

VI, § 606, Dec. 23, 1985, 99 Stat. 1705, 1711; Pub. L. 100-233, title VIII, § 805(l), Jan. 6, 1988, 101 Stat. 1715.)

AMENDMENTS

1988—Pub. L. 100-233 struck out “other than stock held by the Farm Credit Administration,” after “investment stock.”

1985—Pub. L. 99-205 struck out “the Governor of” before “the Farm Credit Administration” and inserted “, subject to the general direction of the Farm Credit Administration”.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as a note under section 2001 of this title.

§ 2126. Retirement of stock

Nonvoting investment stock and participation certificates may be called for retirement at par. With the approval of the issuing bank, the holder may elect not to have the called stock or participation certificates retired in response to a call, reserving the right to have such stock or participation certificates included in the next call for retirement. Voting stock may also be retired at par, on call or on such revolving basis as the board may determine with due regard for its total capital needs: *Provided, however*, That all equities in the district banks issued or allocated with respect to 1971 and prior years shall be retired on a revolving basis according to the year of issue with the oldest outstanding equities being first retired. Equities issued for subsequent years shall not be called or retired until equities described in the preceding sentence of this proviso have been retired.

(Pub. L. 92-181, title III, § 3.5, Dec. 10, 1971, 85 Stat. 604; Pub. L. 96-592, title III, § 303, Dec. 24, 1980, 94 Stat. 3444; Pub. L. 99-205, title II, § 205(e)(6), Dec. 23, 1985, 99 Stat. 1705; Pub. L. 100-233, title VIII, § 802(p), Jan. 6, 1988, 101 Stat. 1712.)

AMENDMENTS

1988—Pub. L. 100-233 struck out “with approval of the Farm Credit Administration” after “board may determine”.

1985—Pub. L. 99-205 substituted “Nonvoting investment stock” for “Any nonvoting stock held by the Governor of the Farm Credit Administration shall be retired to the extent required by section 2151(b) of this title before any other outstanding voting or nonvoting stock or participation certificates shall be retired except as may be otherwise authorized by the Farm Credit Administration. When those requirements have been satisfied, nonvoting investment stock”, and substituted “Voting” for “When the requirements of section 2151(b) of this title have been met, voting”.

1980—Pub. L. 96-592 inserted provisions respecting applicability to participation certificates and struck out provisions relating to maximum amount of fair book value at retirement.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as a note under section 2001 of this title.

§ 2127. Guaranty fund subscriptions in lieu of stock

If any cooperative association is not authorized under the laws of the State in which it is

organized to take and hold stock in a bank for cooperatives, the bank shall, in lieu of any requirement for stock purchase, require the association to pay into or have on deposit in a guaranty fund, or the bank may retain out of the amount of the loan and credit to the guaranty fund account of the borrower, a sum equal to the amount of stock which the association would otherwise be required to own. Each reference to stock of the banks for cooperatives in this chapter shall include such guaranty fund equivalents. The holder of the guaranty fund equivalent and the bank shall each be entitled to the same rights and obligations with respect thereto as the rights and obligations associated with the class or classes of stock involved.

(Pub. L. 92-181, title III, § 3.6, Dec. 10, 1971, 85 Stat. 604.)

§ 2128. Loans, commitments, and technical and financial assistance

(a) Authorities

The banks for cooperatives are authorized to make loans and commitments to eligible cooperative associations and to extend to them other technical and financial assistance at any time (whether or not they have a loan from the bank outstanding), including but not limited to discounting notes and other obligations, guarantees, currency exchange necessary to service individual transactions that may be financed under subsection (b) of this section, collateral custody, or participation with other banks for cooperatives and commercial banks or other financial institutions in loans to eligible cooperatives, under such terms and conditions as may be determined to be feasible by the board of directors of each bank for cooperatives under regulations of the Farm Credit Administration. Such regulations may include provisions for avoiding duplication between the Central Bank and district banks for cooperatives. Each bank may own and lease, or lease with option to purchase, to stockholders eligible to borrow from the bank equipment needed in the operations of the stockholder and may make or participate in loans or commitments and extend other technical and financial assistance to other domestic parties for the acquisition of equipment and facilities to be leased to such stockholders for use in their operations in the United States.

(b) Additional authorities

(1) A bank for cooperatives is authorized to make or participate in loans and commitments to, and to extend other technical and financial assistance to a domestic or foreign party with respect to its transactions with an association that is a voting stockholder of the bank for the import of agricultural commodities or products thereof, agricultural supplies, or aquatic products through purchases, sales or exchanges, if the bank for cooperatives determines, under regulations of the Farm Credit Administration, that the voting stockholder will benefit substantially as a result of such loan, commitment, or assistance.

(2)(A) A bank for cooperatives may make or participate in loans and commitments to, and extend other technical and financial assistance to—

(i) any domestic or foreign party for the export, including (where applicable) the cost of freight, of agricultural commodities or products thereof, agricultural supplies, or aquatic products from the United States under policies and procedures established by the bank to ensure that the commodities, products, or supplies are originally sourced, where reasonably available, from one or more eligible cooperative associations described in section 2129(a) of this title on a priority basis, except that if the total amount of the balances outstanding on loans made by a bank under this clause that—

(I) are made to finance the export of commodities, products, or supplies that are not originally sourced from a cooperative, and

(II) are not guaranteed or insured, in an amount equal to at least 95 percent of the amount loaned, by a department, agency, bureau, board, commission, or establishment of the United States or a corporation wholly-owned directly or indirectly by the United States,

exceeds an amount that is equal to 50 percent of the bank's capital, then a sufficient interest in the loans shall be sold by the bank for cooperatives to commercial banks and other non-System lenders to reduce the total amount of such outstanding balances to an amount not greater than an amount equal to 50 percent of the bank's capital; and

(ii) except as provided in subparagraph (B), any domestic or foreign party in which an eligible cooperative association described in section 2129(a) of this title (including, for the purpose of facilitating its domestic business operations only, a cooperative or other entity described in section 2129(b)(1)(A) of this title) has an ownership interest, for the purpose of facilitating the domestic or foreign business operations of the association, except that if the ownership interest by an eligible cooperative association, or associations, is less than 50 percent, the financing shall be limited to the percentage held in the party by the association or associations.

(B) A bank for cooperatives shall not use the authority provided in subparagraph (A)(ii) to provide financial assistance to a party for the purpose of financing the relocation of a plant or facility from the United States to another country.

(3) A bank for cooperatives is authorized to provide such services as may be customary and normal in maintaining relationships with domestic or foreign entities to facilitate the activities specified in paragraphs (1) and (2), consistent with this chapter.

(4) DEFINITION OF AGRICULTURAL SUPPLY.—In this subsection, the term “agricultural supply” includes—

(A) a farm supply; and

(B)(i) agriculture-related processing equipment;

(ii) agriculture-related machinery; and

(iii) other capital goods related to the storage or handling of agricultural commodities or products.

(c) Applicable policies

Loans, commitments, and assistance authorized by subsection (b) of this section shall be ex-

tended in accordance with policies adopted by the board of directors of the bank under regulations of the Farm Credit Administration.

(d) Regulatory limitations

The regulations of the Farm Credit Administration implementing subsection (b) of this section and other provisions of this subchapter relating to the authority under subsection (b) of this section may not confer upon the banks for cooperatives powers and authorities greater than those specified in this subchapter. The Farm Credit Administration shall, during the formulation of such regulations, closely consult on a continuing basis with the Board of Governors of the Federal Reserve System to insure that such regulations conform to national banking policies, objectives, and limitations.

(e) Speculative futures transactions

Notwithstanding any other provision of this subchapter, the banks for cooperatives shall not make or participate in loans or commitments for the purpose of financing speculative futures transactions by eligible borrowers in foreign currencies.

(f) Installation, expansion, or improvement of water and waste disposal facilities

The banks for cooperatives may, for the purpose of installing, maintaining, expanding, improving, or operating water and waste disposal facilities in rural areas, make and participate in loans and commitments and extending other technical and financial assistance to—

(1) cooperatives formed specifically for the purpose of establishing or operating such facilities; and

(2) public and quasi-public agencies and bodies, and other public and private entities that, under authority of State or local law, establish or operate such facilities.

For purposes of this subsection, the term “rural area” means all territory of a State that is not within the outer boundary of any city or town having a population of more than 20,000 based on the latest decennial census of the United States.

(Pub. L. 92-181, title III, §3.7, Dec. 10, 1971, 85 Stat. 605; Pub. L. 96-592, title III, §304, Dec. 24, 1980, 94 Stat. 3444; Pub. L. 101-624, title XXIII, §2323(a), Nov. 28, 1990, 104 Stat. 4013; Pub. L. 102-237, title V, §502(e)(1), Dec. 13, 1991, 105 Stat. 1868; Pub. L. 102-552, title V, §§504, 505, Oct. 28, 1992, 106 Stat. 4131; Pub. L. 103-376, §3, Oct. 19, 1994, 108 Stat. 3497; Pub. L. 107-171, title V, §5402, May 13, 2002, 116 Stat. 350.)

AMENDMENTS

2002—Subsec. (b)(1), (2)(A)(i). Pub. L. 107-171, §5402(1), substituted “agricultural supplies” for “farm supplies”.

Subsec. (b)(4). Pub. L. 107-171, §5402(2), added par. (4).

1994—Subsec. (b)(1). Pub. L. 103-376, §3(A), substituted “assistance to” for “assistance to (A)”, “bank for the import” for “bank for the export or import”, and “if the bank for cooperatives” for “and (B) a domestic or foreign party in which such an association has at least the minimum ownership interest approved under regulations of the Farm Credit Administration for the purpose of facilitating the association's export or import operations of the type described in subparagraph (A): *Provided*, That a”.

Subsec. (b)(2). Pub. L. 103-376, §3(B), added par. (2) and struck out former par. (2) which read as follows: “A

bank for cooperatives is authorized to make or participate in loans and commitments, and to extend other technical and financial assistance, to any domestic or foreign entity that is eligible for a guarantee or insurance as described in subparagraphs (A) and (B) with respect to transactions involving the Soviet Union (its successor entities or any of the individual republics of the Soviet Union) or an emerging democracy (as defined in section 1542(f) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note)) for the export of agricultural commodities and products thereof from the United States, including (where applicable) the cost of freight, if in each case—

“(A) the loan involved is unconditionally guaranteed or insured by a department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States; and

“(B) the guarantee or insurance—

“(i) covers at least 95 percent of the amount loaned for the purchase of the commodities or products; and

“(ii) is issued on or before September 30, 1995.”

1992—Subsec. (a). Pub. L. 102-552, § 504, inserted “at any time (whether or not they have a loan from the bank outstanding)” after “assistance” in first sentence.

Subsec. (f). Pub. L. 102-552, § 505, in introductory provisions, substituted “installing, maintaining, expanding, improving, or operating” for “the installation, expansion, or improvement of” and “extending” for “to extend”.

1991—Subsec. (b). Pub. L. 102-237 designated existing provisions as par. (1), redesignated cl. (1) as (A) and inserted “or products thereof” after “commodities”, redesignated cl. (2) as (B) and substituted “subparagraph (A)” for “clause (1) of this subsection”, and added pars. (2) and (3).

1990—Subsec. (f). Pub. L. 101-624 added subsec. (f).

1980—Pub. L. 96-592 designated existing provisions as subsec. (a), inserted provisions relating to currency exchanges and provisions relating to loans, etc., to domestic parties, and added subsecs. (b) to (e).

§ 2129. Eligibility

(a) Any association of farmers, producers or harvesters of aquatic products, or any federation of such associations, which is operated on a cooperative basis, and has the powers for processing, preparing for market, handling, or marketing farm or aquatic products; or for purchasing, testing, grading, processing, distributing, or furnishing farm or aquatic supplies or furnishing farm or aquatic business services or services to eligible cooperatives and conforms to either of the two following requirements:

(1) no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein; or

(2) does not pay dividends on stock or membership capital in excess of such per centum per annum as may be approved under regulations of the Farm Credit Administration; and in any case

(3) does not deal in farm products or aquatic products, or products processed therefrom, farm or aquatic supplies, farm or aquatic business services, or services to eligible cooperatives with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members, excluding from the total of member and non-member business transactions with the United States or any agency or instrumentality

thereof or services or supplies furnished as a public utility; and

(4) a percentage of the voting control of the association not less than 80 per centum (60 per centum (A) in the case of rural electric, telephone, public utility, and service cooperatives; (B) in the case of local farm supply cooperatives that have historically served needs of the community that would not adequately be served by other suppliers and have experienced a reduction in the percentage of farmer membership due to changed circumstances beyond their control such as, but not limited to, urbanization of the community; and (C) in the case of local farm supply cooperatives that provide or will provide needed services to a community and that are or will be in competition with a cooperative specified in paragraph (B)) or, with respect to any type of association or cooperative, such higher percentage as established by the bank board, is held by farmers, producers or harvesters of aquatic products, or eligible cooperative associations as defined herein;

shall be eligible to borrow from a bank for cooperatives. Any such association that has received a loan from a bank for cooperatives shall, without regard to the requirements of paragraphs (1) through (4), continue to be eligible for so long as more than 50 percent (or such higher percentage as is established by the bank board) of the voting control of the association is held by farmers, producers or harvesters of aquatic products, or eligible cooperative associations.

(b) Notwithstanding any other provision of this section:

(1) The following entities shall also be eligible to borrow from a bank for cooperatives:

(A) Cooperatives and other entities that have received a loan, loan commitment, or loan guarantee from the Rural Electrification Administration, or a loan or loan commitment from the Rural Telephone Bank, or that are eligible under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) for a loan, loan commitment, or loan guarantee from the Administration or the Bank (or a successor of the Administration or the Bank), and subsidiaries of such cooperatives or other entities.

(B) Any legal entity that (i) holds more than 50 percent of the voting control of an association or other entity that is eligible to borrow from a bank for cooperatives under subsection (a) or subparagraph (A) of this paragraph, and (ii) borrows for the purpose of making funds available to that association or entity, and makes funds available to that association or entity under the same terms and conditions that the funds are borrowed from a bank for cooperatives.

(C) Any cooperative or other entity described in subsection (b) or (f) of section 2128 of this title.

(D) Any creditworthy private entity that satisfies the requirements for a service cooperative under paragraphs (1), (2), and (4), or under the last sentence, of subsection (a) and subsidiaries of the entity, if the entity is organized to benefit agriculture in furtherance of the welfare of its farmer-members and is operated on a not-for-profit basis.