

to the Code, see Short Title note set out under section 1921 of this title and Tables.

§ 1985. Security servicing

(a) Preservation and protection of security, lien, or priority of lien securing loan

The Secretary is authorized and empowered to make advances, without regard to any loan or total indebtedness limitation, to preserve and protect the security for or the lien or priority of the lien securing any loan or other indebtedness owing to, insured by, or acquired by the Secretary under this chapter or under any other programs administered by the Farmers Home Administration or the Rural Development Administration; to bid for and purchase at any execution, foreclosure, or other sale or otherwise to acquire property upon which the United States has a lien by reason of a judgment or execution arising from, or which is pledged, mortgaged, conveyed, attached, or levied upon to secure the payment of, any such indebtedness whether or not such property is subject to other liens, to accept title to any property so purchased or acquired; and to sell, manage, or otherwise dispose of such property as hereinafter provided.

(b) Operation or lease of realty

Except as provided in subsections (c) and (e), real property administered under the provisions of this chapter may be operated or leased by the Secretary for such period or periods as the Secretary may deem necessary to protect the Government's investment therein.

(c) Sale of property

(1) In general

Subject to this subsection and subsection (e)(1)(A), the Secretary shall offer to sell real property that is acquired by the Secretary under this chapter using the following order and method of sale:

(A) Advertisement

Not later than 15 days after acquiring real property, the Secretary shall publicly advertise the property for sale.

(B) Beginning farmer or rancher; socially disadvantaged farmer or rancher

(i) In general

Not later than 135 days after acquiring real property, the Secretary shall offer to sell the property to a qualified beginning farmer or rancher or a socially disadvantaged farmer or rancher at current market value based on a current appraisal.

(ii) Random selection

If more than 1 qualified beginning farmer or rancher or socially disadvantaged farmer or rancher offers to purchase the property, the Secretary shall select between the qualified applicants on a random basis.

(iii) Appeal of random selection

A random selection or denial by the Secretary of a beginning farmer or rancher or a socially disadvantaged farmer or rancher for farm inventory property under this subparagraph shall be final and not administratively appealable.

(iv) Combining and dividing of property

To the maximum extent practicable, the Secretary shall maximize the opportunity for beginning farmers or ranchers and socially disadvantaged farmers or ranchers to purchase real property acquired by the Secretary under this chapter by combining or dividing inventory parcels of the property in such manner as the Secretary determines to be appropriate.

(C) Public sale

If no acceptable offer is received from a qualified beginning farmer or rancher or a socially disadvantaged farmer or rancher under subparagraph (B) not later than 135 days after acquiring the real property, the Secretary shall, not later than 30 days after the 135-day period, sell the property after public notice at a public sale, and, if no acceptable bid is received, by negotiated sale, at the best price obtainable.

(2) Previous lease

In the case of real property acquired before April 4, 1996, that the Secretary leased before April 4, 1996, not later than 60 days after the lease expires, the Secretary shall offer to sell the property in accordance with paragraph (1).

(3) Interest

(A) In general

Subject to subparagraph (B), any conveyance of real property under this subsection shall include all of the interest of the United States in the property, including mineral rights.

(B) Conservation

The Secretary may for conservation purposes grant or sell an easement, restriction, development right, or similar legal right to real property to a State, a political subdivision of a State, or a private nonprofit organization separately from the underlying fee or other rights to the property owned by the United States.

(4) Other law

Chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 shall not apply to any exercise of authority under this chapter.

(5) Lease of property

(A) In general

Subject to subparagraph (B), the Secretary may not lease any real property acquired under this chapter.

(B) Exception

(i) Beginning farmer or rancher; socially disadvantaged farmer or rancher

The Secretary may lease or contract to sell to a beginning farmer or rancher or a socially disadvantaged farmer or rancher a farm or ranch acquired by the Secretary under this chapter if the beginning farmer or rancher or the socially disadvantaged farmer or rancher qualifies for a credit sale or direct farm ownership loan under

subchapter I but credit sale authority for loans or direct farm ownership loan funds, respectively, are not available.

(ii) Term

The term of a lease or contract to sell to a beginning farmer or rancher or a socially disadvantaged farmer or rancher under clause (i) shall be until the earlier of—

(I) the date that is 18 months after the date of the lease or sale; or

(II) the date that direct farm ownership loan funds or credit sale authority for loans becomes available to the beginning farmer or rancher or the socially disadvantaged farmer or rancher.

(iii) Income-producing capability

In determining the rental rate on real property leased under this subparagraph, the Secretary shall consider the income-producing capability of the property during the term that the property is leased.

(6) Expedited determination

(A) In general

On the request of an applicant, not later than 30 days after denial of the applicant's application, the appropriate State director shall provide an expedited review and determination of whether the applicant is a beginning farmer or rancher or a socially disadvantaged farmer or rancher for the purpose of acquiring farm inventory property.

(B) Appeal

The determination of a State Director under subparagraph (A) shall be final and not administratively appealable.

(C) Effects of determinations

(i) In general

The Secretary shall maintain statistical data on the number and results of determinations made under subparagraph (A) and the effect of the determinations on—

(I) selling farm inventory property to beginning farmers or ranchers and socially disadvantaged farmers or ranchers; and

(II) disposing of real property in inventory.

(ii) Notification

The Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate if the Secretary determines that the review process under subparagraph (A) is adversely affecting the selling of farm inventory property to beginning farmers or ranchers or socially disadvantaged farmers or ranchers or the disposing of real property in inventory.

(d) Easements; condemnations

With respect to any real property administered under this chapter, the Secretary is authorized to grant or sell easements or rights-of-way for roads, utilities, and other appurtenances not inconsistent with the public interest. With respect to any rights-of-way over land on which

the United States has a lien administered under this chapter, the Secretary may release said lien upon payment to the United States of adequate consideration, and the interest of the United States arising under any such lien may be acquired for highway purposes by any State or political subdivision thereof in condemnation proceedings under State law by service by certified mail upon the United States attorney for the district, the State Director of the Farmers Home Administration for the State in which the farm is located, and the Attorney General of the United States: *Provided, however,* That the United States shall not be required to appear, answer, or respond to any notice or writ sooner than ninety days from the time such notice or writ is returnable or purports to be effective, and the taking or vesting of title to the interest of the United States shall not become final under any proceeding, order, or decree until adequate compensation and damages have been finally determined and paid to the United States or into the registry of the court.

(e) Real property located within Indian reservation; conservation practices; adverse effects prohibition

(1)(A)(i) Except as provided in subparagraph (D), if—

(I) the Secretary acquires property under this chapter that is located within an Indian reservation; and

(II) the borrower-owner is the Indian tribe that has jurisdiction over the reservation in which the real property is located or the borrower-owner is a member of such Indian tribe;

the Secretary shall dispose of or administer the property only as provided for in this subparagraph.

(ii) For purposes of this subparagraph, the term "Indian reservation" means all land located within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; trust or restricted land located within the boundaries of a former reservation of a federally recognized Indian tribe in the State of Oklahoma; or all Indian allotments the Indian titles to which have not been extinguished if such allotments are subject to the jurisdiction of a federally recognized Indian tribe.

(iii) Not later than 90 days after acquiring the property, the Secretary shall afford an opportunity to purchase or lease the real property in accordance with the order of priority established under clause (iv) by the Indian tribe having jurisdiction over the Indian reservation within which the real property is located or, if no order of priority is established by such Indian tribe under clause (iv), in the following order:

(I) to an Indian member of the Indian tribe that has jurisdiction over the reservation within which the real property is located;

(II) to an Indian corporate entity;

(III) to such Indian tribe.

(iv) The governing body of any Indian tribe having jurisdiction over an Indian reservation may revise the order of priority provided in clause (iii) under which lands located within

such reservation shall be offered for purchase or lease by the Secretary under clause (iii) and may restrict the eligibility for such purchase or lease to—

(I) persons who are members of such Indian tribe,

(II) Indian corporate entities that are authorized by such Indian tribe to lease or purchase lands within the boundaries of such reservation, or

(III) such Indian tribe itself.

(v) If real property described in clause (i) is not purchased or leased under clause (iii) and the Indian tribe having jurisdiction over the reservation within which the real property is located is unable to purchase or lease the real property, the Secretary shall transfer the real property to the Secretary of the Interior who shall administer the real property as if the real property were held in trust by the United States for the benefit of such Indian tribe. From the rental income derived from the lease of the transferred real property, and all other income generated from the transferred real property, the Secretary of the Interior shall pay those State, county, municipal, or other local taxes to which the transferred real property was subject at the time of acquisition by the Secretary, until the earlier of—

(I) the expiration of the 4-year period beginning on the date on which the real property is so transferred, or

(II) such time as the lands are transferred into trust pursuant to clause (viii).

(vi) At any time any real property is transferred to the Secretary of the Interior under clause (v), the Secretary of Agriculture shall be deemed to have no further responsibility under this Act for collection of any amounts with regard to the farm program loan which had been secured by such real property, nor with regard to any lien arising out of such loan transaction, nor for repayments of any amount with regard to such loan transactions or liens to the Treasury of the United States, and the Secretary of the Interior shall be deemed to have succeeded to all right, title and interest of the Secretary of Agriculture in such real estate arising from the farm program loan transaction, including the obligation to remit to the Treasury of the United States, in repayment of the original loan, those amounts provided in clause (vii).

(vii) After the payment of any taxes which are required to be paid under clause (v), all remaining rental income derived from the lease of the real property transferred to the Secretary of the Interior under clause (v), and all other income generated from the real property transferred to the Secretary of the Interior under clause (v), shall be deposited as miscellaneous receipts in the Treasury of the United States until the amount deposited is equal to the lesser of—

(I) the amount of the outstanding lien of the United States against such real property, as of the date the real property was acquired by the Secretary;

(II) the fair market value of the real property, as of the date of the transfer to the Secretary of the Interior; or

(III) the capitalized value of the real property, as of the date of the transfer to the Secretary of the Interior.

(viii) When the total amount that is required to be deposited under clause (vii) with respect to any real property has been deposited into the Treasury of the United States, title to the real property shall be held in trust by the United States for the benefit of the Indian tribe having jurisdiction over the Indian reservation within which the real property is located.

(ix) Notwithstanding any other clause of this subparagraph, the Indian tribe having jurisdiction over the Indian reservation within which the real property described in clause (i) is located may, at any time after the real property has been transferred to the Secretary of the Interior under clause (v), offer to pay the remaining amount on the lien, or the fair market value of the real property, whichever is less. Upon payment of such amount, title to such real property shall be held by the United States in trust for the tribe and such trust or restricted lands that have been acquired by the Secretary under foreclosure or voluntary transfer under a loan made or insured under this chapter and transferred to an Indian person, entity, or tribe under the provisions of this subparagraph shall be deemed to have never lost trust or restricted status.

(x) This subparagraph shall apply to all lands in the land inventory established under this chapter (as of November 28, 1990) that were (immediately prior to November 28, 1990) owned by an Indian borrower-owner described in clause (i) and that are situated within an Indian reservation (as defined in clause (ii)), regardless of the date of foreclosure or acquisition by the Secretary. The Secretary shall afford an opportunity to a tribal member, an Indian corporate entity, or the tribe to purchase or lease the real property as provided in clause (iii). If the right is not exercised or no expression of intent to exercise such right is received within 180 days after November 28, 1990, the Secretary shall transfer the real property to the Secretary of the Interior as provided in clause (v).

(B) The rights provided in this subsection shall be in addition to any such right of first refusal under the law of the State in which the property is located.

(C) As used in this paragraph, the term “borrower-owner” means—

(i) a borrower from whom the Secretary acquired real farm or ranch property (including the principal residence of the borrower) used to secure any loan made to the borrower under this chapter; or

(ii) in any case in which an owner of property pledged the property to secure the loan and the owner is different than the borrower, the owner.

(D)(i) If—

(I) the real property described in subparagraph (A)(i) is located within an Indian reservation;

(II) the borrower-owner is an Indian tribe that has jurisdiction over the reservation in which the real property is located or the borrower-owner is a member of an Indian tribe;

(III) the borrower-owner has obtained a loan made, insured, or guaranteed under this chapter; and

(IV) the borrower-owner and the Secretary have exhausted all of the procedures provided for in this chapter to permit a borrower-owner to retain title to the real property, such that it is necessary for the borrower-owner to relinquish title,

the Secretary shall dispose of or administer the property only as provided in subparagraph (A), as modified by this subparagraph.

(ii) The Secretary shall provide the borrower-owner of real property that is described in clause (i) with written notice of—

(I) the right of the borrower-owner to voluntarily convey the real property to the Secretary; and

(II) the fact that real property so conveyed will be placed in the inventory of the Secretary.

(iii) The Secretary shall provide the borrower-owner of the real property with written notice of the rights and protections provided under this chapter to the borrower-owner, and the Indian tribe that has jurisdiction over the reservation in which the real property is located, from foreclosure or liquidation of the real property, including written notice of—

(I) the provisions of subparagraph (A), this subparagraph, and subsection (g)(6);¹

(II) if the borrower-owner does not voluntarily convey the real property to the Secretary, that—

(aa) the Secretary may foreclose on the property;

(bb) in the event of foreclosure, the property will be offered for sale;

(cc) the Secretary must offer a bid for the property that is equal to the fair market value of the property or the outstanding principal and interest of the loan, whichever is higher;

(dd) the property may be purchased by another party; and

(ee) if the property is purchased by another party, the property will not be placed in the inventory of the Secretary and the borrower-owner will forfeit the rights and protections provided under this chapter; and

(III) the opportunity of the borrower-owner to consult with the Indian tribe that has jurisdiction over the reservation in which the real property is located or counsel to determine if State or tribal law provides rights and protections that are more beneficial than those provided the borrower-owner under this chapter.

(iv)(I) Except as provided in subclause (II), the Secretary shall accept the voluntary conveyance of real property described in clause (i).

(II) If a hazardous substance (as defined in section 9601(14) of title 42) is located on the property and the Secretary takes remedial action to protect human health or the environment if the property is taken into inventory, the Secretary shall accept the voluntary conveyance of the property only if the Secretary determines that

it is in the best interests of the Federal Government.

(v) FORECLOSURE PROCEDURES.—

(I) NOTICE TO BORROWER.—If an Indian borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), not less than 30 days before a foreclosure sale of the property, the Secretary shall provide the Indian borrower-owner with the option of—

(aa) requiring the Secretary to assign the loan and security instruments to the Secretary of the Interior, if the Secretary of the Interior agrees to an assignment releasing the Secretary of Agriculture from all further responsibility for collection of any amounts with regard to the loan secured by the real property; or

(bb) requiring the Secretary to assign the loan and security instruments to the tribe having jurisdiction over the reservation in which the real property is located, if the tribe agrees to the assignment.

(II) NOTICE TO TRIBE.—If an Indian borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), not less than 30 days before a foreclosure sale of the property, the Secretary shall provide written notice to the Indian tribe that has jurisdiction over the reservation in which the real property is located of—

(aa) the sale;

(bb) the fair market value of the property; and

(cc) the requirements of this subparagraph.

(III) ASSUMED LOANS.—If an Indian tribe assumes a loan under subclause (I)—

(aa) the Secretary shall not foreclose the loan because of any default that occurred prior to the date of the assumption;

(bb) the loan shall be for the lesser of the outstanding principal and interest of the loan or the fair market value of the property; and

(cc) the loan shall be treated as though the loan was made under sections 5136 to 5143 of title 25.

(vi)(I) Except as provided in subclause (II), at a foreclosure sale of real property described in clause (i), the Secretary shall offer a bid for the property that is equal to the higher of—

(aa) the fair market value of the property; or

(bb) the outstanding principal and interest of the loan.

(II) If a hazardous substance (as defined in section 9601(14) of title 42) is located on the property and the Secretary takes remedial action to protect human health or the environment if the property is taken into inventory, subclause (I) shall apply only if the Secretary determines that it is in the best interests of the Federal Government.

(2) The Secretary shall not offer for sale or sell any such farmland if the placing of such farmland on the market will have a detrimental effect on the value of farmland in the area.

(3)(A) The Secretary may sell farmland administered under this chapter through an install-

¹ See References in Text note below.

ment sale or similar device that contains such terms as the Secretary considers necessary to protect the investment of the Federal Government in such land.

(B) The Secretary may subsequently sell any contract entered into to carry out subparagraph (A).

(4) In the case of farmland administered under this chapter that is highly erodible land (as defined in section 3801 of title 16), the Secretary may require the use of specified conservation practices on such land as a condition of the sale or lease of such land.

(5) Notwithstanding any other provisions of law, compliance by the Secretary with this subsection shall not cause any acreage allotment, marketing quota, or acreage base assigned to such property to lapse, terminate, be reduced, or otherwise be adversely affected.

(6) In the event of any conflict between any provision of this subsection and any provision of the law of any State providing a right of first refusal to the owner of farmland or the operator of a farm before the sale or lease of land to any other person, such provision of State law shall prevail.

(f) Normal security income

(1) As used in this subsection, the term “normal income security” means all security not considered basic security, including crops, livestock, poultry products, Agricultural Stabilization and Conservation Service payments and Commodity Credit Corporation payments, and other property covered by Farmers Home Administration liens that is sold in conjunction with the operation of a farm or other business, but shall not include any equipment (including fixtures in States that have adopted the Uniform Commercial Code), or foundation herd or flock, that is the basis of the farming or other operation, and is the basic security for a Farmers Home Administration farmer program loan.

(2) The Secretary shall release from the normal income security provided for such loan an amount sufficient to pay for the essential household and farm operating expenses of the borrower, until such time as the Secretary accelerates such loan.

(3) A borrower whose account was accelerated on or after November 1, 1985, and on or before May 7, 1987, but not thereafter foreclosed on or liquidated, shall be entitled to the release of security income for a period of 12 months, to pay the essential household and farm operating expenses of such borrower in an amount not to exceed \$18,000 over 12 months, if such borrower—

(A) as of October 30, 1987, continued to be actively engaged in the farming operations for which the Secretary had made the farmer program loan; and

(B) as of the deadline for responding to the notice provided for under paragraph (5), requests restructuring of such loans pursuant to section 2001 of this title.

(4) The county committee in the county in which borrower's land is located shall determine whether the borrower has complied with the requirements of paragraph (3)(A).

(5)(A) Within 45 days after January 6, 1988, the Secretary shall provide to the borrowers de-

scribed in paragraph (3) notice by certified mail of the right of such borrowers to apply for the benefits under such paragraph.

(B) Releases under such paragraph shall be made to qualified borrowers who have responded to the notice within 30 days after receipt.

(C) Within 12 months after a borrower has requested restructuring under section 2001 of this title, the Secretary shall make a final determination on the request. Notwithstanding the 12-month limitation provided for in paragraph (3), releases shall continue to be made to the borrower until a denial or dismissal of the application of the borrower for restructuring under section 2001 of this title is made. The amount of essential household and farm operating expenses which may be released to any borrower eligible for such releases after 12 months may exceed \$18,000, by an amount proportionate to the period of time beyond 12 months before a final determination is made by the Secretary.

(6) If a borrower is required to plan for or to report on how proceeds from the sale of collateral property will be used, the Secretary shall—

(A) notify the borrower of such requirement; and

(B) notify the borrower of the right to the release of funds under this section and the means by which a request for the funds may be made.

(7) The Secretary shall issue regulations consistent with this section that—

(A) ensure the release of funds to each borrower; and

(B) establish guidelines for releases under paragraph (3), including a list of expenditures for which funds will normally be released.

(g) Easements on inventoried property

(1) In general

Subject to paragraph (2), in the disposal of real property under this section, the Secretary shall establish perpetual wetland conservation easements to protect and restore wetlands or converted wetlands that exist on inventoried property.

(2) Limitation

The Secretary shall not establish a wetland conservation easement on an inventoried property that—

(A) was cropland on the date the property entered the inventory of the Secretary; or

(B) was used for farming at any time during the period beginning on the date 5 years before the property entered the inventory of the Secretary and ending on the date the property entered the inventory of the Secretary.

(3) Notification

The Secretary shall provide prior written notification to a borrower considering preservation loan servicing that a wetlands conservation easement may be placed on land for which the borrower is negotiating a lease option.

(4) Appraised value

The appraised value of the farm shall reflect the value of the land due to the placement of wetland conservation easements.

(Pub. L. 87-128, title III, §335, Aug. 8, 1961, 75 Stat. 315; Pub. L. 92-419, title I, §127, Aug. 30, 1972, 86 Stat. 666; Pub. L. 99-198, title XIII, §§1314(a), 1315, 1318(b)(1), Dec. 23, 1985, 99 Stat. 1526, 1528, 1531; Pub. L. 100-233, title VI, §§610, 611, Jan. 6, 1988, 101 Stat. 1669, 1673; Pub. L. 101-624, title XVIII, §§1813(a)-(h)(1), 1816(e), title XXIII, §§2303(c), 2388(g), Nov. 28, 1990, 104 Stat. 3821-3823, 3827, 3981, 4053; Pub. L. 102-237, title V, §501(f), Dec. 13, 1991, 105 Stat. 1867; Pub. L. 102-552, title V, §516(h)(1), Oct. 28, 1992, 106 Stat. 4138; Pub. L. 102-554, §§16, 17, Oct. 28, 1992, 106 Stat. 4154; Pub. L. 104-127, title VI, §§638, 639, Apr. 4, 1996, 110 Stat. 1093, 1097; Pub. L. 107-171, title V, §5308, May 13, 2002, 116 Stat. 345; Pub. L. 110-234, title V, §5302(a), May 22, 2008, 122 Stat. 1151; Pub. L. 110-246, §4(a), title V, §5302(a), June 18, 2008, 122 Stat. 1664, 1913.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title III of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 307, known as the Consolidated Farm and Rural Development Act, which is classified principally to this chapter. For complete classification of title III to the Code, see Short Title note set out under section 1921 of this title and Tables.

This Act, referred to in subsec. (e)(1)(A)(vi), refers to the Agricultural Act of 1961, Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 294, as amended. For classification of this Act to the Code, see Short Title note set out under section 1911 of this title and Tables. However, the reference was probably intended to be “this title” meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128, as amended, which is classified principally to this chapter. For classification of this title to the Code, see Short Title note set out under section 1921 of this title and Tables.

Subsection (g)(6) of this section, referred to in subsec. (e)(1)(D)(iii)(D), was redesignated subsection (g)(3) of this section by Pub. L. 104-127, title VI, §639(4), Apr. 4, 1996, 110 Stat. 1097.

CODIFICATION

In subsec. (c)(4), “Chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” substituted for “The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)” on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

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

2008—Subsec. (c)(1)(B). Pub. L. 110-246, §5302(a)(1)(A), in heading, inserted “; socially disadvantaged farmer or rancher” at end, in cls. (i) and (iii), inserted “or a socially disadvantaged farmer or rancher” after “beginning farmer or rancher”, in cl. (ii), inserted “or socially disadvantaged farmer or rancher” after “beginning farmer or rancher”, and, in cl. (iv), substituted “beginning farmers or ranchers and socially disadvantaged farmers or ranchers” for “beginning farmers and ranchers”.

Subsec. (c)(1)(C). Pub. L. 110-246, §5302(a)(1)(B), inserted “or a socially disadvantaged farmer or rancher” after “beginning farmer or rancher”.

Subsec. (c)(5)(B)(i). Pub. L. 110-246, §5302(a)(2)(A), in heading, inserted “; socially disadvantaged farmer or rancher” at end and, in text, inserted “or a socially disadvantaged farmer or rancher” after “a beginning farmer or rancher” and “or the socially disadvantaged

farmer or rancher” after “the beginning farmer or rancher”.

Subsec. (c)(5)(B)(ii). Pub. L. 110-246, §5302(a)(2)(B), in introductory provisions, inserted “or a socially disadvantaged farmer or rancher” after “a beginning farmer or rancher” and, in subcl. (II), inserted “or the socially disadvantaged farmer or rancher” after “the beginning farmer or rancher”.

Subsec. (c)(6)(A). Pub. L. 110-246, §5302(a)(3)(A), inserted “or a socially disadvantaged farmer or rancher” after “beginning farmer or rancher”.

Subsec. (c)(6)(C). Pub. L. 110-246, §5302(a)(3)(B), in cl. (i)(I), substituted “beginning farmers or ranchers and socially disadvantaged farmers or ranchers” for “beginning farmers and ranchers” and, in cl. (ii), inserted “or socially disadvantaged farmers or ranchers” after “beginning farmers or ranchers”.

2002—Subsec. (c)(1)(B)(i). Pub. L. 107-171, §5308(1)(A)(i), substituted “135 days” for “75 days”.

Subsec. (c)(1)(B)(iv). Pub. L. 107-171, §5308(1)(A)(ii), added cl. (iv).

Subsec. (c)(1)(C). Pub. L. 107-171, §5308(1)(B), substituted “135 days” for “75 days” and “135-day period” for “75-day period”.

Subsec. (c)(2). Pub. L. 107-171, §5308(2), added par. (2) and struck out heading and text of former par. (2). Text read as follows:

“(A) PREVIOUS LEASE.—In the case of real property acquired prior to April 4, 1996, that the Secretary leased prior to April 4, 1996, not later than 60 days after the lease expires, the Secretary shall offer to sell the property in accordance with paragraph (1).

“(B) PREVIOUSLY IN INVENTORY.—In the case of real property acquired prior to April 4, 1996, that the Secretary has not leased, not later than 60 days after April 4, 1996, the Secretary shall offer to sell the property in accordance with paragraph (1).”

1996—Subsec. (b). Pub. L. 104-127, §638(1), substituted “subsections (c) and (e)” for “subsection (e)”.

Subsec. (c). Pub. L. 104-127, §638(2), added subsec. (c) and struck out former subsec. (c) which authorized Secretary to determine whether real property administered under this chapter was suitable for disposition to persons eligible for assistance under provisions of any law administered by Farmers Home Administration or Rural Development Administration.

Subsec. (e)(1)(A). Pub. L. 104-127, §638(3)(A)(i)-(iii), redesignated subpar. (D) as (A), in cl. (i), substituted “(D)” for “(G)” in introductory provisions, added subcl. (I) and struck out former subcl. (I) which read as follows: “the real property described in subparagraph (A)(i) is located within an Indian reservation.”, in subcl. (II), substituted a semicolon for “, and” at end, and struck out subcl. (III) which read as follows: “the period in which the right to purchase or lease such real property provided in clauses (i) and (ii) of subparagraph (A) has expired.”, in cl. (iii), substituted “Not later than 90 days after acquiring the property, the Secretary shall” for “The Secretary shall, within 90 days after the expiration of the period for which the right to purchase or lease real property described in clause (i) is provided in clauses (i) and (ii) of subparagraph (A).”, and struck out former subpar. (A) which authorized the Secretary, during 180-day period beginning on date of acquisition, or during applicable period under State law, to allow borrower-owner to purchase or lease property, if such borrower-owner had acted in good faith with the Secretary.

Subsec. (e)(1)(B). Pub. L. 104-127, §638(3)(A)(i), (ii), redesignated subpar. (E) as (B) and struck out former subpar. (B) which read as follows: “Any purchase or lease under subparagraph (A) shall be on such terms and conditions as are established in regulations promulgated by the Secretary.”

Subsec. (e)(1)(C). Pub. L. 104-127, §638(3)(A)(i), (ii), redesignated subpar. (F) as (C) and struck out former subpar. (C) which authorized Secretary to give preference in sale or lease, with option to purchase, of property that had been foreclosed, purchased, redeemed, or otherwise acquired by the Secretary to persons in specified order.

Subsec. (e)(1)(D). Pub. L. 104-127, § 638(3)(A)(ii), (iv), redesignated subpar. (G) as (D), in cl. (i), substituted "(A)" for "(D)" in concluding provisions, in cl. (iii)(I), substituted "subparagraph (A)" for "subparagraphs (C)(i), (C)(ii), and (D)", and added cl. (v) and struck out former cl. (v) which read as follows: "If a borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), at least 30 days before a foreclosure sale of the property, the Secretary shall provide written notice to the Indian tribe that has jurisdiction over the reservation in which the real property is located of—

- "(I) the sale;
- "(II) the fair market value of the property; and
- "(III) the requirements of this subparagraph."

Former subpar. (D) redesignated (A).

Subsec. (e)(1)(E) to (G). Pub. L. 104-127, § 638(3)(A)(ii), redesignated subpars. (E) to (G) as (B) to (D), respectively.

Subsec. (e)(3). Pub. L. 104-127, § 638(3)(B), (C), (E), redesignated par. (4) as (3), struck out "(i)" before "The Secretary may sell", redesignated cl. (ii) of subpar. (A) as subpar. (B) and substituted "subparagraph (A)" for "clause (i)", struck out former subpar. (B) which read as follows: "If two or more qualified operators of not larger than family-size farms desire to purchase, or lease with an option to purchase, such land, the appropriate county committee shall randomly select the operator who may purchase such land, on such basis as the Secretary may prescribe by regulation, in accordance with subsection (c)(2)(B)(iii) of this section.", and struck out former par. (3) which directed the Secretary to issue regulations providing for leasing of real property, or leasing such property with option to purchase, on fair and equitable basis.

Subsec. (e)(4). Pub. L. 104-127, § 638(3)(E), redesignated par. (7) as (4). Former par. (4) redesignated (3).

Subsec. (e)(5). Pub. L. 104-127, § 638(3)(D), (E), redesignated par. (8) as (5) and struck out former par. (5) which read as follows:

"(5)(A) If the Secretary determines that farmland administered under this chapter is not suitable for sale or lease to persons eligible for a loan made or insured under subchapter I of this chapter because such farmland is in a tract or tracts that the Secretary determines to be larger than that necessary for such eligible persons, the Secretary shall, to the greatest extent practicable, subdivide such land into tracts suitable for sale under subsection (c) of this section. Such land shall be subdivided into parcels of land the shape and size of which are suitable for farming, the value of which shall not exceed the individual loan limits as prescribed under section 1925 of this title.

"(B) The Secretary shall dispose of such subdivided farmland in accordance with this subsection."

Subsec. (e)(6). Pub. L. 104-127, § 638(3)(D), (E), redesignated par. (10) as (6) and struck out former par. (6) which read as follows: "If suitable farmland is available for disposition under this subsection, the Secretary shall—

"(A) publish an announcement of the availability of such farmland in at least one newspaper that is widely circulated in the county in which the farmland is located;

"(B) post an announcement of the availability of such farmland in a prominent place in the local office of the Farmers Home Administration that serves the county in which the farmland is located; and

"(C) provide written notice reasonably calculated to inform the immediate previous owner or immediate previous family-size farm operator of such farmland, of the availability of such farmland."

Subsec. (e)(7), (8). Pub. L. 104-127, § 638(3)(E), redesignated pars. (7) and (8) as (4) and (5), respectively.

Subsec. (e)(9). Pub. L. 104-127, § 638(3)(D), struck out par. (9) which read as follows: "Denials of applications for or disputes over terms and conditions of a lease or purchase agreement under this section are appealable under section 1983b of this title."

Subsec. (e)(10). Pub. L. 104-127, § 638(3)(E), redesignated par. (10) as (6).

Subsec. (g). Pub. L. 104-127, § 639(1)(A), inserted heading.

Subsec. (g)(1). Pub. L. 104-127, § 639(1), inserted heading, substituted "Subject to paragraph (2)" for "Subject to paragraphs (2) through (5)", and struck out ", as determined by the Secretary in accordance with title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.)" after "inventoried property".

Subsec. (g)(2). Pub. L. 104-127, § 639(2), added par. (2) and struck out former par. (2) which read as follows: "In establishing the wetland conservation easements on land that is considered to be cropland as of November 28, 1990, the Secretary shall avoid, to the extent practicable, an adverse impact on the productivity of the croplands, as provided in this subsection."

Subsec. (g)(3). Pub. L. 104-127, § 639(3), (4), redesignated par. (6) as (3), inserted heading, and struck out former par. (3) which read as follows: "In order to avoid the adverse impact, the Secretary shall—

"(A) not establish the wetland conservation easements with respect to wetlands that were converted prior to December 23, 1985, and that have been in cropland use, as determined by the Secretary, in excess of 10 percent of the existing cropland available for production of agricultural commodities on the particular parcel of inventoried property;

"(B) not establish the wetland conservation easements with respect to wetlands that have been frequently planted to agricultural commodities and wetlands described in subparagraph (A), in excess of 20 percent of the existing cropland available for production of agricultural commodities on the particular parcel of inventoried property;

"(C) ensure that the buffer area adjacent to the wetland is generally not more than 100 feet in average width; and

"(D) ensure that access to other portions of the property for farming and other uses is provided."

Subsec. (g)(4). Pub. L. 104-127, § 639(3), (5), redesignated par. (7) as (4), inserted heading, and struck out former par. (4) which read as follows: "The wetland conservation easements shall be placed on wetlands that have a history of haying and grazing, as determined by the Secretary, except that in no case shall the quantity of the wetland subject to the easements exceed 50 percent of the existing forage lands on the parcel of inventoried property. All haying and grazing practices on the wetlands (including the timing and intensity of haying and grazing) shall conform to forage management standards designed to protect wetlands."

Subsec. (g)(5). Pub. L. 104-127, § 639(3), struck out par. (5) which read as follows: "If, despite the limitations contained in paragraph (3), wetland conservation easements established under paragraph (1) would prevent a particular parcel of inventoried property that is to be sold or leased to a borrower described in clause (i), (ii), or (iii) of subsection (e)(1)(C) of this section, or to a borrower who is a beginning farmer or rancher, from being a marketable agricultural production unit that is comparable to the parcel as acquired, the Secretary may—

"(A) establish wetland conservation easements on wetland that was converted prior to December 23, 1985, in a quantity that is less than 10 percent of the existing croplands available for production of agricultural commodities on the particular parcel; and

"(B) if the reduction provided in subparagraph (A) is not applicable, or is not sufficient to ensure that the particular parcel would be a marketable agricultural production unit, amend the wetland conservation easements established on the wetlands that have been frequently planted to agricultural commodities to permit the production of agricultural commodities (consistent with title XII of the Food Security Act of 1985) on the wetlands, to the extent necessary to maintain the parcel as a marketable agricultural production unit."

Subsec. (g)(6), (7). Pub. L. 104-127, § 639(4), (5), redesignated pars. (6) and (7) as (3) and (4), respectively.

Subsec. (g)(8). Pub. L. 104-127, § 639(3), struck out par. (8) which read as follows: "Notwithstanding the limita-

tions described under paragraphs (3) and (4), the limitations may be voluntarily, knowingly waived by any person with respect to real property described in paragraph (3) or (4)."

1992—Subsec. (c)(1). Pub. L. 102-554, §16, in fourth sentence, inserted "(A)" after "shall be" and "or (B) leased to persons eligible for assistance under the provisions of any law administered by the Farmers Home Administration or the Rural Development Administration under an annual lease or a lease with an option to purchase, with a preference for sale" before period at end.

Subsec. (e)(1)(A)(i). Pub. L. 102-552, which, in amending directory language of Pub. L. 102-237, §501(f)(1), directed the substitution of "the borrower-owner (as defined in subparagraph (F))" for "borrower-owner (as defined in subparagraph (F))", was executed by making the substitution in text which did not contain a closing parenthesis after "(F)", to reflect the probable intent of Congress. See 1991 Amendment note below.

Subsec. (e)(1)(D)(i). Pub. L. 102-554, §17(1), substituted "Except as provided in subparagraph (G), if" for "If".

Subsec. (e)(1)(G). Pub. L. 102-554, §17(2), added subpar. (G).

1991—Subsec. (e)(1)(A)(i). Pub. L. 102-237, §501(f)(1), as amended by Pub. L. 102-552, substituted "the borrower-owner (as defined in subparagraph (F))" for "the borrower from whom the Secretary acquired real farm or ranch property (including the principal residence of the borrower) used to secure any loan made to the borrower under this chapter (hereinafter referred to in this paragraph as the 'borrower-owner')". See 1992 Amendment note above.

Subsec. (e)(1)(F). Pub. L. 102-237, §501(f)(2), added subpar. (F).

1990—Subsec. (a). Pub. L. 101-624, §§1813(a), 2303(c)(1), inserted "or the Rural Development Administration" after "Farmers Home Administration" and substituted "12 months from the date first published under paragraph (2)(D)" for "three years from the date of acquisition".

Subsec. (c)(1). Pub. L. 101-624, §2303(c)(2), inserted "or the Rural Development Administration" after "Farmers Home Administration".

Subsec. (c)(2)(A), (B). Pub. L. 101-624, §1813(e)(1), added subpar. (A) and subpar. (B) introductory provisions, redesignated former subpars. (A) through (D) as cls. (i) through (iv), respectively, of subpar. (B), and struck out former introductory provisions which read as follows: "Notwithstanding any other provision of law, the Secretary shall sell suitable farmland administered under this subchapter to operators (as of the time immediately after such contract for sale or lease is entered into) of not larger than family sized farms, as determined by the county committee. In selling such land, the county committee shall—".

Subsec. (c)(2)(B)(ii). Pub. L. 101-624, §1813(g)(1), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "offer suitable land at a price not greater than that which reflects the appraised market value of such land;"

Subsec. (c)(2)(B)(iii). Pub. L. 101-624, §1813(b)(1), inserted before semicolon ", except that if the committee determines that two or more applicants meet the loan eligibility criteria, the committee shall select between the qualified applicants on a random basis".

Subsec. (c)(2)(B)(iv). Pub. L. 101-624, §2388(g), substituted "cause" for "caused".

Subsec. (e)(1)(A)(i). Pub. L. 101-624, §1813(c), substituted "real farm or ranch property (including the principal residence of the borrower)" for "real property".

Pub. L. 101-624, §1816(e)(1), inserted before period at end ", if such borrower-owner has acted in good faith with the Secretary, as defined in regulations issued by the Secretary, in connection with such loan".

Subsec. (e)(1)(A)(iv). Pub. L. 101-624, §1813(d), added cl. (iv).

Subsec. (e)(1)(C)(i). Pub. L. 101-624, §1816(e)(2), inserted before period at end ", if such borrower-owner has acted in good faith with the Secretary, as defined

in regulations issued by the Secretary, in connection with the loan of such borrower-owner for which such property served as security".

Subsec. (e)(1)(C)(iv), (v). Pub. L. 101-624, §1813(e)(2), added cl. (iv) and redesignated former cl. (iv) as (v).

Subsec. (e)(1)(D)(x). Pub. L. 101-624, §1813(f), added cl. (x).

Subsec. (e)(4)(B). Pub. L. 101-624, §1813(g)(2), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: "The Secretary shall offer such land for sale to operators of not larger than family-size farms at a price that reflects the average annual income that may be reasonably anticipated to be generated from farming such land."

Subsec. (e)(4)(C). Pub. L. 101-624, §1813(g)(2), redesignated former subpar. (C) as (B).

Pub. L. 101-624, §1813(b)(2), substituted "shall randomly" for "shall, by majority vote," and inserted ", in accordance with subsection (c)(2)(B)(iii) of this section".

Subsec. (g). Pub. L. 101-624, §1813(h)(1), added subsec. (g).

1988—Subsec. (c). Pub. L. 100-233, §610(a), designated existing provisions as par. (1), inserted provisions requiring the County Committee to classify or reclassify real property that is farmland, as being suitable for farming operation for such disposition unless property cannot be used to meet any of the purposes of section 1923 of this title, and added par. (2).

Subsec. (e)(1). Pub. L. 100-233, §610(b)(1), added par. (1) and struck out former par. (1) which read as follows: "The Secretary shall to the extent practicable sell or lease farmland administered under this chapter in the following order of priority:

"(A) Sale of such farmland to operators (as of the time immediately before such sale) of not larger than family-size farms.

"(B) Lease of such farmland to operators (as of the time immediately before such lease is entered into) of not larger than family-size farms."

Subsec. (e)(3). Pub. L. 100-233, §610(b)(2), redesignated subpars. (B) to (D) as (A) to (C), respectively, in subpar. (B) substituted "Secretary shall determine if the lessee" for "Secretary shall give special consideration to a previous owner or operator of such land if such owner or operator", added subpar. (D), and struck out former subpar. (A) which read as follows: "The Secretary shall consider granting, and may grant, to an operator of not larger than a family-size farm, in conjunction with paragraph (3), a lease with an option to purchase farmland administered under this chapter."

Subsec. (e)(5)(A). Pub. L. 100-233, §610(b)(3), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "If the Secretary determines that farmland administered under this chapter is not suitable for sale or lease to an operator of not larger than a family-size farm because such farmland is in a tract or tracts that the Secretary determines to be larger than that necessary for family-size farms, the Secretary shall subdivide such land into tracts suitable for such operator."

Subsec. (e)(6)(C). Pub. L. 100-233, §610(b)(4), added subpar. (C).

Subsec. (e)(9), (10). Pub. L. 100-233, §610(b)(5), added pars. (9) and (10).

Subsec. (f). Pub. L. 100-233, §611, amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows:

"(1) As used in this subsection, the term 'normal income security' has the same meaning given such term in section 1962.17(b) of title 7, Code of Federal Regulations (as of January 1, 1985).

"(2) Until such time as the Secretary accelerates a loan made or insured under this chapter, the Secretary shall release from the normal income security provided for such loan an amount sufficient to pay the essential household and farm operating expenses of the borrower, as determined by the Secretary."

1985—Subsec. (b). Pub. L. 99-198, §1314(a)(1), substituted "Except as provided in subsection (e), real property" for "Real property".

Subsec. (c). Pub. L. 99-198, §1314(a)(2), substituted "Except as provided in subsection (e) of this section, the Secretary" for "The Secretary" and inserted sentence at end providing that notwithstanding the preceding sentence, the Secretary may for conservation purposes grant or sell an easement, restriction, development rights, or the equivalent thereof, to a unit of local or State government or a private nonprofit organization separately from the underlying fee or sum of all other rights possessed by the United States.

Pub. L. 99-198, §1318(b)(1), which directed insertion of ", other than easements acquired under section 1997 of this title" at end of last sentence, was executed to fifth sentence of subsec. (c), and not to sixth and last sentence as added by section 1314(a)(2)(B) of Pub. L. 99-198, to reflect the probable intent of Congress.

Subsec. (e). Pub. L. 99-198, §1314(a)(3), added subsec. (e).

Subsec. (f). Pub. L. 99-198, §1315, added subsec. (f).

1972—Subsec. (c). Pub. L. 92-419 substituted "the provisions of any law administered by the Farmers Home Administration" for "subchapter I of this chapter" in first sentence and "such provisions" for "the provisions of subchapter I of this chapter" in second sentence, struck out from fourth sentence initial minimum 20 per centum downpayment requirement and provision for payment of remainder in not more than five annual installments, and provided in such fourth sentence for interest rates and terms not more favorable than legally permissible for eligible borrowers.

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

Amendment by section 638 of Pub. L. 104-127 effective Apr. 4, 1996, but not applicable with respect to complete application to acquire inventory property submitted prior to Apr. 4, 1996, and amendment by section 639 of Pub. L. 104-127 effective Apr. 4, 1996, see section 663(a), (c) of Pub. L. 104-127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-552, title V, §516(h)(2), Oct. 28, 1992, 106 Stat. 4138, provided that: "The amendments made by paragraph (1) of this subsection [amending section 501(f) of Pub. L. 102-237, see 1992 Amendment note above] shall take effect immediately after section 501(f) of the Food, Agriculture, Conservation, and Trade Act of 1990 [probably should be Food, Agriculture, Conservation, and Trade Act Amendments of 1991 [Pub. L. 102-237]] took effect."

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1816 of Pub. L. 101-624 applicable to new applications submitted under section 2001 of this title on or after Nov. 28, 1990, see section 1861 of Pub. L. 101-624, set out as a note under section 2001 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-198, title XIII, §1314(b), Dec. 23, 1985, 99 Stat. 1528, provided that: "The Secretary of Agriculture shall implement the amendments made by this section [amending this section] not later than 90 days after the date of enactment of this Act [Dec. 23, 1985]."

COMPLETION OF SALES OF FARMERS HOME ADMINISTRATION INVENTORY FARMS

Pub. L. 102-142, title VII, §740, Oct. 28, 1991, 105 Stat. 915, provided that: "Hereafter, the Secretary shall complete the sales of Farmers Home Administration inventory farms, in accordance with the law and regulations

in effect before November 28, 1990, in situations in which a County Committee, acting pursuant to section 335 of the Consolidated Farm and Rural Development Act [7 U.S.C. 1985], had made its initial selection of a buyer before November 28, 1990. Such sales shall be completed as soon as the selection decision is administratively final and all terms and conditions have been agreed to. In carrying out sales of inventory property, priority shall be given to the former owner and members of the immediate family."

FARM OWNERSHIP OUTREACH PROGRAM TO SOCIALLY DISADVANTAGED INDIVIDUALS

Pub. L. 100-233, title VI, §623, Jan. 6, 1988, 101 Stat. 1685, as amended by Pub. L. 101-624, title XVIII, §1852, Nov. 28, 1990, 104 Stat. 3837, provided that:

"(a) IN GENERAL.—The Secretary of Agriculture, in coordination with the limited resource farmers' initiative in the office of the Director of the Office of Advocacy and Enterprise, shall establish a farm ownership outreach program for persons who are members of any group with respect to which an individual may be identified as a socially disadvantaged individual under section 8(a)(5) of the Small Business Act (15 U.S.C. 637(a)(5)) to encourage the acquisition of inventory farmland of the Farmers Home Administration by—

"(1) informing persons eligible for assistance under any other provision of this Act [see Short Title of 1988 Amendment note set out under section 2001 of Title 12, Banks and Banking] of—

"(A) the possibility [sic] of acquiring such inventory farmland; and

"(B) various farm ownership loan programs; and

"(2) providing technical assistance to such persons in the acquisition of such inventory farmland.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$2,500,000 for each of the fiscal years 1991 through 1995."

§ 1986. Conflicts of interests

(a) Acceptance of fees, commissions, gifts, or other considerations prohibited

No officer, attorney, or other employee of the Secretary shall, directly or indirectly, be the beneficiary of or receive any fee, commission, gift, or other consideration for or in connection with any transaction or business under this chapter other than such salary, fee, or other compensation as he may receive as such officer, attorney, or employee.

(b) Acquisition of interest in land by certain officers or employees of Department of Agriculture prohibited; 3-year period

Except as otherwise provided in this subsection, no officer or employee of the Department of Agriculture who acts on or reviews an application made by any person under this chapter for a loan to purchase land may acquire, directly or indirectly, any interest in such land for a period of three years after the date on which such action is taken or such review is made. This prohibition shall not apply to a former member of a county committee upon a determination by the Secretary, prior to the acquisition of such interest, that such former member acted in good faith when acting on or reviewing such application.

(c) Certifications on loans to family members prohibited

No member of a county committee shall knowingly make or join in making any certification with respect to a loan to purchase any land in which he or any person related to him within