDERS OF SUBORDINATED INTERESTS.—The rights of the holders of the subordinated participation interests to receive distributions with respect to the loans constituting the pool shall be subordinated as prescribed by the Corporation to enhance the likelihood of regular receipt by the other holders of interests in such pool of the full amount of scheduled payments of principal and interest on loans constituting the pool.

"(c) ADDITIONAL REQUIREMENTS RELATING TO SECTION 8.6(b)(2) RESERVES.—

"(1) DISTRIBUTION OF EARNINGS ACCRUING IN SECTION 8.6(b)(2) RESERVES.—In the case of each applicable loan pool, a certified facility shall distribute to originators, at least semiannually, any earnings on the contributions of the originators to the reserve.

"(2) EXCEPTION FOR WITHDRAWALS THAT WOULD DECREASE RESERVE LEVELS BELOW RESERVE REQUIREMENT.—No withdrawal and distribution authorized under paragraph (1) may be made to the extent such withdrawal would cause the reserve to fall below the amount required to be held in such reserve under section 8.6(b)(2).

"(3) SEPARATE LOAN LOSS ACCOUNTING.—Any certified facility that maintains a reserve (pursuant to section 8.6(b)(2)) to which any originator has contributed shall maintain separate loan loss accounting for each loan for which a contribution was made by such originator to such reserve.

"(4) LOAN LOSS ATTRIBUTION RULE.—Except for that portion of losses absorbed by a contribution of a certified facility to the reserve as provided in subsection (a)(1), each originator participating in the pool shall absorb any losses on loans originated up to the total amount the originator has contributed to the reserve before the losses are absorbed by the contributions of other originators who are participating in the pool.

"(d) AUTHORITY OF BOARD TO ESTABLISH OTHER POLICIES AND PROCEDURES.—The Board may establish such other policies and procedures with respect to—

"(1) the establishment of reserves and the retention of subordinated participation interests under this section; and

"(2) the manner in which such reserves or interests shall be available to make payments of interest on, and repayments of principal of, securities for which the Corporation has provided guarantees, as the Board determines to be necessary or appropriate to carry out the purposes of this title.

12 USC 2279aa-8.

"SEC. 8.8. STANDARDS FOR QUALIFIED LOANS.

"(a) STANDARDS.—Not later than 120 days after the appointment and election of the Board, the Corporation, in consultation with originators, shall establish uniform underwriting, security appraisal, and repayment standards for qualified 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 title 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) 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 borrower 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 site 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 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) CONGRESSIONAL REVIEW.—No standard prescribed under subsection (a) 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.

"(e) NONDISCRIMINATION REQUIREMENT.—The standards established under subsection (a) shall not discriminate against small originators or small agricultural mortgage loans that are at least $50,000.

"SEC. 8.9. EXEMPTION FROM RESTRUCTURING AND BORROWERS RIGHTS PROVISIONS FOR POOLED LOANS. 12 USC 2279aa-9.

"(a) RESTRUCTURING.—Notwithstanding any other provision of law, sections 4.14, 4.14A, 4.14B, 4.14C, and 4.37 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, 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 4.14, 4.14A, 4.14B, 4.14C, and 4.37 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 4.14, 4.14A, 4.14B, 4.14C, and 4.37, if applicable.

"SEC. 8.10. FUNDING FOR GUARANTEE; RESERVES OF CORPORATION. 12 USC 2279aa-10.

"(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) ANNUAL REVIEW BY GAO.—The Comptroller General of the United States shall annually review, and submit to the Congress a report regarding, the actuarial soundness and reasonableness of the fees established by the Corporation under this subsection. Reports.

"(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 8.13 in order to meet the obligations of the Corporation with respect to any guarantees provided under this title 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 title to recover its costs for performing such administration.

12 USC 2279aa-11.

"SEC. 8.11. SUPERVISION, EXAMINATION, AND REPORT OF CONDITION.

"(a) REGULATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, 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 title, including through the use of the enforcement powers of the Farm Credit Administration under part C of title V.

"(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.

"(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.

"SEC. 8.12. SECURITIES IN CREDIT ENHANCED POOLS. 12 USC 2279aa-12.

"(a) FEDERAL LAWS.—

"(1) APPLICABILITY OF CERTAIN FEDERAL SECURITIES LAWS.—For purposes of section 3(a)(2) of the Securities Act of 1933, no security representing an interest in 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 or for purposes of the Investment Company Act of 1940.

"(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 the effective date of this title, 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.— Business and industry.

"(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 the date of the enactment of this title, 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.—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 title that is included in a pool for which the Corporation has provided a guarantee.

12 USC 2279aa-13.

"SEC. 8.13. 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 sections 8.6(b) and 8.10(c) 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 title.

"(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 sections 8.6(b) and 8.10(c) 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 title.

"(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), the Sec-

retary 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) 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, UNITED STATES CODE.—

"(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, United States Code, 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 title.

"SEC. 8.14. FEDERAL JURISDICTION.

12 USC 2279aa-14.

"Notwithstanding section 1349 of title 28, United States Code, 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.".

SEC. 703. GAO AUDIT OF FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

Section 9105(a) of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) FEDERAL AGRICULTURAL MORTGAGE CORPORATION.—

"(A) AUDITS AUTHORIZED.—Notwithstanding any other provision of law and under such regulations as the Comptroller General may prescribe, the Comptroller General shall perform a financial audit of the Federal Agricultural Mortgage Corporation on whatever basis the Comptroller General determines to be necessary.

"(B) COOPERATION OF CORPORATION REQUIRED.—The Federal Agricultural Mortgage Corporation shall—

"(i) make available to the Comptroller General for audit all records and property of, or used or managed by, the Association which may be necessary for the audit; and

"(ii) provide the Comptroller General with facilities for verifying transactions with the balances or securities held by any depositary, fiscal agent, or custodian.".

12 USC 2279aa note.

SEC. 704. GAO STUDIES.

(a) STUDIES REQUIRED.—The Comptroller General of the United States shall conduct studies of the following:

(1) The implementation of the amendments made by this title by the Federal Agricultural Mortgage Corporation and the effect of the operations of the Corporation on producers, the Farm Credit System, and other lenders, and the capital markets.

(2) The feasibility and appropriateness of promoting the establishment of a secondary market for securities representing interests in, or obligations backed by, pools of agricultural real estate loans for which a guarantee has not been provided by the Federal Agricultural Mortgage Corporation.

(3) The feasibility of expanding the authority granted under the amendments made by this title to authorize the sale of securities based on or backed by a trust or pool consisting of loans made to farm-related and rural small businesses. For purposes of the preceding sentence, the term "farm-related businesses" means businesses 90 percent or more of the annual dollar volume of the sales of which are made to agricultural producers.

(b) SUBMISSION OF REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall transmit to the Congress a report on the studies required by subsection (a), including therein such recommendations for administrative action and legislation as may be appropriate.

SEC. 705. CONFORMING AMENDMENTS.

(a) FEDERAL LAND BANKS.—Section 1.4 (12 U.S.C. 2012) is amended by adding at the end thereof the following new paragraph:

"(23) Operate as an originator and to become certified as a certified facility under title VIII.".

(b) FEDERAL LAND BANK ASSOCIATIONS.—Section 1.15 (12 U.S.C. 2033) is amended by adding at the end thereof the following new paragraph:

"(22) Operate as an originator and to become certified as a certified facility under title VIII.".

(c) FEDERAL INTERMEDIATE CREDIT BANKS.—Section 2.1 (12 U.S.C. 2072) is amended by adding at the end thereof the following new paragraph:

"(21) Operate as an originator and to become certified as a certified facility under title VIII.".

(d) PRODUCTION CREDIT ASSOCIATIONS.—Section 2.12 (12 U.S.C. 2093) is amended by adding at the end thereof the following new paragraph:

"(21) Operate as an originator and to become certified as a certified facility under title VIII.".

Subtitle B—Farmers Home Administration Loans

SEC. 711. IMPROVEMENT OF SECONDARY MARKET OPERATIONS FOR LOANS GUARANTEED BY THE FARMERS HOME ADMINISTRATION.

(a) IN GENERAL.—Section 338 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1988) is amended by adding at the end thereof the following:

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

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

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

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

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

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

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

Secretary and composed solely of the entire guaranteed portion of such loans.

"(B) The Secretary may, on such terms and conditions as the Secretary deems appropriate, guarantee the timely payment of the principal and interest on pool certificates issued on behalf of the Secretary by approved market makers for purposes of this subsection. Such guarantee shall be limited to the extent of principal and interest on the guaranteed portions of loans that compose the pool. If a loan in such pool is prepaid, either voluntarily or by reason of default, the guarantee of timely payment of principal and interest on the pool certificates shall be reduced in proportion to the amount of principal and interest such prepaid loan represents in the pool. Interest on prepaid or defaulted loans shall accrue and be guaranteed by the Secretary only through the date of payment on the guarantee. During the term of the pool certificate, the certificate may be called for redemption due to prepayment or default of all loans constituting the pool.

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

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

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

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

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

Claims.

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

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

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

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

"(B) Before any sale, require the seller to disclose to each prospective purchaser of the portion of a loan guaranteed under

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

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

"(D) Take such actions as are necessary, in restructuring pools of the guaranteed portion of loans, to minimize the estimated costs of paying claims under guarantees issued under this subsection.

"(E) Require each market maker—

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

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

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

"(4)(A) Not later than March 31 of each year, the Secretary shall transmit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report on the secondary market operations under this subsection during the preceding calendar year. Reports.

"(B) Each report under subparagraph (A) shall include—

"(i) the number and the total dollar amount of loans sold in the secondary market and the distribution of such loans by size of loan, size of lender, geographic location of lender, interest rate, maturity, lender servicing fees, whether the interest rate is fixed or variable, and premium paid;

"(ii) the number and dollar amount of loans resold in the secondary market and the distribution of such loans by size of loan, interest rate, and premiums;

"(iii) the number and total dollar amount of pools formed;

"(iv) the number and total dollar amount of loans in each pool;

"(v) the dollar amount, interest rate, and terms on each loan in each pool, and whether the interest rate is fixed or variable;

"(vi) the number, face value, interest rate, and terms of the pool certificates issued for each pool;

"(vii) to the maximum extent possible, the use by the lender of the proceeds of sales of loans in the secondary market for additional lending to farmers; and

"(viii) an analysis of the information reported in clauses (i) through (vii) to assess farmers' access to capital at reasonable rates and terms as a result of secondary market operations.".

(b) REGULATIONS.—Within 180 days after the date of the enactment of this Act, the Secretary shall develop and promulgate final regulations to implement this section and the amendment made by this section. 7 USC 1988 note.

(c) POOL CERTIFICATES NOT TO BE ISSUED UNTIL FINAL REGULATIONS TAKE EFFECT.—The Secretary of Agriculture shall not implement paragraph (2) of section 338(f) of the Consolidated Farm and Rural 7 USC 1988 note.

Development Act, as added by subsection (a), until the final regulations governing the administration of such paragraph take effect.

TITLE VIII—MISCELLANEOUS

SEC. 801. OWNERSHIP REQUIREMENT UNDER THE CONSERVATION RESERVE PROGRAM.

Section 1235(a)(1) of the Food Security Act of 1985 (16 U.S.C. 3835(a)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or" and

(3) by adding at the end thereof the following new subparagraph:

"(D) the ownership change occurred due to foreclosure on the land and the owner of the land immediately before the foreclosure exercises a right of redemption from the mortgage holder in accordance with State law.".

SEC. 802. REPEAL OF PREAPPROVAL AND RELATED AUTHORITIES.

(a) APPROVAL OF AMENDMENTS TO FEDERAL LAND BANK CHARTERS.—Section 1.3 (12 U.S.C. 2011) is amended by striking out the second sentence and inserting in lieu thereof "The Farm Credit Administration shall approve amendments consistent with this Act to charters of Federal land banks.".

(b) FEDERAL LAND BANK POWERS.—Section 1.4 (12 U.S.C. 2012) is amended—

(1) in paragraph (15), by striking out "and approved by" and inserting in lieu thereof "in accordance with regulations of";

(2) in paragraph (21), by striking out "as" and by inserting in lieu thereof "in accordance with generally accepted accounting principles, except as may be"; and

(3) in paragraph (22), by striking out "and approved by the Farm Credit Administration".

(c) LAND BANK STOCK.—Section 1.5 (12 U.S.C. 2013) is amended—

(1) in subsection (a), by striking out "with the approval of the Farm Credit Administration";

(2) in subsection (d), by striking out "and approved by the Farm Credit Administration"; and

(3) in subsection (f), by striking out "the Farm Credit Administration may approve" and inserting in lieu thereof "may be approved by the board of directors of the bank".

(d) SECURITY FOR FEDERAL LAND BANK LOANS.—Section 1.9 (12 U.S.C. 2017) is amended—

(1) in the first sentence, by striking out "approved by" and inserting in lieu thereof "prescribed by regulations of"; and

(2) in the second sentence, by striking out "and approved by" and inserting in lieu thereof "in accordance with regulations of".

(e) FCA AUTHORITY OVER FEDERAL LAND BANK ASSOCIATIONS.—The last sentence of section 1.13 (12 U.S.C. 2031) is amended—

(1) by striking out "or by approving bylaws of the association,";

(2) by striking out "direct at any time changes in" and inserting in lieu thereof "approve amendments to"; and

(3) by striking out "as" and all that follows through "Act".

(f) LAND BANK RESERVES.—Section 1.17 (12 U.S.C. 2051) is amended—

(1) in subsection (a), by inserting "regulations of" before "the Farm Credit Administration"; and

(2) in subsection (b)—

(A) by striking out "(1)"; and

(B) by striking out "hereof, and (2) the approval of the Farm Credit Administration".

(g) ASSOCIATION RESERVES.—Section 1.18(a) (12 U.S.C. 2052(a)) is amended by inserting "regulations of" before "the Farm Credit Administration".

(h) FEDERAL INTERMEDIATE CREDIT BANK, ESTABLISHMENT.—Section 2.0 (12 U.S.C. 2017) is amended by striking out the second sentence and inserting in lieu thereof "The Farm Credit Administration shall approve amendments consistent with this Act to charters of Federal intermediate credit banks.". 12 USC 2071.

(i) FEDERAL INTERMEDIATE CREDIT BANK, CORPORATE POWERS.—Section 2.1 (12 U.S.C. 2018) is amended— 12 USC 2072.

(1) in paragraph (13), by striking out "and approved by" and inserting in lieu thereof "in accordance with regulations of"; and

(2) in paragraph (18), by striking out "and approved by the Farm Credit Administration".

(j) FEDERAL INTERMEDIATE CREDIT BANK, STOCK.—Section 2.2 (12 U.S.C. 2019) is amended— 12 USC 2073.

(1) in subsection (a), by striking out "with the approval of the Farm Credit Administration";

(2) in subsection (d), by striking out "and approved by the Farm Credit Administration"; and

(3) in subsection (g)—

(A) in the first paragraph, by striking out ", with the approval of the Farm Credit Administration,";

(B) in the second paragraph, by striking out ", with approval of the Farm Credit Administration,"; and

(C) in the first sentence of the fourth paragraph, by striking out "under" and inserting in lieu thereof "in accordance with".

(k) NET EARNINGS.—The second sentence of section 2.6(c) (12 U.S.C. 2077(a)) is amended—

(1) by striking out "approved" and inserting in lieu thereof "established"; and

(2) by inserting after "Administration" the following "in regulations".

(l) PRODUCTION CREDIT ASSOCIATIONS, CHARTER.—The last sentence of section 2.10 (12 U.S.C. 2019) is amended— 12 USC 2091.

(1) by striking out "or by approval of bylaws of the association,"; and

(2) by striking out "direct" and all that follows through the period and inserting in lieu thereof "approve amendments to the charter of such association.".

(m) BANKS FOR COOPERATIVES, ESTABLISHEMNT.—Section 3.0 (12 U.S.C. 2121) is amended by striking out the second sentence and inserting in lieu thereof "The Farm Credit Administration shall approve amendments consistent with this Act to charters and organizational certificates of banks for cooperatives.".

(n) BANKS FOR COOPERATIVES, CORPORATION.—Section 3.1 (12 U.S.C. 2122) is amended by striking out "and approved by the Farm Credit Administration" each place it appears.

(o) BANKS FOR COOPERATIVES, STOCK.—Section 3.3 (12 U.S.C. 2124) is amended—

(1) in subsection (a), by striking out ", with the approval of the Farm Credit Administration,";

(2) in subsection (b), by striking out "with the approval of the Farm Credit Administration"; and

(3) in subsection (e), by striking out "and approved by the Farm Credit Administration".

(p) BANKS FOR COOPERATIVES, RETIREMENT OF STOCK.—Section 3.5 (12 U.S.C. 2125) is amended by striking out "with approval of the Farm Credit Administration". 12 USC 2126.

(q) OWNERSHIP OF STOCK.—Section 3.9(a) (12 U.S.C. 2130(a)) is amended—

(1) in the first sentence, by striking out "with the approval of the Farm Credit Administration";

(2) in the second sentence, by striking out ", with the approval of the Farm Credit Administration,"; and

(3) in the third sentence, by striking out "as may be approved by the Farm Credit Administration".

(r) EARNINGS AND RESERVES.—Section 3.11 (12 U.S.C. 2131) is amended— 12 USC 2132.

(1) in subsection (b), by striking out "as may be approved by the Farm Credit Administration";

(2) in subsection (c), by striking out "the Farm Credit Administration may approve" and inserting in lieu thereof "may be approved by the board of directors"; and

(3) in subsection (d), by striking out "the Farm Credit Administration may approve" and inserting in lieu thereof "may be approved by the board of directors".

(s) POWERS OF THE FARM CREDIT ADMINISTRATION.—Section 4.26 (12 U.S.C. 2212) is amended—

(1) by striking out "or by prescribing in the terms of the charter or by approval of the bylaws of the corporation";

(2) by striking out "direct at any time" and all that follows through the period at the end of the first sentence and inserting in lieu thereof "approve amendments consistent with this Act to charters or articles of service corporations."; and

(3) by striking out the second sentence.

(t) SUPERVISION.—The heading of section 4.27 (12 U.S.C. 2213) is amended by striking out "SUPERVISION" and inserting in lieu thereof "REGULATION".

(u) DISTRICT ELECTIONS.—Section 5.2 (12 U.S.C. 2223) is amended—

(1) in subsection (b)—

(A) by striking out "Farm Credit Administration" the first place it appears and inserting in lieu thereof "district election committee of the district where the election will be held"; and

(B) by striking out "Farm Credit Administration" each place it appears thereafter and inserting in lieu thereof "district election committee";

(2) in subsection (c)—

(A) by striking out "Farm Credit Administration" the first place it appears and inserting in lieu thereof "district

election committee of the district where the election will be held";

(B) by striking out "Farm Credit Administration" each place it appears thereafter and inserting in lieu thereof "district election committee"; and

(C) by striking out "(b)" and inserting in lieu thereof "(c)"; and

(3) by redesignating subsections (b), (c), and (d), as subsections (c), (d), and (e), respectively, and inserting after subsection (a) the following:

"(b) Each district board shall designate a district election committee. No member of such district election committee shall be a candidate for election to the district board. The responsibilities and authorities of the district election committee, delegated by the district board, shall be those set forth in this section.".

(v) FARM CREDIT ADMINISTRATION, POWERS.—Section 5.17 (12 U.S.C. 2251) is amended— 12 USC 2252.

(1) in subsection (a)—

(A) in paragraph (2), by striking out "amend or modify" and inserting in lieu thereof "approve amendments to"; and

(B) in paragraph (5), by striking out "that meet standards and criteria" and all that follows through "refunds by Farm Credit System institutions"; and

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following:

"(b) 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.".

(w) TRANSITION RULES RELATING TO AMENDMENT OF CERTAIN FCA APPROVAL AUTHORITIES.—Part D of title V (12 U.S.C. 2001 note, et seq.) is amended by adding at the end thereof the following new section:

"SEC. 5.45. TRANSITION RULES RELATING TO AMENDMENT OF CERTAIN FCA APPROVAL AUTHORITIES. 12 USC 2275a.

"(a) IN GENERAL.—Any approvals granted by the Farm Credit Administration before the date of the enactment of this section 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 the date of the enactment of this section.

"(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 5.17(a)(5).".

SEC. 803. SALE OF RURAL DEVELOPMENT NOTES.

Section 1001 of the Omnibus Budget Reconciliation Act of 1986 (7 U.S.C. 1929a note) is amended by adding at the end thereof the following new subsections:

"(f) RIGHT OF FIRST REFUSAL.—

"(1) IN GENERAL.—Before conducting a sale of a portfolio of notes or other obligations under this section, the Secretary of Agriculture shall—

"(A) determine whether the issuer of any unsold note or other obligation desires to purchase the note or other obligation; and

"(B) if so, hold open for 30 days, an offer to sell the note or other obligation to the issuer at a price to be determined under paragraph (2).

"(2) DETERMINATION OF OFFERING PRICE.—

"(A) AUTHORITY.—The Secretary of Agriculture shall determine, in accordance with subparagraph (B), the price at which a note or other obligation shall be offered for sale under this subsection.

"(B) PRICE.—Such price shall be determined by discounting the payment stream of such note or other obligation at the yield on the then most recent sale of the portfolio, adjusted for changes in market interest rates, servicing and sales expenses, and the maturity and interest rate of such note.

"(3) PROHIBITIONS.—

"(A) PURCHASE OF OBLIGATION NOT TIED TO PURCHASE OF OTHER OBLIGATIONS.—The Secretary of Agriculture shall not require the issuer of any unsold note or other obligation to be offered for sale under this subsection to purchase any other such note or other obligation as a condition of the sale of any such note or other obligation to the issuer.

"(B) OFFER TO BE MADE WITHOUT REGARD TO FINANCING.—The Secretary shall offer notes or other obligations for sale to the issuers thereof under this subsection without regard to the manner in which such issuers intend to finance the purchase of such notes or other obligations. However, the price of sale to any issuer using tax exempt financing shall be determined using a yield reflective of the Schedule of Certified Interest Rates as published monthly by the Secretary of the Treasury.

"(g) APPLICABILITY OF PROHIBITION ON CURTAILMENT OR LIMITATION OF SERVICE.—Section 306(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(b)) shall be applicable to all notes or other obligations sold or intended to be sold under this section.".

SEC. 804. OTHER CONFORMING AMENDMENTS.

(a) JURISDICTION AND ENFORCEMENT; PENALTIES.—

(1) JURISDICTION AND ENFORCEMENT.—Section 5.31 (12 U.S.C. 2267) is amended by adding at the end thereof the following: "For purposes of this section, any directive issued under section 4.3(b)(2), 4.3A(e), or 4.14A(i) shall be treated as an effective and outstanding order issued under section 5.25 that has become final.".

(2) PENALTIES.—Section 5.32 (12 U.S.C. 2268) is amended by adding at the end thereof the following:

"(h) For purposes of this section, any directive issued under section 4.3(b)(2), 4.3A(e), or 4.14A(i) shall be treated as an order that has become final and was issued under section 5.25.".

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 4.3(b) (12 U.S.C. 2154(b)(2)) is amended—

(A) by striking out "(A)"; and

(B) by striking out subparagraph (B).

(b) AMENDMENT TO PART HEADING.—The part heading of part C of title IV is amended to read as follows:

"PART C—RIGHTS OF BORROWERS; LOAN RESTRUCTURING".

SEC. 805. TECHNICAL AMENDMENTS.

(a) Section 1.2 is amended by striking out "the regulation" and inserting in lieu thereof "regulation". 12 USC 2002.

(b) Section 1.15(12) is amended by striking out "or delegated to". 12 USC 2033.

(c) Section 1.20 is amended by striking out "by or other" and inserting in lieu thereof "by other". 12 USC 2054.

(d) Section 2.1(18) is amended by striking out the comma at the end and inserting in lieu thereof a period. 12 USC 2072.

(e) Section 2.2 is amended— 12 USC 2073.

(1) in subsection (d), by striking out "be issued to" the first place it appears;

(2) in subsection (f)—

(A) by striking out "other"; and

(B) by inserting "of" after "with regard to the payment";

(3) in the second sentence of the fourth undesignated paragraph of subsection (g)—

(A) by striking out "other" the first place it appears; and

(B) by inserting "the" before "Farm Credit Administration"; and

(4) in subsection (h), by striking out "the Farm Credit Administration or".

(f) Section 2.6 is amended— 12 USC 2077.

(1) in subsection (c), by striking out the last sentence; and

(2) by redesignating subsections (c) and (d), as subsections (a) and (b), respectively.

(g) The last sentence of section 2.10 is amended by inserting "the" before "Farm Credit Administration" the second place it appears. 12 USC 2091.

(h) Section 2.13 is amended— 12 USC 2094.

(1) in subsection (c), by striking out "to other"; and

(2) in subsection (d)—

(A) by striking out "other" the first place it appears; and

(B) by inserting a comma after "noncumulative)".

(i) The section heading for section 2.15 is amended by striking out the comma and inserting in lieu thereof a semicolon. 12 USC 2096.

(j) Section 2.17 is amended by inserting ", except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder" before the period at the end. 12 USC 2098.

(k) Section 3.3(d) is amended by striking out "by" the first place it appears. 12 USC 2124.

(l) Section 3.4 is amended by striking out "other than stock held by the Farm Credit Administration,". 12 USC 2125.

(m) Section 3.8 is amended—

(1) by redesignating subsection (1) as subsection (a); 12 USC 2129.

(2) by redesignating paragraphs (a), (b), (c), and (d) of the subsection redesignated by paragraph (1) of this subsection, as paragraphs (1), (2), (3), and (4), respectively;

(3) by redesignating clauses (1), (2), and (3) of the paragraph redesignated as paragraph (4) by paragraph (2) of this subsection, as clauses (A), (B), and (C), respectively;

(4) in the clause redesignated as clause (C) by paragraph (4), by striking out "(2)" and inserting in lieu thereof "(B)".

12 USC 2132. (n) Section 3.11 is amended—

(1) in subsection (b)—

(A) by striking out "(c) and (d)" and inserting in lieu thereof "(b) and (c)"; and

(B) by striking out the last sentence;

(2) in subsection (c)—

(A) by striking out "(b) of this section, whichever is applicable," and inserting in lieu thereof "(a)"; and

(B) by striking out "(d)" and inserting in lieu thereof "(c)";

(3) in subsection (d), by striking out "(b) whichever is applicable," and inserting in lieu thereof "(a)";

(4) in subsection (g)—

(A) by striking out "or (b)"; and

(B) by striking out "For any year that a bank for cooperatives is subject to Federal income tax, it" and inserting in lieu thereof "A bank for cooperatives"; and

(5) by redesignating subsections (b), (c), (d), (e), (f), and (g), as subsections (a), (b), (c), (d), (e), and (f), respectively.

12 USC 2133. (o) Section 3.12 is amended by inserting "the" before "Farm Credit Administration".

12 USC 2134. (p) Section 3.13 is amended by inserting ", except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder" before the period at the end.

12 USC 2154. (q) Section 4.3(c) is amended by striking out "direct of fully guaranteed" and inserting in lieu thereof "direct or fully guaranteed".

12 USC 2183. (r) Section 4.12(b) is amended by striking out "court, shall" and inserting in lieu thereof "court shall,".

12 USC 2202. (s) Section 4.14 is amended—

(1) by striking out "committee(s)" and inserting in lieu thereof "committees";

(2) by striking out "4.13" and inserting in lieu thereof "4.13B"; and

(3) by striking out "reviews" and inserting in lieu thereof "review".

(t) Title IV is amended—

(1) by inserting above and before section 4.15 the following:

"PART D—ACTIVITIES OF INSTITUTIONS OF THE SYSTEM"; and

12 USC 2211. (2) by redesignating part D as part E.

12 USC 2218, 2219. (u) Title IV is amended by redesignating parts E and F, as parts G and H, respectively.

12 USC 2221. (v) Section 5.0 is amended by striking out "5.17(2)" and inserting in lieu thereof "5.17(a)(2)".

12 USC 2243. (w) The section heading of section 5.9 is amended by striking out "; CIVIL PROCEEDINGS".

12 USC 2245. (x) Section 5.11 is amended by striking out the last sentence.

(y) Section 5.16 is amended by transferring the 4 sentences immediately following paragraph (4) to just before the last sentence of such section. 12 USC 2251.

(z) Section 5.17(a) is amended— 12 USC 2252.

(1) by striking out paragraph (13); and

(2) by redesignating paragraphs (14) and (15), as paragraphs (13) and (14), respectively.

(aa) Section 5.28 is amended— 12 USC 2264.

(1) by inserting "(a)" before "Whenever" the first place it appears; and

(2) in subsection (e), by striking out "(d)(3)" and inserting in lieu thereof "(d)".

(bb) Section 5.29 is amended— 12 USC 2265.

(1) in subsection (a)—

(A) by striking out "interest" and inserting in lieu thereof "interests";

(B) by striking out "the investors in the" and inserting in lieu thereof "investors in"; and

(C) by inserting "the" before "Farm Credit System" the third place it appears.

(2) in subsection (b), by striking out "in Farm Credit System obligations" and inserting in lieu thereof "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".

(cc) Section 5.30 is amended by striking out "subsection (g)" and inserting in lieu thereof "section". 12 USC 2266.

(dd) Section 5.32(f) is amended by striking out "sections 5.31 and 5.32" and inserting in lieu thereof "section 5.31 and this section". 12 USC 2268.

(ee) Section 5.37 is amended by striking out "claims,". 12 USC 2273.

(ff) Section 5.41 is amended— 12 USC 393.

(1) by striking out subsection (a); and

(2) by striking out "(b)".

TITLE IX—REGULATIONS

SEC. 901. EFFECTIVE DATES. 12 USC 2001 note.

(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 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.

(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 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) (other than section 4.13(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 title, 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)) (in effect immediately before the date of the enactment of this Act) shall remain in effect for 120 days after such date of enactment.

Approved January 6, 1988.

LEGISLATIVE HISTORY—H.R. 3030 (S. 1665):

HOUSE REPORTS: No. 100-295, Pt. 1 (Comm. on Agriculture) and No. 100-490 (Comm. of Conference).

SENATE REPORTS: No. 100-230 accompanying S. 1665 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 133 (1987):
Sept. 21, Oct. 6, considered and passed House.
Dec. 1, 2, S. 1665 considered in Senate.
Dec. 2, 4, H.R. 3030 considered and passed Senate, amended, in lieu of S. 1665.
Dec. 18, House agreed to conference report.
Dec. 19, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Jan. 6, Presidential remarks.