

borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided*, That if the security instrument securing such loan is foreclosed such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

(b) Moratorium

(1) In general

Subject to the other provisions of this subsection, effective beginning on the date of the enactment of this subsection, there shall be in effect a moratorium, with respect to farmer program loans made under subchapter I, II, or III, on all acceleration and foreclosure proceedings instituted by the Department of Agriculture against any farmer or rancher who—

(A) has pending against the Department a claim of program discrimination that is accepted by the Department as valid; or

(B) files a claim of program discrimination that is accepted by the Department as valid.

(2) Waiver of interest and offsets

During the period of the moratorium, the Secretary shall waive the accrual of interest and offsets on all farmer program loans made under subchapter I, II, or III for which loan acceleration or foreclosure proceedings have been suspended under paragraph (1).

(3) Termination of moratorium

The moratorium shall terminate with respect to a claim of discrimination by a farmer or rancher on the earlier of—

(A) the date the Secretary resolves the claim; or

(B) if the farmer or rancher appeals the decision of the Secretary on the claim to a court of competent jurisdiction, the date that the court renders a final decision on the claim.

(4) Failure to prevail

If a farmer or rancher does not prevail on a claim of discrimination described in paragraph (1), the farmer or rancher shall be liable for any interest and offsets that accrued during the period that loan acceleration or foreclosure proceedings have been suspended under paragraph (1).

(Pub. L. 87-128, title III, § 331A, as added Pub. L. 95-334, title I, § 122, Aug. 4, 1978, 92 Stat. 427; amended Pub. L. 101-624, title XXIII, § 2303(b), Nov. 28, 1990, 104 Stat. 3981; Pub. L. 110-234, title XIV, § 14002(a), May 22, 2008, 122 Stat. 1442; Pub. L. 110-246, § 4(a), title XIV, § 14002(a), June 18, 2008, 122 Stat. 1664, 2204.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsec. (a), see note set out under section 1921 of this title.

The date of the enactment of this subsection, referred to in subsec. (b)(1), is the date of enactment of Pub. L. 110-246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub.

L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:

Pub. L. 102-341, title III, Aug. 14, 1992, 106 Stat. 897.

Pub. L. 102-142, title III, Oct. 28, 1991, 105 Stat. 902.

Pub. L. 101-506, title II, Nov. 5, 1990, 104 Stat. 1333.

Pub. L. 101-161, title II, Nov. 21, 1989, 103 Stat. 969.

Pub. L. 100-460, title II, Oct. 1, 1988, 102 Stat. 2246.

Pub. L. 100-202, § 101(k) [title II], Dec. 22, 1987, 101 Stat. 1329-322, 1329-340.

Pub. L. 99-500, § 101(a) [title II], Oct. 18, 1986, 100 Stat. 1783, 1783-16, and Pub. L. 99-591, § 101(a) [title II], Oct. 30, 1986, 100 Stat. 3341, 3341-16.

Pub. L. 99-190, § 101(a) [H.R. 3037, title II], Dec. 19, 1985, 99 Stat. 1185; Pub. L. 100-202, § 106, Dec. 22, 1987, 101 Stat. 1329-433.

Pub. L. 97-370, title II, Dec. 18, 1982, 96 Stat. 1800.

AMENDMENTS

2008—Pub. L. 110-246, § 14002(a), designated existing provisions as subsec. (a) and added subsec. (b).

1990—Pub. L. 101-624 inserted “or by the Rural Development Administration” after “Farmers Home Administration”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

FORBEARANCE AND RESTRUCTURING FOR FARM LOANS

Pub. L. 100-387, title III, § 313(a), Aug. 11, 1988, 102 Stat. 949, provided that: “It is the sense of Congress that the Secretary of Agriculture should, with respect to farmers and ranchers who suffer major losses due to drought, hail, excessive moisture, or related condition in 1988—

“(1) exercise forbearance in the collection of interest and principal on direct farmer program loans under the Consolidated Farm and Rural Development Act [7 U.S.C. 1921 et seq.] outstanding for such farmers and ranchers;

“(2) expedite the use of credit restructuring and other credit relief mechanisms authorized under the Agricultural Credit Act of 1987 [Pub. L. 100-233, Jan. 6, 1988, 101 Stat. 1568, see Tables for classification] and similar provisions of law for such farmers and ranchers; and

“(3) encourage commercial lenders participating in guaranteed farmer lending programs under the Consolidated Farm and Rural Development Act to exercise forbearance before declaring loans to such farmers and ranchers under such programs in default.”

§ 1981b. Farm loan interest rates

Any loan for farm ownership purposes under subchapter I of this chapter, farm operating purposes under subchapter II of this chapter, or disaster emergency purposes under subchapter III of this chapter, other than a guaranteed loan, that is deferred, consolidated, rescheduled, or reamortized under this chapter shall, notwithstanding any other provision of this chapter, bear interest on the balance of the original loan and for the term of the original loan at a rate that is the lowest of—

(1) the rate of interest on the original loan;

(2) the rate being charged by the Secretary for loans, other than guaranteed loans, of the same type at the time at which the borrower applies for a deferral, consolidation, rescheduling, or reamortization; or

(3) the rate being charged by the Secretary for loans, other than guaranteed loans, of the same type at the time of the deferral, consolidation, rescheduling, or reamortization.

(Pub. L. 87-128, title III, § 331B, as added Pub. L. 98-258, title VI, § 605, Apr. 10, 1984, 98 Stat. 139; amended Pub. L. 107-171, title V, § 5305, May 13, 2002, 116 Stat. 345.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 1921 of this title.

AMENDMENTS

2002—Pub. L. 107-171 substituted “lowest of—” for “lower of”, realigned margins for pars., substituted “original loan;” for “original loan or (2) the”, added par. (2), and redesignated former par. (2) as (3).

ADJUSTMENT OF INTEREST RATES

Pub. L. 100-71, title I, July 11, 1987, 101 Stat. 428, provided that: “The Secretary may adjust interest rates on existing nonsubsidized loans if he determines such interest rates are excessive in relation to prevailing commercial rates for comparable loans: *Provided*, That such rate adjustments shall constitute a change in the loan agreement and not a new loan.”

§ 1981c. Oil and gas royalty payments on loans

(a) The Secretary shall permit a borrower of a loan made or insured under this chapter to make a prospective payment on such loan with proceeds from—

(1) the leasing of oil, gas, or other mineral rights to real property used to secure such loan; or

(2) the sale of oil, gas, or other minerals removed from real property used to secure such loan, if the value of the rights to such oil, gas, or other minerals has not been used to secure such loan.

(b) Subsection (a) of this section shall not apply to a borrower of a loan made or insured under this chapter with respect to which a liquidation or foreclosure proceeding is pending on December 23, 1985.

(Pub. L. 87-128, title III, § 331C, as added Pub. L. 99-198, title XIII, § 1310(a), Dec. 23, 1985, 99 Stat. 1523.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 1921 of this title.

§ 1981d. Notice of loan service programs

(a) Requirement

The Secretary shall provide notice by certified mail to each borrower who is at least 90 days past due on the payment of principal or interest on a loan made or insured under this chapter.

(b) Contents

The notice required under subsection (a) of this section shall—

(1) include a summary of all primary loan service programs, preservation loan service programs, debt settlement 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 consid-

ered, 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 chapter.

(d) Timing

The notice described in subsection (b) of this section 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 60 days after receipt of the notice required in this section or, in extraordinary circumstances as determined by the applicable State director, after the 60-day period, 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.

(Pub. L. 87-128, title III, § 331D, as added Pub. L. 100-233, title VI, § 605, Jan. 6, 1988, 101 Stat. 1666; amended Pub. L. 101-624, title XVIII, § 1807, Nov. 28, 1990, 104 Stat. 3819; Pub. L. 102-554, § 10, Oct. 28, 1992, 106 Stat. 4151; Pub. L. 104-127, title VI, § 633, Apr. 4, 1996, 110 Stat. 1092.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsecs. (a) and (c), see note set out under section 1921 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-127 substituted “90 days past due on” for “180 days delinquent in”.

1992—Subsec. (e). Pub. L. 102-554, which directed the insertion of “or, in extraordinary circumstances as determined by the applicable State director, after the 60-day period” after “not later than 60 days after receipt of the notice required in this section”, was executed by making the insertion after “within 60 days after receipt of the notice required in this section” to reflect the probable intent of Congress.

1990—Subsec. (b)(1). Pub. L. 101-624, § 1807(1), inserted “debt settlement programs,” after “preservation loan service programs”.