

(i) meeting reasonable financial and quality of service standards; and

(ii) licensed under State law to do business in the State; and

(E) in making insurance available through approved insurers, the board of directors of the association or bank selects and offers at least two approved insurers for each type of insurance made available to the members and borrowers, if at least two insurers have been approved in accordance with subsection (a)(2); and

(3) no bank or association shall directly or indirectly discriminate in any manner against any agent, broker, or insurer that is not affiliated with such bank or association, or against any party who purchases insurance through any such nonaffiliated insurance agent, broker, or insurer.

(c) Continuation of existing coverage

Notwithstanding any provision of this section to the contrary, any bank or association that on December 24, 1980, is offering insurance coverages not authorized by this section may continue to sell such coverages for a period of not more than one year from such date and may continue to service such coverages until their expiration.

(Pub. L. 92-181, title IV, § 4.29, as added Pub. L. 96-592, title IV, § 404, Dec. 24, 1980, 94 Stat. 3448; amended Pub. L. 100-233, title IV, § 422(a), Jan. 6, 1988, 101 Stat. 1655; Pub. L. 100-399, title IV, § 411, Aug. 17, 1988, 102 Stat. 1003; Pub. L. 101-624, title XVIII, § 1834, Nov. 28, 1990, 104 Stat. 3833.)

AMENDMENTS

1990—Subsec. (a)(2). Pub. L. 101-624, § 1834(1), inserted “, if more than two insurers for each type of insurance have proposed programs to a bank that will, in all likelihood, have long-term viability and meet the requirements of subsection (b)(2)(D)” before period at end of first sentence, and “, if at least two insurers have been approved in accordance with this paragraph” before period at end of third sentence.

Subsec. (b)(2)(E). Pub. L. 101-624, § 1834(2), inserted before semicolon at end “, if at least two insurers have been approved in accordance with subsection (a)(2)”.

1988—Subsec. (a). Pub. L. 100-233, § 422(a)(1), designated existing provisions as par. (1), struck out “of this Act” to conform to style of original enactment, resulting in no change in text, inserted “or borrower from” before “any such bank”, inserted provision at end giving a member or borrower the option, without coercion from the bank or association of such member or borrower, to accept or reject such insurance, and added par. (2).

Subsec. (a)(1). Pub. L. 100-399, § 411(a), substituted “subchapters I and II of this chapter” for “sections 2019, 2033, 2076, and 2097 of this title”.

Subsec. (a)(2). Pub. L. 100-399, § 411(b), substituted “Farm Credit Banks” for “Federal intermediate credit banks”.

Subsec. (b)(2). Pub. L. 100-233, § 422(a)(2), redesignated cls. (i) to (iii) as subpars. (A) to (C), respectively, and added subpars. (D) and (E).

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.

CONTINUATION OF PROGRAM

Pub. L. 100-233, title IV, § 422(b), Jan. 6, 1988, 101 Stat. 1656, provided that: “Notwithstanding the amendments made to section 4.29 [12 U.S.C. 2218] by subsection (a), any insurance program offered by any bank or association of the Farm Credit System on the date of the enactment of this Act [Jan. 6, 1988] that does not meet the requirements of section 4.29, as so amended, may be continued until July 1, 1988.”

PART G—MISCELLANEOUS

CODIFICATION

Pub. L. 100-399, title VII, § 702(c), Aug. 17, 1988, 102 Stat. 1006, redesignated part H as G.

Pub. L. 100-233, title VIII, § 805(u), Jan. 6, 1988, 101 Stat. 1716, redesignated part F as H.

§ 2219. Limitation on separate sale

If real property is acquired by any institution of the Farm Credit System through foreclosure, no institution of the Farm Credit System shall sell the surface rights to that real property to any person unless the institution also sells all mineral rights to that real property to that person.

(Pub. L. 92-181, title IV, § 4.35, as added Pub. L. 99-205, title III, § 306, Dec. 23, 1985, 99 Stat. 1709.)

EFFECTIVE DATE

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

§ 2219a. Right of first refusal

(a) General rule

Agricultural real estate that is acquired by an institution of the System as a result of a loan foreclosure or a voluntary conveyance by a borrower (hereinafter in this section referred to as the “previous owner”) who, as determined by the institution, does not have the financial resources to avoid foreclosure (hereinafter in this section referred to as “acquired real estate”) shall be subject to the right of first refusal of the previous owner to repurchase or lease the property, as provided in this section.

(b) Application of right of first refusal to sale of property

(1) Election to sell and notification

Within 15 days after an institution of the System first elects to sell acquired real estate, or any portion of such real estate, the institution shall notify the previous owner by certified mail of the owner’s right—

(A) to purchase the property at the appraised fair market value of the property, as established by an accredited appraiser; or

(B) to offer to purchase the property at a price less than the appraised value.

(2) Eligibility to purchase

To be eligible to purchase the property under paragraph (1), the previous owner must, within 30 days after receiving the notice required by such paragraph, submit an offer to purchase the property.

(3) Mandatory sale

An institution of the System receiving an offer from the previous owner to purchase the

property at the appraised value shall, within 15 days after the receipt of such offer, accept such offer and sell the property to the previous owner.

(4) Permissive sale

An institution of the System receiving an offer from the previous owner to purchase the property at a price less than the appraised value may accept such offer and sell the property to the previous owner. Notice shall be provided to the previous owner of the acceptance or rejection of such offer within 15 days after the receipt of such offer.

(5) Rejection of offer of previous owner

(A) Duties of institution

An institution of the System that rejects an offer from the previous owner to purchase the property at a price less than the appraised value may not sell the property to any other person—

- (i) at a price equal to, or less than, that offered by the previous owner; or
- (ii) on different terms and conditions than those that were extended to the previous owner,

without first affording the previous owner an opportunity to purchase the property at such price or under such terms and conditions.

(B) Notice

Notice of the opportunity in subparagraph (A) shall be provided to the previous owner by certified mail, and the previous owner shall have 15 days in which to submit an offer to purchase the property at such price or under such terms and conditions.

(c) Application of right of first refusal to leasing of property

(1) Election to lease and notification

Within 15 days after an institution of the System first elects to lease acquired real estate, or any portion of such real estate, the institution shall notify the previous owner by certified mail of the owner's right—

- (A) to lease the property at a rate equivalent to the appraised rental value of the property, as established by an accredited appraiser; or
- (B) to offer to lease the property at a rate that is less than the appraised rental value of the property.

(2) Eligibility to lease

To be eligible to lease the property under paragraph (1), the previous owner must, within 15 days after receiving the notice required by such paragraph, submit an offer to lease the property.

(3) Mandatory lease

An institution of the System receiving an offer from the previous owner to lease the property at a rate equivalent to the appraised rental value of the property shall, within 15 days after the receipt of such offer, accept such offer and lease the property to the previous owner unless the institution determines that the previous owner—

(A) does not have the resources available to conduct a successful farming or ranching operation; or

(B) cannot meet all of the payments, terms, and conditions of such lease.

(4) Permissive lease

An institution of the System receiving an offer from the previous owner to lease the property at a rate that is less than the appraised rental value of the property may accept such offer and lease the property to the previous owner.

(5) Notice to previous owner

An institution of the System receiving an offer from the previous owner to lease the property at a rate less than the appraised rental value of the property shall notify the previous owner of its acceptance or rejection of the offer within 15 days after the receipt of such offer.

(6) Rejection of offer of previous owner

(A) Duties of institution

An institution of the System rejecting an offer from the previous owner to lease the property at a rate less than the appraised rental value of the property may not lease the property to any other person—

- (i) at a rate equal to or less than that offered by the previous owner; or
- (ii) on different terms and conditions than those that were extended to the previous owner,

without first affording the previous owner an opportunity to lease the property at such rate or under such terms and conditions.

(B) Notice

Notice of the opportunity described in subparagraph (A) shall be given to the previous owner by certified mail, and the previous owner shall have 15 days after the receipt of such notice in which to agree to lease the property at such rate or under such terms and conditions.

(d) Public offerings

(1) Notification of previous owner

If an institution of the System elects to sell or lease acquired property or a portion thereof through a public auction, competitive bidding process, or other similar public offering, the institution shall notify the previous owner, by certified mail, of the availability of the property. Such notice shall contain the minimum amount, if any, required to qualify a bid as acceptable to the institution and any terms and conditions to which such sale or lease will be subject.

(2) Priority

If two or more qualified bids in the same amount are received by the institution under paragraph (1), such bids are the highest received, and one of the qualified bids is offered by the previous owner, the institution shall accept the offer by the previous owner.

(3) Nondiscrimination

No institution of the System may discriminate against a previous owner in any public

auction, competitive bidding process, or other similar public offering of property acquired by the institution from such person.

(e) Term or condition

For the purposes of this section, financing by a System institution shall not be considered to be a term or condition of a sale of acquired real estate.

(f) Financing

Notwithstanding any other provision of this section, a System institution shall not be required to provide financing to the previous owner in connection with the sale of acquired real estate.

(g) Mailing of notice

Notwithstanding any other provision of this section, each certified mail notice requirement in this section shall be fully satisfied by mailing one certified mail notice to the last known address of the previous owner.

(h) State laws

The rights provided in this section shall not diminish any such right of first refusal under the law of the State in which the property is located.

(i) Applicability

This section shall not apply to a bank for cooperatives.

(Pub. L. 92-181, title IV, §4.36, as added Pub. L. 99-205, title III, §306, Dec. 23, 1985, 99 Stat. 1709; amended Pub. L. 100-233, title I, §108, Jan. 6, 1988, 101 Stat. 1582; Pub. L. 100-399, title I, §104, Aug. 17, 1988, 102 Stat. 990.)

AMENDMENTS

1988—Pub. L. 100-233 amended section generally. Prior to amendment, section read as follows: “No institution of the Farm Credit System shall sell any real property that previously served as security for a loan in a tract larger than a normal family size farm in the vicinity of the property for less than the amount it can receive from the Capital Corporation.”

Subsec. (b)(2). Pub. L. 100-399, §104(a), substituted “30” for “15”.

Subsec. (b)(3). Pub. L. 100-399, §104(b), substituted “15” for “30”.

Subsec. (g). Pub. L. 100-399, §104(c), substituted “previous owner” for “former borrower”.

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.

EFFECTIVE DATE

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

§ 2219b. Application of uninsured accounts

(a) In general

Money of a borrower held by a Farm Credit System institution in an uninsured voluntary or involuntary account as authorized under regulations issued by the Farm Credit Administration (as in effect immediately before January 6, 1988), including all such other accounts known as “ad-

vanced payment accounts” or “future prepayment accounts” shall, in the event the institution is placed in liquidation, be immediately applied as payment against the indebtedness of any outstanding loans of such borrower.

(b) Regulations

The Farm Credit Administration shall promulgate regulations—

(1) that define the term “uninsured voluntary or involuntary account”; and

(2) to otherwise effectively carry out this section.

(Pub. L. 92-181, title IV, §4.37, as added Pub. L. 100-233, title I, §110, Jan. 6, 1988, 101 Stat. 1585.)

CODIFICATION

Another section 4.37 of Pub. L. 92-181 was renumbered section 4.38 and is classified to section 2219c of this title.

§ 2219c. Affirmative action

The Assistance Board established under section 2278a of this title and all institutions of the Farm Credit System with more than 20 employees shall establish and maintain an affirmative action program plan that applies the affirmative action standards otherwise applied to contractors of the Federal Government.

(Pub. L. 92-181, title IV, §4.38, formerly §4.37, as added Pub. L. 100-233, title IV, §427, Jan. 6, 1988, 101 Stat. 1657; renumbered §4.38, Pub. L. 100-399, title IV, §413, Aug. 17, 1988, 102 Stat. 1004.)

§ 2219d. Encouragement of conservation practices

At the time a System institution or an agricultural mortgage loan originator (as defined in section 2279aa(7) of this title) approves a loan made to a borrower that, in the opinion of the institution or originator, would be ineligible for a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) by reason of subtitle B or C of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.), the institution or originator, as the case may be, shall encourage the borrower to contact the Department of Agriculture Soil Conservation Service to obtain information about soil conservation methods and practices.

(Pub. L. 92-181, title IV, §4.39, formerly §4.38, as added Pub. L. 100-233, title IV, §428, Jan. 6, 1988, 101 Stat. 1658; renumbered §4.39, Pub. L. 100-399, title IV, §413, Aug. 17, 1988, 102 Stat. 1004.)

REFERENCES IN TEXT

The Consolidated Farm and Rural Development Act, referred to in text, is title III of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 307, as amended, which is classified principally to chapter 50 (§1921 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables.

The Food Security Act of 1985, referred to in text, is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354, as amended. Subtitles B and C of title XII of the Food Security Act are classified generally to subchapters II (§3811 et seq.) and III (§3821 et seq.), respectively, of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of Title 7 and Tables.