

108TH CONGRESS
1ST SESSION

S. 667

To amend the Food Security Act of 1985 to strengthen payment limitations for commodity payments and benefits.

IN THE SENATE OF THE UNITED STATES

MARCH 19, 2003

Mr. GRASSLEY (for himself, Mr. HAGEL, Mr. DORGAN, Mr. JOHNSON, and Mr. DASCHLE) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Food Security Act of 1985 to strengthen payment limitations 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. PAYMENT LIMITATIONS.**

4 Section 1001 of the Food Security of 1985 (7 U.S.C.
5 1308) is amended—

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

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

1 (3) by striking “(d)” and all that follows
2 through the end of paragraph (1) and inserting the
3 following:

4 “(d) LIMITATIONS ON MARKETING LOAN GAINS,
5 LOAN DEFICIENCY PAYMENTS, AND COMMODITY CER-
6 TIFICATE TRANSACTIONS.—

7 “(1) LOAN COMMODITIES.—The total amount
8 of the following gains and payments that a person
9 may receive during any crop year may not exceed
10 \$87,500:

11 “(A)(i) Any gain realized by a producer
12 from repaying a marketing assistance loan for
13 1 or more loan commodities under subtitle B of
14 title I of the Farm Security and Rural Invest-
15 ment Act of 2002 (7 U.S.C. 7931 et seq.) at a
16 lower level than the original loan rate estab-
17 lished for the loan commodity under that sub-
18 title.

19 “(ii) In the case of settlement of a mar-
20 keting assistance loan for 1 or more loan com-
21 modities under that subtitle by forfeiture, the
22 amount by which the loan amount exceeds the
23 repayment amount for the loan if the loan had
24 been settled by repayment instead of forfeiture.

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

4 “(C) Any gain realized from the use of a
5 commodity certificate issued by the Commodity
6 Credit Corporation for 1 or more loan commod-
7 ities, as determined by the Secretary, including
8 the use of a certificate for the settlement of a
9 marketing assistance loan made under that sub-
10 title.”; and

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

12 “(h) SINGLE FARMING OPERATION.—

13 “(1) IN GENERAL.—Notwithstanding sub-
14 sections (b) through (d), subject to paragraph (2),
15 if a person participates only in a single farming op-
16 eration and receives, directly or indirectly, any pay-
17 ment or gain covered by this section through the op-
18 eration, the total amount of payments or gains (as
19 applicable) covered by this section that the person
20 may receive during any crop year may not exceed
21 twice the applicable dollar amounts specified in sub-
22 sections (b), (c), and (d).

23 “(2) INDIVIDUALS.—The total amount of pay-
24 ments or gains (as applicable) covered by this sec-

1 tion that an individual person may receive during
2 any crop year may not exceed \$275,000.

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

12 “(j) REGULATIONS.—

13 “(1) IN GENERAL.—Not later than July 1,
14 2003, the Secretary shall promulgate regulations—

15 “(A) to ensure that total payments and
16 gains described in this section made to or
17 through joint operations or multiple entities
18 under the primary control of a person, in com-
19 bination with the payments and gains received
20 directly by the person, shall not exceed twice
21 the applicable dollar amounts specified in sub-
22 sections (b), (c), and (d);

23 “(B) in the case of a person that in the ag-
24 gregate owns, conducts farming operations, or
25 provides custom farming services on land with

1 respect to which the aggregate payments re-
2 ceived by the person exceed the applicable dollar
3 amounts specified in subsections (b), (c), and
4 (d), to attribute all payments and gains made
5 to the person on crops produced on the land
6 to—

7 “(i) a person that rents land for a
8 share of the crop that is less than the
9 usual and customary rate, as determined
10 by the Secretary;

11 “(ii) a person that provides custom
12 farming services through arrangements
13 under which—

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

16 “(II) farm management services
17 are provided by—

18 “(aa) the same person;

19 “(bb) an immediate family
20 member; or

21 “(cc) an entity or individual
22 that has a business relationship
23 that is not an arm’s length rela-
24 tionship, as determined by the
25 Secretary; or

1 “(III) more than $\frac{2}{3}$ of all pay-
2 ments received for custom farming
3 services are received by—

4 “(aa) the same person;

5 “(bb) an immediate family
6 member; or

7 “(cc) an entity or individual
8 that has a business relationship
9 that is not an arm’s length rela-
10 tionship, as determined by the
11 Secretary; or

12 “(iii) a person under such other ar-
13 rangements as the Secretary determines
14 are established to transfer payments from
15 persons that would otherwise exceed the
16 applicable dollar amounts specified in sub-
17 sections (b), (c), and (d); and

18 “(C) to ensure that payments attributed
19 under this section to a person other than the
20 direct recipient shall also count toward the limit
21 of the direct recipient.

22 “(2) PRIMARY CONTROL.—The regulations
23 under paragraph (1) shall define ‘primary control’ to
24 include a joint operation or multiple entity in which
25 a person owns an interest that is greater than the

1 total interests held by other persons that materially
2 participate on a regular, substantial, and continuous
3 basis in the management of the operation or enti-
4 ty.”.

5 **SEC. 2. REGULATIONS.**

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

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

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

14 (2) the Statement of Policy of the Secretary of
15 Agriculture effective July 24, 1971 (36 Fed. Reg.
16 13804), relating to notices of proposed rulemaking
17 and public participation in rulemaking; and

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

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

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