

§ 2278a-9. Succession**(a) Assets and liabilities**

On the issuance by the Farm Credit Administration of the charter for the Assistance Board under this part, the Assistance Board shall succeed to the assets of and assume all debts, obligations, contracts, and other liabilities of the Capital Corporation, matured or unmatured, accrued, absolute, contingent or otherwise, and whether or not reflected or reserved against on balance sheets, books of account, or records of the Capital Corporation.

(b) Contracts

The existing contractual obligations, security instruments, and title instruments of the Capital Corporation shall, by operation of law and without any further action by the Farm Credit Administration, the Capital Corporation, or any court, become and be converted into obligations, entitlements, and instruments of the Assistance Board chartered under this part.

(c) Adjustment of assessments

Not later than 15 days after the issuance of the charter of the Assistance Board, the Board shall retire all debt and equity obligations issued to any System institution under section 2216f(a)(14) or 2216g¹ of this title (as in effect immediately before January 6, 1988) at the book value of such obligations (determined as of January 6, 1988) and shall pay such amounts to the holders of such debt and equity obligations.

(d) Surplus funds

To the extent that, on the extinguishing of liabilities assumed by the Assistance Board under this section, and on full performance or other final disposition of contract obligations of the Assistance Board, there remain surplus funds attributable to such obligations or contracts, the Assistance Board shall distribute such surplus funds among the System institutions that contributed funds to the Capital Corporation on the basis of the relative amount of funds so contributed by each institution.

(e) Preservation agreements**(1) Transfer of obligations**

Notwithstanding any other provision of this chapter or the terms and conditions of the Thirty-Seven Banks Capital Preservation Agreement, the Federal Land Banks Capital Preservation Agreement, the Federal Intermediate Credit Banks Capital Preservation Agreement, and the Banks for Cooperatives Loss Sharing Agreement—

(A) at the time the receiving bank receives funds from the Financial Assistance Corporation in an equal and equivalent amount in accordance with this subsection, any amounts received by, or that remain accrued to, any System bank in accordance with the activation of any such agreement for the calendar quarter ending on September 30, 1986, shall be—

- (i) repaid to the contributing bank by the bank that received such payments; or
- (ii) cancelled;

(B) on the date the Financial Assistance Corporation is chartered, the accounts payable of each contributing bank under such agreements for the calendar quarter ending on September 30, 1986, shall, by operation of law and without any further action by such contributing bank, any other bank, or any court, become and be converted into accounts payable of the Financial Assistance Corporation to each receiving bank under such agreement for such calendar quarter in the same amounts as previously carried on the books of each such receiving bank; and

(C) on the date the Financial Assistance Corporation is chartered, the accounts receivable of each receiving bank under such agreements for the calendar quarter ending September 30, 1986, shall, by operation of law and without any further action by such receiving bank or any other bank, or any court, become and be converted into accounts receivable to such receiving bank from the Financial Assistance Corporation, in the same amount as previously carried on the books of such receiving bank and such receivables shall, for all financial reporting purposes, be accounted for as an asset on the books of such receiving bank in accordance with generally accepted accounting practices.

(2) Payments to receiving banks

(A) Not later than 30 days after the first issuance of obligations by the Financial Assistance Corporation in accordance with section 2278b-6 of this title, the Corporation shall pay to each receiving bank such sums as are necessary to permit each receiving bank to repay, in accordance with paragraph (1), the amounts each such receiving bank received under any such agreement.

(B) The accruals shall be paid by the Corporation to each receiving bank for the actual net loan charge-offs recorded on the books of each such bank before January 1, 1993, not previously paid by the contributing banks.

(3) Debt obligations**(A) Issuance**

For the purpose of obtaining funds to carry out this subsection, the Financial Assistance Corporation shall issue debt obligations under section 2278b-6 of this title. Such obligations shall be subject to the terms and conditions of such section, except as provided for in this paragraph.

(B) Payment of interest

During each year of the 15-year period of such obligation issued pursuant to subparagraph (A), the banks operating under this chapter shall pay to the Financial Assistance Corporation, at such times as the Corporation shall determine, an amount equal to the entire amount of interest due on such obligation. Each bank shall pay a proportion of such interest equal to—

- (i) the average accruing loan volume of the bank during the year preceding the year of such payment; divided by
- (ii) the average accruing loan volume of all of the banks of the System for the same period.

¹ See References in Text note below.

(C) Payment of principal**(i) In general**

After the end of the 15-year period beginning on the date of the issuance of any obligation issued to carry out this subsection, the banks operating under this chapter shall pay to the Financial Assistance Corporation, on demand, an amount equal to the outstanding principal of the obligation. Each bank shall pay a proportion of the principal equal to—

(I) the average accruing loan volume of the bank for the preceding 15 years; divided by

(II) the average accruing loan volume of all banks of the System for the same period.

(ii) Banks leaving system

Any bank leaving the Farm Credit System pursuant to section 2279d of this title shall be required, under regulations of the Farm Credit Administration, to pay to the Financial Assistance Corporation the estimated present value of the payment required under this subparagraph had the bank remained in the System.

(iii) Banks undergoing liquidation

With respect to any bank undergoing liquidation under this chapter, a liability to the Financial Assistance Corporation in the amount of the payment required under this subparagraph (calculated as if the bank had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the Financial Assistance Corporation against the estate of the bank.

(iv) Obligations of other banks

The obligations of other banks shall not be reduced in anticipation of any recoveries under this subparagraph from banks leaving the System or in liquidation, but the Financial Assistance Corporation shall apply the recoveries, when received, and all earnings on the recoveries, to reduce the other banks' payment obligations, or, to the extent the recoveries are received after the other banks have met their entire payment obligation, shall refund the recoveries, when received, to the other banks in proportion to the other banks' payments.

(D) Annual payments**(i) In general**

In order to provide for the orderly funding and discharge over time of the obligation of each System bank to the Financial Assistance Corporation under subparagraph (C), each System bank shall enter into or continue in effect an agreement with the Financial Assistance Corporation under which the bank will make annual annuity-type payments to the Financial Assistance Corporation, beginning no later than December 31, 1992 (except for any bank that did not meet its interim capital requirement on December 31, 1990, in which

case the bank shall begin making the payments no later than December 31, 1993) in amounts designed to accumulate, in total, including earnings on the amounts, to 90 percent of the bank's ultimate obligation. The Financial Assistance Corporation shall partially discharge the bank from its obligation under subparagraph (C) to the extent of each such payment and the earnings on the payment as earned.

(ii) Capital requirements

The agreement shall not require payments to be made to the extent that making a particular payment or part of a payment would cause the bank to fail to satisfy applicable regulatory permanent capital requirements, but shall provide for recalculation of subsequent payments accordingly.

(iii) Investment; availability

The funds received by the Financial Assistance Corporation pursuant to the agreements shall be invested in eligible investments as defined in section 2278b-5(a)(1) of this title. The funds and the earnings on the funds shall be available only for the payment of the principal of the bonds issued by the Financial Assistance Corporation under this subsection.

(E) Financial reporting

Until each obligation issued in accordance with this subsection reaches maturity, for all financial reporting purposes, such obligation shall be considered to be the sole obligation of the Financial Assistance Corporation and shall not be considered a liability of any System bank, nor shall the obligation to make future annuity payments to the Financial Assistance Corporation under subparagraph (D) be considered a liability of any System bank.

(4) Funds not considered financial assistance

The funds made available to each bank, whether through the issuance of stock or otherwise, by the Financial Assistance Corporation to meet obligations under any agreement referred to in paragraph (1) or to meet any obligations of the contributing banks under any such agreement, as required by this subsection, shall not be considered financial assistance under this chapter.

(5) Suspension of preservation agreements

During the 5-year period beginning on January 6, 1988, and thereafter whenever funds from the Farm Credit System Insurance Fund are available for use in assisting System institutions to meet their obligations on their debt instruments, activation of the Thirty-Seven Banks Capital Preservation Agreement, the Federal Land Banks Capital Preservation Agreement, the Federal Intermediate Credit Banks Capital Preservation Agreement, and the Banks for Cooperatives Loss Sharing Agreement shall be suspended, in exchange for the benefits flowing to the signatories to such agreements under the Agricultural Credit Act of 1987.

(Pub. L. 92-181, title VI, §6.9, as added Pub. L. 100-233, title II, §201, Jan. 6, 1988, 101 Stat. 1591;

amended Pub. L. 100-399, title II, §201(k), (l), Aug. 17, 1988, 102 Stat. 991; Pub. L. 102-552, title III, §301, Oct. 28, 1992, 106 Stat. 4107.)

REFERENCES IN TEXT

Sections 2216f and 2216g of this title, referred to in subsec. (c), were repealed by Pub. L. 100-233, title II, §207(a)(3), Jan. 6, 1988, 101 Stat. 1607, effective 15 days after Jan. 6, 1988.

The Agricultural Credit Act of 1987, referred to in subsec. (e)(5), is Pub. L. 100-233, Jan. 6, 1988, 101 Stat. 1568, as amended. For complete classification of this Act to the Code see Short Title of 1988 Amendment note set out under section 2001 of this title and Tables.

AMENDMENTS

1992—Subsec. (e)(3)(C). Pub. L. 102-552, §301(1), added subpar. (C) and struck out former subpar. (C) which read as follows:

“(C) PAYMENT OF PRINCIPAL.—After the end of the 15-year period beginning on the date of the issuance of any obligation issued to carry out this subsection, the banks operating under this chapter shall pay to the Financial Assistance Corporation, on demand, an amount equal to the outstanding principal of such obligation. Each bank shall pay a proportion of such principal equal to—

“(i) the average accruing loan volume of the bank for the preceding 15 years; divided by

“(ii) the average accruing loan volume of all banks of the System for the same period.”

Subsec. (e)(3)(D). Pub. L. 102-552, §301(2), (3), added subpar. (D) and redesignated former subpar. (D) as (E).

Subsec. (e)(3)(E). Pub. L. 102-552, §301(2), (4), redesignated subpar. (D) as (E) and inserted before period at end “, nor shall the obligation to make future annuity payments to the Financial Assistance Corporation under subparagraph (D) be considered a liability of any System bank”.

1988—Subsec. (a). Pub. L. 100-399, §201(k), inserted in heading “Assets and”.

Subsec. (e)(5). Pub. L. 100-399, §201(l), inserted “activation of” after “instruments,” and struck out closing quotation mark and following period, which for purposes of codification had been previously struck out requiring no change in text.

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.

§ 2278a-10. Effect of regulations; audits**(a) Issuance**

The Assistance Board may issue such regulations, policies, procedures, guidelines, or statements as the Board considers necessary or appropriate to carry out this subchapter, all of which shall be promulgated and enforced without regard to subchapter II of chapter 5 of title 5.

(b) Regulation by Farm Credit Administration

The Assistance Board shall not be subject to regulation by the Farm Credit Administration.

(c) Audits

The Assistance Board shall not require an audit or examination of a System institution that would be duplicative of an audit or examination that is conducted under other provisions of law.

(Pub. L. 92-181, title VI, §6.10, as added Pub. L. 100-233, title II, §201, Jan. 6, 1988, 101 Stat. 1594.)

§ 2278a-11. Exemption from taxation

The Assistance Board, the capital, reserves, and surplus thereof, and the income derived therefrom, shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by the Assistance Board to the same extent, according to its value, as other similar property held by other persons is taxed.

(Pub. L. 92-181, title VI, §6.11, as added Pub. L. 100-233, title II, §201, Jan. 6, 1988, 101 Stat. 1594.)

§ 2278a-12. Termination

The Assistance Board and the authority provided to the Assistance Board by this part shall terminate on December 31, 1992.

(Pub. L. 92-181, title VI, §6.12, as added Pub. L. 100-233, title II, §201, Jan. 6, 1988, 101 Stat. 1594; amended Pub. L. 100-399, title II, §201(m), Aug. 17, 1988, 102 Stat. 991.)

AMENDMENTS

1988—Pub. L. 100-399 inserted “to the Assistance Board” after “provided”.

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.

§ 2278a-13. Transitional provisions**(a) Exercise of powers**

The powers of the Assistance Board under this subchapter shall be exercised by the Farm Credit Administration Board until the issuance of the charter of the Assistance Board, or such later date not to exceed 30 days thereafter, as may be requested by the Assistance Board.

(b) Limitation on assistance

Any assistance provided to System institutions by the Farm Credit Administration in accordance with this section shall be provided from, and shall not exceed, the amounts contained in the revolving fund established under section 2151 of this title.

(c) Issuance of stock

Each institution that receives assistance from the Farm Credit Administration during the interim period specified in subsection (a), in consideration thereof, shall issue preferred stock to the Financial Assistance Corporation in an amount equal to the amount of such assistance. Payments by the Financial Assistance Corporation under subsection (d) shall be considered to be payments to each such institution for such stock.

(d) Repayment

The Financial Assistance Corporation shall pay to the Farm Credit Administration, for return to the revolving fund established under section 2151 of this title, the full amount of all financial assistance provided by the Farm Credit Administration in accordance with this section, from the proceeds from the sale of the first issue of obligations by the Financial Assistance Corporation in accordance with section 2278b-6 of this title.