

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.

(2) Notwithstanding the provisions of section 2130 of this title, the board of directors of a bank for cooperatives may determine that, with respect to a loan to any borrower eligible to borrow from a bank under paragraph (1)(A) that is fully guaranteed by the United States, no stock purchase requirement shall apply, other than the requirement that a borrower eligible to own voting stock shall purchase one share of such stock.

(3) Each association and other entity eligible to borrow from a bank for cooperatives under this subsection, for purposes of section 2128(a) of this title, shall be treated as an eligible cooperative association and a stockholder eligible to borrow from the bank.

(4) Nothing in this subsection shall be construed to adversely affect the eligibility, as it existed on January 6, 1988, of cooperatives and other entities for any other credit assistance under Federal law.

(Pub. L. 92-181, title III, §3.8, Dec. 10, 1971, 85 Stat. 605; Pub. L. 94-184, §1(a), Dec. 31, 1975, 89 Stat. 1060; Pub. L. 96-592, title III, §305, Dec. 24, 1980, 94 Stat. 3445; Pub. L. 99-198, title XIII, §1322, Dec. 23, 1985, 99 Stat. 1534; Pub. L. 100-233, title IV, §421, title VIII, §805(m), Jan. 6, 1988, 101 Stat. 1654, 1715; Pub. L. 100-399, title IV, §410, title IX, §901(e), Aug. 17, 1988, 102 Stat. 1003, 1007; Pub. L. 101-624, title XXIII, §2323(b), Nov. 28, 1990, 104 Stat. 4013; Pub. L. 102-237, title V, §502(e)(2), (f), Dec. 13, 1991, 105 Stat. 1869; Pub. L. 102-552, title V, §506, Oct. 28, 1992, 106 Stat. 4131; Pub. L. 103-376, §4, Oct. 19, 1994, 108 Stat. 3498; Pub. L. 104-105, title II, §§204, 205, Feb. 10, 1996, 110 Stat. 172.)

#### REFERENCES IN TEXT

The Rural Electrification Act of 1936, referred to in subsec. (b)(1)(A), is act May 20, 1936, ch. 432, 49 Stat. 1363, as amended, which is classified generally to chapter 31 (§901 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 901 of Title 7 and Tables.

#### AMENDMENTS

1996—Subsec. (a). Pub. L. 104-105, §204(a), inserted at end “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.”

Subsec. (b)(1)(A). Pub. L. 104-105, §205, substituted “are eligible under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) for” for “have been certified by the Administrator of the Rural Electrification Administration to be eligible for such” and “loan guarantee from the Administration or the Bank (or a successor of the Administration or the Bank), and” for “loan guarantee, and”.

Subsec. (b)(1)(D). Pub. L. 104-105, §204(b), substituted “and (4), or under the last sentence, of subsection (a)” for “and (4) of subsection (a)”.

1994—Subsec. (b)(1)(B) to (E). Pub. L. 103-376 redesignated subpars. (C) to (E) as (B) to (D), respectively, realigned margin of subpar. (D), and struck out former subpar. (B) which read as follows: “Any legal entity more than 50 percent of the voting control of which is held by one or more associations or other entities that are eligible to borrow from a bank for cooperatives under subsection (a) of this section or subparagraph (A)

of this paragraph, except that any such legal entity, when considered together with one or more such associations or other entities that hold such control, meet the requirement of subsection (a)(3) of this section."

1992—Subsec. (b)(1)(E). Pub. L. 102-552 added subpar. (E).

1991—Subsec. (a)(4). Pub. L. 102-237, §502(f)(1), substituted "a percentage" for "A percentage".

Subsec. (b)(1)(D). Pub. L. 102-237, §502(e)(2), (f)(2), substituted "subsection (b) or (f) of section 2128 of this title" for "section 2128(f) of this title" and realigned margin of subpar. (D).

1990—Subsec. (b)(1)(D). Pub. L. 101-624 added subpar. (D).

1988—Pub. L. 100-399, §901(e), substituted "bank board" for "district board" in subsec. (a)(4).

Pub. L. 100-399, §410, substituted "makes" for "make" in subsec. (b)(1)(C).

Pub. L. 100-233, §805(m), redesignated subsec. (1) as subsec. (a) and pars. (a) to (d) as pars. (1) to (4), respectively, in par. (4) redesignated cls. (1) to (3) as (A) to (C), respectively, and in cl. (C) substituted "paragraph (B)" for "paragraph (2)".

Pub. L. 100-233, §421, added subsec. (b) and struck out former subsec. (2) which read as follows: "Notwithstanding any other provision of this subchapter, 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 have been certified by the Administrator of the Rural Electrification Administration to be eligible for such a loan, loan commitment, or loan guarantee, and subsidiaries of such cooperatives or other entities, shall also be eligible to borrow from a bank for cooperatives."

1985—Pub. L. 99-198, §1322(1), designated existing provisions as subsec. (1) and added subsec. (2).

1980—Pub. L. 96-592, §305(1), inserted reference to aquatic business in introductory text.

Subsec. (c). Pub. L. 96-592, §305(2), inserted reference to aquatic business services or services to eligible cooperatives.

Subsec. (d). Pub. L. 96-592, §305(3), substituted "60" for "70", and designated former parenthetical material as item (1), and added items (2) and (3) and limitation with respect to any type of association or cooperative.

1975—Subsec. (d). Pub. L. 94-184 inserted provision relating to 70 per centum of voting control in the case of rural electric, telephone, and public utility cooperatives.

#### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 502(f) of Pub. L. 102-237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101-624, to which the amendment relates, see section 1101(b)(4) of Pub. L. 102-237, set out as a note under section 1421 of Title 7, Agriculture.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-399 effective as if enacted immediately after enactment of Pub. L. 100-233, which was approved Jan. 6, 1988, see section 1001(a) of Pub. L. 100-399, set out as a note under section 2002 of this title.

### § 2130. Ownership of stock by borrowers

(a) Each borrower entitled to hold voting stock shall, at the time a loan is made by a bank for cooperatives, own at least one share of voting stock and shall be required by the bank to invest in additional voting stock or non-voting investment stock at that time, or from time to time, as the lending bank may determine, but the requirement for investment in stock at the time the loan is closed shall not exceed an amount equal to 10 per centum of the face amount of the loan. Such additional owner-

ship requirements may be based on the face amount of the loan, the outstanding loan balance or on a percentage of the interest payable by the borrower during any year or during any quarter thereof, or upon such other basis as the bank determines will provide adequate capital for the operation of the bank and equitable ownership thereof among borrowers. In the case of a direct loan by the Central Bank, the borrower shall be required to own or invest in the necessary stock in a district bank or banks and such district bank shall be required to own a corresponding amount of stock in the Central Bank, but voting stock shall be in the one district bank, designated by the Farm Credit Administration.

(b) Notwithstanding the provisions of subsection (a) of this section, the purchase of stock need not be required with respect to that part of any loan made by a bank for cooperatives which it sells to or makes in participation with financial institutions other than any of the banks for cooperatives. In such cases the distribution of earnings of the bank for cooperatives shall be on the basis of the interest in the loan retained by such bank.

(Pub. L. 92-181 title III, §3.9, Dec. 10, 1971, 85 Stat. 605; Pub. L. 96-592, title III, §306, Dec. 24, 1980, 94 Stat. 3445; Pub. L. 100-233, title VIII, §802(q), Jan. 6, 1988, 101 Stat. 1712.)

#### AMENDMENTS

1988—Subsec. (a). Pub. L. 100-233 substituted "by the bank to invest" for "by the bank with the approval of the Farm Credit Administration to invest", "or upon such other basis as the bank determines" for "or upon such other basis as the bank, with the approval of the Farm Credit Administration, determines", and "in a district bank or banks and such district bank shall be required" for "in a district bank or banks as may be approved by the Farm Credit Administration and such district bank shall be required".

1980—Subsec. (a). Pub. L. 96-592 inserted provisions respecting entitlement to hold voting stock.

### § 2131. Loans

#### (a) Interest rates and charges

Loans made by a bank for cooperatives shall bear interest at a rate or rates determined by the board of directors of the bank from time to time. In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers at the lowest reasonable cost on a sound business basis, taking into account the net cost of money to the bank, necessary reserves and expenses of the bank, and services provided. The loan documents may provide for the interest rate or rates to vary from time to time during the repayment period of the loan, in accordance with the rate or rates currently being charged by the bank.

#### (b) Security

Loans shall be made upon such terms, conditions, and security, if any, as may be determined by the bank in accordance with regulations of the Farm Credit Administration.

#### (c) Lien

Each bank for cooperatives shall have a first lien on all stock or other equities in the bank as collateral for the payment of any indebtedness