



Fair Credit for Farmers Act

Most family farmers rely on agricultural credit as a critical financial tool to plant crops, as well as to invest in sustainable practices, purchase livestock, replace old machinery, and navigate marketplace disruptions. But with chronically low farm prices, farmers can also be burdened by farm debt - the U.S. farm sector has more debt than ever before, exceeding \$500 billion in 2022.

The USDA Farm Service Agency (FSA) is known as the ‘lender of last resort’ for farmers who cannot access credit at commercial banks, but for many family farmers FSA is the only option. Without basic farmer borrower protections, strong institutional oversight, and flexible lending terms, farmers can face predatory lending practices, discrimination, and an extractive relationship with lenders. The situation is even more challenging for Black farmers, who have experienced decades of discriminatory lending practices from the USDA as well as private lending institutions.

The Fair Credit for Farmers Act (S. 2668/H.R. 5296) would:

- **Enact a targeted two year, interest-free direct loan payment deferral**

As family farmers are slowly recovering from market disruptions and facing increasing corporate concentration and extreme weather events, this Act institutes a 2-year interest-free deferral on direct farm loans, and extends the term for repayment by two years. Eligible farmers would be those who are economically distressed and have not yet received aid from Section 22006 of the Inflation Reduction Act.

- **Waive guarantees loan fees for historically underserved borrowers**

Guaranteed loan fees (paid to FSA as a loan closing cost) can be a substantial up-front expense, and therefore barrier, for farmers seeking a direct loan. Often guaranteed lenders add these fees to farmers’ loan principal, which in-turn cost the farmer much more in interest over time. This Act waives guaranteed loan fees for historically underserved farmers and ranchers for two years.

- **Limit over-collateralization on farm loans and protect farmers’ homes**

Over-collateralization is a common, but legally unnecessary, FSA lending practice which puts significant financial risk and limitations on farmers, particularly when they are required to use their homes as collateral. This Act stipulates a maximum of 100% collateralization of FSA loans, with farmers’ homes only allowed as the last option for collateral, and ensures that farmers can remove their homes from the loan security once they have paid down enough of the loan. This Act also adds protections for farmers in delinquency against FSA taking all of their assets as collateral.

- **Eliminate the loan eligibility term limit**

Current FSA policy restricts farmers to only seven years of loan eligibility for operating loans, regardless of their financial status. After this period, farmers are forced to engage the private credit sector where they have fewer borrower protections and are more likely to encounter predatory lending practices. This limited timeframe for accessing FSA loans is arbitrary and undermines FSA's mandate as a 'lender of last resort.' This Act eliminates FSA loan eligibility term limits for farmers who cannot access favorable credit options in the private sector.

- **Ensure that farmers can refinance existing debt with FSA loans**

Debt refinancing allows farmers to manage their debt and adapt to changing market and environmental contexts, such as trade wars or natural disasters. This Act ensures that refinancing existing debt is eligible for FSA loans, which will help ensure that FSA can support farmers navigating tough times.

- **Restore farmer FSA eligibility after a debt write-down**

Farmer debt write-downs (or debt relief), by definition, are only given when the farmer borrower acted in good faith and the financial distress was due to circumstances beyond their control. But currently farmers who have had a debt-write down are no longer eligible for FSA lending. This Act restores FSA loan eligibility for farmers with previous debt write-downs.

- **Expand equitable relief when FSA erroneously denies a farmer's loan or program benefit**

When FSA is found to have erroneously impacted a farmer, the farmer is likely to be negatively economically impacted, particularly if the farmer missed a planting season or market opportunity. Equitable relief is a tool for financial restitution. This Act expands equitable relief to deliver economic support to farmers in situations where FSA has erred resulting in harm to the producer. It also makes equitable relief decisions appealable to the National Appeals Division.

- **Improve transparency and fairness in the National Appeals Division**

If a farmer feels their FSA loan has been denied erroneously, they can appeal through the National Appeals Division (NAD). But the NAD process is slow, lacks transparency, and forces the burden of proof on the farmer rather than FSA. In most contexts where farmers are highly dependent on seasonal farm loans, a delayed or denied FSA loan, and/or failed NAD appeal can be a financial catastrophe. This Act requires FSA to include all potential reasons for denial in its initial communication with the farmer to ensure that the farmer does not have to go through the appeals process multiple times. This Act also changes the burden of proof in NAD appeals to FSA, instead of the farmer, when the farmer's annual farm income is \$300,000 or lower.

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