

Title IV of the Food and Agriculture Act of 1977 enacted section 1445b of this title, amended sections 1385, 1427, and 1428 of this title, and enacted provisions set out as notes under sections 1330, 1331, 1379d, 1385, 1427, 1428, 1445a, and 1445b of this title. Title V of the Food and Agriculture Act of 1977 enacted section 1444c of this title and enacted provisions set out as notes under sections 1444b and 1444c of this title. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under 1281 of this title and Tables.

#### CODIFICATION

Section was enacted as part of the Agricultural Act of 1970, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

#### AMENDMENTS

1977—Par. (1). Pub. L. 95-113 substituted “to receive under one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1976 crops of the commodities and by titles IV and V of the Food and Agriculture Act of 1977 and titles IV, V, and VI of this Act for the 1977 crop” for “to receive under one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1977 crops”.

1973—Par. (1). Pub. L. 93-86 substituted “one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1977 crops of the Commodities shall not exceed \$20,000” for “each of the annual programs established by titles IV, V, and VI of this Act for the 1971, 1972, or 1973 crop of the commodity shall not exceed \$55,000”.

Par. (2). Pub. L. 93-86 substituted “shall not include loans or purchases, or any part of any payment which is determined by the Secretary to represent compensation for resource adjustment or public access for recreation” for “includes price-support payments, set-aside payments, diversion payments, public access payments, and marketing certificates, but does not include loans or purchases”.

Par. (3). Pub. L. 93-86 reenacted par. (3) without change.

Par. (4). Pub. L. 93-86 inserted provision that the rules for determining whether corporations and their stockholders may be considered as separate persons shall be in accordance with the regulations issued by the Secretary on December 18, 1970.

#### EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95-113, title XIX, § 1901, Sept. 29, 1977, 91 Stat. 1045, provided that: “Except as otherwise provided herein, the provisions of this Act [see Short Title of 1977 Amendment note set out under section 1281 of this title] shall become effective October 1, 1977.”

#### EXEMPTION OF DISASTER PAYMENT LIMITATIONS RESPECTING 1977 CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE

Pub. L. 95-156, Nov. 8, 1977, 91 Stat. 1264, provided: “That, notwithstanding any other provision of law, the term ‘payments’ as used in section 101 of the Agricultural Act of 1970, as amended [this section], and section 101(g)(13) of the Agricultural Act of 1949, as amended [section 1441(g)(13) of this title], shall not include any part of any payment which is determined by the Secretary of Agriculture to represent compensation for disaster loss with respect to the 1977 crops of wheat, feed grains, upland cotton, and rice.”

### § 1308. Payment limitations

#### (a) Definitions

In this section through section 1308-5 of this title:

##### (1) Covered commodity

The term “covered commodity” has the meaning given that term in section 1001 of the

Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8702].

##### (2) Family member

The term “family member” means a person to whom a member in the farming operation is related as lineal ancestor, lineal descendant, sibling, spouse, or otherwise by marriage.

##### (3) Legal entity

The term “legal entity” means an entity that is created under Federal or State law and that—

- (A) owns land or an agricultural commodity; or
- (B) produces an agricultural commodity.

##### (4) Person

The term “person” means a natural person, and does not include a legal entity.

##### (5) Secretary

The term “Secretary” means the Secretary of Agriculture.

#### (b) Limitation on direct payments, counter-cyclical payments, and ACRE payments for covered commodities (other than peanuts)

##### (1) Direct payments

The total amount of direct payments received, directly or indirectly, by a person or legal entity (except a joint venture or a general partnership) for any crop year under subtitle A of title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8711 et seq.] for 1 or more covered commodities (except for peanuts) may not exceed—

(A) in the case of a person or legal entity that does not participate in the average crop revenue election program under section 1105 of that Act [7 U.S.C. 8715], \$40,000; or

(B) in the case of a person or legal entity that participates in the average crop revenue election program under section 1105 of that Act, an amount equal to—

- (i) the payment limit specified in subparagraph (A); less
- (ii) the amount of the reduction in direct payments under section 1105(a)(1) of that Act.

##### (2) Counter-cyclical payments

In the case of a person or legal entity (except a joint venture or a general partnership) that does not participate in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of counter-cyclical payments received, directly or indirectly, by the person or legal entity for any crop year under subtitle A of title I of that Act [7 U.S.C. 8711 et seq.] for 1 or more covered commodities (except for peanuts) may not exceed \$65,000.

##### (3) ACRE and counter-cyclical payments

In the case of a person or legal entity (except a joint venture or a general partnership) that participates in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of average crop revenue election payments and counter-cyclical payments received, directly or indirectly, by the person

or legal entity for any crop year for 1 or more covered commodities (except for peanuts) may not exceed the sum of—

(A) \$65,000; and

(B) the amount by which the direct payment limitation is reduced under paragraph (1)(B).

**(c) Limitation on direct payments, counter-cyclical payments, and ACRE payments for peanuts**

**(1) Direct payments**

The total amount of direct payments received, directly or indirectly, by a person or legal entity (except a joint venture or a general partnership) for any crop year under subtitle C of title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8751 et seq.] for peanuts may not exceed—

(A) in the case of a person or legal entity that does not participate in the average crop revenue election program under section 1105 of that Act [7 U.S.C. 8715], \$40,000; or

(B) in the case of a person or legal entity that participates in the average crop revenue election program under section 1105 of that Act, an amount equal to—

(i) the payment limit specified in subparagraph (A); less

(ii) the amount of the reduction in direct payments under section 1105(a)(1) of that Act.

**(2) Counter-cyclical payments**

In the case of a person or legal entity (except a joint venture or a general partnership) that does not participate in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of counter-cyclical payments received, directly or indirectly, by the person or legal entity for any crop year under subtitle C of title I of that Act [7 U.S.C. 8751 et seq.] for peanuts may not exceed \$65,000.

**(3) ACRE and counter-cyclical payments**

In the case of a person or legal entity (except a joint venture or a general partnership) that participates in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of average crop revenue election payments received, directly or indirectly, by the person or legal entity for any crop year for peanuts may not exceed the sum of—

(A) \$65,000; and

(B) the amount by which the direct payment limitation is reduced under paragraph (1)(B).

**(d) Limitation on applicability**

Nothing in this section authorizes any limitation on any benefit associated with the marketing assistance loan program or the loan deficiency payment program under title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8701 et seq.].

**(e) Attribution of payments**

**(1) In general**

In implementing subsections (b) and (c) and a program described in paragraphs (1)(C) and

(2)(B) of section 1308-3a(b) of this title, the Secretary shall issue such regulations as are necessary to ensure that the total amount of payments are attributed to a person by taking into account the direct and indirect ownership interests of the person in a legal entity that is eligible to receive the payments.

**(2) Payments to a person**

Each payment made directly to a person shall be combined with the pro rata interest of the person in payments received by a legal entity in which the person has a direct or indirect ownership interest unless the payments of the legal entity have been reduced by the pro rata share of the person.

**(3) Payments to a legal entity**

**(A) In general**

Each payment made to a legal entity shall be attributed to those persons who have a direct or indirect ownership interest in the legal entity unless the payment to the legal entity has been reduced by the pro rata share of the person.

**(B) Attribution of payments**

**(i) Payment limits**

Except as provided in clause (ii), payments made to a legal entity shall not exceed the amounts specified in subsections (b) and (c).

**(ii) Exception for joint ventures and general partnerships**

Payments made to a joint venture or a general partnership shall not exceed, for each payment specified in subsections (b) and (c), the amount determined by multiplying the maximum payment amount specified in subsections (b) and (c) by the number of persons and legal entities (other than joint ventures and general partnerships) that comprise the ownership of the joint venture or general partnership.

**(iii) Reduction**

Payments made to a legal entity shall be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity by any person or legal entity that has otherwise exceeded the applicable maximum payment limitation.

**(4) 4 levels of attribution for embedded legal entities**

**(A) In general**

Attribution of payments made to legal entities shall be traced through 4 levels of ownership in legal entities.

**(B) First level**

Any payments made to a legal entity (a first-tier legal entity) that is owned in whole or in part by a person shall be attributed to the person in an amount that represents the direct ownership in the first-tier legal entity by the person.

**(C) Second level**

**(i) In general**

Any payments made to a first-tier legal entity that is owned (in whole or in part)

by another legal entity (a second-tier legal entity) shall be attributed to the second-tier legal entity in proportion to the ownership of the second-tier legal entity in the first-tier legal entity.

**(ii) Ownership by a person**

If the second-tier legal entity is owned (in whole or in part) by a person, the amount of the payment made to the first-tier legal entity shall be attributed to the person in the amount that represents the indirect ownership in the first-tier legal entity by the person.

**(D) Third and fourth levels**

**(i) In general**

Except as provided in clause (ii), the Secretary shall attribute payments at the third and fourth tiers of ownership in the same manner as specified in subparagraph (C).

**(ii) Fourth-tier ownership**

If the fourth-tier of ownership is that of a fourth-tier legal entity and not that of a person, the Secretary shall reduce the amount of the payment to be made to the first-tier legal entity in the amount that represents the indirect ownership in the first-tier legal entity by the fourth-tier legal entity.

**(f) Special rules**

**(1) Minor children**

**(A) In general**

Except as provided in subparagraph (B), payments received by a child under the age of 18 shall be attributed to the parents of the child.

**(B) Regulations**

The Secretary shall issue regulations specifying the conditions under which payments received by a child under the age of 18 will not be attributed to the parents of the child.

**(2) Marketing cooperatives**

Subsections (b) and (c) shall not apply to a cooperative association of producers with respect to commodities produced by the members of the association that are marketed by the association on behalf of the members of the association but shall apply to the producers as persons.

**(3) Trusts and estates**

**(A) In general**

With respect to irrevocable trusts and estates, the Secretary shall administer this section through section 1308-5 of this title in such manner as the Secretary determines will ensure the fair and equitable treatment of the beneficiaries of the trusts and estates.

**(B) Irrevocable trust**

**(i) In general**

In order for a trust to be considered an irrevocable trust, the terms of the trust agreement shall not—

- (I) allow for modification or termination of the trust by the grantor;

- (II) allow for the grantor to have any future, contingent, or remainder interest in the corpus of the trust; or

- (III) except as provided in clause (ii), provide for the transfer of the corpus of the trust to the remainder beneficiary in less than 20 years beginning on the date the trust is established.

**(ii) Exception**

Clause (i)(III) shall not apply in a case in which the transfer is—

- (I) contingent on the remainder beneficiary achieving at least the age of majority; or

- (II) contingent on the death of the grantor or income beneficiary.

**(C) Revocable trust**

For the purposes of this section through section 1308-5 of this title, a revocable trust shall be considered to be the same person as the grantor of the trust.

**(4) Cash rent tenants**

**(A) Definition**

In this paragraph, the term “cash rent tenant” means a person or legal entity that rents land—

- (i) for cash; or

- (ii) for a crop share guaranteed as to the amount of the commodity to be paid in rent.

**(B) Restriction**

A cash rent tenant who makes a significant contribution of active personal management, but not of personal labor, with respect to a farming operation shall be eligible to receive a payment described in subsection (b) or (c) only if the tenant makes a significant contribution of equipment to the farming operation.

**(5) Federal agencies**

**(A) In general**

Notwithstanding subsection (d), a Federal agency shall not be eligible to receive any payment, benefit, or loan under title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8701 et seq.] or title XII of this Act [16 U.S.C. 3801 et seq.].

**(B) Land rental**

A lessee of land owned by a Federal agency may receive a payment described in subsection (b), (c), or (d) if the lessee otherwise meets all applicable criteria.

**(6) State and local governments**

**(A) In general**

Notwithstanding subsection (d), except as provided in subsection (g), a State or local government, or political subdivision or agency of the government, shall not be eligible to receive any payment, benefit, or loan under title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8701 et seq.] or title XII of this Act [16 U.S.C. 3801 et seq.].

**(B) Tenants**

A lessee of land owned by a State or local government, or political subdivision or agen-

cy of the government, may receive payments described in subsections (b), (c), and (d) if the lessee otherwise meets all applicable criteria.

**(7) Changes in farming operations**

**(A) In general**

In the administration of this section through section 1308-5 of this title, the Secretary may not approve any change in a farming operation that otherwise will increase the number of persons to which the limitations under this section are applied unless the Secretary determines that the change is bona fide and substantive.

**(B) Family members**

The addition of a family member to a farming operation under the criteria set out in section 1308-1 of this title shall be considered a bona fide and substantive change in the farming operation.

**(8) Death of owner**

**(A) In general**

If any ownership interest in land or a commodity is transferred as the result of the death of a program participant, the new owner of the land or commodity may, if the person is otherwise eligible to participate in the applicable program, succeed to the contract of the prior owner and receive payments subject to this section without regard to the amount of payments received by the new owner.

**(B) Limitations on prior owner**

Payments made under this paragraph shall not exceed the amount to which the previous owner was entitled to receive under the terms of the contract at the time of the death of the prior owner.

**(g) Public schools**

**(1) In general**

Notwithstanding subsection (f)(6)(A), a State or local government, or political subdivision or agency of the government, shall be eligible, subject to the limitation in paragraph (2), to receive a payment described in subsection (b) or (c) for land owned by the State or local government, or political subdivision or agency of the government, that is used to maintain a public school.

**(2) Limitation**

**(A) In general**

For each State, the total amount of payments described in subsections (b) and (c) that are received collectively by the State and local government and all political subdivisions or agencies of those governments shall not exceed \$500,000.

**(B) Exception**

The limitation in subparagraph (A) shall not apply to States with a population of less than 1,500,000.

**(h) Time limits; reliance**

Regulations of the Secretary shall establish time limits for the various steps involved with

notice, hearing, decision, and the appeals procedure in order to ensure expeditious handling and settlement of payment limitation disputes. Notwithstanding any other provision of law, actions taken by an individual or other entity in good faith on action or advice of an authorized representative of the Secretary may be accepted as meeting the requirement under this section or section 1308-1 of this title, to the extent the Secretary deems it desirable in order to provide fair and equitable treatment.

(Pub. L. 99-198, title X, §1001, Dec. 23, 1985, 99 Stat. 1444; Pub. L. 99-500, §108(a), Oct. 18, 1986, 100 Stat. 1783-346, and Pub. L. 99-591, §108(a), Oct. 30, 1986, 100 Stat. 3341-346; Pub. L. 100-71, title I, July 11, 1987, 101 Stat. 428; Pub. L. 100-203, title I, §§1301(a)(1), (2), 1303, 1305(c), 1307, Dec. 22, 1987, 101 Stat. 1330-12, 1330-16, 1330-18, 1330-19; Pub. L. 101-217, §§1, 2, Dec. 11, 1989, 103 Stat. 1857; Pub. L. 101-624, title XI, §1111(a), (c), (e), Nov. 28, 1990, 104 Stat. 3497-3499; Pub. L. 102-237, title I, §118(b), Dec. 13, 1991, 105 Stat. 1841; Pub. L. 103-66, title I, §1101(b)(3)(A), Aug. 10, 1993, 107 Stat. 314; Pub. L. 104-127, title I, §115(b), Apr. 4, 1996, 110 Stat. 902; Pub. L. 107-171, title I, §1603(a), (b), May 13, 2002, 116 Stat. 213, 214; Pub. L. 110-234, title I, §1603(a), (b), May 22, 2008, 122 Stat. 1002; Pub. L. 110-246, §4(a), title I, §1603(a), (b), June 18, 2008, 122 Stat. 1664, 1730.)

REFERENCES IN TEXT

The Food, Conservation, and Energy Act of 2008, referred to in subsecs. (b)(1), (2), (c)(1), (2), (d), and (f)(5)(A), (6)(A), is Pub. L. 110-246, June 18, 2008, 122 Stat. 1651. Title I of the Act is classified principally to chapter 113 (§8701 et seq.) of this title. Subtitles A and C of title I of the Act are classified generally to subchapters I (§8711 et seq.) and III (§8751 et seq.), respectively, of chapter 113 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 8701 of this title and Tables.

Title XII of this Act, referred to in subsec. (f)(5)(A), (6)(A), means title XII of the Food Security Act of 1985, Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1504, popularly known as the Sodbuster Law, which is classified principally to chapter 58 (§3801 et seq.) of Title 16, Conservation.

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.

Pub. L. 99-591 is a corrected version of Pub. L. 99-500. Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

PRIOR PROVISIONS

A prior section 1308, Pub. L. 97-98, title XI, §1101, Dec. 22, 1981, 95 Stat. 1263; Pub. L. 98-88, §6, Aug. 26, 1983, 97 Stat. 499, related to programs for 1982 through 1985 crops.

Another prior section 1308, Pub. L. 95-113, title I, §101, Sept. 29, 1977, 91 Stat. 917; Pub. L. 96-213, §5, Mar. 18, 1980, 94 Stat. 120, related to programs for 1978 through 1981 crops.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-246, §1603(b)(1)(A), inserted “through section 1308-5 of this title” after “this section” in introductory provisions.

Subsec. (a)(1). Pub. L. 110-246, §1603(a), substituted “Food, Conservation, and Energy Act of 2008” for “Farm Security and Rural Investment Act of 2002”.

Subsec. (a)(2). Pub. L. 110-246, §1603(b)(1)(B), (C), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "The term 'loan commodity' has the meaning given that term in section 1001 of the Farm Security and Rural Investment Act of 2002, except that the term does not include wool, mohair, or honey."

Subsec. (a)(3) to (5). Pub. L. 110-246, §1603(b)(1)(B), (C), added pars. (3) and (4) and redesignated former par. (3) as (5).

Subsecs. (b) to (d). Pub. L. 110-246, §1603(b)(2), added subsecs. (b) to (d) and struck out former subsecs. (b) to (d) which related to limitation on direct payments, limitation on counter-cyclical payments, and limitation on marketing loan gains and loan deficiency payments, respectively.

Subsecs. (e) to (h). Pub. L. 110-246, §1603(b)(3), added subsecs. (e) to (g), redesignated former subsec. (g) as (h), and struck out former subsecs. (e) and (f) which related to issuance of regulations defining "person" and prescribing rules determined necessary to assure a fair and reasonable application of section limitation, and inapplicability to public schools of provisions limiting payments to any person.

2002—Pub. L. 107-171, §1603(a), substituted section catchline for former section catchline.

Subsec. (a) to (d). Pub. L. 107-171, §1603(a), added subsecs. (a) to (d) and struck out former pars. (1) to (4) which related to limitation on payments under production flexibility contracts, limitation on marketing loan gains and loan deficiency payments, description of payments subject to limitation, and definitions, respectively.

Subsec. (e). Pub. L. 107-171, §1603(b)(1), redesignated par. (5) as subsec. (e), inserted heading, further redesignated former subpars., cls., and subcls. as pars., subpars., and cls., respectively, substituted "paragraph (1), subject to subparagraph (B)" for "subparagraph (A), subject to clause (ii)" in subsec. (e)(2)(A) and "as described in subsections (b), (c), and (d) of this section" for "as described in paragraphs (1) and (2)" in subsec. (e)(2)(C)(ii), and struck out second sentence of subsec. (e)(1) which read as follows: "Such regulations shall incorporate the provisions in subparagraphs (B) through (E) of this paragraph, paragraphs (6) and (7), and sections 1308-1 through 1308-3 of this title."

Subsec. (f). Pub. L. 107-171, §1603(b)(2), redesignated par. (6) as subsec. (f) and inserted heading.

Subsec. (g). Pub. L. 107-171, §1603(b)(3), redesignated par. (7) as subsec. (g) and inserted heading.

1996—Pars. (1) to (4). Pub. L. 104-127 added pars. (1) to (4) and struck out former pars. (1) to (4) which established limitations on payments under wheat, feed grains, upland cotton, extra long staple cotton, honey, and rice programs for 1987 through 1997 crops.

1993—Pars. (1)(A), (B), (2)(A). Pub. L. 103-66 substituted "1997" for "1995".

1991—Par. (2)(B)(iv). Pub. L. 102-237 inserted "section" before "107B(c)(1)".

1990—Par. (1). Pub. L. 101-624, §1111(a)(1), designated existing provisions as subpar. (A), substituted "1995" for "1990", and added subpar. (B).

Par. (2)(A). Pub. L. 101-624, §1111(a)(2), substituted "1991 through 1995 crops" for "1987 through 1990 crops" and substituted "and" for "honey, and (with respect to clause (ii)(II) of subparagraph (B))" after "rice."

Par. (2)(B)(iii). Pub. L. 101-624, §1111(a)(3)(A), added cl. (iii) and struck out former cl. (iii) which read as follows: "(iii)(I) any gain realized by a producer from repaying a loan for a crop of wheat, feed grains, upland cotton, rice, or honey at the rate permitted under section 107D(a)(5), 105C(a)(4), 103A(a)(5), 101A(a)(5), or 201(b)(2), respectively, of the Agricultural Act of 1949 or (II) any gain realized by a producer from repaying a loan for a crop of any other commodity at a lower level than the original loan level established under the Agricultural Act of 1949;"

Par. (2)(B)(iv). Pub. L. 101-624, §1111(a)(3)(B), substituted "107B(c)(1) or 105B(c)(1)" for "section 107D(c)(1) or 105C(c)(1)", and "section 107B(a)(3) or 105B(a)(3)" for "section 107D(a)(4) or 105C(a)(3)".

Par. (2)(B)(v). Pub. L. 101-624, §1111(a)(3)(C), added cl. (v) and struck out former cl. (v) which read as follows: "(v) any loan deficiency payment received for a crop of wheat, feed grains, upland cotton, or rice under section 107D(b), 105C(b), 103A(b), or 101A(b), respectively, of the Agricultural Act of 1949; and".

Par. (2)(B)(vi). Pub. L. 101-624, §1111(a)(3)(D), substituted "section 107B(f), 105B(f), 103B(f), or 101B(f)" for "section 107D(g), 105C(g), 103A(g), or 101A(g)".

Par. (5)(B)(ii)(III). Pub. L. 101-624, §1111(e), added subcl. (III).

Par. (5)(B)(iii). Pub. L. 101-624, §1111(c), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: "Such regulations shall provide that, with respect to any married couple, the husband and wife shall be considered to be one person, except that any married couple consisting of spouses who, prior to their marriage, were separately engaged in unrelated farming operations, each spouse shall be treated as a separate person with respect to the farming operation brought into the marriage by such spouse so long as such operation remains as a separate farming operation, for the purposes of the application of the limitations under this section."

1989—Par. (5)(D). Pub. L. 101-217, §2, amended subpar. (D) generally, striking out cl. (i) designation, substituting "Any" for "Except as provided in clause (ii), any" and "ineligible to receive any payment specified in paragraph (1) or (2) or subtitle D of title XII with respect to such land" for "considered the same person as the landlord", and struck out cls. (ii) and (iii) which read as follows:

"(ii) A tenant that because of any act or failure to act would otherwise be considered the same person as the landlord under clause (i) shall not be considered the same person as the landlord if the Secretary has at any time made a determination, for purposes of this section, regarding the number of persons with respect to the tenant's operation on such land for the 1989 crop year and the landlord did not consent to or knowingly participate in such act or failure to act.

"(iii) Any tenant that would be considered to be the same person as the landlord but for the operation of clause (ii) shall be eligible to receive any payment specified in paragraph (1) or (2) or subtitle D of title XII with respect to such land only to the extent that the tenant would be eligible for such payments if the tenant were to be considered the same person as the landlord under the regulations in place immediately prior to the enactment of this subparagraph."

Pub. L. 101-217, §1, in temporarily amending subpar. (D) generally, designated existing provisions as cl. (i) and added cls. (ii) and (iii). See Effective and Termination Dates of 1989 Amendment note below.

1987—Par. (1). Pub. L. 100-203, §1301(a)(1), substituted "Subject to sections 1308-1 through 1308-3 of this title, for each" for "For each".

Par. (2)(A). Pub. L. 100-203, §1301(a)(2)(A), substituted "Subject to sections 1308-1 through 1308-3 of this title, for each" for "For each".

Par. (2)(C). Pub. L. 100-203, §1307, struck out cl. (ii) designation, and struck out cl. (i) which read as follows: "The total amount of loans on a crop of honey that a person may have outstanding at any one time under the annual program established for such crop under the Agricultural Act of 1949 may not exceed \$250,000 less the amount of payments, as described in paragraph (1) and subparagraphs (A) and (B) of this paragraph, received by such person for the crop year involved."

Pub. L. 100-203, §1301(a)(2)(B), which directed substitution of "Subject to sections 1308-1 through 1308-3 of this title, the total" for "The total" could not be executed in view of amendments by Pub. L. 100-71 and section 1307 of Pub. L. 100-203.

Pub. L. 100-71 designated existing provision as cl. (i) and added cl. (ii).

Par. (5)(A). Pub. L. 100-203, §1303(a)(1), (2), inserted after first sentence "Such regulations shall incorporate the provisions in subparagraphs (B) through (E) of this

paragraph, paragraphs (6) and (7), and sections 1308-1 through 1308-3 of this title” and struck out at end “Such regulations shall provide that the term ‘person’ does not include any cooperative association of producers that markets commodities for producers with respect to the commodities so marketed for producers.”

Par. (5)(B). Pub. L. 100-203, §1303(a)(2), (3), added subpar. (B) and redesignated former subpar. (B) as (C).

Par. (5)(C). Pub. L. 100-203, §1303(a)(3), redesignated subpar. (B) as (C).

Par. (5)(D), (E). Pub. L. 100-203, §1303(a)(4), added subpars. (D) and (E).

Par. (6). Pub. L. 100-203, §1303(b), amended par. (6) generally. Prior to amendment, par. (6) read as follows: “The provisions of this section that limit payments to any person shall not be applicable to lands or animals owned by States, political subdivisions, or agencies thereof, so long as such lands are farmed or animals are husbanded primarily in the direct furtherance of a public function, as determined by the Secretary.”

Par. (7). Pub. L. 100-203, §1305(c), added par. (7).

1986—Par. (1). Pub. L. 99-500 and Pub. L. 99-591, §108(a)(1), in temporarily amending par. (1) generally, substituted provision limiting, for each of the 1987 through 1990 crops, the total amount of deficiency payments, excluding deficiency payments described in par. (2)(B)(I)(iv) and land diversion payments that any one person be entitled to as not to exceed \$50,000 for provision limiting, for each of the 1986 through 1990 crops, the total amount of payments, excluding disaster payments, that any one person be entitled to as not to exceed \$50,000. See Effective and Termination Dates of 1986 Amendment note below.

Par. (2). Pub. L. 99-500 and Pub. L. 99-591, §108(a)(1), in temporarily amending par. (2) generally, designated existing provision as subpar. (A), and in subpar. (A) as so designated, substituted provision limiting, for each of the 1987 through 1990 crops, the total amount of payments set forth in subpar. (B) that any one person be entitled to as not to exceed \$250,000 and inserting honey as an eligible crop for provision limiting, for each of the 1986 through 1990 crops, the total amount of disaster payments not any one person be entitled to as not to exceed \$100,000, and added subpars. (B) and (C). See Effective and Termination Dates of 1986 Amendment note below.

Par. (3). Pub. L. 99-500 and Pub. L. 99-591, §108(a)(1), temporarily substituted provision authorizing the Secretary, if he determines that a limitation will have an adverse effect on a program, to adjust upward such limitation as appropriate or necessary for provision specifying what is not included within the term “payments” as used in this section. See Effective and Termination Dates of 1986 Amendment note below.

Par. (5)(A). Pub. L. 99-500 and Pub. L. 99-591, §108(a)(2), temporarily inserted provision that the term “person” not include any cooperative association of producers that markets commodities for producers with respect to the commodities so marketed for producers. See Effective and Termination Dates of 1986 Amendment note below.

Par. (6). Pub. L. 99-500 and Pub. L. 99-591, §108(a)(3), temporarily substituted “lands or animals owned” for “lands owned” and inserted “or animals are husbanded”. See Effective and Termination Dates of 1986 Amendment note below.

#### 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 1990 AMENDMENT

Amendment by Pub. L. 101-624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101-624, set out as a note under section 1421 of this title.

#### EFFECTIVE AND TERMINATION DATES OF 1989 AMENDMENT

Pub. L. 101-217, §1, Dec. 11, 1989, 103 Stat. 1857, provided that the amendment made by that section is effective only for the 1989 crops.

Pub. L. 101-217, §2, Dec. 11, 1989, 103 Stat. 1857, as amended by Pub. L. 101-624, title XI, §1111(i), Nov. 28, 1990, 104 Stat. 3500, provided that the amendment made by that section is effective beginning with the 1990 crops.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-203, title I, §§1301(a), 1303, Dec. 22, 1987, 101 Stat. 1330-12, 1330-16, provided that the amendments made by sections 1301(a)(1), (2) and 1303 of Pub. L. 100-203 are effective beginning with 1989 crops.

#### EFFECTIVE AND TERMINATION DATES OF 1986 AMENDMENT

Pub. L. 99-500, §108(a), Oct. 18, 1986, 100 Stat. 1783-346, and Pub. L. 99-591, §108(a), Oct. 30, 1986, 100 Stat. 3341-346, provided that the amendment made by Pub. L. 99-500 and Pub. L. 99-591 is effective with respect to each of the 1987 through 1990 crops.

Pub. L. 99-500, §108(b), Oct. 18, 1986, 100 Stat. 1783-347, and Pub. L. 99-591, §108(b), Oct. 30, 1986, 100 Stat. 3341-347, provided that: “The amendments made by subsection (a) [amending this section] shall not apply with respect to any payment or loan received under any agreement or contract made before the date of enactment of this Act [Oct. 18, 1986].”

#### TRANSITION PROVISIONS

Pub. L. 110-234, title I, §1603(h), May 22, 2008, 122 Stat. 1012, and Pub. L. 110-246, §4(a), title I, §1603(h), June 18, 2008, 122 Stat. 1664, 1740, provided that: “Section 1001, 1001A, and 1001B of the Food Security Act of 1985 (7 U.S.C. 1308, 1308-1, 1308-2), as in effect on September 30, 2007, shall continue to apply with respect to the 2007 and 2008 crops of any covered commodity or peanuts.”

[For definition of “covered commodity” as used in section 1603(h) of Pub. L. 110-246, set out above, see section 8702 of this title.]

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of this title.]

Pub. L. 107-171, title I, §1603(d), May 13, 2002, 116 Stat. 215, provided that: “Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308), as in effect on the day before the date of the enactment of this Act [May 13, 2002], shall continue to apply with respect to the 2001 crop of any covered commodity.”

#### EQUITABLE RELIEF

Pub. L. 101-217, §3, Dec. 11, 1989, 103 Stat. 1858, provided that: “Nothing in this Act [amending this section and enacting provisions set out as notes under this section] shall be construed in any way to limit the authority of the Secretary of Agriculture to provide equitable relief under any provision of law.”

#### PAYMENT PROVISIONS EDUCATION PROGRAM

Pub. L. 100-203, title I, §1304(a), Dec. 22, 1987, 101 Stat. 1330-17, provided that:

“(1) IN GENERAL.—The Secretary of Agriculture shall implement a payment provisions education program for appropriate personnel of the Department of Agriculture and members and other personnel of local, county, and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), for the purpose of fostering more effective and uniform application of the payment limitations and restrictions under sections 1001 through 1001C of the Food Security Act of 1985 [sections 1808 to 1308-3 of this title].

“(2) TRAINING.—The education program shall provide training to such personnel in the fair, accurate, and

uniform application to individual farming operations of the provisions of law and regulation relating to the payment provisions of sections 1001 through 1001C of the Food Security Act of 1985. Particular emphasis shall be given to the changes in the law made by sections 1301, 1302, and 1303 of this Act [enacting section 1308-1 of this title, amending this section, and enacting provisions set out as notes under this section and section 1308-1 of this title].

“(3) IMPLEMENTATION.—The education program shall be fully implemented, and the training completed, not later than 30 days after the date final regulations are issued to carry out the amendments made by this subtitle [enacting sections 1308-1 to 1308-3 of this title and amending this section and section 1308-1 of this title].

“(4) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program provided under this subsection through the Commodity Credit Corporation.”

REGULATIONS TO CARRY OUT 1987 AMENDMENTS;  
TRANSITION RULES; EQUITABLE ADJUSTMENTS

Pub. L. 100-203, title I, §1305(a), (b), Dec. 22, 1987, 101 Stat. 1330-18, provided that:

“(a) REGULATIONS.—

“(1) ISSUANCE.—The Secretary of Agriculture shall issue—

“(A) proposed regulations to carry out the amendments made by this subtitle [enacting sections 1308-1 to 1308-3 of this title and amending this section and section 1308-1 of this title] not later than April 1, 1988; and

“(B) final regulations to carry out such amendments not later than August 1, 1988.

“(2) FIELD INSTRUCTIONS.—Any field instructions relating to, or other supplemental clarifications of, the regulations issued under sections 1001 through 1001C of the Food Security Act of 1985 [sections 1308 to 1308-3 of this title] shall not be used in resolving issues involved in the application of the payment limitations or restrictions under such sections or regulations to individuals, other entities, or farming operations until copies of the publication are made available to the public.

“(b) ALLOWANCE FOR EQUITABLE REORGANIZATIONS.—To allow for the equitable reorganization of farming operations to conform to the limitations and restrictions contained in the amendments made to the Food Security Act of 1985 by this subtitle [enacting sections 1308-1 to 1308-3 of this title and amending this section and section 1308-1 of this title] in cases in which the application of such limitations and restrictions will reduce payments to the farming operation (as determined by the Secretary), the Secretary may waive the application of the substantive change rule under section 1001(5)(E) [section 1308(5)(E) of this title], as added by section 1303 of this Act, or any regulation of the Secretary containing a comparable rule, to any reorganization applied for prior to the final date when producers are eligible to enter into contracts to participate in the commodity programs established for the 1989 crop year, to the extent the Secretary determines appropriate to facilitate any such equitable reorganizations that does not increase such payments.”

CONSERVATION RESERVE APPLICATION

Section 1305(d) of Pub. L. 100-203 provided that: “Notwithstanding section 1234(f)(2) of the Food Security Act of 1985 (16 U.S.C. 3834(f)), paragraphs (5) through (7) of section 1001 [section 1308(5)-(7) of this title], as amended by this subtitle, and sections 1001A through 1001C, of the Food Security Act of 1985 [sections 1308-1 to 1308-3 of this title] shall apply to the conservation reserve program under subtitle D of title XII of such Act (16 U.S.C. 3830 et seq.) with respect to rental payments to persons under contracts entered into after the date of the enactment of this Act [Dec. 22, 1987], except with respect to landlords that receive cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for the use of the land.”

REVISION OF REGULATIONS

Pub. L. 99-500, §108(c), Oct. 18, 1986, 100 Stat. 1783-347, and Pub. L. 99-591, §108(c), Oct. 30, 1986, 100 Stat. 3341-347, provided that:

“(1)(A) The Secretary of Agriculture shall review the regulations in effect on the date of enactment of this Act [Oct. 18, 1986] that define ‘person’ under section 1001 of the Food Security Act of 1985 [this section] and related regulations in effect on such date otherwise affecting the payment limitations under such section, to determine ways in which such regulations can be revised to better ensure the fair and reasonable application of limitations and eliminate fraud and abuse in the application of such payment limitations.

“(B) The Secretary also shall review the amendments to section 1001 of the Food Security Act of 1985 made by this section.

“(2) Based on the reviews conducted under paragraph (1), the Secretary of Agriculture shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, not later than March 1, 1987, a report on such reviews and—

“(A) with respect to the matters reviewed under paragraph (1)(A), proposed regulations or amendments to regulations, to take effect not earlier than October 1, 1987, that will meet the object with respect to limitations specified in paragraph (1)(A); and

“(B) with respect to the matters reviewed under paragraph (1)(B), recommendations on legislative changes to section 1001 of the Food Security Act of 1985 that the Secretary determines are necessary or appropriate.”

SEPARATE PERSON STATUS AMONG FAMILY MEMBERS

Pub. L. 99-198 (last sentence), as added by Pub. L. 99-500, §101(a) [title VI, §636], Oct. 18, 1986, 100 Stat. 1783, 1783-34, and Pub. L. 99-591, §101(a) [title VI, §636], Oct. 30, 1986, 100 Stat. 3341, 3341-34, provided that: “Effective for each of the 1987 through 1990 crops, the Secretary may not deny a person status as a separate person solely on the ground that a family member cosigns for, or makes a loan to, such person and leases, loans, or gives such person equipment, land or labor, if such family members were organized as separate units prior to December 31, 1985.”

**§ 1308-1. Notification of interests; payments limited to active farmers**

**(a) Notification of interests**

To facilitate administration of section 1308 of this title and this section, each person or legal entity receiving payments described in subsections (b) and (c) of section 1308 of this title as a separate person or legal entity shall separately provide to the Secretary, at such times and in such manner as prescribed by the Secretary—

(1) the name and social security number of each person, or the name and taxpayer identification number of each legal entity, that holds or acquires an ownership interest in the separate person or legal entity; and

(2) the name and taxpayer identification number of each legal entity in which the person or legal entity holds an ownership interest.

**(b) Actively engaged**

**(1) In general**

To be eligible to receive a payment described in subsection (b) or (c) of section 1308 of this title, a person or legal entity shall be actively engaged in farming with respect to a farming operation as provided in this subsection or subsection (c).