

(Pub. L. 87-128, title III, §310G, as added Pub. L. 107-171, title VI, §6018, May 13, 2002, 116 Stat. 361.)

SUBCHAPTER II—OPERATING LOANS

§ 1941. Persons eligible for loans

(a) In general

The Secretary may make and insure loans under this subchapter to farmers and ranchers in the United States, and to farm cooperatives and private domestic corporations, partnerships, joint operations, trusts, and limited liability companies that are controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States, subject to the conditions specified in this section. To be eligible for such loans, applicants who are individuals, or, in the case of cooperatives, corporations, partnerships, joint operations, trusts, and limited liability companies, individuals holding a majority interest in such entity, must (1) be citizens of the United States, (2) for direct loans only, have either training or farming experience that the Secretary determines is sufficient to assure reasonable prospects of success in the proposed farming operations, taking into consideration all farming experience of the applicant, without regard to any lapse between farming experiences, (3) be or will become operators of not larger than family farms (or in the case of cooperatives, corporations, partnerships, joint operations, trusts, and limited liability companies in which a majority interest is held by individuals who are related by blood or marriage, as defined by the Secretary, such individuals must be or will become either owners or operators of not larger than a family farm and at least one such individual must be or will become an operator of not larger than a family farm or, in the case of holders of the entire interest who are related by blood or marriage and all of whom are or will become farm operators, the ownership interest of each such holder separately constitutes not larger than a family farm, even if their interests collectively constitute larger than a family farm, as defined by the Secretary), and (4) be unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. In addition to the foregoing requirements of this subsection, in the case of corporations, partnerships, joint operations, trusts, and limited liability companies, the family farm requirement of clause (3) of the preceding sentence shall apply as well to the farm or farms in which the entity has an operator interest and the requirement of clause (4) of the preceding sentence shall apply as well to the entity in the case of cooperatives, corporations, partnerships, joint operations, trusts, and limited liability companies.

(b) Rural youths in 4-H Clubs, Future Farmers of America, etc.

(1) Loans may also be made under this subchapter without regard to the requirements of clauses (2) and (3) of subsection (a) of this sec-

tion to youths who are rural residents to enable them to operate enterprises in connection with their participation in 4-H Clubs, Future Farmers of America, and similar organizations.

(2) A person receiving a loan under this subsection who executes a promissory note therefor shall thereby incur full personal liability for the indebtedness evidenced by such note in accordance with its terms free of any disability of minority.

(3) For loans under this subsection the Secretary may accept the personal liability of a co-signer of the promissory note in addition to the borrowers' personal liability.

(4) YOUTH ENTERPRISES NOT FARMING OR RANCHING.—The operation of an enterprise by a youth under this subsection shall not be considered the operation of a farm or ranch under this chapter.

(c) Direct loans

(1) In general

Subject to paragraphs (3) and (4), the Secretary may make a direct loan under this subchapter only to a farmer or rancher who—

(A) is a qualified beginning farmer or rancher;

(B) has not received a previous direct operating loan made under this subchapter; or

(C) has received a previous direct operating loan made under this subchapter during 6 or fewer years.

(2) Youth loans

In this subsection, the term "direct operating loan" shall not include a loan made to a youth under subsection (b) of this section.

(3) Transition rule

If, as of April 4, 1996, a farmer or rancher has received a direct operating loan under this subchapter during each of 4 or more previous years, the borrower shall be eligible to receive a direct operating loan under this subchapter during 3 additional years after April 4, 1996.

(4) Waivers

(A) Farm and ranch operations on tribal lands

The Secretary shall waive the limitation under paragraph (1)(C) or (3) for a direct loan made under this subchapter to a farmer or rancher whose farm or ranch land is subject to the jurisdiction of an Indian tribe and whose loan is secured by 1 or more security instruments that are subject to the jurisdiction of an Indian tribe if the Secretary determines that commercial credit is not generally available for such farm or ranch operations.

(B) Other farm and ranch operations

On a case-by-case determination not subject to administrative appeal, the Secretary may grant a borrower a waiver, 1 time only for a period of 2 years, of the limitation under paragraph (1)(C) or (3) for a direct operating loan if the borrower demonstrates to the satisfaction of the Secretary that—

(i) the borrower has a viable farm or ranch operation;

(ii) the borrower applied for commercial credit from at least 2 commercial lenders;

(iii) the borrower was unable to obtain a commercial loan (including a loan guaranteed by the Secretary); and

(iv) the borrower successfully has completed, or will complete within 1 year, borrower training under section 2006a of this title (from which requirement the Secretary shall not grant a waiver under section 2006a(f) of this title).

(Pub. L. 87-128, title III, §311, Aug. 8, 1961, 75 Stat. 310; Pub. L. 92-419, title I, §120(a), Aug. 30, 1972, 86 Stat. 665; Pub. L. 95-334, title I, §114, Aug. 4, 1978, 92 Stat. 425; Pub. L. 97-98, title XVI, §1601(b), Dec. 22, 1981, 95 Stat. 1346; Pub. L. 99-198, title XIII, §§1301(a), 1302(b), 1303, Dec. 23, 1985, 99 Stat. 1518, 1519; Pub. L. 104-127, title VI, §§611, 661(f), Apr. 4, 1996, 110 Stat. 1087, 1107; Pub. L. 105-277, div. A, §101(a) [title VIII, §805(2)], Oct. 21, 1998, 112 Stat. 2681, 2681-39; Pub. L. 107-171, title V, §§5101, 5302(a), May 13, 2002, 116 Stat. 343, 344; Pub. L. 110-234, title V, §5101, May 22, 2008, 122 Stat. 1146; Pub. L. 110-246, §4(a), title V, §5101, June 18, 2008, 122 Stat. 1664, 1907.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsec. (b)(4), see note set out under section 1921 of this title.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Pub. L. 110-246, §5101, inserted section catchline and, in subsec. (a), inserted heading, substituted “The Secretary may” for “The Secretary is authorized to” in introductory provisions, and inserted “, taking into consideration all farming experience of the applicant, without regard to any lapse between farming experiences” after “farming operations” in cl. (2).

2002—Subsec. (a). Pub. L. 107-171, §5302(a), substituted “joint operations, trusts, and limited liability companies” for “and joint operations” wherever appearing.

Subsec. (c)(1). Pub. L. 107-171, §5101(1)(A), substituted “paragraphs (3) and (4)” for “paragraph (3)” in introductory provisions.

Subsec. (c)(1)(A). Pub. L. 107-171, §5101(1)(B), struck out “who has not operated a farm or ranch, or who has operated a farm or ranch for not more than 5 years” before semicolon.

Subsec. (c)(4). Pub. L. 107-171, §5101(2), added par. (4). 1998—Subsec. (a). Pub. L. 105-277 inserted “for direct loans only,” before “have either” in cl. (2).

1996—Subsec. (b)(1). Pub. L. 104-127, §661(f), struck out “and for the purposes specified in section 1942 of this title” before period at end.

Subsec. (b)(4). Pub. L. 104-127, §611(b), added par. (4).

Subsec. (c). Pub. L. 104-127, §611(a), added subsec. (c) and struck out former subsec. (c) which read as follows: “The Secretary may not restrict eligibility for loans made or insured under this subchapter for purposes set forth in section 1942 of this title solely to borrowers of loans that are outstanding on December 23, 1985.”

1985—Subsec. (a). Pub. L. 99-198, §1301(a), substituted—

(1) “, partnerships, and joint operations” for “and partnerships” wherever appearing after “corporations”;

(2) “, partnerships, and joint operations” for “, and partnerships” wherever appearing after “corporations”;

(3) “individuals” for “members, stockholders, or partners, as applicable,” wherever appearing.

Pub. L. 99-198, §1303, in cl. (3) parenthetical, inserted provision treating blood or marriage related owner-operators of the entire farm interest as separate interest holders of not larger than family farms though collective ownership constitutes a larger than a family farm.

Subsec. (c). Pub. L. 99-198, §1302(b), added subsec. (c).

1981—Subsec. (a). Pub. L. 97-98 substituted “corporations and partnerships, the family farm” for “cooperatives, corporations, and partnerships, the family farm” and “as well to the entity in the case of cooperatives, corporations, and partnerships” for “as well to the entity”.

1978—Pub. L. 95-334 substituted provisions setting forth eligibility criteria for loans to farmers and ranchers in the United States, and to farm cooperatives and private domestic corporations and partnerships controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States, for provisions setting forth eligibility criteria for loans to farmers and ranchers in the United States, Puerto Rico, and the Virgin Islands.

1972—Pub. L. 92-419 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 2008 AMENDMENT

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

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 611 of Pub. L. 104-127 effective 90 days after Apr. 4, 1996, and amendment by section 661(f) of Pub. L. 104-127 effective Apr. 4, 1996, see section 663(a), (b) of Pub. L. 104-127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97-98, set out as an Effective Date note under section 4301 of this title.

FARM OPERATING LOAN ELIGIBILITY

Pub. L. 106-224, title II, §255, June 20, 2000, 114 Stat. 424, provided that: “During the period beginning on the date of the enactment of this Act [June 20, 2000] and ending on December 31, 2002—

“(1) sections 311(c) and 319 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941(c), 1949) shall have no force or effect; and

“(2) in making direct loans under subtitle B of that Act (7 U.S.C. 1941 et seq.), the Secretary shall give priority to a qualified beginning farmer or rancher who has not operated a farm or ranch, or who has operated a farm or ranch for not more than 5 years.”

AUTHORITY OF SECRETARY TO MAKE OR GUARANTEE CERTAIN LOANS

Pub. L. 104-134, title II, §2002, Apr. 26, 1996, 110 Stat. 1321-313, provided that: “Notwithstanding any other provision of law, the Secretary of Agriculture is hereby authorized to make or guarantee an operating loan under Subtitle B [7 U.S.C. 1941 et seq.] or an emergency loan under Subtitle C [7 U.S.C. 1961 et seq.] of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922 et. seq.), as in effect prior to April 4, 1996, to a loan applicant who was less than 90 days delinquent on April 4, 1996, if the loan applicant had submitted an application for the loan prior to April 5, 1996.”

1989 FARM OPERATING LOANS

Pub. L. 101-82, title III, §302, Aug. 14, 1989, 103 Stat. 582, provided that:

“(a) DIRECT CREDIT.—To the maximum extent practicable, the Secretary of Agriculture shall ensure that direct operating loans made or insured under subtitle B of the Consolidated Farm and Rural Development Act

(7 U.S.C. 1941 et seq.) for 1990 crop production are made available to farmers and ranchers suffering major losses due to excess moisture, freeze, storm, or related condition occurring in 1989 or drought or related condition occurring in 1988 or 1989, as authorized under existing law and under regulations of the Secretary that implement the objective of enabling farmers and ranchers to stay in business.

“(b) LOAN GUARANTEES.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall make available in fiscal year 1990 guarantees to commercial or cooperative lenders for loans under subtitle B of the Consolidated Farm and Rural Development Act [7 U.S.C. 1941 et seq.], to refinance and reamortize 1989 operating loans, or 1989 or 1990 installments due and payable on real estate debt, farm equipment or building (including storage facilities) debt, livestock loans, or other operating debt, of farmers and ranchers that otherwise cannot be repaid due to major losses incurred by such farmers or ranchers as a result of excess moisture, freeze, storm, or related condition occurring in 1989 or drought or related condition occurring in 1988 or 1989.

“(2) REAMORTIZATION.—Each fiscal year 1990 guaranteed loan for 1988 or 1989 natural disaster purposes, as described in paragraph (1), shall contain terms and conditions governing the reamortization of the debt of the farmer or rancher that will provide the farmer or rancher a reasonable opportunity to continue to receive new operating credit while repaying the guaranteed loan, as determined by the Secretary.

“(3) ELIGIBILITY.—Notwithstanding any other provision of law, any person eligible to receive payments under subtitle A of title I [7 U.S.C. 1421 note] shall be deemed eligible to have guaranteed, in accordance with this subsection, loans made to such person by a commercial or cooperative lender to refinance installment payments that are or become due and payable during 1989 or 1990, as described in paragraph (1), except that, to be deemed eligible to have such loan guaranteed, the person must otherwise—

“(A) be current in the person's obligation to the commercial or cooperative lender that agrees to accept the guarantee in consideration of allowing the person to make the 1989 or 1990 payment or installment over a period of time not to exceed 6 years from the original due date of such payment or installment; and

“(B) meet the criteria for guaranteed loan borrowers under subtitle B of the Consolidated Farm and Rural Development Act established by the Secretary.

“(c) USE OF AGRICULTURAL CREDIT INSURANCE FUND.—For purposes of providing guaranteed loans in accordance with subsection (b), in addition to funds otherwise available, the Secretary may use any funds available from the Agricultural Credit Insurance Fund during fiscal years [sic] 1989 or 1990 for emergency insured and guaranteed loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) to meet the needs resulting from natural disasters, except that funds available from such Fund first shall be used to satisfy the level of assistance estimated by the Secretary to meet the needs of persons eligible for emergency disaster loans.”

Similar provisions were contained in the following prior act:

Pub. L. 100-387, title III, §312, Aug. 11, 1988, 102 Stat. 948.

§ 1942. Purposes of loans

(a) In general

A direct loan may be made under this subchapter only for—

- (1) paying the costs incident to reorganizing a farm or ranch for more profitable operation;
- (2) purchasing livestock, poultry, or farm or ranch equipment;

- (3) purchasing feed, seed, fertilizer, insecticide, or farm or ranch supplies, or to meet other essential farm or ranch operating expenses, including cash rent;

- (4) financing land or water development, use, or conservation;

- (5) paying loan closing costs;

- (6) assisting a farmer or rancher in changing the equipment, facilities, or methods of operation of a farm or ranch to comply with a standard promulgated under section 655 of title 29 or a standard adopted by a State under a plan approved under section 667 of title 29, if the Secretary determines that without assistance under this paragraph the farmer or rancher is likely to suffer substantial economic injury in complying with the standard;

- (7) training a limited-resource borrower receiving a loan under section 1934 of this title in maintaining records of farming and ranching operations;

- (8) training a borrower under section 2006a of this title;

- (9) refinancing the indebtedness of a borrower, if the borrower—

(A) has refinanced a loan under this subchapter not more than 4 times previously; and

(B)(i) is a direct loan borrower under this chapter at the time of the refinancing and has suffered a qualifying loss because of a natural disaster declared by the Secretary under this chapter or a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or

(ii) is refinancing a debt obtained from a creditor other than the Secretary; or

- (10) providing other farm, ranch, or home needs, including family subsistence.

(b) Guaranteed loans

A loan may be guaranteed under this subchapter only for—

- (1) paying the costs incident to reorganizing a farm or ranch for more profitable operation;

- (2) purchasing livestock, poultry, or farm or ranch equipment;

- (3) purchasing feed, seed, fertilizer, insecticide, or farm or ranch supplies, or to meet other essential farm or ranch operating expenses, including cash rent;

- (4) financing land or water development, use, or conservation;

- (5) refinancing indebtedness;

- (6) paying loan closing costs;

- (7) assisting a farmer or rancher in changing the equipment, facilities, or methods of operation of a farm or ranch to comply with a standard promulgated under section 655 of title 29 or a standard adopted by a State under a plan approved under section 667 of title 29, if the Secretary determines that without assistance under this paragraph the farmer or rancher is likely to suffer substantial economic injury due to compliance with the standard;

- (8) training a borrower under section 2006a of this title; or

- (9) providing other farm, ranch, or home needs, including family subsistence.