

118TH CONGRESS  
1ST SESSION

# H. R. 5296

To amend the Consolidated Farm and Rural Development Act to reform farm loans, to amend the Department of Agriculture Reorganization Act of 1994 to reform the National Appeals Division process, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 29, 2023

Ms. ADAMS introduced the following bill; which was referred to the Committee on Agriculture

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## A BILL

To amend the Consolidated Farm and Rural Development Act to reform farm loans, to amend the Department of Agriculture Reorganization Act of 1994 to reform the National Appeals Division process, 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.**

4 This Act may be cited as the “Fair Credit for Farm-  
5 ers Act of 2023”.

1 **SEC. 2. DEFERMENT OF PAYMENTS FOR BORROWERS OF**  
2 **FARM LOANS.**

3 (a) DEFINITIONS.—In this section:

4 (1) ECONOMICALLY DISTRESSED FARMER OR  
5 RANCHER.—The term “economically distressed  
6 farmer or rancher” means a farmer or rancher that  
7 is—

8 (A) delinquent, as described in the defini-  
9 tion of the term “delinquent borrower” in sec-  
10 tion 761.2(b) of title 7, Code of Federal Regu-  
11 lations (or successor regulations);

12 (B) financially distressed, as described in  
13 the definition of the term “financially distressed  
14 borrower” in section 761.2(b) of title 7, Code of  
15 Federal Regulations (or successor regulations);  
16 or

17 (C) a borrower of a direct farm loan who  
18 is unable to develop a feasible plan (as defined  
19 in section 761.2(b) of title 7, Code of Federal  
20 Regulations (or successor regulations)) for the  
21 current or next production cycle with current  
22 available rates and terms.

23 (2) ELIGIBLE BORROWER.—The term “eligible  
24 borrower” means a borrower that—

25 (A) is an economically distressed farmer or  
26 rancher; and

1 (B) did not receive assistance under sec-  
2 tion 22006 of Public Law 117–169 (commonly  
3 known as the “Inflation Reduction Act”).

4 (3) FARM LOAN.—

5 (A) IN GENERAL.—The term “farm loan”  
6 means a direct or guaranteed—

7 (i) farm ownership loan under subtitle  
8 A of the Consolidated Farm and Rural De-  
9 velopment Act (7 U.S.C. 1922 et seq.);

10 (ii) operating loan under subtitle B of  
11 that Act (7 U.S.C. 1941 et seq.); or

12 (iii) emergency loan under subtitle C  
13 of that Act (7 U.S.C. 1961 et seq.).

14 (B) INCLUSION.—The term “farm loan”  
15 includes direct microloans of any type of loan  
16 described in clauses (i) through (iii) of subpara-  
17 graph (A).

18 (4) HISTORICALLY UNDERSERVED FARMER OR  
19 RANCHER.—The term “historically underserved  
20 farmer or rancher” means—

21 (A) a limited resource farmer or rancher,  
22 as determined by the Secretary;

23 (B) a socially disadvantaged farmer or  
24 rancher (as defined in section 2501(a) of the

1 Food, Agriculture, Conservation, and Trade Act  
2 of 1990 (7 U.S.C. 2279(a));

3 (C) a beginning farmer or rancher (as de-  
4 fined in that section); and

5 (D) a veteran farmer or rancher (as de-  
6 fined in that section).

7 (5) SECRETARY.—The term “Secretary” means  
8 the Secretary of Agriculture.

9 (b) DEFERMENT OF PAYMENTS ON DIRECT FARM  
10 LOANS.—The Secretary shall—

11 (1) defer payments of principal and interest due  
12 on direct farm loans by eligible borrowers during the  
13 2-year period beginning on the date of enactment of  
14 this Act; and

15 (2) extend the date required for repayment of  
16 direct farm loans by eligible borrowers subject to  
17 deferment under paragraph (1) by not less than 2  
18 years after the end of the period described in that  
19 paragraph.

20 (c) ZERO PERCENT INTEREST.—The Secretary shall  
21 modify each direct farm loan of an eligible borrower that  
22 is outstanding as of the date of enactment of this Act such  
23 that the interest rate on the farm loan is zero percent dur-  
24 ing the 2-year period beginning on that date of enactment.

1 (d) WAIVER OF GUARANTEED FARM LOAN FEES FOR  
2 HISTORICALLY UNDERSERVED FARMERS AND RANCH-  
3 ERS.—The Secretary shall require lenders of guaranteed  
4 farm loans to historically underserved farmers or ranchers  
5 to waive borrower fees on those loans during the period—

6 (1) beginning on the date of enactment of this  
7 Act; and

8 (2) ending not earlier than 2 years after that  
9 date of enactment.

10 **SEC. 3. FARM LOAN REFORM.**

11 (a) IN GENERAL.—Subtitle D of the Consolidated  
12 Farm and Rural Development Act is amended by inserting  
13 after section 374 (7 U.S.C. 2008i) the following:

14 **“SEC. 375. FARM LOAN REFORM.**

15 “(a) DEFINITIONS.—In this section:

16 “(1) ADVERSE DECISION.—The term ‘adverse  
17 decision’ has the meaning given the term in section  
18 271 of the Department of Agriculture Reorganiza-  
19 tion Act of 1994 (7 U.S.C. 6991).

20 “(2) FARM LOAN.—The term ‘farm loan’ means  
21 a loan administered by the Farm Service Agency  
22 under subtitle A or B.

23 “(3) PRINCIPAL RESIDENCE.—The term ‘prin-  
24 cipal residence’ means the principal residence of a

1 borrower of a farm loan, including adjoining land of  
2 not more than 10 acres.

3 “(b) DETERMINATION LETTERS AND ADVERSE DE-  
4 CISIONS.—

5 “(1) IN GENERAL.—In the case of any adverse  
6 decision relating to a farm loan, a Farm Service  
7 Agency program benefit, or the noninsured crop dis-  
8 aster assistance program established by section 196  
9 of the Federal Agriculture Improvement and Reform  
10 Act of 1996 (7 U.S.C. 7333), the Secretary shall in-  
11 clude in a determination letter provided to the appli-  
12 cant, to the maximum extent practicable—

13 “(A) a description of each reason known,  
14 or that reasonably should have been known, to  
15 the Secretary for that adverse decision;

16 “(B) a reference to each regulation, and  
17 Farm Loan Program handbook instruction,  
18 with the maximum practicable specificity, that  
19 forms the basis for each reason described in  
20 subparagraph (A); and

21 “(C) instructions for accessing the Elec-  
22 tronic Code of Federal Regulations and Farm  
23 Loan Program handbook instructions online.

24 “(2) EFFECT OF FAILURE TO STATE REA-  
25 SONS.—If the Secretary issues any adverse decision

1 relating to an application for a farm loan, a Farm  
2 Service Agency program benefit, or the noninsured  
3 crop disaster assistance program established by sec-  
4 tion 196 of the Federal Agriculture Improvement  
5 and Reform Act of 1996 (7 U.S.C. 7333) and does  
6 not include in a determination letter provided to the  
7 applicant a reason known to the Secretary for that  
8 adverse decision, the Secretary may not subsequently  
9 issue an adverse decision to that applicant on the  
10 basis of the same reason, unless the circumstances  
11 of the applicant have substantially changed since the  
12 issuance of the prior adverse decision.

13 “(c) COLLATERALIZATION.—

14 “(1) ORIGINATION.—The Secretary may only  
15 secure a direct farm loan with a principal residence  
16 if the total value of other assets available to secure  
17 the farm loan does not provide adequate security (as  
18 defined in section 761.2(b) of title 7, Code of Fed-  
19 eral Regulations (or successor regulations)) for the  
20 loan.

21 “(2) PARTIAL RELEASE OF PRINCIPAL RESI-  
22 DENCE SECURITY.—In the case of a farm loan se-  
23 cured in part by a principal residence, the Secretary  
24 shall initiate a partial release of the principal resi-  
25 dence as security in accordance with subpart H of

1 part 765 of title 7, Code of Federal Regulations (or  
2 successor regulations), without any action required  
3 by the borrower, when the total value of other assets  
4 securing the farm loan is equal to 100 percent of the  
5 remaining loan amount.

6 “(3) LOAN SERVICING.—

7 “(A) IN GENERAL.—In the case of a farm  
8 loan borrower who is delinquent prior to re-  
9 structuring the farm loan, the borrower shall  
10 execute and provide to the Secretary a lien on  
11 assets necessary to achieve not more than 100  
12 percent collateralization of the loan value.

13 “(B) BEST LIEN.—Except as provided in  
14 section 764.106 of title 7, Code of Federal Reg-  
15 ulations (or successor regulations), the Sec-  
16 retary shall take the best lien obtainable on as-  
17 sets described in subparagraph (A), subject to  
18 the condition that a primary residence shall be  
19 the last option available to the Secretary to  
20 achieve 100 percent collateralization of the loan  
21 value.

22 “(4) PROHIBITION ON ADDITIONAL SECUR-  
23 RITY.—The Secretary may not secure a direct farm  
24 loan with any property that provides security in ex-



1       cess of the amount of security value equal to the  
2       loan amount.

3       “(d) ELIGIBILITY REQUIREMENTS.—The Secretary  
4 shall not impose any limitation relating to the number of  
5 years in which a farm loan may be closed by a borrower.”.

6       (b) REFINANCING OF DEBT WITH FARM LOANS.—

7           (1) PURPOSES OF FARM OWNERSHIP LOANS.—

8       Section 303(a)(1) of the Consolidated Farm and  
9       Rural Development Act (7 U.S.C. 1923(a)(1)) is  
10       amended by striking subparagraph (E) and inserting  
11       the following:

12           “(E) refinancing indebtedness.”.

13           (2) PURPOSES OF OPERATING LOANS.—Section

14       312(a) of the Consolidated Farm and Rural Devel-  
15       opment Act (7 U.S.C. 1942(a)) is amended by strik-  
16       ing paragraph (9) and inserting the following:

17           “(9) refinancing the indebtedness of a borrower;  
18       or”.

19       (c) REMOVAL OF ELIGIBILITY RESTRICTION BASED  
20       ON PREVIOUS DEBT WRITE-DOWN OR OTHER LOSS.—

21       Section 373 of the Consolidated Farm and Rural Develop-  
22       ment Act (7 U.S.C. 2008h) is amended—

23           (1) in subsection (b)(2)(A)—

24           (A) by striking clause (i);

1 (B) in clause (ii), by striking “chapters 11,  
2 12, or 13 of Title 11 of the” and inserting  
3 “chapter 11, 12, or 13 of title 11,”; and

4 (C) by redesignating clauses (ii) and (iii)  
5 as clauses (i) and (ii), respectively; and

6 (2) by striking subsection (c) and inserting the  
7 following:

8 “(c) PROHIBITION ON ELIGIBILITY RESTRICTION  
9 BASED ON DEBT WRITE-DOWN OR OTHER LOSS.—The  
10 Secretary shall not restrict the eligibility of a borrower for  
11 a farm ownership or operating loan under subtitle A or  
12 B based on a previous debt write-down or other loss to  
13 the Secretary.”.

14 (d) EQUITABLE RELIEF.—Section 366 of the Con-  
15 solidated Farm and Rural Development Act (7 U.S.C.  
16 2008a) is amended—

17 (1) in subsection (a)—

18 (A) in paragraph (1), by striking “(1) re-  
19 ceived” and inserting “(1)(A) received”;

20 (B) in paragraph (2)—

21 (i) by striking the period at the end  
22 and inserting “; or”; and

23 (ii) by striking “(2) the Secretary”  
24 and inserting “(B) the Secretary”; and

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

1           “(2)(A) received a benefit under any other pro-  
2           gram administered by an agency (as defined in sec-  
3           tion 271 of the Department of Agriculture Reorga-  
4           nization Act of 1994 (7 U.S.C. 6991)); and

5           “(B) the Secretary determines is not in compli-  
6           ance with the requirements of the provisions of law  
7           that authorize that program.”;

8           (2) in subsection (b)(2), by inserting “, includ-  
9           ing having made management or financial decisions  
10          for the farming or ranching operation of the farmer  
11          or rancher that were detrimental due to the erro-  
12          neous nature of an official communication from the  
13          Department of Agriculture, regardless of whether a  
14          financial benefit was received or only promised” be-  
15          fore the period at the end;

16          (3) in subsection (c)(1), by striking “(a)(2)”  
17          and inserting “(a)(1)(B)”;

18          (4) in subsection (e), by striking “section” in  
19          the matter preceding paragraph (1) and all that fol-  
20          lows through “shall not be” in paragraph (2) and in-  
21          serting “section shall be”; and

22          (5) by adding at the end the following:

23          “(f) AUTHORITY OF NATIONAL APPEALS DIVISION  
24          ADMINISTRATIVE JUDGES.—

1           “(1) IN GENERAL.—An Administrative Judge  
2 of the National Appeals Division may provide equi-  
3 table relief under this section.

4           “(2) REVIEW.—The Secretary may review a de-  
5 cision of an Administrative Judge to grant equitable  
6 relief pursuant to paragraph (1).

7           “(g) CASES IN WHICH AN APPLICANT IS ELIGI-  
8 BLE.—

9           “(1) DEFINITIONS.—In this subsection:

10           “(A) ADVERSE DECISION.—The term ‘ad-  
11 verse decision’ has the meaning given the term  
12 in section 271 of the Department of Agriculture  
13 Reorganization Act of 1994 (7 U.S.C. 6991).

14           “(B) APPLICANT.—The term ‘applicant’  
15 means a person who submitted to the Farm  
16 Service Agency an application for—

17           “(i) a direct farm ownership, oper-  
18 ating, or emergency loan under this title;

19           “(ii) a Farm Service Agency program  
20 benefit; or

21           “(iii) the noninsured crop disaster as-  
22 sistance program established by section  
23 196 of the Federal Agriculture Improve-  
24 ment and Reform Act of 1996 (7 U.S.C.  
25 7333).

1 “(2) DENIAL BASED ON FEASIBILITY.—

2 “(A) IN GENERAL.—A loan applicant shall  
3 be eligible for equitable relief under this section  
4 if—

5 “(i) the National Appeals Division de-  
6 termines that the Farm Service Agency  
7 was in error in denying the loan, benefit,  
8 or payment based on feasibility;

9 “(ii) the National Appeals Division  
10 has confirmed the accuracy of the pro-  
11 jected income and projected expenses de-  
12 scribed in the original application sub-  
13 mitted by the applicant; and

14 “(iii) the original application sub-  
15 mitted by the applicant is no longer fea-  
16 sible due to the delay caused by the erro-  
17 neous denial by the Farm Service Agency  
18 and the length of the appeals process.

19 “(B) AMOUNT.—The amount of equitable  
20 relief under subparagraph (A) shall be the  
21 amount equal to the difference between—

22 “(i) the projected income described in  
23 the application; and

24 “(ii) the projected expenses described  
25 in the application.

1           “(3) DENIAL BASED ON ELIGIBILITY.—A loan  
2 applicant shall be eligible for equitable relief under  
3 this section if—

4           “(A) feasibility was not listed as a reason  
5 for an adverse decision in the determination let-  
6 ter provided to the applicant;

7           “(B) eligibility was listed as a reason for  
8 an adverse decision in the determination letter  
9 provided to the applicant;

10           “(C) the National Appeals Division deter-  
11 mines that the Farm Service Agency was in  
12 error in denying the loan based on eligibility;  
13 and

14           “(D) the original application submitted by  
15 the applicant is no longer feasible due to the  
16 delay caused by the erroneous denial by the  
17 Farm Service Agency and the length of the ap-  
18 peals process.

19           “(4) SUBSEQUENTLY WITHDRAWN ADVERSE  
20 DECISION.—An applicant shall be eligible for equi-  
21 table relief under this section if—

22           “(A) the Farm Service Agency issued an  
23 adverse decision on an application that the  
24 Farm Service Agency subsequently withdrew;  
25 and

1           “(B) the original application submitted by  
2           the applicant is no longer feasible due to the  
3           delay caused by the adverse decision.

4           “(5) PROMISED PROGRAM BENEFITS NOT RE-  
5           CEIVED.—An applicant shall be eligible for equitable  
6           relief under this section if—

7                   “(A) the Farm Service Agency indicated in  
8                   an official communication made after the date  
9                   of enactment of this subsection that the appli-  
10                  cant could expect the loan, benefit, or payment,  
11                  and then reversed its decision; and

12                   “(B) the applicant acted in good faith.”.

13 **SEC. 4. NATIONAL APPEALS DIVISION REFORM.**

14           (a) BURDEN OF PROOF.—Section 277(c)(4) of the  
15           Department of Agriculture Reorganization Act of 1994 (7  
16           U.S.C. 6997(c)(4)) is amended—

17                   (1) by striking “The appellant” and inserting  
18                   the following:

19                           “(A) IN GENERAL.—Except as provided in  
20                           subparagraph (B), the appellant”; and

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

22                           “(B) APPELLANTS BELOW INCOME  
23                           THRESHOLD.—

24                           “(i) IN GENERAL.—In the case of an  
25                           appellant described in clause (ii), the agen-

1 cy shall bear the burden of proving by sub-  
2 stantial evidence that the adverse decision  
3 of the agency was not erroneous.

4 “(ii) APPELLANTS DESCRIBED.—An  
5 appellant referred to in clause (i) is an ap-  
6 pellant—

7 “(I) the adjusted gross income of  
8 which for the previous year is not  
9 more than \$300,000; or

10 “(II) the average annual adjusted  
11 gross income of which for the previous  
12 5-year period is not more than  
13 \$300,000.”.

14 (b) IMPLEMENTATION.—Section 280 of the Depart-  
15 ment of Agriculture Reorganization Act of 1994 (7 U.S.C.  
16 7000) is amended—

17 (1) by redesignating subsection (b) as sub-  
18 section (c); and

19 (2) by inserting after subsection (a) the fol-  
20 lowing:

21 “(b) REQUIREMENT.—In implementing a final deter-  
22 mination in accordance with subsection (a), the head of  
23 an agency shall use the information used by the Division  
24 to make the final determination, without requiring addi-



- 1 tional information, except as otherwise provided in the de-
- 2 cision letter relating to the final determination.”.

○