

stand the particular needs and problems of farmers in an area are assigned to such area; and

“(2) a high priority is placed on keeping existing farm operations operating.”

REFERENCES IN OTHER LAWS TO BANKHEAD-JONES FARM TENANT ACT OR WATER FACILITIES ACT; REPEALS; SAVINGS AND SEPARABILITY PROVISIONS

Pub. L. 87-128, title III, §341, Aug. 8, 1961, 75 Stat. 318, provided that:

“(a) Reference to any provisions of the Bankhead-Jones Farm Tenant Act [see section 1000 of this title] or the Act of August 28, 1937 (50 Stat. 869), as amended, superseded by any provision of this title [this chapter] shall be construed as referring to the appropriate provision of this title [this chapter]. Titles I, II, and IV of the Bankhead-Jones Farm Tenant Act, as amended, and the Act of August 28, 1937 (50 Stat. 869), as amended, the Act of April 6, 1949 (63 Stat. 43), as amended, and the Act of August 31, 1954 (68 Stat. 999), as amended, are hereby repealed effective one hundred and twenty days after enactment hereof [Aug. 8, 1961], or such earlier date as the provisions of this title [this chapter] are made effective by the Secretary's regulations except that the repeal of section 2(c) of the Act of April 6, 1949, shall not be effective prior to January 1, 1962. The foregoing provisions shall not have the effect of repealing the amendments to section 24, chapter 6 of the Federal Reserve Act [section 371 of Title 12], as amended, section 5200 of the Revised Statutes [section 84 of Title 12], section 35 of chapter III of the Act approved June 19, 1934 (D.C. Code, title 35, section 535), enacted by section 15 of the Bankhead-Jones Farm Tenant Act, as amended, and by section 10(f) of the Act of August 28, 1937 (50 Stat. 869), as amended.

“(b) The repeal of any provision of law by this title [this chapter] shall not—

“(1) affect the validity of any action taken or obligation entered into pursuant to the authority of any of said Acts, or

“(2) prejudice the application of any person with respect to receiving assistance under the provisions of this title [this chapter], solely because such person is obligated to the Secretary under authorization contained in any provision repealed.

“(c) If any provision of this title [this chapter] or the application thereof to any person or circumstances is held invalid, the remainder of the title [this chapter] and the application of such provision to other persons or circumstances shall not be affected thereby.”

SUBCHAPTER I—REAL ESTATE LOANS

§ 1922. Persons eligible for real estate loans

(a) In general

(1) Eligibility requirements

The Secretary may make and insure loans under this subchapter to farmers and ranchers in the United States, and to farm cooperatives and private domestic corporations, partnerships, joint operations, trusts, limited liability companies, and such other legal entities as the Secretary considers appropriate, that are controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States, subject to the conditions specified in this section. To be eligible for such loans, applicants who are individuals, or, in the case of cooperatives, corporations, partnerships, joint operations, trusts, limited liability companies, and such other legal entities, individuals holding a majority interest in such entity, must (A) be citizens of the United States, (B) for direct loans only, have either training or farming experience that the Secretary determines is suffi-

cient to assure reasonable prospects of success in the proposed farming operations, taking into consideration all farming experience of the applicant, without regard to any lapse between farming experiences, (C) be or will become owner-operators of not larger than family farms (or in the case of cooperatives, corporations, partnerships, joint operations, trusts, limited liability companies, and such other legal entities in which a majority interest is held by individuals who are related by blood or marriage, as defined by the Secretary, such individuals must be or will become either owners or operators of not larger than a family farm and at least one such individual must be or will become an operator of not larger than a family farm or, in the case of holders of the entire interest who are related by blood or marriage and all of whom are or will become farm operators, the ownership interest of each such holder separately constitutes not larger than a family farm, even if their interests collectively constitute larger than a family farm, as defined by the Secretary), and (D) be unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. In addition to the foregoing requirements of this section, in the case of corporations, partnerships, joint operations, trusts, limited liability companies, and such other legal entities, the family farm requirement of subparagraph (C) of the preceding sentence shall apply as well to the farm or farms in which the entity has an ownership and operator interest and the requirement of subparagraph (D) of the preceding sentence shall apply as well to the entity in the case of cooperatives, corporations, partnerships, joint operations, trusts, limited liability companies, and such other legal entities.

(2) Special rules

(A) Eligibility of certain operating-only entities

An entity that is or will become only the operator of a family farm shall be considered to meet the owner-operator requirements of paragraph (1) if the individuals that are the owners of the family farm own more than 50 percent (or such other percentage as the Secretary determines is appropriate) of the entity.

(B) Eligibility of certain embedded entities

An entity that is an owner-operator described in paragraph (1), or an operator described in subparagraph (A) of this paragraph that is owned, in whole or in part, by other entities, shall be considered to meet the direct ownership requirement imposed under paragraph (1) if at least 75 percent of the ownership interests of each embedded entity of the entity is owned directly or indirectly by the individuals that own the family farm.

(b) Direct loans**(1) In general**

Subject to paragraph (3), the Secretary may make a direct loan under this subchapter only to a farmer or rancher who has participated in the business operations of a farm or ranch for not less than 3 years or has other acceptable experience for a period of time, as determined by the Secretary, and—

(A) is a qualified beginning farmer or rancher;

(B) has not received a previous direct farm ownership loan made under this subchapter; or

(C) has not received a direct farm ownership loan under this subchapter more than 10 years before the date the new loan would be made.

(2) Youth loans

The operation of an enterprise by a youth under section 1941(b) of this title shall not be considered the operation of a farm or ranch for purposes of paragraph (1).

(3) Transition rule**(A) In general**

Subject to subparagraphs (B) and (C), the Secretary may make a direct loan under this subchapter to a farmer or rancher who has a direct loan outstanding under this subchapter on April 4, 1996.

(B) Less than 5 years

If, as of April 4, 1996, a farmer or rancher has had a direct loan outstanding under this subchapter for less than 5 years, the Secretary shall not make a loan to the farmer or rancher under subparagraph (A) after the date that is 10 years after April 4, 1996.

(C) 5 years or more

If, as of April 4, 1996, a farmer or rancher has had a direct loan outstanding under this subchapter for 5 years or more, the Secretary shall not make a loan to the farmer or rancher under subparagraph (A) after the date that is 5 years after April 4, 1996.

(D) Notice

Beginning with fiscal year 2000 not later than 12 months before a borrower will become ineligible for direct loans under this subchapter by reason of this paragraph, the Secretary shall notify the borrower of such impending ineligibility.

(4) Waiver authority

In the case of a qualified beginning farmer or rancher, the Secretary may—

(A) reduce the 3-year requirement in paragraph (1) to 1 or 2 years, if the farmer or rancher has—

(i) not less than 16 credit hours of post-secondary education in a field related to agriculture;

(ii) successfully completed a farm management curriculum offered by a cooperative extension service, a community college, an adult vocational agriculture program, a nonprofit organization, or a land-grant college or university;

(iii) at least 1 year of experience as hired farm labor with substantial management responsibilities;

(iv) successfully completed a farm mentorship, apprenticeship, or internship program with an emphasis on management requirements and day-to-day farm management decisions;

(v) significant business management experience;

(vi) been honorably discharged from the armed forces of the United States;

(vii) successfully repaid a youth loan made under section 1941(b) of this title; or

(viii) an established relationship with an individual who has experience in farming or ranching, or is a retired farmer or rancher, and is participating as a counselor in a Service Corps of Retired Executives program authorized under section 637(b)(1)(B) of title 15, or with a local farm or ranch operator or organization, approved by the Secretary, that is committed to mentoring the farmer or rancher; or

(B) waive the 3-year requirement in paragraph (1) if the farmer or rancher meets the requirements of clauses (iii) and (viii) of subparagraph (A).

(Pub. L. 87-128, title III, §302, Aug. 8, 1961, 75 Stat. 307; Pub. L. 91-620, §2, Dec. 31, 1970, 84 Stat. 1862; Pub. L. 95-334, title I, §101, Aug. 4, 1978, 92 Stat. 420; Pub. L. 97-98, title XVI, §1601(a), Dec. 22, 1981, 95 Stat. 1346; Pub. L. 99-198, title XIII, §§1301(a), 1302(a), 1303, Dec. 23, 1985, 99 Stat. 1518, 1519; Pub. L. 104-127, title VI, §601, Apr. 4, 1996, 110 Stat. 1084; Pub. L. 105-277, div. A, §101(a) [title VIII, §§804, 805(1)], Oct. 21, 1998, 112 Stat. 2681, 2681-39; Pub. L. 107-171, title V, §§5001, 5302(a), May 13, 2002, 116 Stat. 341, 344; Pub. L. 110-234, title V, §5001, May 22, 2008, 122 Stat. 1142; Pub. L. 110-246, §4(a), title V, §5001, June 18, 2008, 122 Stat. 1664, 1903; Pub. L. 113-79, title V, §5001(a), (b), Feb. 7, 2014, 128 Stat. 832, 833; Pub. L. 115-334, title V, §5101, Dec. 20, 2018, 132 Stat. 4668.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2018—Subsec. (b)(4). Pub. L. 115-334 added par. (4).

2014—Subsec. (a)(1). Pub. L. 113-79, §5001(a)(1)–(5), designated existing provisions as par. (1) and inserted heading, in first sentence, substituted “limited liability companies, and such other legal entities as the Secretary considers appropriate,” for “and limited liability companies”, in second sentence, redesignated pars. (1) to (4) as subpars. (A) to (D), respectively, and substituted “limited liability companies, and such other legal entities” for “and limited liability companies” in two places, and, in third sentence, substituted “limited liability companies, and such other legal entities” for “and limited liability companies” in two places, “subparagraph (C)” for “clause (3)”, and “subparagraph (D)” for “clause (4)”.

Subsec. (a)(2). Pub. L. 113-79, §5001(a)(6), added par. (2).

Subsec. (b)(1). Pub. L. 113-79, §5001(b), in introductory provisions, inserted “or has other acceptable experience for a period of time, as determined by the Secretary,” after “3 years”.

2008—Pub. L. 110-246, §5001(1), inserted “real estate” before “loans” in section catchline.

Subsec. (a). Pub. L. 110-246, §5001, inserted subsec. heading, substituted “The Secretary may” for “The Secretary is authorized to” in introductory provisions, and inserted “, taking into consideration all farming experience of the applicant, without regard to any lapse between farming experiences” after “farming operations” in cl. (2).

2002—Subsec. (a). Pub. L. 107-171, §5302(a), substituted “joint operations, trusts, and limited liability companies” for “and joint operations” wherever appearing.

Subsec. (b)(1). Pub. L. 107-171, §5001, substituted “participated in the business operations of” for “operated” in introductory provisions.

1998—Subsec. (a). Pub. L. 105-277, §101(a) [title VIII, §805(1)], inserted “for direct loans only,” before “have either” in cl. (2).

Subsec. (b)(3)(D). Pub. L. 105-277, §101(a) [title VIII, §804], added subpar. (D).

1996—Subsec. (b). Pub. L. 104-127 added subsec. (b) and struck out former subsec. (b) which read as follows: “The Secretary may not restrict eligibility for loans made or insured under this subchapter for purposes set forth in section 1923 of this title solely to borrowers of loans that are outstanding on December 23, 1985.”

1985—Subsec. (a). Pub. L. 99-198, §§1301(a), 1302(a)(1), designated existing provisions as subsec. (a) and substituted—

(1) “, partnerships, and joint operations” for “and partnerships” wherever appearing after “corporations”;

(2) “, partnerships, and joint operations” for “, and partnerships” wherever appearing after “corporations”; and

(3) “individuals” for “members, stockholders, or partners, as applicable,” wherever appearing.

Pub. L. 99-198, §1303, in cl. (3) parenthetical, inserted provision treating blood or marriage related owner-operators of the entire farm interest as separate interest holders of not larger than family farms though collective ownership constitutes a larger than a family farm.

Subsec. (b). Pub. L. 99-198, §1302(a)(2), added subsec. (b).

1981—Pub. L. 97-98 substituted “corporations and partnerships, the family farm” for “cooperatives, corporations, and partnerships, the family farm”, and inserted “in the case of cooperatives, corporations, and partnerships” at end.

1978—Pub. L. 95-334 substituted provisions setting forth eligibility criteria for loans to farmers and ranchers in the United States, and to farm cooperatives and private domestic corporations and partnerships controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States, for provisions setting forth eligibility criteria for loans to farmers and ranchers in the United States, Puerto Rico, and the Virgin Islands.

1970—Pub. L. 91-620 provided that with respect to veterans as defined in section 1983(e) of this title, a farm background shall not be required as a condition precedent to obtaining any loan.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-127, title VI, §663, Apr. 4, 1996, 110 Stat. 1108, provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title [enacting sections 2008g to 2008i of this title, amending this section and sections 1631, 1923, 1924, 1927, 1928, 1929, 1929a, 1932, 1934, 1941, 1942, 1946, 1949, 1961 to 1964, 1981, 1981d, 1983, 1983a, 1985, 1991, 1992, 1994, 1997, 1999, 2000, 2001, 2002, and

2003 of this title, repealing sections 1936, 1945, 1947, 1948, and 1968 of this title, and repealing provisions set out as a note under section 1999 of this title] shall become effective on the date of enactment of this Act [Apr. 4, 1996].

“(b) DELAYED EFFECTIVE DATES.—The amendments made by sections 601, 606, 611, 612, 622, 623, 625, 633, 640(1), 642, 645(1), 648(a), and 649 [enacting sections 2008g and 2008i of this title and amending this section and sections 1929, 1941, 1942, 1962, 1963, 1964, 1981d, 1991, 1997, and 2001 of this title] shall become effective 90 days after the date of enactment of this Act [Apr. 4, 1996].

“(c) TRANSITION PROVISION.—The amendments made by sections 638 and 644 [amending sections 1985 and 2000 of this title] shall not apply with respect to a complete application to acquire inventory property submitted prior to the date of enactment of this Act [Apr. 4, 1996].

“(d) REGULATIONS.—Notwithstanding any other provision of law, regulations to implement the amendments made by this title shall be published as interim final rules with request for comments and may be made effective immediately on publication.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97-98, set out as an Effective Date note under section 4301 of this title.

EVALUATIONS OF DIRECT AND GUARANTEED LOAN PROGRAMS

Pub. L. 107-171, title V, §5301, May 13, 2002, 116 Stat. 344, directed the Secretary of Agriculture to conduct two 1-year studies of the direct and guaranteed loan programs under this section and section 1941 of this title, with each study examining the number, average principal amount, and delinquency and default rates of loans provided or guaranteed during the periods beginning 1 year after May 13, 2002, and 3 years after that date, and to submit a final evaluation report at the end of each study.

§ 1923. Purposes of loans

(a) Allowed purposes

(1) Direct loans

A farmer or rancher may use a direct loan made under this subchapter only for—

(A) acquiring or enlarging a farm or ranch;

(B) making capital improvements to a farm or ranch;

(C) paying loan closing costs related to acquiring, enlarging, or improving a farm or ranch;

(D) paying for activities to promote soil and water conservation and protection described in section 1924 of this title on a farm or ranch; or

(E) refinancing a temporary bridge loan made by a commercial or cooperative lender to a farmer or rancher for the acquisition of land for a farm or ranch, if—

(i) the Secretary approved an application for a direct farm ownership loan to the farmer or rancher for acquisition of the land; and

(ii) funds for direct farm ownership loans under section 1994(b) of this title were not available at the time at which the application was approved.

(2) Guaranteed loans

A farmer or rancher may use a loan guaranteed under this subchapter only for—

(A) acquiring or enlarging a farm or ranch;

(B) making capital improvements to a farm or ranch;