

(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 subsections (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”.

Subsec. (e). Pub. L. 101-624, §1807(2), substituted “60 days” for “45 days”.

EFFECTIVE DATE OF 1996 AMENDMENT

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

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1807(1) of Pub. L. 101-624 effective 120 days after Nov. 28, 1990, see section 1861(b) of Pub. L. 101-624, set out as a note under section 2001 of this title.

§ 1981e. Planting and production history guidelines

(a) In general

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 Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(b) Calculation of yields

(1) In general

For purposes of averaging past yields of the farm of a borrower or applicant over a period of crop years to calculate future yields for the farm under this chapter (except for loans under subchapter III of this chapter), the Secretary shall permit the borrower or applicant to exclude the crop year with the lowest actual or county average yield for the farm from the calculation, if the borrower or applicant was affected by a disaster during at least 2 of the crop years during the period.

(2) Affected by a disaster

For purposes of paragraph (1), a borrower or applicant was affected by a disaster if the Secretary finds that the borrower or applicant's farming operations have been substantially affected by a natural disaster in the United States or by 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.), including a borrower or applicant who has a qualifying loss but is not located in a designated or declared disaster area.

(3) Application of subsection

Paragraph (1) shall apply to all actions taken by the Secretary to carry out this chapter (except for loans under subchapter III of this chapter) that involve the yields of a farm of a borrower or applicant, including making loans and loan guarantees, servicing loans, and making credit sales.

(Pub. L. 87-128, title III, §331E, as added Pub. L. 100-233, title VI, §606, Jan. 6, 1988, 101 Stat. 1667; amended Pub. L. 102-237, title V, §501(d)(1), Dec. 13, 1991, 105 Stat. 1866; Pub. L. 102-552, title V, §516(g)(1), Oct. 28, 1992, 106 Stat. 4138.)

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsecs. (a) and

(b)(2), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

For definition of “this chapter”, referred to in subsec. (b)(1), (3), see note set out under section 1921 of this title.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-552, §516(g)(1)(A), substituted “Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)” for “Disaster Relief Act of 1974”.

Subsec. (b)(2). Pub. L. 102-552, §516(g)(1)(B), inserted “Robert T. Stafford” before “Disaster Relief”.

1991—Pub. L. 102-237 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-552, title V, §516(g)(2), Oct. 28, 1992, 106 Stat. 4138, provided that: “The amendments made by paragraph (1) of this subsection [amending this section] shall take effect immediately after section 501(d) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102-237; 105 Stat. 1866) [amending this section and enacting provisions set out below] took effect.”

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-237, title V, §501(d)(3), Dec. 13, 1991, 105 Stat. 1867, provided that:

“(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) [amending this section] shall become effective on the date of publication of the interim regulations issued pursuant to paragraph (2)(A) [set out below].

“(B) EXCEPTION.—The amendment made by paragraph (1) shall apply to each primary loan servicing application submitted on or after the date of enactment of this Act [Dec. 13, 1991].”

REGULATIONS

Pub. L. 102-237, title V, §501(d)(2), Dec. 13, 1991, 105 Stat. 1867, provided that:

“(A) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code, as soon as practicable after the date of enactment of this Act [Dec. 13, 1991] and without a requirement for prior public notice and comment, the Secretary of Agriculture shall issue interim regulations that provide for the implementation of the amendment made by paragraph (1) [amending this section] beginning in crop year 1992.

“(B) FINAL REGULATIONS.—The Secretary of Agriculture shall provide for public notice and comment before the issuance of final regulations to implement the amendment made by paragraph (1).”

§ 1981f. Underwriting forms and standards

In the administration of this chapter, the Secretary shall, to the extent practicable, use underwriting forms, standards, practices, and terminology similar to the forms, standards, practices, and terminology used by lenders in the private sector.

(Pub. L. 87-128, title III, §331F, as added Pub. L. 101-624, title XVIII, §1808(a), Nov. 28, 1990, 104 Stat. 3820.)

REFERENCES IN TEXT

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

REGULATIONS

Pub. L. 101-624, title XVIII, §1808(b), Nov. 28, 1990, 104 Stat. 3820, provided that: “The Secretary of Agriculture