

**§ 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 ownership 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.

(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; Pub. L. 115-334, title V, §5411(9), Dec. 20, 2018, 132 Stat. 4680.)

## AMENDMENTS

2018—Subsec. (a). Pub. L. 115-334 struck out at end “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.”

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 of the owner thereof to the bank.

**(d) Cancellation; application on indebtedness**

In any case where the debt of a borrower is in default, or in any case of liquidation or dissolution of a present or former borrower from a bank for cooperatives, the bank may, but shall not be required to, retire and cancel all or a part of the stock, allocated surplus or contingency reserves, or any other equity in the bank owned by or allocated to such borrower, at the fair market value thereof not exceeding par, and, to the extent required in such cases, corresponding shares and allocations and other equity interests held by a bank in another bank for cooperatives (or any successor bank) on account of such indebtedness, shall be retired or equitably adjusted. In no event shall the bank's equities be retired or canceled if the retirement or cancellation would adversely affect the bank's capital structure, as determined by the Farm Credit Administration.

(Pub. L. 92-181, title III, §3.10, Dec. 10, 1971, 85 Stat. 606; Pub. L. 96-592, title III, §307, Dec. 24, 1980, 94 Stat. 3445; Pub. L. 99-509, title I, §1033(c), Oct. 21, 1986, 100 Stat. 1877; Pub. L. 115-334, title V, §5411(10), Dec. 20, 2018, 132 Stat. 4680.)

## AMENDMENTS

2018—Subsec. (c). Pub. L. 115-334, §5411(10)(A), struck out at end “In the case of a direct loan to an eligible cooperative by the Central Bank, the Central Bank shall have a first lien on the stock and equities of the borrower in the district bank and the district bank shall have a lien thereon junior only to the lien of the Central Bank.”

Subsec. (d). Pub. L. 115-334, §5411(10)(B), substituted “held by a bank in another bank for cooperatives (or any successor bank) on account of such indebtedness” for “held by a district bank in another district bank on account of such indebtedness”.

1986—Subsec. (a). Pub. L. 99-509 struck out “, with the approval of the Farm Credit Administration as provided in section 2205 of this title” after “from time to time”.

1980—Subsec. (a). Pub. L. 96-592, §307(1), inserted reference to section 2205 of this title.

Subsec. (d). Pub. L. 96-592, §307(2), substituted “market” for “book” and inserted provisions respecting retirement or cancellation of equities as affected by the capital structure.

**§ 2132. Earnings and reserves; application of savings****(a) Application of savings**

At the end of each fiscal year, the net savings shall, under regulations prescribed by the Farm Credit Administration, continue to be applied on a cooperative basis with provision for sound,

adequate capitalization to meet the changing financing needs of eligible cooperative borrowers and prudent corporate fiscal management, to the end that current year's patrons carry their fair share of the capitalization, ultimate expenses, and reserves related to the year's operations and the remaining net savings shall be distributed as patronage refunds as provided in subsection (b). Such regulations may provide for application of net savings to the restoration or maintenance of an allocated surplus account, reasonable additions to unallocated surplus, or to unallocated reserves after payment of operating expenses, and provide for allocations to patrons not qualified under title 26, or payment of such per centum of patronage refunds in cash, as the board may determine.

**(b) Patronage refunds**

The net savings of each bank for cooperatives, after the earnings for the fiscal year have been applied in accordance with subsection (a) of this section shall be paid in stock, participation certificates, or cash, or in any of them, as determined by its board, as patronage refunds to borrowers to whom such refunds are payable who are borrowers of the fiscal year for which such patronage refunds are distributed. All patronage refunds shall be paid in proportion that the amount of interest and service fees on the loans to each borrower during the year bears to the interest and service fees on the loans of all borrowers during the year or on such other proportionate patronage basis as may be approved by the board of directors.

**(c) Loss carryover**

In the event of a net loss in any fiscal year after providing for all operating expenses (including reasonable valuation reserves and losses in excess of any applicable reserves), such loss may be carried forward or carried back, if appropriate, or otherwise shall be absorbed by charges to unallocated reserve or surplus accounts established after December 10, 1971; charges to allocated contingency reserve account; charges to allocated surplus accounts; charges to other contingency reserve and surplus accounts; the impairment of voting stock; or the impairment of all other stock.

**(d) Charge of unrecognized costs or expenses to reserve, surplus, or patronage allocations**

Notwithstanding any other provisions of this section any costs or expenses attributable to a prior year or years but not recognized in determining the net savings for such year or years may be charged to reserves or surplus of the bank or to patronage allocations for such years, as may be determined by the board of directors.

**(e) Payment of patronage refunds in cash**

A bank for cooperatives may pay in cash such portion of its patronage refunds as will permit its taxable income to be determined without taking into account savings applied as allocated surplus, allocated contingency reserves, and patronage refunds under subsection (a) of this section.

(Pub. L. 92-181, title III, §3.11, Dec. 10, 1971, 85 Stat. 606; Pub. L. 96-592, title III, §308, Dec. 24, 1980, 94 Stat. 3445; Pub. L. 99-205, title II,

§205(e)(7), (8), Dec. 23, 1985, 99 Stat. 1705; Pub. L. 100-233, title VIII, §§802(r), 805(n), Jan. 6, 1988, 101 Stat. 1712, 1716; Pub. L. 115-334, title V, §5411(11), Dec. 20, 2018, 132 Stat. 4680.)

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-334, §5411(11)(A), substituted “subsection (b)” for “subsections (b) and (c) of this section”.

Subsec. (b). Pub. L. 115-334, §5411(11)(B), struck out “district” before “bank for cooperatives” and substituted “All patronage” for “Except as provided in subsection (c) below, all patronage”.

Subsecs. (c) to (f). Pub. L. 115-334, §5411(11)(C), (D), redesignated subsecs. (d) to (f) as (c) to (e), respectively, and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows: “The net savings of the Central Bank for Cooperatives after the earnings for the fiscal year have been applied in accordance with subsection (a) of this section shall be paid in stock or cash, or both, as determined by the board, as patronage refunds to the district banks on the basis of interests held by the Central Bank in loans made by the district banks and upon any direct loans made by the Central Bank to cooperative associations, or on such other proportionate patronage basis as may be approved by the board of directors. In cases of direct loans, such refund shall be paid to the district bank or banks which issued their stock to the borrower incident to such loans, and the district bank or banks shall issue a like amount of patronage refunds to the borrower.”

1988—Subsec. (a). Pub. L. 100-233, §§802(r)(1), 805(n)(1), (5), redesignated subsec. (b) as (a), substituted “(b) and (c)” for “(c) and (d)”, struck out “as may be approved by the Farm Credit Administration” after “payment of operating expenses”, and struck out at end “If during the fiscal year but not at the end thereof a bank shall have had outstanding capital stock held by the United States, provision will be made for payment of franchise taxes required in section 2151 of this title.”

Subsec. (b). Pub. L. 100-233, §§802(r)(2), 805(n)(2), (5), redesignated subsec. (c) as (b) and substituted “(a) of this section” for “(b) of this section, whichever is applicable.”, “(c) below” for “(d) below”, and “may be approved by the board of directors” for “the Farm Credit Administration may approve”. Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 100-233, §§802(r)(3), 805(n)(3), (5), redesignated subsec. (d) as (c) and substituted “(a) of this section” for “(b) of this section whichever is applicable,” and “may be approved by the board of directors” for “the Farm Credit Administration may approve”. Former subsec. (c) redesignated (b).

Subsecs. (d), (e). Pub. L. 100-233, §805(n)(5), redesignated subsecs. (e) and (f) as (d) and (e), respectively. Former subsec. (d) redesignated (c).

Subsecs. (f), (g). Pub. L. 100-233, §805(n)(4), (5), redesignated subsec. (g) as (f), substituted “A bank for cooperatives” for “For any year that a bank for cooperatives is subject to Federal income tax, it”, and struck out “or (b)” after “subsection (a)”. Former subsec. (f) redesignated (e).

1985—Subsec. (a). Pub. L. 99-205, §205(e)(7), struck out subsec. (a) which provided for application of savings when bank for cooperatives has outstanding stock held by the Governor.

Subsec. (b). Pub. L. 99-205, §205(e)(8)(A), substituted “At the end of each fiscal year, the net” for “Whenever at the end of any fiscal year a bank for cooperatives shall have no outstanding capital stock held by the Governor of the Farm Credit Administration, the net”.

Subsecs. (c), (d). Pub. L. 99-205, §205(e)(8)(B), substituted “subsection (b) of this section” for “subsection (a) or (b) of this section”.

1980—Subsec. (b). Pub. L. 96-592, §308(1), struck out provisions relating to 25 per centum requirement for net savings.

Subsec. (c). Pub. L. 96-592, §308(2), inserted applicability to participation certificates and to borrowers to whom refunds are payable.

## EFFECTIVE DATE OF 1985 AMENDMENT

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

### § 2133. Distribution of assets on liquidation or dissolution

In the case of liquidation or dissolution of any bank for cooperatives, after payment or retirement, first, of all liabilities; second, of all capital stock issued before January 1, 1956, at par, and all nonvoting stock at par; and third, all voting stock at par; any surplus and reserves existing on January 1, 1956, shall be paid to the holders of stock issued before that date, and voting stock pro rata; and any remaining allocated surplus and reserves shall be distributed to those entities to which they are allocated on the books of the bank, and any other remaining surplus shall be paid to the holders of outstanding voting stock. If it should become necessary to use any surplus or reserves to pay any liabilities or to retire any capital stock, unallocated reserves or surplus, allocated reserves and surplus shall be exhausted in accordance with rules prescribed by the Farm Credit Administration.

(Pub. L. 92-181, title III, §3.12, Dec. 10, 1971, 85 Stat. 608; Pub. L. 99-205, title II, §205(e)(9), Dec. 23, 1985, 99 Stat. 1705; Pub. L. 100-233, title VIII, §805(o), Jan. 6, 1988, 101 Stat. 1716.)

## AMENDMENTS

1988—Pub. L. 100-233 inserted “the” before “Farm Credit Administration”.

1985—Pub. L. 99-205 struck out “, any stock held by the Governor of the Farm Credit Administration at par” before “, and all nonvoting stock at par”, and struck out “stock held by the Governor of the Farm Credit Administration,” before “and voting stock pro rata” in first sentence.

## EFFECTIVE DATE OF 1985 AMENDMENT

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

### § 2134. Taxation

Each bank for cooperatives and its obligations are instrumentalities of the United States and as such any and all notes, debentures, and other obligations issued by such bank shall be exempt, both as to principal and interest from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States or any State, territorial, or local taxing authority, except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder.

(Pub. L. 92-181, title III, §3.13, Dec. 10, 1971, 85 Stat. 608; Pub. L. 99-205, title II, §205(e)(10), Dec. 23, 1985, 99 Stat. 1705; Pub. L. 100-233, title VIII, §805(p), Jan. 6, 1988, 101 Stat. 1716.)

## AMENDMENTS

1988—Pub. L. 100-233 inserted before period at end “, except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder”.

1985—Pub. L. 99-205 struck out last two sentences relating to exemption of banks for cooperatives and their property, franchises, capital, reserves, surplus, other

funds, and income from Federal and non-Federal taxation except for Federal income taxation of interest on obligations of such banks and for Federal and non-Federal taxation of real and tangible personal property of such banks to same extent as similar property is taxed, and making such exemption provisions applicable only for any year or part thereof in which stock in such banks was held by the Governor of the Farm Credit Administration.

## EFFECTIVE DATE OF 1985 AMENDMENT

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

## PART B—NATIONAL BANKS FOR COOPERATIVES

## CODIFICATION

Pub. L. 115-334, title V, §5411(12), Dec. 20, 2018, 132 Stat. 4680, struck out “United and” before “National” in part heading.

### § 2141. Charter, powers, and operation

#### (a) Charter

The National Bank for Cooperatives (hereinafter in this part referred to as the “consolidated bank”), established under section 413 of the Agricultural Credit Act of 1987, shall be a federally chartered instrumentality of the United States and an institution of the Farm Credit System.

#### (b) Powers

The consolidated bank and the board of directors of such bank shall have all of the powers, rights, responsibilities, and obligations of the constituent banks described in section 413(b) of the Agricultural Credit Act of 1987 (12 U.S.C. 2121 note; Public Law 100-233) and the boards of directors of such banks, except as otherwise provided for in this chapter.

#### (c) Operation

The consolidated bank shall be organized and operated on a cooperative basis.

(Pub. L. 92-181, title III, §3.20, as added Pub. L. 100-233, title IV, §415(2), Jan. 6, 1988, 101 Stat. 1642; amended Pub. L. 100-399, title IV, §407(a), (b), Aug. 17, 1988, 102 Stat. 1000; Pub. L. 115-334, title V, §5411(13), Dec. 20, 2018, 132 Stat. 4680.)

## REFERENCES IN TEXT

Section 413 of the Agricultural Credit Act of 1987, referred to in subsecs. (a) and (b), is section 413 of Pub. L. 100-233, which is set out as a note under section 2121 of this title.

## AMENDMENTS

2018—Subsec. (a). Pub. L. 115-334, §5411(13)(A), struck out “or the United Bank for Cooperatives, as the case may be” after “National Bank for Cooperatives”.

Subsec. (b). Pub. L. 115-334, §5411(13)(B), substituted “the constituent banks described in section 413(b) of the Agricultural Credit Act of 1987 (12 U.S.C. 2121 note; Public Law 100-233)” for “the district banks for cooperatives and the Central Bank for Cooperatives”.

1988—Subsec. (a). Pub. L. 100-399, §407(a), struck out “in this section” after “referred to” and inserted “, established under section 413 of the Agricultural Credit Act of 1987,” before “shall”.

Subsec. (b). Pub. L. 100-399, §407(b), inserted “except” before “as otherwise”.

## EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-399 effective as if enacted immediately after enactment of Pub. L. 100-233, which