

(Pub. L. 92-181, title VIII, §8.38, as added Pub. L. 104-105, title I, §117, Feb. 10, 1996, 110 Stat. 168.)

PART C—RECEIVERSHIP, CONSERVATORSHIP, AND LIQUIDATION OF FEDERAL AGRICULTURAL MORTGAGE CORPORATION

§ 2279cc. Conservatorship; liquidation; receivership

(a) Voluntary liquidation

The Corporation may voluntarily liquidate only with the consent of, and in accordance with a plan of liquidation approved by, the Farm Credit Administration Board.

(b) Involuntary liquidation

(1) In general

The Farm Credit Administration Board may appoint a conservator or receiver for the Corporation under the circumstances specified in section 2183(b) of this title.

(2) Application

In applying section 2183(b) of this title to the Corporation under paragraph (1)—

(A) the Corporation shall also be considered insolvent if the Corporation is unable to pay its debts as they fall due in the ordinary course of business;

(B) a conservator may also be appointed for the Corporation if the authority of the Corporation to purchase qualified loans or issue or guarantee loan-backed securities is suspended; and

(C) a receiver may also be appointed for the Corporation if—

(i) the authority of the Corporation to purchase qualified loans or issue or guarantee loan-backed securities is suspended; or

(ii) the Corporation is classified under section 2279bb-4 of this title as within level III or IV and the alternative actions available under part B are not satisfactory; and

(iii) the Farm Credit Administration determines that the appointment of a conservator would not be appropriate.

(3) No effect on supervisory actions

The grounds for appointment of a conservator for the Corporation under this subsection shall be in addition to those in section 2279bb-6 of this title.

(c) Appointment of conservator or receiver

(1) Qualifications

Notwithstanding section 2183(b) of this title, if a conservator or receiver is appointed for the Corporation, the conservator or receiver shall be—

(A) the Farm Credit Administration or any other governmental entity or employee, including the Farm Credit System Insurance Corporation; or

(B) any person that—

(i) has no claim against, or financial interest in, the Corporation or other basis for a conflict of interest as the conservator or receiver; and

(ii) has the financial and management expertise necessary to direct the oper-

ations and affairs of the Corporation and, if necessary, to liquidate the Corporation.

(2) Compensation

(A) In general

A conservator or receiver for the Corporation and professional personnel (other than a Federal employee) employed to represent or assist the conservator or receiver may be compensated for activities conducted as, or for, a conservator or receiver.

(B) Limit on compensation

Compensation may not be provided in amounts greater than the compensation paid to employees of the Federal Government for similar services, except that the Farm Credit Administration may provide for compensation at higher rates that are not in excess of rates prevailing in the private sector if the Farm Credit Administration determines that compensation at higher rates is necessary in order to recruit and retain competent personnel.

(C) Contractual arrangements

The conservator or receiver may contract with any governmental entity, including the Farm Credit System Insurance Corporation, to make personnel, services, and facilities of the entity available to the conservator or receiver on such terms and compensation arrangements as shall be mutually agreed, and each entity may provide the same to the conservator or receiver.

(3) Expenses

A valid claim for expenses of the conservatorship or receivership (including compensation under paragraph (2)) and a valid claim with respect to a loan made under subsection (f) shall—

(A) be paid by the conservator or receiver from funds of the Corporation before any other valid claim against the Corporation; and

(B) may be secured by a lien, on such property of the Corporation as the conservator or receiver may determine, that shall have priority over any other lien.

(4) Liability

If the conservator or receiver for the Corporation is not a Federal entity, or an officer or employee of the Federal Government, the conservator or receiver shall not be personally liable for damages in tort or otherwise for an act or omission performed pursuant to and in the course of the conservatorship or receivership, unless the act or omission constitutes gross negligence or any form of intentional tortious conduct or criminal conduct.

(5) Indemnification

The Farm Credit Administration may allow indemnification of the conservator or receiver from the assets of the conservatorship or receivership on such terms as the Farm Credit Administration considers appropriate.

(d) Judicial review of appointment

(1) In general

Notwithstanding subsection (i)(1), not later than 30 days after a conservator or receiver is

appointed under subsection (b), the Corporation may bring an action in the United States District Court for the District of Columbia for an order requiring the Farm Credit Administration Board to remove the conservator or receiver. The court shall, on the merits, dismiss the action or direct the Farm Credit Administration Board to remove the conservator or receiver.

(2) Stay of other actions

On the commencement of an action under paragraph (1), any court having jurisdiction of any other action or enforcement proceeding authorized under this chapter to which the Corporation is a party shall stay the action or proceeding during the pendency of the action for removal of the conservator or receiver.

(e) General powers of conservator or receiver

The conservator or receiver for the Corporation shall have such powers to conduct the conservatorship or receivership as shall be provided pursuant to regulations adopted by the Farm Credit Administration Board. Such powers shall be comparable to the powers available to a conservator or receiver appointed pursuant to section 2183(b) of this title.

(f) Borrowings for working capital

(1) In general

If the conservator or receiver of the Corporation determines that it is likely that there will be insufficient funds to pay the ongoing administrative expenses of the conservatorship or receivership or that there will be insufficient liquidity to fund maturing obligations of the conservatorship or receivership, the conservator or receiver may borrow funds in such amounts, from such sources, and at such rates of interest as the conservator or receiver considers necessary or appropriate to meet the administrative expenses or liquidity needs of the conservatorship or receivership.

(2) Working capital from Farm Credit banks

A Farm Credit bank may loan funds to the conservator or receiver for a loan authorized under paragraph (1) or, in the event of receivership, a Farm Credit bank may purchase assets of the Corporation.

(g) Agreements against interests of conservator or receiver

No agreement that tends to diminish or defeat the right, title, or interest of the conservator or receiver for the Corporation in any asset acquired by the conservator or receiver as conservator or receiver for the Corporation shall be valid against the conservator or receiver unless the agreement—

- (1) is in writing;
- (2) is executed by the Corporation and any person claiming an adverse interest under the agreement, including the obligor, contemporaneously with the acquisition of the asset by the Corporation;
- (3) is approved by the Board or an appropriate committee of the Board, which approval shall be reflected in the minutes of the Board or committee; and
- (4) has been, continuously, from the time of the agreement's execution, an official record of the Corporation.

(h) Report to Congress

On a determination by the receiver for the Corporation that there are insufficient assets of the receivership to pay all valid claims against the receivership, the receiver shall submit to the Secretary of the Treasury, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the financial condition of the receivership.

(i) Termination of authorities

(1) Corporation

The charter of the Corporation shall be canceled, and the authority provided to the Corporation by this subchapter shall terminate, on such date as the Farm Credit Administration Board determines is appropriate following the placement of the Corporation in receivership, but not later than the conclusion of the receivership and discharge of the receiver.

(2) Oversight

The Office of Secondary Market Oversight established under section 2279aa-11 of this title shall be abolished, and section 2279aa-11(a) of this title and part B shall have no force or effect, on such date as the Farm Credit Administration Board determines is appropriate following the placement of the Corporation in receivership, but not later than the conclusion of the receivership and discharge of the receiver.

(Pub. L. 92-181, title VIII, §8.41, as added Pub. L. 104-105, title I, §118, Feb. 10, 1996, 110 Stat. 168.)

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§ 2281. Congressional findings and declaration of purpose

The Congress finds that demands for funds through Federal and federally assisted borrowing programs are increasing faster than the total supply of credit and that such borrowings are not adequately coordinated with overall