

(f) Least cost alternative

If two or more restructuring alternatives are available to a qualified lender under this section with respect to a distressed loan, the lender shall restructure the loan in conformity with the alternative that results in the least cost to the lender.

(g) Restructuring policy**(1) Establishment**

Each bank board of directors shall develop a policy within 60 days after January 6, 1988, that is consistent with this section, to govern the restructuring of distressed loans. Such policy shall constitute the restructuring policy of each qualified lender within the district.

(2) Contents of policy

The policy established under paragraph (1) shall include an explanation of—

- (A) the procedure for submitting an application for restructuring; and
- (B) the right of borrowers with distressed loans to seek review by a credit review committee in accordance with section 2202 of this title of a denial of an application for restructuring.

(3) Submission of policy to FCA

Each bank board shall submit the policy of the district governing the treatment of distressed loans under this section to the Farm Credit Administration. Notwithstanding the duty imposed by the preceding sentence, the other duties imposed by this section shall take effect on January 6, 1988.

(h) Reports

During the 5-year period beginning on January 6, 1988, each qualified lender shall submit semi-annual reports to the Farm Credit Administration containing—

- (1) the results of the review of distressed loans of the lender; and
- (2) the financial effect of loan restructurings and liquidations on the lender.

(i) Compliance

The Farm Credit Administration may issue a directive requiring compliance with any provision of this section to any qualified lender that fails to comply with such provision.

(j) Permitted foreclosures

This section shall not be construed to prevent any qualified lender from enforcing any contractual provision that allows the lender to foreclose a loan, or from taking such other lawful action as the lender deems appropriate, if the lender has reasonable grounds to believe that the loan collateral will be destroyed, dissipated, consumed, concealed, or permanently removed from the State in which the collateral is located.

(k) Application of section

The time limitation prescribed in subsection (b)(2), and the requirements of subsection (c), shall not apply to a loan that became a distressed loan before January 6, 1988, if the borrower and lender of the loan are in the process of negotiating loan restructuring with respect to the loan.

(l) Assistance in restructuring

Each Farm Credit Bank, on request of any production credit association, may assist the association in restructuring loans under this section.

(Pub. L. 92-181, title IV, §4.14A, as added Pub. L. 100-233, title I, §102(a), Jan. 6, 1988, 101 Stat. 1574; amended Pub. L. 100-399, title I, §102(a)-(f), Aug. 17, 1988, 102 Stat. 990; Pub. L. 104-105, title II, §208(a), Feb. 10, 1996, 110 Stat. 173.)

AMENDMENTS

1996—Subsec. (a)(5). Pub. L. 104-105 designated existing provisions as subpar. (A), inserted subpar. heading, substituted “Subject to subparagraph (B), the term” for “The term”, and added subpar. (B).

1988—Subsec. (a). Pub. L. 100-399, §102(a), struck out “(other than in sections 2205 and 2206 of this title)” after “in this part”.

Subsec. (a)(6)(B). Pub. L. 100-399, §102(b), substituted “section 2015(b)(1)(B) of this title” for “section 2074(a)(2) of this title” and “section 2015(b)(1) of this title” for “section 2074(a) of this title”.

Subsec. (e)(1). Pub. L. 100-399, §102(c), substituted “cost to such qualified” for “cost to a qualified”.

Subsec. (g)(1). Pub. L. 100-399, §102(d), substituted “bank” for “farm credit district”.

Subsec. (g)(3). Pub. L. 100-399, §102(e), substituted “bank board” for “district board”.

Subsec. (l). Pub. L. 100-399, §102(f), substituted “Farm Credit Bank” for “Federal intermediate credit bank”.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 102(b), (f) of Pub. L. 100-399 effective immediately after amendment made by section 401 of Pub. L. 100-233, which was effective 6 months after Jan. 6, 1988, and amendment by section 102(a), (c)-(e) of 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 of Pub. L. 100-399, set out as a note under section 2002 of this title.

SENSE OF CONGRESS

Pub. L. 100-233, title I, §102(b), Jan. 6, 1988, 101 Stat. 1579, provided that: “It is the sense of Congress that the banks and associations (except banks for cooperatives) operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) should administer distressed loans to farmers with the objective of using the loan guarantee programs of the Farmers Home Administration and other loan restructuring measures, including participation in interest rate buy-down programs that are Federally or State funded, and other Federal and State sponsored financial assistance programs that offer relief to financially distressed farmers, as alternatives to foreclosure, considering the availability and appropriateness of such programs on a case-by-case basis.”

§ 2202b. Effect of restructuring on borrower stock**(a) Farm Credit Bank**

If a Farm Credit Bank forgives and writes off, under section 2202a of this title, any of the principal outstanding on a loan made to any borrower, the Federal land bank association of which the borrower is a member and stockholder shall cancel the same dollar amount of borrower stock held by the borrower in respect of the loan, up to the total amount of such stock, and, to the extent provided for in the bylaws of the bank relating to its capitalization, the bank shall retire an equal amount of stock owned by the Federal land bank association.

(b) Production credit association

If a production credit association forgives and writes off, under section 2202a of this title, any

of the principal outstanding on a loan made to any borrower, the association shall cancel the same dollar amount of borrower stock held by the borrower in respect of the loan, up to the total amount of such stock.

(c) Retention of stock

Notwithstanding subsections (a) and (b), the borrower shall be entitled to retain at least one share of stock to maintain the borrower's membership and voting interest in the association.

(Pub. L. 92-181, title IV, §4.14B, as added Pub. L. 100-233, title I, §102(a), Jan. 6, 1988, 101 Stat. 1577; amended Pub. L. 100-399, title I, §102(g), Aug. 17, 1988, 102 Stat. 990.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-399 substituted in subsec. heading "Farm Credit Bank" for "Federal land bank" and in text "a Farm Credit Bank" for "a Federal land bank" and ", to the extent provided for in the by-laws of the bank relating to capitalization, the bank shall" for "the Federal land bank shall".

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-399 effective immediately after amendment made by section 401 of Pub. L. 100-233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100-399, set out as a note under section 2002 of this title.

§ 2202c. Review of restructuring denials

(a) Requirements for restructuring by System institutions

(1) Existing nonaccrual loans

Within 9 months after a qualified lender is certified under section 2278a-4 of this title, such lender shall review each loan that has not been previously restructured and that is in nonaccrual status on the date the lender is certified, and determine whether to restructure the loan.

(2) New nonaccrual loans

Within 6 months after a loan made by a certified lender is placed in nonaccrual status, the lender shall determine whether to restructure the loan.

(b) Special asset groups

(1) Establishment

Within 30 days after a qualified lender in a district is certified to issue preferred stock under section 2278b-7 of this title, the Farm Credit Bank board shall establish a special asset group that shall review each determination by the lender not to restructure a loan.

(2) Restructuring plan

If a special asset group determines under paragraph (1) that a loan under review should be restructured, the group shall prescribe a restructuring plan for the loan that the qualified lender shall implement.

(c) National Special Asset Council

(1) Establishment

A National Special Asset Council shall be established by the Assistance Board to—

(A) monitor compliance with the restructuring requirements of this section by qualified lenders certified to issue preferred stock

under section 2278b-7 of this title, and by special asset groups established under subsection (b); and

(B) review a sample of determinations made by each special asset group that a loan will not be restructured.

(2) Review of determination

The National Special Asset Council shall review a sufficient number of determinations made by each special asset group to foreclose on any loan to assure the Council that such group is complying with this section. With regard to each determination reviewed, the Council shall make an independent judgment on the merits of the decision to foreclose rather than restructure the loan.

(3) Noncompliance

If the National Special Asset Council determines that any special asset group is not in substantial compliance with this section, the Council shall notify the group of the determination, and may take such other action as the Council considers necessary to ensure that such group complies with this section.

(d) Report

With respect to determinations by a special asset group that a loan will not be restructured, the special asset group shall submit to the National Special Asset Council a report evaluating the loan and the basis for the determination that the loan should not be restructured.

(e) Restructuring factors

In determining whether a loan is to be restructured, the National Special Asset Council, each special asset group, and each qualified lender certified under section 2278a-4 of this title shall take into consideration the factors specified in section 2202a(d)(1) of this title.

(Pub. L. 92-181, title IV, §4.14C, as added Pub. L. 100-233, title I, §102(a), Jan. 6, 1988, 101 Stat. 1578; amended Pub. L. 100-399, title I, §102(h), Aug. 17, 1988, 102 Stat. 990.)

AMENDMENTS

1988—Subsec. (b)(1). Pub. L. 100-399 substituted "Farm Credit Bank board" for "district board of such district".

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-399 effective immediately after amendment made by section 401 of Pub. L. 100-233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100-399, set out as a note under section 2002 of this title.

§ 2202d. Protection of borrowers who meet all loan obligations

(a) Foreclosure prohibited

A qualified lender may not foreclose on any loan because of the failure of the borrower thereof to post additional collateral, if the borrower has made all accrued payments of principal, interest, and penalties with respect to the loan.

(b) Prohibition against required principal reduction

A qualified lender may not require any borrower to reduce the outstanding principal bal-