

109TH CONGRESS  
1ST SESSION

# S. 385

To amend the Food Security Act of 1985 to restore integrity to and strengthen payment limitation rules for commodity payments and benefits.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2005

Mr. GRASSLEY (for himself, Mr. DORGAN, Mr. HAGEL, and Mr. JOHNSON) 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 amend the Food Security Act of 1985 to restore integrity to and strengthen payment limitation rules for commodity payments and benefits.

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.**

4 This Act may be cited as the “Rural America Preser-  
5 vation Act”.

6 **SEC. 2. PAYMENT LIMITATIONS.**

7 Section 1001 of the Food Security of 1985 (7 U.S.C.  
8 1308) is amended—

1           (1) in subsection (b)(1), by striking “\$40,000”  
2           and inserting “\$20,000”;

3           (2) in subsection (c)(1), by striking “\$65,000”  
4           and inserting “\$30,000”;

5           (3) in subsection (d), by striking “(d)” and all  
6           that follows through the end of paragraph (1) and  
7           inserting the following:

8           “(d) LIMITATIONS ON MARKETING LOAN GAINS,  
9           LOAN DEFICIENCY PAYMENTS, AND COMMODITY CER-  
10          TIFICATE TRANSACTIONS.—

11           “(1) LOAN COMMODITIES.—The total amount  
12          of the following gains and payments that a person  
13          may receive during any crop year may not exceed  
14          \$75,000:

15           “(A)(i) Any gain realized by a producer  
16          from repaying a marketing assistance loan for  
17          1 or more loan commodities under subtitle B of  
18          title I of the Farm Security and Rural Invest-  
19          ment Act of 2002 (7 U.S.C. 7931 et seq.) at a  
20          lower level than the original loan rate estab-  
21          lished for the loan commodity under that sub-  
22          title.

23           “(ii) In the case of settlement of a mar-  
24          keting assistance loan for 1 or more loan com-  
25          modities under that subtitle by forfeiture, the

1 amount by which the loan amount exceeds the  
2 repayment amount for the loan if the loan had  
3 been settled by repayment instead of forfeiture.

4 “(B) Any loan deficiency payments re-  
5 ceived for 1 or more loan commodities under  
6 that subtitle.

7 “(C) Any gain realized from the use of a  
8 commodity certificate issued by the Commodity  
9 Credit Corporation for 1 or more loan commod-  
10 ities, as determined by the Secretary, including  
11 the use of a certificate for the settlement of a  
12 marketing assistance loan made under that sub-  
13 title, with the gain reported annually to the In-  
14 ternal Revenue Service and to the taxpayer in  
15 the same manner as gains under subparagraphs  
16 (A) and (B).”;

17 (4) by adding at the end the following:

18 “(h) SINGLE FARMING OPERATION.—

19 “(1) IN GENERAL.—Notwithstanding sub-  
20 sections (b) through (d), subject to paragraph (2),  
21 if a person participates only in a single farming op-  
22 eration and receives, directly or indirectly, any pay-  
23 ment or gain covered by this section through the  
24 farming operation, the total amount of payments or  
25 gains (as applicable) covered by this section that the

1 person may receive during any crop year may be up  
2 to but not exceed twice the applicable dollar  
3 amounts specified in subsections (b), (c), and (d).

4 “(2) INDIVIDUALS.—The total amount of pay-  
5 ments or gains (as applicable) covered by this sec-  
6 tion that an individual person may receive during  
7 any crop year may not exceed \$250,000.

8 “(i) SPOUSE EQUITY.—Notwithstanding subsections  
9 (b) through (d), except as provided in subsection  
10 (e)(2)(C)(i), if an individual and spouse are covered by  
11 subsection (e)(2)(C) and receive, directly or indirectly, any  
12 payment or gain covered by this section, the total amount  
13 of payments or gains (as applicable) covered by this sec-  
14 tion that the individual and spouse may jointly receive  
15 during any crop year may not exceed twice the applicable  
16 dollar amounts specified in subsections (b), (c), and (d).

17 “(j) REGULATIONS.—

18 “(1) IN GENERAL.—Not later than 270 days  
19 after the date of enactment of this subsection, the  
20 Secretary shall promulgate regulations—

21 “(A) to ensure that total payments and  
22 gains described in this section made to or  
23 through joint operations or multiple entities  
24 under the primary control of a person, in com-  
25 bination with the payments and gains received

1 directly by the person, shall not exceed twice  
2 the applicable dollar amounts specified in sub-  
3 sections (b), (c), and (d);

4 “(B) in the case of a person that in the ag-  
5 gregate owns, conducts farming operations, or  
6 provides custom farming services on land with  
7 respect to which the aggregate payments exceed  
8 the applicable dollar amounts specified in sub-  
9 sections (b), (c), and (d), to attribute all pay-  
10 ments and gains made on crops produced on  
11 the land to—

12 “(i) a person that rents land as lessee  
13 or lessor through a crop share lease and  
14 receives a share of the payments that is  
15 less than the usual and customary share of  
16 the crop received by the lessee or lessor, as  
17 determined by the Secretary;

18 “(ii) a person that provides custom  
19 farming services through arrangements  
20 under which—

21 “(I) all or part of the compensa-  
22 tion for the services is at risk;

23 “(II) farm management services  
24 are provided by—

25 “(aa) the same person;

1           “(bb) an immediate family  
2 member; or

3           “(cc) an entity or individual  
4 that has a business relationship  
5 that is not an arm’s length rela-  
6 tionship, as determined by the  
7 Secretary; or

8           “(III) more than  $\frac{2}{3}$  of the farm-  
9 ing operations are conducted as cus-  
10 tom farming services provided by—

11           “(aa) the same person;

12           “(bb) an immediate family  
13 member; or

14           “(cc) an entity or individual  
15 that has a business relationship  
16 that is not an arm’s length rela-  
17 tionship, as determined by the  
18 Secretary; or

19           “(iii) a person under such other ar-  
20 rangements as the Secretary determines  
21 are established to transfer payments from  
22 persons that would otherwise exceed the  
23 applicable dollar amounts specified in sub-  
24 sections (b), (c), and (d); and

1           “(C) to ensure that payments attributed  
2           under this section to a person other than the  
3           direct recipient shall also count toward the limit  
4           of the direct recipient.

5           “(2) PRIMARY CONTROL.—The regulations  
6           under paragraph (1) shall define ‘primary control’ to  
7           include a joint operation or multiple entity in which  
8           a person owns an interest that is equal to or greater  
9           than the interest of any other 1 or more persons  
10          that materially participate on a regular, substantial,  
11          and continuous basis in the management of the op-  
12          eration or entity.”.

13 **SEC. 3. SCHEMES OR DEVICES.**

14          Section 1001B of the Food Security Act of 1985 (7  
15 U.S.C. 1308–2) is amended—

16           (1) by inserting “(a) IN GENERAL.—” before  
17          “if”; and

18           (2) by adding at the end the following:

19          “(b) FRAUD.—If fraud is committed by a person in  
20          connection with a scheme or device to evade, or that has  
21          the purpose of evading, section 1001, 1001A, or 1001C,  
22          the person shall be ineligible to receive farm program pay-  
23          ments (as described in subsections (b), (c), and (d) of sec-  
24          tion 1001 as being subject to limitation) applicable to the

1 crop year for which the scheme or device is adopted and  
2 the succeeding 5 crop years.”.

3 **SEC. 4. REGULATIONS.**

4 (a) IN GENERAL.—The Secretary of Agriculture may  
5 promulgate such regulations as are necessary to imple-  
6 ment this Act and the amendments made by this Act.

7 (b) PROCEDURE.—The promulgation of the regula-  
8 tions and administration of this Act and the amendments  
9 made by this Act shall be made without regard to—

10 (1) the notice and comment provisions of sec-  
11 tion 553 of title 5, United States Code;

12 (2) the Statement of Policy of the Secretary of  
13 Agriculture effective July 24, 1971 (36 Fed. Reg.  
14 13804), relating to notices of proposed rulemaking  
15 and public participation in rulemaking; and

16 (3) chapter 35 of title 44, United States Code  
17 (commonly known as the “Paperwork Reduction  
18 Act”).

19 (c) CONGRESSIONAL REVIEW OF AGENCY RULE-  
20 MAKING.—In carrying out this section, the Secretary shall  
21 use the authority provided under section 808 of title 5,  
22 United States Code.

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