

farmer or rancher who is a member of a socially disadvantaged group.

**(f) Implementation consistent with Supreme Court holding**

Not later than 180 days after April 4, 1996, the Secretary shall ensure that the implementation of this section is consistent with the holding of the Supreme Court in *Adarand Constructors, Inc. v. Federico Pena*, Secretary of Transportation, 115 S. Ct. 2097 (1995).

(Pub. L. 87-128, title III, §355, as added Pub. L. 100-233, title VI, §617, Jan. 6, 1988, 101 Stat. 1682; amended Pub. L. 101-624, title XVIII, §1817, title XXV, §2501(f), Nov. 28, 1990, 104 Stat. 3829, 4065; Pub. L. 102-554, §21(a), (b), Oct. 28, 1992, 106 Stat. 4161; Pub. L. 104-127, title VI, §647, Apr. 4, 1996, 110 Stat. 1104; Pub. L. 107-171, title V, §5315, May 13, 2002, 116 Stat. 348.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsecs. (c)(2), see note set out under section 1921 of this title.

AMENDMENTS

2002—Subsec. (c)(2). Pub. L. 107-171 substituted “Any funds reserved and allocated under this paragraph but not used within a State shall, to the extent necessary to satisfy pending applications under this chapter, be available for use by socially disadvantaged farmers and ranchers in other States, as determined by the Secretary, and any remaining funds shall be reallocated within the State.” for “Any funds reserved and allocated for purposes of this paragraph, but not used shall be reallocated within such State.”

1996—Subsec. (f). Pub. L. 104-127 added subsec. (f).

1992—Subsec. (a)(2). Pub. L. 102-554, §21(a)(1), substituted “Except as provided in paragraph (3), in establishing” for “In establishing”.

Subsec. (a)(3). Pub. L. 102-554, §21(a)(2), added par. (3).

Subsec. (e)(1). Pub. L. 102-554, §21(b), substituted “, ethnic, or gender” for “or ethnic”.

1990—Subsec. (b)(3). Pub. L. 101-624, §1817, added par. (3).

Subsecs. (c), (d). Pub. L. 101-624, §2501(f)(1)–(3), added subsec. (c), redesignated former subsec. (c) as (d), and struck out former subsec. (d) which read as follows: “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.”

Subsec. (e). Pub. L. 101-624, §2501(f)(4), added subsec. (e).

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which the report required by subsec. (d) of this section is listed on page 44), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

**§ 2004. Expedited clearing of title to inventory property**

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.

(Pub. L. 87-128, title III, §356, as added Pub. L. 100-233, title VI, §618, Jan. 6, 1988, 101 Stat. 1683.)

**§ 2005. Payment of losses on guaranteed loans**

**(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, for any borrower to whom a lender has made a loan guaranteed under this chapter, 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 chapter 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 1981(b)(4) of this title 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 1981(b)(4) of this title 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 2001(e) of this title.

(Pub. L. 87-128, title III, §357, as added Pub. L. 100-233, title VI, §619, Jan. 6, 1988, 101 Stat. 1683; amended Pub. L. 101-624, title XXIII, §2388(d)(2), Nov. 28, 1990, 104 Stat. 4053.)

REFERENCES IN TEXT

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

## AMENDMENTS

1990—Subsec. (b)(1), (2). Pub. L. 101-624 substituted “1981(b)(4)” for “1981(d)”.

**§ 2006. Waiver of mediation rights by borrowers**

The Secretary may not make, insure, or guarantee any farmer program loan to a farm borrower on the condition that the borrower waive any right under the mediation program of any State.

(Pub. L. 87-128, title III, §358, as added Pub. L. 100-233, title V, §512, Jan. 6, 1988, 101 Stat. 1664; amended Pub. L. 103-354, title II, §282(f)(3), Oct. 13, 1994, 108 Stat. 3235.)

## AMENDMENTS

1994—Pub. L. 103-354 struck out “agricultural loan” before “mediation program”.

**§ 2006a. Borrower training****(a) In general**

The Secretary shall enter into contracts to provide educational training to all borrowers of farmer program direct loans made under this chapter in financial and farm management concepts associated with commercial farming.

**(b) Contract****(1) In general**

The Secretary may contract with State or private providers of farm management and credit counseling services (including a community college, the extension service of a State, a State department of agriculture, or a nonprofit organization) to carry out this section.

**(2) Consultation**

The Secretary may consult with the chief executive officer of a State concerning the identity of the contracting organization and the process for contracting.

**(c) Eligibility for loans****(1) In general**

Subject to paragraph (2), to be eligible to obtain a direct loan under this chapter, a borrower must obtain management assistance under this section, appropriate to the management ability of the borrower (as determined by the appropriate county committee during the determination of eligibility for the loan).

**(2) Loan conditions**

The need of a borrower who satisfies the criteria set out in section 1922(a)(2) or 1941(a)(2) of this title for management assistance under this section shall not be cause for denial of eligibility of the borrower for a direct loan under this chapter.

**(d) Guidelines and curriculum**

The Secretary shall issue regulations establishing guidelines and curriculum for the borrower training program established under this section.

**(e) Payment**

A borrower shall pay for training received under this section, and may use funds from operating loans made under subchapter II of this chapter to pay for the training.

**(f) Waivers****(1) In general**

The Secretary may waive the requirements of this section for an individual borrower if the Secretary determines that the borrower demonstrates adequate knowledge in areas described in this section.

**(2) Criteria**

The Secretary shall establish criteria providing for the application of paragraph (1) consistently in all counties nationwide.

(Pub. L. 87-128, title III, §359, as added Pub. L. 101-624, title XVIII, §1818(a), Nov. 28, 1990, 104 Stat. 3829; amended Pub. L. 105-277, div. A, §101(a) [title VIII, §805(3)], Oct. 21, 1998, 112 Stat. 2681, 2681-39; Pub. L. 107-171, title V, §§5316, 5501(c), May 13, 2002, 116 Stat. 348, 351.)

## 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

2002—Subsec. (c)(1). Pub. L. 107-171, §5501(c), struck out “established pursuant to section 1982 of this title,” after “appropriate county committee”.

Subsec. (f). Pub. L. 107-171, §5316, added subsec. (f) and struck out heading and text of former subsec. (f). Text read as follows: “The Secretary may waive the requirements of this section for an individual borrower on a determination by the county committee that the borrower demonstrates adequate knowledge in areas described in this section.”

1998—Subsec. (a). Pub. L. 105-277, §101(a) [title VIII, §805(3)(A)], struck out “and guaranteed” after “direct”.

Subsec. (c). Pub. L. 105-277, §101(a) [title VIII, §805(3)(B)], struck out “or guaranteed” after “direct” in pars. (1) and (2).

**§ 2006b. Loan assessments****(a) In general**

The Secretary shall evaluate, in accordance with regulations issued by the Secretary, the farming plan and financial situation of each qualified farmer or rancher applicant.

**(b) Determinations**

In evaluating the farming plan and financial situation of an applicant under this section, the Secretary shall determine—

(1) the amount that the applicant will need to borrow to carry out the proposed farming plan;

(2) the rate of interest that the applicant would need to be able to cover expenses and build an adequate equity base;

(3) the goals of the proposed farming plan of the applicant;

(4) the financial viability of the plan and any changes that are necessary to make the plan viable; and

(5) whether assistance is necessary under this chapter and, if so, the amount of the assistance.

**(c) Contract**

The Secretary may contract with a third party (including those entities eligible to provide borrower training under section 2006a(b) of this title) to conduct loan assessments under this section.