

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1011

To help reduce the cost of credit to farmers by providing relief from antiquated and unnecessary regulatory burdens for the Farm Credit System, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 30 (legislative day, JUNE 19), 1995

Mr. CRAIG (for himself, Mr. HEFLIN, Mr. LUGAR, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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## A BILL

To help reduce the cost of credit to farmers by providing relief from antiquated and unnecessary regulatory burdens for the Farm Credit System, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Farm Credit System Regulatory Relief Act of 1995”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

- Sec. 2. References to the Farm Credit Act of 1971.
- Sec. 3. Regulatory review.
- Sec. 4. Examination of Farm Credit System institutions.
- Sec. 5. Farm Credit Insurance Fund operations.
- Sec. 6. Powers with respect to troubled insured System banks.
- Sec. 7. Farm Credit System Insurance Corporation board of directors.
- Sec. 8. Conservatorships and receiverships.
- Sec. 9. Examinations by the Farm Credit System Insurance Corporation.
- Sec. 10. Oversight and regulatory actions by the Farm Credit System Insurance Corporation.
- Sec. 11. Formation of administrative service entities.
- Sec. 12. Requirements for loans sold into the secondary market.
- Sec. 13. Removal of antiquated and unnecessary paperwork requirements.
- Sec. 14. Removal of government certification requirement for certain private sector financings.
- Sec. 15. Reform of regulatory limitations on dividend, members business, and voting practices of eligible farmer-owned cooperatives.

1 **SEC. 2. REFERENCES TO THE FARM CREDIT ACT OF 1971.**

2 Whenever in this Act an amendment or repeal is ex-  
 3 pressed in terms of an amendment to, or repeal of, a sec-  
 4 tion or other provision, the reference shall be considered  
 5 to be made to a section or other provision of the Farm  
 6 Credit Act of 1971 (12 U.S.C. 2001 et seq.), except to  
 7 the extent otherwise provided.

8 **SEC. 3. REGULATORY REVIEW.**

9 (a) FINDINGS.—Congress finds that—

10 (1) the Farm Credit Administration, in the role  
 11 of the Administration as an arms-length safety and  
 12 soundness regulator, has made considerable progress  
 13 in reducing the regulatory burden on Farm Credit  
 14 System institutions;

15 (2) the efforts of the Farm Credit Administra-  
 16 tion described in paragraph (1) have resulted in cost  
 17 savings for Farm Credit System institutions; and

1           (3) the cost savings described in paragraph (2)  
2 ultimately benefit the farmers, ranchers, agricultural  
3 cooperatives, and rural residents of the United  
4 States.

5           (b) CONTINUATION OF REGULATORY REVIEW.—The  
6 Farm Credit Administration shall continue its comprehen-  
7 sive review of regulations governing the Farm Credit Sys-  
8 tem to identify and eliminate, consistent with statute,  
9 safety, and soundness, all regulations that are unneces-  
10 sary, unduly burdensome or costly, or not based on stat-  
11 ute.

12 **SEC. 4. EXAMINATION OF FARM CREDIT SYSTEM INSTITU-**  
13 **TIONS.**

14           Section 5.19(a) (12 U.S.C. 2254(a)) is amended in  
15 the first sentence by striking “each year” and inserting  
16 “during each 18-month period”.

17 **SEC. 5. FARM CREDIT INSURANCE FUND OPERATIONS.**

18           (a) ADJUSTMENT OF PREMIUMS.—

19           (1) IN GENERAL.—Section 5.55(a) (12 U.S.C.  
20 2277a-4(a)) is amended—

21           (A) in paragraph (1) by striking “Until the  
22 aggregate of amounts in the Farm Credit In-  
23 surance Fund exceeds the secure base amount,  
24 the annual premium due from any insured Sys-  
25 tem bank for any calendar year” and inserting

1 the following: “If at the end of any calendar  
2 year the aggregate of amounts in the Farm  
3 Credit Insurance Fund does not exceed the se-  
4 cure base amount, subject to paragraph (2), the  
5 annual premium due from any insured System  
6 bank for that calendar year”;

7 (B) by redesignating paragraph (2) as  
8 paragraph (3); and

9 (C) by inserting after paragraph (1) the  
10 following:

11 “(2) REDUCED PREMIUMS.—The Corporation,  
12 in the sole discretion of the Corporation, may reduce  
13 by a percentage uniformly applied to all insured Sys-  
14 tem banks the annual premium due from each in-  
15 sured System bank during any calendar year, as de-  
16 termined under paragraph (1).”.

17 (2) CONFORMING AMENDMENTS.—

18 (A) Section 5.55(b) (12 U.S.C. 2277a-  
19 4(b)) is amended—

20 (i) by striking “Insurance Fund” each  
21 place it appears and inserting “Farm  
22 Credit Insurance Fund”;

23 (ii) by striking “for the following cal-  
24 endar year”; and

1 (iii) by striking “subsection (a)” and  
2 inserting “subsection (a)(1)”.

3 (B) Section 5.56(a) (12 U.S.C. 2277a-  
4 5(a)) is amended by striking “section  
5 5.55(a)(2)” each place it appears in paragraphs  
6 (2) and (3) and inserting “section 5.55(a)(3)”.

7 (b) ALLOCATED INSURANCE RESERVES.—Section  
8 5.55 (12 U.S.C. 2277a-4) is amended by adding at the  
9 end the following:

10 “(e) ALLOCATED INSURANCE RESERVES.—

11 “(1) AMOUNTS ALLOCATED ANNUALLY.—If at  
12 the end of the preceding calendar year the aggregate  
13 of amounts in the Farm Credit Insurance Fund ex-  
14 ceeded the average secure base amount for the pre-  
15 ceeding calendar year, as calculated on an average  
16 daily balance basis, the Corporation shall allocate to  
17 the insured System banks’ Allocated Insurance Re-  
18 serves Accounts within the Farm Credit Insurance  
19 Fund, as provided in paragraph (2), additional re-  
20 serves equal to the amount by which the amount in  
21 the Farm Credit Insurance Fund, as of the preced-  
22 ing December 31, exceeded the average secure base  
23 amount for the preceding calendar year, less the  
24 amount that the Corporation, in the sole discretion  
25 of the Corporation, determines to be its estimated

1 expenses (including estimated insurance obligations)  
2 for the present calendar year. For purposes of such  
3 allocations, an Allocated Insurance Reserves Account  
4 shall be established within the Farm Credit Insur-  
5 ance Fund for each insured System bank.

6 “(2) ALLOCATIONS TO BANKS.—The additional  
7 reserves for any calendar year shall be allocated  
8 among insured System banks so that each bank’s Al-  
9 located Insurance Reserves Account receives an  
10 amount that bears the same proportion to the total  
11 amount to be allocated for the year that the average  
12 principal outstanding for the past 3 calendar years  
13 on loans made by the bank that are in accrual status  
14 bears to the average principal outstanding for the  
15 past 3 calendar years on loans made by all insured  
16 System banks that are in accrual status (excluding,  
17 in each case, the guaranteed portions of government-  
18 guaranteed loans described in subsection (a)(1)(C)).

19 “(3) USE OF FUNDS IN ALLOCATED INSURANCE  
20 RESERVES ACCOUNTS.—Amounts in the Allocated  
21 Insurance Reserves Accounts shall continue to be  
22 part of the Farm Credit Insurance Fund. When the  
23 Corporation expends amounts from the Farm Credit  
24 Insurance Fund other than for annual operating ex-  
25 penses (and insurance obligations estimated in para-

1 graph (1)), amounts in the Allocated Insurance Re-  
2 serves Accounts shall be used for such expenditures  
3 before other moneys in the Fund are used, and each  
4 insured System bank's Allocated Insurance Reserves  
5 Account shall be reduced by an amount equal to the  
6 share of the total amount used from the Allocated  
7 Insurance Reserves Accounts that is proportionate  
8 to the bank's share of the total amounts in the Allo-  
9 cated Insurance Reserves Accounts.

10 “(4) FURTHER DISPOSITION OF AMOUNTS IN  
11 ACCOUNTS.—

12 “(A) IN GENERAL.—As soon as practicable  
13 during each calendar year beginning more than  
14 5 years after the date on which the aggregate  
15 of amounts in the Farm Credit Insurance Fund  
16 exceeds the secure base amount, the Corpora-  
17 tion shall pay to each insured System bank, in  
18 a manner determined by the Corporation, the  
19 lesser of—

20 “(i) 20 percent of the balance in the  
21 bank's Allocated Insurance Reserves Ac-  
22 count as of the preceding December 31; or

23 “(ii) 20 percent of the balance in the  
24 bank's Allocated Insurance Reserves Ac-  
25 count on the date of payment.

1           “(B) ELIMINATION OR REDUCTION OF  
2           PAYMENTS.—The Corporation may eliminate or  
3           reduce payments under subparagraph (A) if the  
4           Corporation determines, in the sole discretion of  
5           the Corporation, that such payments, or other  
6           circumstances that might require use of the  
7           Farm Credit Insurance Fund, could cause the  
8           amount in the Farm Credit Insurance Fund  
9           during the calendar year to be less than the se-  
10          cure base amount.”.

11          (c) TECHNICAL AMENDMENTS.—Section 5.55(d) (12  
12 U.S.C. 2277a-4(d)) is amended—

13           (1) in the matter preceding paragraph (1)—

14                   (A) by striking “subsections (a) and (c)”  
15                   and inserting “subsections (a), (c), and (e)”;  
16                   and

17                   (B) by striking “a Farm Credit Bank” and  
18                   inserting “an insured System bank”; and

19           (2) in paragraphs (1), (2), and (3) by striking  
20           “Farm Credit Bank” and inserting “insured System  
21           bank”.

22          **SEC. 6. POWERS WITH RESPECT TO TROUBLED INSURED**  
23                   **SYSTEM BANKS.**

24           (a) LEAST-COST RESOLUTION.—Section 5.61(a)(3)  
25           (12 U.S.C. 2277a-10(a)) is amended—



1           (1) by redesignating subparagraph (B) as sub-  
2           paragraph (F); and

3           (2) by striking subparagraph (A) and inserting  
4           the following:

5                   “(A) LEAST-COST RESOLUTION.—Assist-  
6           ance may not be provided to an insured System  
7           bank under this subsection unless the total  
8           amount of the assistance is the least costly to  
9           the Farm Credit Insurance Fund of all possible  
10          alternatives available to the Corporation, includ-  
11          ing liquidation of the bank (including paying  
12          the insured obligations issued on behalf of the  
13          bank). Before making a least-cost determina-  
14          tion under this subparagraph, the Corporation  
15          shall accord such other insured System banks  
16          as the Corporation determines to be appropriate  
17          the opportunity to submit information relating  
18          to the determination.

19                   “(B) DETERMINING LEAST COSTLY AP-  
20          PROACH.—In determining the least costly alter-  
21          native under subparagraph (A), the Corporation  
22          shall—

23                           “(i) evaluate alternatives on a  
24                           present-value basis, using a realistic dis-  
25                           count rate;

1           “(ii) document the evaluation and the  
2           assumptions on which the evaluation is  
3           based, including any assumptions with re-  
4           gard to interest rates, asset recovery rates,  
5           asset holding costs, and payment of contin-  
6           gent liabilities; and

7           “(iii) retain the documentation for not  
8           less than 5 years.

9           “(C) TIME OF DETERMINATION.—

10           “(i) GENERAL RULE.—For purposes  
11           of this subsection, the determination of the  
12           costs of providing any assistance under any  
13           provision of this section with respect to  
14           any insured System bank shall be made as  
15           of the date on which the Corporation  
16           makes the determination to provide the as-  
17           sistance to the institution under this sec-  
18           tion.

19           “(ii) RULE FOR LIQUIDATIONS.—For  
20           purposes of this subsection, the determina-  
21           tion of the costs of liquidation of any in-  
22           sured System bank shall be made as of the  
23           earliest of—

1           “(I) the date on which a con-  
2           servator is appointed for the insured  
3           System bank;

4           “(II) the date on which a receiver  
5           is appointed for the insured System  
6           banks; or

7           “(III) the date on which the Cor-  
8           poration makes any determination to  
9           provide any assistance under this sec-  
10          tion with respect to the insured Sys-  
11          tem bank.

12           “(D) RULE FOR STAND-ALONE ASSIST-  
13          ANCE.—Before providing any assistance under  
14          paragraph (1), the Corporation shall evaluate  
15          the adequacy of managerial resources of the in-  
16          sured System bank. The continued service of  
17          any director or senior ranking officer who  
18          serves in a policymaking role for the assisted  
19          insured System bank, as determined by the  
20          Corporation, shall be subject to approval by the  
21          Corporation as a condition of assistance.

22           “(E) DISCRETIONARY DETERMINATIONS.—  
23          Any determination that the Corporation makes  
24          under this paragraph shall be in the sole discre-  
25          tion of the Corporation.”.

1 (b) CONFORMING AMENDMENTS.—Section 5.61(a)  
2 (12 U.S.C. 2277a-10(a)) is amended—

3 (1) in paragraph (1) by striking “IN GEN-  
4 ERAL.—” and inserting “STAND-ALONE ASSIST-  
5 ANCE.—”; and

6 (2) in paragraph (2)—

7 (A) by striking “ENUMERATED POW-  
8 ERS.—” and inserting “FACILITATION OF  
9 MERGERS OR CONSOLIDATION.—”; and

10 (B) in subparagraph (A) by striking “FA-  
11 CILITATION OF MERGERS OR CONSOLIDA-  
12 TION.—” and inserting “IN GENERAL.—”.

13 **SEC. 7. FARM CREDIT SYSTEM INSURANCE CORPORATION**  
14 **BOARD OF DIRECTORS.**

15 Section 201 of the Farm Credit Banks and Associa-  
16 tions Safety and Soundness Act of 1992 (106 Stat. 4104)  
17 is repealed.

18 **SEC. 8. CONSERVATORSHIPS AND RECEIVERSHIPS.**

19 (a) DEFINITIONS.—Section 5.51 (12 U.S.C. 2277a)  
20 is amended—

21 (1) by striking paragraph (5); and

22 (2) by redesignating paragraph (6) as para-  
23 graph (5).

1 (b) GENERAL CORPORATE POWERS.—Section  
2 5.58(9) (12 U.S.C. 2277a-7(9)) is amended to read as  
3 follows:

4 “(9) CONSERVATOR OR RECEIVER.—The Cor-  
5 poration may act as conservator or receiver.”.

6 **SEC. 9. EXAMINATIONS BY THE FARM CREDIT SYSTEM IN-**  
7 **SURANCE CORPORATION.**

8 Section 5.59(b)(1)(A) (12 U.S.C. 2277a-8(b)(1)(A))  
9 is amended by adding at the end the following: “Notwith-  
10 standing any other provision of this Act, on cancellation  
11 of the charter of a System institution, the Corporation  
12 shall have exclusive authority to examine the System insti-  
13 tution in receivership. An examination shall be performed  
14 at such intervals as the Corporation shall determine.”.

15 **SEC. 10. OVERSIGHT AND REGULATORY ACTIONS BY THE**  
16 **FARM CREDIT SYSTEM INSURANCE COR-**  
17 **PORATION.**

18 The Act is amended by inserting after section 5.61  
19 the following new sections:

20 **“SEC. 5.61A. OVERSIGHT ACTIONS BY THE CORPORATION.**

21 “(a) DEFINITIONS.—In this section, the term ‘insti-  
22 tution’ means—

23 “(1) an insured System bank; and

24 “(2) a production credit association or other as-  
25 sociation making loans under section 7.6 with a di-

1 rect loan payable to the funding bank of the associa-  
2 tion that comprises 20 percent or more of the fund-  
3 ing bank's total loan volume net of nonaccrual loans.

4 “(b) CONSULTATION REGARDING PARTICIPATION OF  
5 UNDERCAPITALIZED BANKS IN ISSUANCE OF INSURED  
6 OBLIGATIONS.—The Farm Credit Administration shall  
7 consult with the Corporation prior to approving any in-  
8 sured obligations that are to be issued by or on behalf  
9 of, or participated in by, any insured System bank that  
10 fails to meet the minimum level for any capital require-  
11 ment established by the Farm Credit Administration for  
12 the bank.

13 “(c) CONSULTATION REGARDING APPLICATIONS FOR  
14 MERGERS AND RESTRUCTURINGS.—

15 “(1) CORPORATION TO RECEIVE COPY OF  
16 TRANSACTION APPLICATIONS.—On receiving an ap-  
17 plication for a merger or restructuring of an institu-  
18 tion, the Farm Credit Administration shall forward  
19 a copy of the application to the Corporation.

20 “(2) CONSULTATION REQUIRED.—If the pro-  
21 posed merger or restructuring involves an institution  
22 that fails to meet the minimum level for any capital  
23 requirement established by the Farm Credit Admin-  
24 istration applicable to the institution, the Farm  
25 Credit Administration shall allow 30 days within

1 which the Corporation may submit the views and  
2 recommendations of the Corporation, including any  
3 conditions for approval. In determining whether to  
4 approve or disapprove any proposed merger or re-  
5 structuring, the Farm Credit Administration shall  
6 give due consideration to the views and rec-  
7 ommendations of the Corporation.

8 **“SEC. 5.61B. AUTHORITY TO REGULATE GOLDEN PARA-**  
9 **CHUTE AND INDEMNIFICATION PAYMENTS.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) GOLDEN PARACHUTE PAYMENT.—The  
12 term ‘golden parachute payment’—

13 “(A) means a payment (or any agreement  
14 to make a payment) in the nature of compensa-  
15 tion by any Farm Credit System institution for  
16 the benefit of any institution-related party  
17 under an obligation of the institution that—

18 “(i) is contingent on the termination  
19 of the party’s relationship with the institu-  
20 tion; and

21 “(ii) is received on or after the date  
22 on which—

23 “(I) the institution is insolvent;

24 “(II) a conservator or receiver is  
25 appointed for the institution;

1           “(III) the institution has been  
2 assigned by the Farm Credit Adminis-  
3 tration a composite CAMEL rating of  
4 4 or 5 under the Farm Credit Admin-  
5 istration Rating System, or an equiva-  
6 lent rating; or

7           “(IV) the Corporation otherwise  
8 determines that the institution is in a  
9 troubled condition (as defined in regu-  
10 lations issued by the Corporation);  
11 and

12           “(B) includes a payment that would be a  
13 golden parachute payment but for the fact that  
14 the payment was made before the date referred  
15 to in subparagraph (A)(ii) if the payment was  
16 made in contemplation of the occurrence of an  
17 event described in any subclause in that sub-  
18 paragraph; but

19           “(C) does not include—

20           “(i) a payment made under a retire-  
21 ment plan that is qualified (or is intended  
22 to be qualified) under section 401 of the  
23 Internal Revenue Code of 1986 or other  
24 nondiscriminatory benefit plan;



1           “(ii) a payment made under a de-  
2           ferred compensation plan, a supplemental  
3           executive retirement plan, or other ar-  
4           rangement that the Corporation deter-  
5           mines, by regulation or order to be permis-  
6           sible; or

7           “(iii) a payment made by reason of  
8           the death or disability of an institution-  
9           related party.

10           “(2) INDEMNIFICATION PAYMENT.—The term  
11           ‘indemnification payment’ means a payment (or any  
12           agreement to make a payment) by any Farm Credit  
13           System institution for the benefit of any person who  
14           is or was an institution-related party, to pay or re-  
15           imburse the person for any liability or legal expense  
16           with regard to any administrative proceeding or civil  
17           action instituted by the Farm Credit Administration  
18           that results in a final order under which the per-  
19           son—

20           “(A) is assessed a civil money penalty; or

21           “(B) is removed or prohibited from partici-  
22           pating in the conduct of the affairs of the insti-  
23           tution.

24           “(3) INSTITUTION-RELATED PARTY.—The term  
25           ‘institution-related party’ means—

1           “(A) a director, officer, employee, or agent  
2 for a Farm Credit System institution;

3           “(B) a stockholder (other than another  
4 Farm Credit System institution), consultant,  
5 joint venture partner, or any other person de-  
6 termined by the Farm Credit Administration to  
7 be a participant in the conduct of the affairs of  
8 a Farm Credit System institution; and

9           “(C) an independent contractor (including  
10 any attorney, appraiser, or accountant) that  
11 knowingly or recklessly participates in any vio-  
12 lation of any law or regulation, any breach of  
13 fiduciary duty, or any unsafe or unsound prac-  
14 tice that caused or is likely to cause more than  
15 a minimal financial loss to, or a significant ad-  
16 verse effect on, the Farm Credit System institu-  
17 tion.

18           “(4) LIABILITY OR LEGAL EXPENSE.—The  
19 term ‘liability or legal expense’ means—

20           “(A) a legal or other professional expense  
21 incurred in connection with any claim, proceed-  
22 ing, or action;

23           “(B) the amount of, and any cost incurred  
24 in connection with, any settlement of any claim,  
25 proceeding, or action; and

1           “(C) the amount of, and any cost incurred  
2           in connection with, any judgment or penalty im-  
3           posed with respect to any claim, proceeding, or  
4           action.

5           “(5) PAYMENT.—The term ‘payment’ means—

6           “(A) a direct or indirect transfer of any  
7           funds or any asset; and

8           “(B) any segregation of any funds or as-  
9           sets for the purpose of making, or under an  
10          agreement to make, any payment after the date  
11          on which the funds or assets are segregated,  
12          without regard to whether the obligation to  
13          make the payment is contingent on—

14               “(i) the determination, after that  
15               date, of the liability for the payment of the  
16               amount; or

17               “(ii) the liquidation, after that date,  
18               of the amount of the payment.

19          “(b) PROHIBITION.—The Corporation may prohibit  
20          or limit, by regulation or order, any golden parachute pay-  
21          ment or indemnification payment by a Farm Credit Sys-  
22          tem institution in troubled condition (as defined in regula-  
23          tions issued by the Corporation).

24          “(c) FACTORS TO BE TAKEN INTO ACCOUNT.—The  
25          Corporation shall prescribe, by regulation, the factors to

1 be considered by the Corporation in taking any action  
2 under subsection (b), which may include such factors as  
3 the following:

4           “(1) Whether there is a reasonable basis to be-  
5 lieve that an institution-related party has committed  
6 any fraudulent act or omission, breach of trust or fi-  
7 duciary duty, or insider abuse with regard to the  
8 Farm Credit System institution involved that has  
9 had a material effect on the financial condition of  
10 the institution.

11           “(2) Whether there is a reasonable basis to be-  
12 lieve that the institution-related party is substan-  
13 tially responsible for the insolvency of the Farm  
14 Credit System institution, the appointment of a con-  
15 servator or receiver for the institution, or the insti-  
16 tution’s troubled condition (as defined in regulations  
17 prescribed by the Corporation).

18           “(3) Whether there is a reasonable basis to be-  
19 lieve that the institution-related party has materially  
20 violated any applicable law or regulation that has  
21 had a material effect on the financial condition of  
22 the institution.

23           “(4) Whether there is a reasonable basis to be-  
24 lieve that the institution-related party has violated  
25 or conspired to violate—

1           “(A) section 215, 657, 1006, 1014, or  
2           1344 of title 18, United States Code; or

3           “(B) section 1341 or 1343 of title 18,  
4           United States Code, affecting a Farm Credit  
5           System institution.

6           “(5) Whether the institution-related party was  
7           in a position of managerial or fiduciary responsibil-  
8           ity.

9           “(6) The length of time that the party was re-  
10          lated with the Farm Credit System institution and  
11          the degree to which—

12                 “(A) the payment reasonably reflects com-  
13                 pensation earned over the period of employ-  
14                 ment; and

15                 “(B) the compensation represents a rea-  
16                 sonable payment for services rendered.

17          “(d) CERTAIN PAYMENTS PROHIBITED.—No Farm  
18          Credit System institution may prepay the salary or any  
19          liability or legal expense of any institution-related party  
20          if the payment is made—

21                 “(1) in contemplation of the insolvency of the  
22                 institution or after the commission of an act of in-  
23                 solventy; and

24                 “(2) with a view to, or with the result of—

1           “(A) preventing the proper application of  
2           the assets of the institution to creditors; or

3           “(B) preferring 1 creditor over another  
4           creditor.

5           “(e) RULE OF CONSTRUCTION.—Nothing in this sec-  
6           tion shall be construed—

7           “(1) as prohibiting any Farm Credit System in-  
8           stitution from purchasing any commercial insurance  
9           policy or fidelity bond, so long as the insurance pol-  
10          icy or bond does not cover any legal or liability ex-  
11          pense of an institution described in subsection  
12          (a)(2); or

13          “(2) as limiting the powers, functions, or re-  
14          sponsibilities of the Farm Credit Administration.”.

15 **SEC. 11. FORMATION OF ADMINISTRATIVE SERVICE ENTI-**  
16 **TIES.**

17          Part E of title IV (12 U.S.C. 2211 et seq.) is amend-  
18          ed by inserting after section 4.28 (12 U.S.C. 2214) the  
19          following:

20 **“SEC. 4.28A. DEFINITION OF BANK.**

21          “In this part, the term ‘bank’ includes each associa-  
22          tion operating under title II.”.

1 **SEC. 12. REQUIREMENTS FOR LOANS SOLD INTO THE SEC-**  
2 **ONDARY MARKET.**

3 (a) BORROWER STOCK.—Section 4.3A (12 U.S.C.  
4 2154a) is amended—

5 (1) by redesignating subsections (f) and (g) as  
6 subsections (g) and (h), respectively; and

7 (2) by inserting after subsection (e) the follow-  
8 ing:

9 “(f) LOANS DESIGNATED FOR SALE OR SOLD INTO  
10 THE SECONDARY MARKET.—

11 “(1) IN GENERAL.—Notwithstanding any other  
12 provision of this section, but subject to paragraph  
13 (2) the bylaws adopted by a bank or association  
14 under subsection (b) may provide—

15 “(A) in the case of a loan made on or after  
16 the date of enactment of this paragraph that is  
17 designated, at the time the loan is made, for  
18 sale into a secondary market, that no voting  
19 stock or participation certificate purchase re-  
20 quirement shall apply to the borrower for the  
21 loan; and

22 “(B) in the case of a loan made before the  
23 date of enactment of this paragraph that is sold  
24 into a secondary market, that all outstanding  
25 voting stock or participation certificates held by

1           the borrower with respect to the loan shall, sub-  
2           ject to subsection (d)(1), be retired.

3           “(2) APPLICABILITY.—Notwithstanding any  
4           other provision of this section, in the case of a loan  
5           sold to a secondary market under title VIII, para-  
6           graph (1) shall apply regardless of whether the bank  
7           or association retains a subordinated participation  
8           interest in a loan or pool of loans or contributes to  
9           a cash reserve.

10          “(3) EXCEPTION.—

11                 “(A) IN GENERAL.—Subject to subpara-  
12                 graph (B) and notwithstanding any other provi-  
13                 sion of this section, if a loan designated for sale  
14                 under paragraph (1)(A) is not sold into a sec-  
15                 ondary market during the 1-year period that  
16                 begins on the date of the designation, the vot-  
17                 ing stock or participation certificate purchase  
18                 requirement that would otherwise apply to the  
19                 loan in the absence of a bylaw provision de-  
20                 scribed in paragraph (1)(A) shall be effective.

21                 “(B) RETIREMENT.—The bylaws adopted  
22                 by a bank or association under subsection (b)  
23                 may provide that if a loan described in subpara-  
24                 graph (A) is sold into a secondary market after  
25                 the end of the 1-year period described in the



1           subparagraph, all outstanding voting stock or  
 2           participation certificates held by the borrower  
 3           with respect to the loan shall, subject to sub-  
 4           section (d)(1), be retired.”.

5           (b) BORROWERS’ RIGHTS.—

6           (1) DEFINITION OF LOAN.—Section  
 7           4.14A(a)(5) (12 U.S.C. 2202a(a)(5)) is amended—

8           (A) by striking “(5) LOAN.—The” and in-  
 9           serting the following:

10          “(5) LOAN.—

11           “(A) IN GENERAL.—Subject to subpara-  
 12          graph (B), the”;

13          (B) by adding at the end the following:

14          “(B) EXCLUSION FOR LOANS DESIGNATED  
 15          FOR SALE INTO SECONDARY MARKET.—

16           “(i) IN GENERAL.—Except as pro-  
 17          vided in clause (ii), the term ‘loan’ does  
 18          not include a loan made on or after the  
 19          date of enactment of this subparagraph  
 20          that is designated, at the time the loan is  
 21          made, for sale into a secondary market.

22          “(ii) UNSOLD LOANS.—

23           “(I) IN GENERAL.—Except as  
 24          provided in subclause (II), if a loan  
 25          designated for sale under clause (i) is

1 not sold into a secondary market dur-  
2 ing the 1-year period that begins on  
3 the date of the designation, the provi-  
4 sions of this section and sections 4.14,  
5 4.14B, 4.14C, 4.14D, and 4.36 that  
6 would otherwise apply to the loan in  
7 the absence of the exclusion described  
8 in clause (i) shall become effective  
9 with respect to the loan.

10 “(II) LATER SALE.—If a loan de-  
11 scribed in subclause (I) is sold into a  
12 secondary market after the end of the  
13 1-year period described in subclause  
14 (I), subclause (I) shall not apply with  
15 respect to the loan beginning on the  
16 date of the sale.”.

17 (2) BORROWERS’ RIGHTS FOR POOLED  
18 LOANS.—The first sentence of section 8.9(b) (12  
19 U.S.C. 2279aa–9(b)) is amended by inserting “(as  
20 defined in section 4.14A(a)(5))” after “application  
21 for a loan”.

22 **SEC. 13. REMOVAL OF ANTIQUATED AND UNNECESSARY PA-**  
23 **PERWORK REQUIREMENTS.**

24 (a) COMPENSATION OF ASSOCIATION PERSONNEL.—  
25 Section 1.5(13) (12 U.S.C. 2013(13)) is amended by

1 striking “, and the appointment and compensation of the  
2 chief executive officer thereof,”.

3 (b) USE OF PRIVATE MORTGAGE INSURANCE.—

4 (1) IN GENERAL.—Section 1.10(a)(1) (12  
5 U.S.C. 2018(a)(1)) is amended by adding at the end  
6 the following:

7 “(D) PRIVATE MORTGAGE INSURANCE.—A  
8 loan on which private mortgage insurance is ob-  
9 tained may exceed 85 percent of the appraised  
10 value of the real estate security to the extent  
11 that the loan amount in excess of 85 percent is  
12 covered by the insurance.”.

13 (2) CONFORMING AMENDMENT.— Section  
14 1.10(a)(1)(A) (12 U.S.C. 2018(a)(1)(A)) is amended  
15 by striking “paragraphs (2) and (3)” and inserting  
16 “subparagraphs (B), (C), and (D)”.

17 (c) REMOVAL OF CERTAIN BORROWER REPORTING  
18 REQUIREMENT.—Section 1.10(a) (12 U.S.C. 2018(a)) is  
19 amended by striking paragraph (5).

20 (d) DISCLOSURE RELATING TO ADJUSTABLE RATE  
21 LOANS.— Section 4.13(a)(4) (12 U.S.C. 2199(a)(4)) is  
22 amended by inserting before the semicolon at the end the  
23 following: “, and notice to the borrower of a change in  
24 the interest rate applicable to the loan of the borrower

1 may be made within a reasonable time after the effective  
2 date of an increase or decrease in the interest rate”.

3 (e) JOINT MANAGEMENT AGREEMENTS.—The first  
4 sentence of section 5.17(a)(2)(A) (12 U.S.C.  
5 2252(a)(2)(A)) is amended by striking “or management  
6 agreements”.

7 (f) DISSEMINATION OF QUARTERLY REPORTS.—Sec-  
8 tion 5.17(a)(8) (12 U.S.C. 2252(a)(8)) is amended by in-  
9 serting after “except that” the following: “the require-  
10 ments of the Farm Credit Administration governing the  
11 dissemination to stockholders of quarterly reports of Sys-  
12 tem institutions may not be more burdensome or costly  
13 than the requirements applicable to national banks, and”.

14 **SEC. 14. REMOVAL OF FEDERAL GOVERNMENT**  
15 **CERTIFICATION REQUIREMENT FOR CER-**  
16 **TAIN PRIVATE SECTOR FINANCINGS.**

17 Section 3.8(b)(1)(A) (12 U.S.C. 2129(b)(1)(A)) is  
18 amended—

19 (1) by striking “have been certified by the Ad-  
20 ministrator of the Rural Electrification Administra-  
21 tion to be eligible for such” and inserting “are eligi-  
22 ble under the Rural Electrification Act of 1936 (7  
23 U.S.C. 901 et seq.) for”; and

24 (2) by striking “loan guarantee, and” and in-  
25 serting “loan guarantee from the Administration or

1 the Bank (or a successor of the Administration or  
2 the Bank), and”.

3 **SEC. 15. REFORM OF REGULATORY LIMITATIONS ON DIVI-**  
4 **DEND, MEMBER BUSINESS, AND VOTING**  
5 **PRACTICES OF ELIGIBLE FARMER-OWNED**  
6 **COOPERATIVES.**

7 (a) IN GENERAL.—Section 3.8(a) (12 U.S.C.  
8 2129(a)) is amended by adding at the end the following:  
9 “Any such association that has received a loan from a  
10 bank for cooperatives shall, without regard to the require-  
11 ments of paragraphs (1), (2), (3), and (4) continue to be  
12 eligible so long as more than 50 percent (or such higher  
13 percentage as is established by the bank board) of the vot-  
14 ing control of the association is held by farmers, producers  
15 or harvesters of aquatic products, or eligible cooperative  
16 associations.”.

17 (b) CONFORMING AMENDMENT.— Section  
18 3.8(b)(1)(D) (12 U.S.C. 2129(b)(1)(D)) is amended by  
19 striking “and (4) of subsection” and inserting “and (4),  
20 or under the last sentence, of subsection”.

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