

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

# H. R. 2130

To amend the Farm Credit Act of 1971 to improve the efficiency and operation of the Federal Agricultural Mortgage Corporation in order better to ensure that farmers, ranchers and rural home owners will have access to a stable and competitive supply of mortgage credit now and in the future.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 27, 1995

Mr. EMERSON (for himself, Mr. BARRETT of Nebraska, and Mr. BEREUTER) introduced the following bill; which was referred to the Committee on Agriculture

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## A BILL

To amend the Farm Credit Act of 1971 to improve the efficiency and operation of the Federal Agricultural Mortgage Corporation in order better to ensure that farmers, ranchers and rural home owners will have access to a stable and competitive supply of mortgage credit now and in the future.

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 “Farmer Mac Reform  
5 Act of 1995”.

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

2 Except as otherwise expressly provided, whenever in  
3 this Act an amendment or repeal is expressed in terms  
4 of an amendment to, or repeal of, a section or other provi-  
5 sion, the reference shall be considered to be made to a  
6 section or other provision of the Farm Credit Act of 1971  
7 (12 U.S.C. 2001 et seq.).

8 **SEC. 3. DEFINITION OF REAL ESTATE.**

9 Section 8.0(1)(B)(ii) (12 U.S.C. 2279aa—(1)(B)(ii)  
10 is amended by striking “with a purchase price” and insert-  
11 ing “, excluding the land to which the dwelling is affixed,  
12 with a value”.

13 **SEC. 4. DEFINITION OF CERTIFIED FACILITY.**

14 Section 8.0(3) (12 U.S.C. 2279aa—(3)) is amend-  
15 ed—

16 (1) in subparagraph (A), by striking “a second-  
17 ary marketing agricultural loan” and inserting “an  
18 agricultural mortgage marketing”; and

19 (2) in subparagraph (B), by striking “, but  
20 only” and all that follows through “(9)(B)”.

21 **SEC. 5. DUTIES OF FEDERAL AGRICULTURAL MORTGAGE**  
22 **CORPORATION.**

23 Section 8.1(b) (12 U.S.C. 2279aa—1(b)) is amend-  
24 ed—

25 (1) in paragraph (2), by striking “and” at the  
26 end;

1           (2) in paragraph (3), by striking the period at  
2 the end and inserting “; and”; and

3           (3) by adding at the end the following:

4           “(4) purchase qualified loans and issue securi-  
5 ties representing interests in, or obligations backed  
6 by, the qualified loans, guaranteed for the timely re-  
7 payment of principal and interest.”.

8 **SEC. 6. POWERS OF THE CORPORATION.**

9           Section 8.3(c) (12 U.S.C. 2279aa—3(c)) is amend-  
10 ed—

11           (1) by redesignating paragraphs (13) and (14)  
12 as paragraphs (14) and (15), respectively; and

13           (2) by inserting after paragraph (12) the fol-  
14 lowing:

15           “(13) To purchase, hold, sell, or assign a quali-  
16 fied loan, to issue a guaranteed security, represent-  
17 ing an interest in, or an obligation backed by, the  
18 qualified loan, and otherwise to perform all the func-  
19 tions and responsibilities of an agricultural mortgage  
20 marketing facility operating as a certified facility  
21 under this title.”.

22 **SEC. 7. FEDERAL RESERVE BANKS AS DEPOSITARIES AND**  
23 **FISCAL AGENTS.**

24           Section 8.3 (12 U.S.C. 2279aa—3) is amended—

1 (1) in subsection (d), by striking “may act as  
2 depositories for, or” and inserting “shall act as de-  
3 positories for, and”; and

4 (2) in subsection (e), by striking “Secretary of  
5 the Treasury may authorize the Corporation to use”  
6 and inserting “Corporation shall have access to”.

7 **SEC. 8. CERTIFICATION OF AGRICULTURAL MORTGAGE**  
8 **MARKETING FACILITIES.**

9 Section 8.5 (12 U.S.C. 2279aa—5) is amended—

10 (1) in subsection (a)—

11 (A) in paragraph (1), by inserting “(other  
12 than the Corporation)” after “agricultural  
13 mortgage marketing facilities”; and

14 (B) in paragraph (2), by inserting “(other  
15 than the Corporation)” after “agricultural  
16 mortgage marketing facility”; and

17 (2) in subsection (e)(1), by striking “(other  
18 than the Corporation)”.

19 **SEC. 9. GUARANTEE OF QUALIFIED LOANS.**

20 Section 8.6 (12 U.S.C. 2279aa—6) is amended—

21 (1) in subsection (a)(1)—

22 (A) by striking “Corporation shall guaran-  
23 tee” and inserting the following: “Corpora-  
24 tion—

25 “(A) shall guarantee”;

1 (B) by striking the period at the end and  
2 inserting “; and”; and

3 (C) by adding at the end the following:

4 “(B) may issue a security, guaranteed as  
5 to the timely payment of principal and interest,  
6 that represents an interest solely in, or an obli-  
7 gation fully backed by, a pool consisting of  
8 qualified loans that—

9 “(i) meet the standards established  
10 under section 8.8; and

11 “(ii) have been purchased and held by  
12 the Corporation.”;

13 (2) in subsection (d)—

14 (A) by striking paragraph (4); and

15 (B) by redesignating paragraphs (5), (6),  
16 and (7) as paragraphs (4), (5), and (6), respec-  
17 tively; and

18 (3) in subsection (g)(2), by striking “section  
19 8.0(9)(B))” and inserting “section 8.0(9))”.

20 **SEC. 10. MANDATORY RESERVES AND SUBORDINATED PAR-**  
21 **TICIPATION INTERESTS ELIMINATED.**

22 (a) **GUARANTEE OF QUALIFIED LOANS.**—Section 8.6  
23 (12 U.S.C. 2279aa—6) is amended by striking subsection  
24 (b).

1 (b) RESERVES AND SUBORDINATED PARTICIPATION  
2 INTERESTS.—Section 8.7 (12 U.S.C. 2279aa—7) is re-  
3 pealed.

4 **SEC. 11. STANDARDS REQUIRING DIVERSIFIED POOLS.**

5 Section 8.6 (12 U.S.C. 2279aa—6) (as amended by  
6 section 218) is further amended—

7 (1) by striking subsection (c); and

8 (2) by redesignating subsections (d) through (g)  
9 as subsections (b) through (e), respectively.

10 **SEC. 12. SMALL FARMS.**

11 Section 8.8(e) (12 U.S.C. 2279aa—8(e)) is amended  
12 by adding at the end the following: “The Board shall pro-  
13 mote and encourage the inclusion of qualified loans for  
14 small farms and family farmers in the agricultural mort-  
15 gage secondary market.”.

16 **SEC. 13. DEFINITION OF AN AFFILIATE.**

17 Section 8.11(e) (21 U.S.C. 2279aa—11(e)) is amend-  
18 ed—

19 (1) by striking “a certified facility or”; and

20 (2) by striking “paragraphs (3) and (7), respec-  
21 tively, of section 8.0” and inserting “section 8.0(7)”.

22 **SEC. 14. STATE USURY LAWS SUPERSEDED.**

23 Section 8.12 (12 U.S.C. 2279aa—12) is amended by  
24 striking subsection (d) and inserting the following:

1       “(d) STATE USURY LAWS SUPERSEDED.—A provi-  
2 sion of the Constitution or law of any State shall not apply  
3 to an agricultural loan made by an originator or a certified  
4 facility in accordance with this title for sale to the Cor-  
5 poration or to a certified facility for inclusion in a pool  
6 for which the Corporation has provided, or has committed  
7 to provide, a guarantee, if the loan, not later than 180  
8 days after the date the loan was made, is sold to the Cor-  
9 poration or included in a pool for which the Corporation  
10 has provided a guarantee, if the provision—

11               “(1) limits the rate or amount of interest, dis-  
12 count points, finance charges, or other charges that  
13 may be charged, taken, received, or reserved by an  
14 agricultural lender or a certified facility; or

15               “(2) limits or prohibits a prepayment penalty  
16 (either fixed or declining), yield maintenance, or  
17 make-whole payment that may be charged, taken, or  
18 received by an agricultural lender or a certified facil-  
19 ity in connection with the full or partial payment of  
20 the principal amount due on a loan by a borrower  
21 in advance of the scheduled date for the payment  
22 under the terms of the loan, otherwise known as a  
23 prepayment of the loan principal.”.

24 **SEC. 15. EXTENSION OF CAPITAL TRANSITION PERIOD.**

25       Section 8.32 (12 U.S.C. 2279bb-1) is amended—

1 (1) in the first sentence of subsection (a), by  
2 striking “Not later than the expiration of the 2-year  
3 period beginning on December 13, 1991,” and in-  
4 sserting “Not sooner than the expiration of the 3-  
5 year period beginning on the date of enactment of  
6 the Farm Credit Improvements Act of 1995,”;

7 (2) in the first sentence of subsection (b)(2), by  
8 striking “5-year” and inserting “8-year”; and

9 (3) in subsection (d)—

10 (A) in the first sentence—

11 (i) by striking “The regulations estab-  
12 lishing” and inserting the following:

13 “(1) IN GENERAL.—The regulations establish-  
14 ing”; and

15 (ii) by striking “shall contain” and in-  
16 sserting the following: “shall—

17 “(A) be issued by the Director for public  
18 comment in the form of a notice of proposed  
19 rulemaking, to be first published after the expi-  
20 ration of the period referred to in subsection  
21 (a); and

22 “(B) contain”; and

23 (B) in the second sentence, by striking  
24 “The regulations shall” and inserting the fol-  
25 lowing:

1           “(2) SPECIFICITY.—The regulations referred to  
2           in paragraph (1) shall”.

3 **SEC. 16. MINIMUM CAPITALIZATION LEVEL.**

4           Section 8.33 (12 U.S.C. 2279bb–2) is amended—

5           (1) in subsection (a), by striking paragraph (3)  
6           and inserting the following:

7           “(3) the percentage, determined under sub-  
8           section (c), of the aggregate assets of the Corpora-  
9           tion acquired under the linked portfolio option under  
10          section 8.6(e), plus the aggregate amount of quali-  
11          fied loans purchased and held by the Corporation  
12          under the pooling option under section 8.3(c)(13).”;  
13          and

14          (2) in subsection (c)—

15                 (A) by striking “Linked Portfolio Assets”  
16                 and inserting “Designated Assets”;

17                 (B) by striking “section 8.6(g)” and all  
18                 that follows through “8.34(3)(A)” and insert-  
19                 ing “section 8.6(e), plus the aggregate amount  
20                 of qualified loans purchased and held by the  
21                 Corporation under the pooling option under sec-  
22                 tion 8.3(c)(13)”; and

23                 (C) by striking “5-year” each place it ap-  
24                 pears and inserting “8-year”.

1 **SEC. 17. CRITICAL CAPITAL LEVEL.**

2 Section 8.34(3) (12 U.S.C. 2279bb-3(3)) is amend-  
3 ed—

4 (1) by striking “section 8.6(g),” and inserting  
5 “section 8.6(e),”; and

6 (2) by striking “5-year” each place it appears  
7 and inserting “8-year”.

8 **SEC. 18. ENFORCEMENT LEVELS.**

9 Section 8.35(e) (12 U.S.C. 2279bb-4(e)) is amended  
10 by striking “during the 30-month period beginning on the  
11 date of enactment of this section,” and inserting “during  
12 the period beginning on December 13, 1991, and ending  
13 on the effective date of the risk-based capital regulation  
14 issued by the Director under section 8.32,”.

15 **SEC. 19. RECAPITALIZATION OF THE CORPORATION.**

16 Title VIII (12 U.S.C. 2279aa et seq.) is amended by  
17 adding at the end the following:

18 **“SEC. 8.38. RECAPITALIZATION OF THE CORPORATION.**

19 “(a) MANDATORY RECAPITALIZATION.—The Cor-  
20 poration shall increase the core capital of the Corporation  
21 to an amount equal to or greater than \$25,000,000, not  
22 later than the earlier of—

23 “(1) the date that is 3 years after the date of  
24 enactment of this section; or

25 “(2) the date that is 180 days after the end of  
26 the first calendar quarter that the aggregate on-bal-

1       ance sheet assets of the Corporation, plus the out-  
2       standing principal of the off-balance sheet obliga-  
3       tions of the Corporation, equal or exceed  
4       \$2,000,000,000.

5       “(b) RAISING CORE CAPITAL.—In carrying out this  
6       section, the Corporation may issue stock under section 8.4  
7       and otherwise employ any recognized and legitimate  
8       means of raising core capital in the power of the Corpora-  
9       tion under section 8.3.

10       “(c) LIMITATION ON GROWTH OF TOTAL ASSETS.—  
11       During the 3-year period beginning on the date of enact-  
12       ment of this section, the aggregate on-balance sheet assets  
13       of the Corporation plus the outstanding principal of the  
14       off-balance sheet obligations of the Corporation may not  
15       exceed \$3,000,000,000 if the core capital of the Corpora-  
16       tion is less than \$25,000,000.

17       “(d) ENFORCEMENT.—If the Corporation fails to  
18       carry out subsection (a) by the date required under para-  
19       graph (1) or (2) of subsection (a), the Corporation may  
20       not purchase a new qualified loan, or issue or guarantee  
21       a new loan-backed security, until the core capital of the  
22       Corporation is increased to an amount equal to or greater  
23       than \$25,000,000.”.

24       **SEC. 20. BORROWER STOCK.**

25       Section 4.3A (12 U.S.C. 2154A) is amended—

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

3 (2) by inserting after subsection (e) the follow-  
4 ing:

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

7 “(1) IN GENERAL.—Subject to paragraph (2)  
8 and notwithstanding any other provision of this sec-  
9 tion, the bylaws adopted by a bank or association  
10 under subsection (b) may provide—

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

18 “(B) in the case of a loan made before the  
19 date of enactment of this paragraph that is sold  
20 into a secondary market, that all outstanding  
21 voting stock or participation certificates held by  
22 the borrower with respect to the loan shall, sub-  
23 ject to subsection (d)(1), be retired.

24 “(2) APPLICABILITY.—Notwithstanding any  
25 other provision of this section, in the case of a loan

1 sold to a secondary market under title VIII, para-  
2 graph (1) shall apply regardless of whether the bank  
3 or association retains a subordinated participation  
4 interest in a loan or pool of loans or contributes to  
5 a cash reserve.

6 “(3) EXCEPTION.—

7 “(A) IN GENERAL.—Subject to subpara-  
8 graph (B) and notwithstanding any other provi-  
9 sion of this section, if a loan designated for sale  
10 under paragraph (1)(A) is not sold into a sec-  
11 ondary market during the 180-day period that  
12 begins on the date of the designation, the vot-  
13 ing stock or participation certificate purchase  
14 requirement that would otherwise apply to the  
15 loan in the absence of a bylaw provision de-  
16 scribed in paragraph (1)(A) shall be effective.

17 “(B) RETIREMENT.—The bylaws adopted  
18 by a bank or association under subsection (b)  
19 may provide that if a loan described in subpara-  
20 graph (A) is sold into a secondary market after  
21 the end of the 180-day period described in the  
22 subparagraph, all outstanding voting stock or  
23 participation certificates held by the borrower

1 with respect to the loan shall, subject to sub-  
2 section (d)(1), be retired.”.

○