

SUBCHAPTER III—BANKS FOR COOPERATIVES

PART A—BANKS FOR COOPERATIVES

Editorial Notes

CODIFICATION

Pub. L. 100-233, title IV, §415(1), Jan. 6, 1988, 101 Stat. 1642, inserted part A heading.

§ 2121. Establishment; titles; branches

The banks for cooperatives established pursuant to sections 2 and 30 of the Farm Credit Act of 1933, as amended, shall continue as federally chartered instrumentalities of the United States. The Farm Credit Administration shall approve amendments consistent with this chapter to charters and organizational certificates of banks for cooperatives. Unless an existing bank for cooperatives is merged with another bank, there shall be a bank for cooperatives in each farm credit district. A bank for cooperatives may include in its title the name of the city in which it is located or other geographical designation. When authorized by the Farm Credit Administration each bank for cooperatives may establish such branches or other offices as may be appropriate for the effective operation of its business.

(Pub. L. 92-181, title III, §3.0, Dec. 10, 1971, 85 Stat. 602; Pub. L. 100-233, title IV, §414(b), title VIII, §802(m), Jan. 6, 1988, 101 Stat. 1641, 1711; Pub. L. 100-399, title IV, §406(b), title IX, §901(c), Aug. 17, 1988, 102 Stat. 1000, 1007; Pub. L. 115-334, title V, §5411(4), Dec. 20, 2018, 132 Stat. 4679.)

Editorial Notes

REFERENCES IN TEXT

Sections 2 and 30 of the Farm Credit Act of 1933, as amended, referred to in text, were classified to sections 1134 and 1134f, respectively, of this title prior to their repeal by section 5.26 of Pub. L. 92-181, which enacted this chapter.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-334 struck out “and a Central Bank for Cooperatives” after “each farm credit district” and “The Central Bank for Cooperatives may be located in such place as its board of directors may determine with the approval of the Farm Credit Administration.” after “other geographical designation.”

1988—Pub. L. 100-399, §901(c), substituted “merged with another bank” for “merged with one or more other such banks under section 2181 of this title”.

Pub. L. 100-233, §802(m), substituted “The Farm Credit Administration shall approve amendments consistent with this chapter to charters and organizational certificates of banks for cooperatives” for “Their charters or organization certificates may be modified from time to time by the Farm Credit Administration, not inconsistent with the provisions of this subchapter, as may be necessary or expedient to implement this chapter”.

Pub. L. 100-233, §414(b), which designated existing provisions as subsec. (a), and added subsec. (b) reading “Each bank for cooperatives shall elect from its voting stockholders a board of directors of such number, for such term, in such manner, and with such qualifications as may be required in its bylaws, except that, at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.”, was

repealed by section 406(b) of Pub. L. 100-399. See Construction of 1988 Amendment note below.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-399 effective as if enacted immediately after enactment of Pub. L. 100-233, which was approved Jan. 6, 1988, see section 1001(a) of Pub. L. 100-399, set out as a note under section 2002 of this title.

CONSTRUCTION OF 1988 AMENDMENT

Pub. L. 100-399, title IV, §406(b), Aug. 17, 1988, 102 Stat. 1000, provided that section 414(b) of Pub. L. 100-233, cited as a credit to this section, is repealed and that the Agricultural Credit Act of 1987 (Pub. L. 100-233) and this chapter shall be applied and administered as if such section had not been enacted.

VOLUNTARY MERGER OF BANKS FOR COOPERATIVES

Pub. L. 100-233, title IV, §413, Jan. 6, 1988, 101 Stat. 1639, as amended by Pub. L. 100-399, title IV, §405, Aug. 17, 1988, 102 Stat. 1000, provided that:

“(a) SUBMISSION OF PROPOSAL.—

“(1) SPECIAL COMMITTEE.—

“(A) IN GENERAL.—Not later than 15 days after the date of the enactment of this section [Jan. 6, 1988], a special committee shall be selected pursuant to subparagraph (B), for the purpose of developing a proposal for the voluntary merger of the banks for cooperatives.

“(B) COMPOSITION.—The special committee selected under subparagraph (A) shall be composed of—

“(i) one member of each district board elected by the voting stockholders of the bank for cooperatives in the district; and

“(ii) one member chosen from the board of directors of the Central Bank for Cooperatives by the board of such Bank.

“(C) DEVELOPMENT OF PLAN.—Not later than 75 days after the date of the enactment of this section [Jan. 6, 1988], the special committee shall develop a plan of merger for all such banks and the Central Bank for Cooperatives into a National Bank for Cooperatives.

“(2) PREREQUISITES TO MERGER.—

“(A) SUBMISSION TO FCA.—On completion of the plan of merger pursuant to paragraph (1)(C), the special committee shall submit the proposed plan, together with all information that is to be distributed to the stockholders concerning such plan, to the Farm Credit Administration for approval.

“(B) EXPEDITED REVIEW.—Not later than 30 days after the Farm Credit Administration receives the plan of merger, the Administration shall promptly review such plan and advise the special committee concerning any required changes that are necessary to the plan.

“(3) SUBMISSION TO STOCKHOLDERS.—On approval of the plan by the Farm Credit Administration, the special committee shall, under such procedures as may be established by the committee, submit the plan and recommendations to all voting stockholders of the district banks for cooperatives and the Central Bank for Cooperatives.

“(b) VOTING REQUIREMENTS.—

“(1) MAJORITY VOTE REQUIRED.—An approval of the plan of merger developed and submitted under subsection (a) shall—

“(A) require a majority vote of the stockholders of each district bank for cooperatives voting, in person or by proxy, at a duly authorized stockholders’ meeting, computed both—

“(i) in accordance with the requirement that, except as provided in section 3.3(d) [12 U.S.C. 2124(d)], each cooperative that is the holder of voting stock in the bank for cooperatives shall be entitled to cast one vote; and

“(ii) on the basis of the total equity interests in the bank (including allocated, but not unallocated, surplus and reserves) held by such stockholders;

“(B) require a majority vote of the voting stockholders of the Central Bank for Cooperatives voting on a one-bank-one-vote basis;

“(C) take place not later than 180 days after the date of the enactment of this section [Jan. 6, 1988]; and

“(D) take place prior to any other merger vote involving a bank for cooperatives.

“(2) APPROVAL BY ALL BANKS FOR COOPERATIVES.—If the stockholders of all of the banks for cooperatives approve the merger, the merger shall take place.

“(3) EFFECT OF LESSER VOTE.—If the stockholders of more than one but fewer than all of the banks approve the plan, each such bank whose stockholders voted to approve the merger shall be merged into a single bank for cooperatives, as provided in paragraphs (4) or (5).

“(4) NATIONAL BANK FOR COOPERATIVES.—

“(A) CREATION.—If the stockholders of eight or more of the district banks for cooperatives approve the merger, such banks, and the Central Bank for Cooperatives, shall be merged into a single bank, which shall be referred to as the ‘National Bank for Cooperatives’.

“(B) SERVICES PROVIDED.—The National Bank for Cooperatives may offer credit and related services to eligible borrowers located within any territory that may be served by Farm Credit System institutions under section 5.0 [12 U.S.C. 2221], or to any borrower otherwise eligible under section 3.7(b) [12 U.S.C. 2128(b)].

“(5) UNITED BANK FOR COOPERATIVES.—

“(A) CREATION.—If the stockholders of more than one but fewer than eight of the district banks approve the plan, each such bank, and the Central Bank for Cooperatives (if approved by a numerical majority of its stockholders), shall be merged into a single bank, which shall be referred to as the ‘United Bank for Cooperatives’.

“(B) SERVICES PROVIDED.—The United Bank for Cooperatives shall offer credit and related services only in the territory included, as of the date of the enactment of this section [Jan. 6, 1988], within the boundaries of the districts that had been served by the constituent banks of the United Bank for Cooperatives, and to any borrower otherwise eligible under section 3.7(b) [12 U.S.C. 2128(b)].

“(6) NONCONSENTING BANKS.—

“(A) IN GENERAL.—

“(i) NATIONAL BANK FOR COOPERATIVES.—Any of the district banks whose stockholders did not approve the plan of merger may offer credit and related services to any eligible borrowers within any territory or area that may be served by the National Bank.

“(ii) UNITED BANK FOR COOPERATIVES.—Any of the district banks whose stockholders did not approve the plan of merger shall continue as district banks for cooperatives and shall continue to serve only the territory within the boundaries of the district that such banks served as of the date of the enactment of this section [Jan. 6, 1988].

“(B) NONDISCRIMINATION.—Any district bank whose stockholders did not approve the plan of merger shall be entitled to the availability, from the National Bank for Cooperatives or the United Bank for Cooperatives, as the case may be, of the same credit and related services now provided by the Central Bank for Cooperatives as of the date of the enactment of this section [Jan. 6, 1988], regardless of the decision not to merge.

“(C) SUBSEQUENT MERGERS.—Any district bank referred to in subparagraph (A) may subsequently merge with the National Bank for Cooperatives or the United Bank for Cooperatives, as the case may be, on the approval of the voting stockholders of

both banks proposing to merge based on the voting requirement of subsection (b)(1).

“(c) REFERENCES.—References in this section to voting stockholders shall include subscribers to the guaranty fund.”

BANK FOR COOPERATIVES INITIAL BOARD OF DIRECTORS

Pub. L. 100-233, title IV, §414(a), Jan. 6, 1988, 101 Stat. 1641, as amended by Pub. L. 100-399, title IV, §406(a), Aug. 17, 1988, 102 Stat. 1000, provided that: “Notwithstanding section 3.2 [probably means section 3.2 of Pub. L. 92-181, 12 U.S.C. 2123], the initial board of each district bank for cooperatives shall be composed of the members of the district board (which is dissolved upon the creation of the district Farm Credit Bank) elected by the stockholders of the bank for cooperatives and one member elected by the other two members, which member shall not be a director, officer, employee, or stockholder of a System institution. The initial board shall operate for such term as is agreed to by the members of the board, except that such period shall not exceed two years. Thereafter, the board shall be elected and serve in accordance with section 3.0 of the Farm Credit Act of 1971 [12 U.S.C. 2121].”

§ 2122. Corporate existence; general corporate powers

Each bank for cooperatives shall be a body corporate and, subject to regulation by the Farm Credit Administration, shall have power to—

(1) Adopt and use a corporate seal.

(2) Have succession until dissolved under the provisions of this chapter or other Act of Congress.

(3) Make contracts.

(4) Sue and be sued.

(5) Acquire, hold, dispose, and otherwise exercise all of the usual incidents of ownership of real and personal property necessary or convenient to its business.

(6) Make loans and commitments for credit, provide services and other assistance as authorized in this chapter, and charge fees therefor.

(7) Operate under the direction of its board of directors.

(8) Elect by its board of directors a president, any vice presidents, a secretary, a treasurer, and provide for such other officers, employees, and agents as may be necessary, including joint employees as provided in this chapter, define their duties and require surety bonds or make other provisions against losses occasioned by employees.

(9) Prescribe by its board of directors its bylaws not inconsistent with law providing for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired; its officers, employees, or agents elected or provided for; its property acquired, held, and transferred; its loans made; its general business conducted; and the privileges granted it by law exercised and enjoyed.

(10) Borrow money and issue notes, bonds, debentures, or other obligations individually or in concert with one or more other banks of the System, of such character, and such terms, conditions, and rates of interest as may be determined.

(11)(A) Participate in loans under this subchapter with one or more other banks for cooperatives and with commercial banks and other financial institutions upon such terms as may

be agreed among them, and participate with one or more other Farm Credit System institutions in loans made under this subchapter or other subchapters of this chapter on the basis prescribed in section 2206 of this title.

(B)(i) Participate in any loan of a type otherwise authorized under this subchapter that is made to a similar entity by any institution in the business of extending credit, including purchases of participations in loans to finance international trade transactions involving the sale of agricultural commodities or the products thereof, except that—

(I) a bank for cooperatives may not participate in a loan—

(aa) if the participation would cause the total amount of all loan participations by the bank under this subparagraph involving a single credit risk to exceed 10 percent of the bank's total capital; or

(bb) if the participation by the bank will itself equal or exceed 50 percent of the principal of the loan or, when taken together with participations in the loan by other Farm Credit System institutions, will cause the cumulative amount of the participations by all Farm Credit System institutions in the loan to equal or exceed 50 percent of the principal of the loan;

(II) a bank for cooperatives may not participate in a loan to a similar entity under this subparagraph if the similar entity has a loan or loan commitment outstanding with a Farm Credit Bank or an association chartered under this chapter, unless agreed to by the Bank or association; and

(III) the cumulative amount of participations that a bank for cooperatives may have outstanding under this subparagraph at any time may not exceed 15 percent of the bank's total assets.

(ii) As used in this subparagraph, the term "similar entity" means an entity that, while not eligible for a loan under section 2129 of this title, is functionally similar to an entity eligible for a loan under section 2129 of this title in that it derives a majority of its income from, or has a majority of its assets invested in, the conduct of activities functionally similar to those conducted by the entity.

(iii) As used in this subparagraph, the term "participate" or "participation" refers to multi-lender transactions, including syndications, assignments, loan participations, subparticipations, or other forms of the purchase, sale, or transfer of interests in loans, other extensions of credit, or other technical and financial assistance.

(12) Deposit its securities and its current funds with any member bank of the Federal Reserve System or any insured State nonmember bank (within the meaning of section 1813 of this title) or, to the extent necessary to facilitate transactions which may be financed under section 2128(b) of this title, any other financial organization, domestic or foreign, as may be authorized by its board of directors, and pay fees therefor and receive interest thereon as may be agreed. When designated for that purpose by the Secretary of the Treasury, it shall be a depository

of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary; may be employed as a fiscal agent of the Government, and shall perform all such reasonable duties as a depository of public money or financial agent of the Government as may be required of it. No Government funds deposited under the provisions of this subsection shall be invested in loans or bonds or other obligations of the bank.

(13)(A) Buy and sell obligations of or insured by the United States or of any agency thereof, or securities backed by the full faith and credit of any such agency and make such other investments as may be authorized under regulations issued by the Farm Credit Administration.

(B) As may be authorized by its board of directors, buy from and sell to Farm Credit System institutions interests in loans and in other financial assistance extended and nonvoting stock.

(C) As may be authorized by its board of directors, and solely for the purposes of obtaining credit information and other services needed to facilitate transactions which may be financed under section 2128(b) of this title, invest in ownership interests in foreign business entities that are principally engaged in providing credit information to and performing such servicing functions for their members in connection with the members' international activities.

(14) Conduct studies and adopt standards for lending.

(15) Amend and modify loan contracts, documents, and payment schedules, and release, subordinate, or substitute security for any of them.

(16) Exercise by its board of directors or authorized officers, employees, or agents all such incidental powers as may be necessary or expedient to carry on the business of the bank.

(17) As may be authorized by the board of directors, maintain credit balances and pay or receive fees or interest thereon, for the purpose of assisting in the transfer of funds to or from parties to transactions that may be financed under section 2128(b) of this title: *Provided, however*, That nothing herein shall authorize the banks for cooperatives to engage in the business of accepting domestic deposits.

(18) As may be authorized by its board of directors, agree with other Farm Credit System institutions to share loan or other losses, whether to protect against capital impairment or for any other purpose.

(Pub. L. 92-181, title III, §3.1, Dec. 10, 1971, 85 Stat. 602; Pub. L. 96-592, title III, §301, Dec. 24, 1980, 94 Stat. 3443; Pub. L. 99-205, title II, §205(e)(1), Dec. 23, 1985, 99 Stat. 1705; Pub. L. 100-233, title VIII, §802(n), Jan. 6, 1988, 101 Stat. 1712; Pub. L. 100-399, title IX, §901(b), Aug. 17, 1988, 102 Stat. 1007; Pub. L. 102-552, title V, §502, Oct. 28, 1992, 106 Stat. 4130; Pub. L. 103-376, §§2, 6, Oct. 19, 1994, 108 Stat. 3497, 3500; Pub. L. 107-171, title V, §5401(a), May 13, 2002, 116 Stat. 349.)

Editorial Notes

AMENDMENTS

2002—Par. (11)(B)(iii), (iv). Pub. L. 107-171 redesignated cl. (iv) as (iii) and struck out former cl. (iii)

which read as follows: “With respect to similar entities that are eligible to borrow from a Farm Credit Bank or association under subchapter I or II of this chapter, the authority of a bank for cooperatives to participate in loans to the entities under this subparagraph shall be subject to the prior approval of the Farm Credit Bank or Banks in whose chartered territory the entity is eligible to borrow. The approval may be granted on an annual basis and under such terms and conditions as may be agreed on between the bank for cooperatives and the Farm Credit Bank or Banks that serve the territory.”

1994—Par. (11)(B)(i)(I)(bb). Pub. L. 103-376, §6, substituted “other Farm Credit System institutions” for “the other banks for cooperatives under this subparagraph” and “all Farm Credit System institutions” for “all banks for cooperatives”.

Par. (11)(B)(iv). Pub. L. 103-376, §2, added cl. (iv).

1992—Par. (11). Pub. L. 102-552 designated existing provisions as subpar. (A) and added subpar. (B).

1988—Par. (12). Pub. L. 100-399 substituted “(within the meaning of section 1813 of this title)” for “as defined in section 1812 of this title.”

Pars. (12), (13)(B), (C), (17), (18). Pub. L. 100-233 struck out “and approved by the Farm Credit Administration” after “board of directors”.

1985—Pub. L. 99-205 substituted “regulation” for “supervision” in provision preceding par. (1).

Par. (13)(A). Pub. L. 99-205 inserted “under regulations issued” after “authorized”.

Pars. (16) to (19). Pub. L. 99-205 struck out par. (16) respecting power of bank for cooperatives to perform any function delegated to it by the Farm Credit Administration, and redesignated pars. (17) to (19) as (16) to (18), respectively.

1980—Par. (11). Pub. L. 96-592, §301(1), inserted provisions respecting participation with one or more other Farm Credit System institutions in loans.

Par. (12). Pub. L. 96-592, §301(2), inserted applicability to any insured State nonmember bank and to other domestic or foreign financial organizations.

Par. (13). Pub. L. 96-592, §301(3), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Pars. (18), (19). Pub. L. 96-592, §301(4), added pars. (18) and (19).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-399 effective as if enacted immediately after enactment of Pub. L. 100-233, which was approved Jan. 6, 1988, see section 1001(a) of Pub. L. 100-399, set out as a note under section 2002 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as a note under section 2001 of this title.

§ 2123. Board of directors

(a) In general

Each bank for cooperatives shall elect a board of directors of such number, for such term, in such manner, and with such qualifications as may be required in its bylaws, except that at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.

(b) Nomination and election

(1) In general

If approved by the stockholders through a bylaw amendment, the nomination and election of one member from a bank for cooperatives shall be carried out with each voting stockholder of a bank for cooperatives having

one vote, plus a number of votes (or fractional part thereof) equal to—

(A) the number of stockholders eligible to vote; multiplied by

(B) the percentage (or fractional part thereof) of the total equity interest (including allocated, but not unallocated, surplus and reserves) in the bank of all stockholders held by the individual voting stockholder at the close of the immediately preceding fiscal year of the bank.

(2) Number of votes

The total number of votes under this subsection shall be the number of voting stockholders of a bank for cooperatives multiplied by two.

(Pub. L. 92-181, title III, §3.2, Dec. 10, 1971, 85 Stat. 603; Pub. L. 99-205, title II, §205(e)(2), Dec. 23, 1985, 99 Stat. 1705; Pub. L. 100-399, title IX, §901(d), Aug. 17, 1988, 102 Stat. 1007; Pub. L. 102-552, title V, §503, Oct. 28, 1992, 106 Stat. 4130; Pub. L. 115-334, title V, §5411(5), Dec. 20, 2018, 132 Stat. 4679.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-334, §5411(5)(B), (C), redesignated subsec. (a)(1) as (a) and subsec. (a)(2) as (b), inserted headings, and struck out former subsec. (b) which read as follows: “The board of directors of the Central Bank for Cooperatives shall consist of one member elected by the board of each bank for cooperatives, including the United Bank for Cooperatives if the Central Bank for Cooperatives is not merged into such bank, and one member appointed by the Farm Credit Administration.”

Subsec. (a)(1). Pub. L. 115-334, §5411(5)(A)(i), struck out “not merged into the United Bank for Cooperatives or the National Bank for Cooperatives” after “Each bank for cooperatives”.

Subsec. (a)(2)(A). Pub. L. 115-334, §5411(5)(A)(ii), struck out “(other than the National Bank for Cooperatives)” after “a bank for cooperatives” in introductory provisions.

Subsec. (b)(1). Pub. L. 115-334, §5411(5)(C)(ii), (D)(ii), redesignated subsec. (a)(2)(A) and cls. (i) and (ii) thereof as subsec. (b)(1) and subpars. (A) and (B) thereof, respectively, inserted par. heading, and realigned margins.

Subsec. (b)(2). Pub. L. 115-334, §5411(5)(D)(i), (E), redesignated subsec. (a)(2)(B) as subsec. (b)(2), inserted heading, and substituted “this subsection” for “this paragraph”.

1992—Subsec. (a). Pub. L. 102-552 designated existing provisions as par. (1) and added par. (2).

1988—Subsec. (a). Pub. L. 100-399 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “In the case of a district bank for cooperatives, the board of directors shall be the farm credit district board and in the case of the Central Bank for Cooperatives shall be a separate board of not more than thirteen members, one from each farm credit district and one at large. One district director of the Central Bank Board shall be elected by each district farm credit board and the member at large shall be appointed by the Farm Credit Administration.”

Subsec. (b). Pub. L. 100-399 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “For the purposes of this section the provisions of sections 2222(b) and (c), 2225, 2226, and 2227 of this title shall apply to and shall be the authority of the Central Bank for Cooperatives the same as though it were a district bank.”

1985—Subsec. (a). Pub. L. 99-205 substituted “Farm Credit Administration” for “Governor with the advice and consent of the Federal Farm Credit Board”.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 1988 AMENDMENT**

Amendment by Pub. L. 100-399 effective immediately after amendment made by section 401 of Pub. L. 100-233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100-399, set out as a note under section 2002 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as a note under section 2001 of this title.

§ 2124. Stock of banks for cooperatives**(a) Amount**

The Capital stock of each bank for cooperatives shall be in such amount as its board determines is required for the purpose of providing adequate capital to permit the bank to meet the credit needs of borrowers from the bank and such amounts may be increased or decreased from time to time in accordance with such needs.

(b) Value

The capital stock of each bank shall be divided into shares of par value of \$100 each and may be of such classes as the board may determine. Such stock may be issued in fractional shares.

(c) Eligible holders of voting stock

Voting stock may be issued or transferred to and held only by (i) cooperative associations eligible to borrow from the banks¹ (ii) other categories of persons and entities described in sections 2128 and 2129 of this title eligible to borrow from the bank, as determined by the bank's board of directors; and (iii) other banks for cooperatives, and shall not be otherwise transferred, pledged, or hypothecated except as consented to by the issuing bank under regulations of the Farm Credit Administration.

(d) Entitlement to vote

Each holder of one or more shares of voting stock which is eligible to borrow from a bank for cooperatives shall be entitled only to one vote and only in the affairs of the bank in the district in which its principal office is located unless otherwise authorized under regulations issued by the Farm Credit Administration, except that if such holder has not been a borrower from the bank in which it holds such stock within a period of two years next preceding the date fixed by the Farm Credit Administration prior to the commencement of voting, it shall not be entitled to vote.

(e) Nonvoting investment stock

Nonvoting investment stock may be issued in such series and in such amounts as may be determined by the board and may be exchanged for voting stock or sold or transferred to any person subject to the approval of the issuing bank.

(f) Participation certificates

Participation certificates may be issued to parties to whom voting stock may not be issued. (Pub. L. 92-181, title III, §3.3, Dec. 10, 1971, 85 Stat. 603; Pub. L. 96-592, title III, §302, Dec. 24,

1980, 94 Stat. 3443; Pub. L. 99-205, title II, §205(e)(3), (4), Dec. 23, 1985, 99 Stat. 1705; Pub. L. 100-233, title VIII, §§802(o), 805(k), Jan. 6, 1988, 101 Stat. 1712, 1715; Pub. L. 110-234, title V, §§5402, 5403(a), May 22, 2008, 122 Stat. 1154; Pub. L. 110-246, §4(a), title V, §§5402, 5403(a), June 18, 2008, 122 Stat. 1664, 1915.)

Editorial Notes**CODIFICATION**

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsec. (b). Pub. L. 110-246, §5402, which directed substitution of “par” for “per”, could not be executed because “per” did not appear.

Subsec. (c)(ii), (iii). Pub. L. 110-246, §5403(a), added cl. (ii) and redesignated former cl. (ii) as (iii).

1988—Subsec. (a). Pub. L. 100-233, §802(o)(1), struck out “, with the approval of Farm Credit Administration,” after “board determines”.

Subsec. (b). Pub. L. 100-233, §802(o)(2), struck out “with the approval of the Farm Credit Administration” after “board may determine”.

Subsec. (d). Pub. L. 100-233, §805(k), substituted “by” for “by by” after “regulations issued”.

Subsec. (e). Pub. L. 100-233, §802(o)(3), struck out “and approved by the Farm Credit Administration” after “Board”.

1985—Subsec. (d). Pub. L. 99-205, §205(e)(3), inserted “under regulations issued by” after “authorized”.

Subsec. (e). Pub. L. 99-205, §205(e)(4), struck out “, except for stock held by the Governor,” before “may be exchanged”.

1980—Subsec. (f). Pub. L. 96-592 added subsec. (f).

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2008 AMENDMENT**

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as a note under section 2001 of this title.

§ 2125. Dividends

Dividends may be payable only on nonvoting investment stock, if declared by the board of directors of the bank, subject to the general direction of the Farm Credit Administration.

(Pub. L. 92-181, title III, §3.4, Dec. 10, 1971, 85 Stat. 604; Pub. L. 99-205, title II, §205(e)(5), title VI, §606, Dec. 23, 1985, 99 Stat. 1705, 1711; Pub. L. 100-233, title VIII, §805(l), Jan. 6, 1988, 101 Stat. 1715.)

Editorial Notes**AMENDMENTS**

1988—Pub. L. 100-233 struck out “other than stock held by the Farm Credit Administration,” after “investment stock,”.

1985—Pub. L. 99-205 struck out “the Governor of” before “the Farm Credit Administration” and inserted “, subject to the general direction of the Farm Credit Administration”.

¹ So in original. There probably should be a semicolon after “banks”.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 1985 AMENDMENT**

Amendment by Pub. L. 99-205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as a note under section 2001 of this title.

§ 2126. Retirement of stock

Nonvoting investment stock and participation certificates may be called for retirement at par. With the approval of the issuing bank, the holder may elect not to have the called stock or participation certificates retired in response to a call, reserving the right to have such stock or participation certificates included in the next call for retirement. Voting stock may also be retired at par, on call or on such revolving basis as the board may determine with due regard for its total capital needs: *Provided, however,* That all equities in the banks issued or allocated with respect to 1971 and prior years shall be retired on a revolving basis according to the year of issue with the oldest outstanding equities being first retired. Equities issued for subsequent years shall not be called or retired until equities described in the preceding sentence of this proviso have been retired.

(Pub. L. 92-181, title III, §3.5, Dec. 10, 1971, 85 Stat. 604; Pub. L. 96-592, title III, §303, Dec. 24, 1980, 94 Stat. 3444; Pub. L. 99-205, title II, §205(e)(6), Dec. 23, 1985, 99 Stat. 1705; Pub. L. 100-233, title VIII, §802(p), Jan. 6, 1988, 101 Stat. 1712; Pub. L. 115-334, title V, §5411(6), Dec. 20, 2018, 132 Stat. 4679.)

Editorial Notes**AMENDMENTS**

2018—Pub. L. 115-334 struck out “district” before “banks issued or allocated”.

1988—Pub. L. 100-233 struck out “with approval of the Farm Credit Administration” after “board may determine”.

1985—Pub. L. 99-205 substituted “Nonvoting investment stock” for “Any nonvoting stock held by the Governor of the Farm Credit Administration shall be retired to the extent required by section 2151(b) of this title before any other outstanding voting or nonvoting stock or participation certificates shall be retired except as may be otherwise authorized by the Farm Credit Administration. When those requirements have been satisfied, nonvoting investment stock”, and substituted “Voting” for “When the requirements of section 2151(b) of this title have been met, voting”.

1980—Pub. L. 96-592 inserted provisions respecting applicability to participation certificates and struck out provisions relating to maximum amount of fair book value at retirement.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 1985 AMENDMENT**

Amendment by Pub. L. 99-205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as a note under section 2001 of this title.

§ 2127. Guaranty fund subscriptions in lieu of stock

If any cooperative association is not authorized under the laws of the State in which it is organized to take and hold stock in a bank for cooperatives, the bank shall, in lieu of any requirement for stock purchase, require the asso-

ciation to pay into or have on deposit in a guaranty fund, or the bank may retain out of the amount of the loan and credit to the guaranty fund account of the borrower, a sum equal to the amount of stock which the association would otherwise be required to own. Each reference to stock of the banks for cooperatives in this chapter shall include such guaranty fund equivalents. The holder of the guaranty fund equivalent and the bank shall each be entitled to the same rights and obligations with respect thereto as the rights and obligations associated with the class or classes of stock involved.

(Pub. L. 92-181, title III, §3.6, Dec. 10, 1971, 85 Stat. 604.)

§ 2128. Loans, commitments, and technical and financial assistance**(a) Authorities**

The banks for cooperatives are authorized to make loans and commitments to eligible cooperative associations and to extend to them other technical and financial assistance at any time (whether or not they have a loan from the bank outstanding), including but not limited to discounting notes and other obligations, guarantees, currency exchange necessary to service individual transactions that may be financed under subsection (b) of this section, collateral custody, or participation with other banks for cooperatives and commercial banks or other financial institutions in loans to eligible cooperatives, under such terms and conditions as may be determined to be feasible by the board of directors of each bank for cooperatives under regulations of the Farm Credit Administration. Each bank may own and lease, or lease with option to purchase, to stockholders eligible to borrow from the bank equipment needed in the operations of the stockholder and may make or participate in loans or commitments and extend other technical and financial assistance to other domestic parties for the acquisition of equipment and facilities to be leased to such stockholders for use in their operations in the United States.

(b) Additional authorities

(1) A bank for cooperatives is authorized to make or participate in loans and commitments to, and to extend other technical and financial assistance to a domestic or foreign party with respect to its transactions with an association that is a voting stockholder of the bank for the import of agricultural commodities or products thereof, agricultural supplies, or aquatic products through purchases, sales or exchanges, if the bank for cooperatives determines, under regulations of the Farm Credit Administration, that the voting stockholder will benefit substantially as a result of such loan, commitment, or assistance.

(2)(A) A bank for cooperatives may make or participate in loans and commitments to, and extend other technical and financial assistance to—

(i) any domestic or foreign party for the export, including (where applicable) the cost of freight, of agricultural commodities or products thereof, agricultural supplies, or aquatic

products from the United States under policies and procedures established by the bank to ensure that the commodities, products, or supplies are originally sourced, where reasonably available, from one or more eligible cooperative associations described in section 2129(a) of this title on a priority basis, except that if the total amount of the balances outstanding on loans made by a bank under this clause that—

(I) are made to finance the export of commodities, products, or supplies that are not originally sourced from a cooperative, and

(II) are not guaranteed or insured, in an amount equal to at least 95 percent of the amount loaned, by a department, agency, bureau, board, commission, or establishment of the United States or a corporation wholly-owned directly or indirectly by the United States,

exceeds an amount that is equal to 50 percent of the bank's capital, then a sufficient interest in the loans shall be sold by the bank for cooperatives to commercial banks and other non-System lenders to reduce the total amount of such outstanding balances to an amount not greater than an amount equal to 50 percent of the bank's capital; and

(ii) except as provided in subparagraph (B), any domestic or foreign party in which an eligible cooperative association described in section 2129(a) of this title (including, for the purpose of facilitating its domestic business operations only, a cooperative or other entity described in section 2129(b)(1)(A) of this title) has an ownership interest, for the purpose of facilitating the domestic or foreign business operations of the association, except that if the ownership interest by an eligible cooperative association, or associations, is less than 50 percent, the financing shall be limited to the percentage held in the party by the association or associations.

(B) A bank for cooperatives shall not use the authority provided in subparagraph (A)(ii) to provide financial assistance to a party for the purpose of financing the relocation of a plant or facility from the United States to another country.

(3) A bank for cooperatives is authorized to provide such services as may be customary and normal in maintaining relationships with domestic or foreign entities to facilitate the activities specified in paragraphs (1) and (2), consistent with this chapter.

(4) **DEFINITION OF AGRICULTURAL SUPPLY.**—In this subsection, the term “agricultural supply” includes—

(A) a farm supply; and

(B)(i) agriculture-related processing equipment;

(ii) agriculture-related machinery; and

(iii) other capital goods related to the storage or handling of agricultural commodities or products.

(c) Applicable policies

Loans, commitments, and assistance authorized by subsection (b) of this section shall be extended in accordance with policies adopted by the board of directors of the bank under regulations of the Farm Credit Administration.

(d) Regulatory limitations

The regulations of the Farm Credit Administration implementing subsection (b) of this section and other provisions of this subchapter relating to the authority under subsection (b) of this section may not confer upon the banks for cooperatives powers and authorities greater than those specified in this subchapter. The Farm Credit Administration shall, during the formulation of such regulations, closely consult on a continuing basis with the Board of Governors of the Federal Reserve System to insure that such regulations conform to national banking policies, objectives, and limitations.

(e) Speculative futures transactions

Notwithstanding any other provision of this subchapter, the banks for cooperatives shall not make or participate in loans or commitments for the purpose of financing speculative futures transactions by eligible borrowers in foreign currencies.

(f) Installation, expansion, or improvement of water and waste disposal facilities

The banks for cooperatives may, for the purpose of installing, maintaining, expanding, improving, or operating water and waste disposal facilities in rural areas, make and participate in loans and commitments and extending other technical and financial assistance to—

(1) cooperatives formed specifically for the purpose of establishing or operating such facilities; and

(2) public and quasi-public agencies and bodies, and other public and private entities that, under authority of State or local law, establish or operate such facilities.

For purposes of this subsection, the term “rural area” means all territory of a State that is not within the outer boundary of any city or town having a population of more than 20,000 based on the latest decennial census of the United States.

(Pub. L. 92-181, title III, §3.7, Dec. 10, 1971, 85 Stat. 605; Pub. L. 96-592, title III, §304, Dec. 24, 1980, 94 Stat. 3444; Pub. L. 101-624, title XXIII, §2323(a), Nov. 28, 1990, 104 Stat. 4013; Pub. L. 102-237, title V, §502(e)(1), Dec. 13, 1991, 105 Stat. 1868; Pub. L. 102-552, title V, §§504, 505, Oct. 28, 1992, 106 Stat. 4131; Pub. L. 103-376, §3, Oct. 19, 1994, 108 Stat. 3497; Pub. L. 107-171, title V, §5402, May 13, 2002, 116 Stat. 350; Pub. L. 115-334, title V, §5411(7), Dec. 20, 2018, 132 Stat. 4679.)

Editorial Notes

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-334 struck out “Such regulations may include provisions for avoiding duplication between the Central Bank and district banks for cooperatives.” before “Each bank may own”.

2002—Subsec. (b)(1), (2)(A)(i). Pub. L. 107-171, §5402(1), substituted “agricultural supplies” for “farm supplies”.

Subsec. (b)(4). Pub. L. 107-171, §5402(2), added par. (4).

1994—Subsec. (b)(1). Pub. L. 103-376, §3(A), substituted “assistance to” for “assistance to (A)”, “bank for the import” for “bank for the export or import”, and “if the bank for cooperatives” for “and (B) a domestic or foreign party in which such an association has at least the minimum ownership interest approved under regulations of the Farm Credit Administration for the pur-

pose of facilitating the association's export or import operations of the type described in subparagraph (A): *Provided, That a*".

Subsec. (b)(2). Pub. L. 103-376, §3(B), added par. (2) and struck out former par. (2) which read as follows: "A bank for cooperatives is authorized to make or participate in loans and commitments, and to extend other technical and financial assistance, to any domestic or foreign entity that is eligible for a guarantee or insurance as described in subparagraphs (A) and (B) with respect to transactions involving the Soviet Union (its successor entities or any of the individual republics of the Soviet Union) or an emerging democracy (as defined in section 1542(f) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note)) for the export of agricultural commodities and products thereof from the United States, including (where applicable) the cost of freight, if in each case—

"(A) the loan involved is unconditionally guaranteed or insured by a department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States; and

"(B) the guarantee or insurance—

"(i) covers at least 95 percent of the amount loaned for the purchase of the commodities or products; and

"(ii) is issued on or before September 30, 1995."

1992—Subsec. (a). Pub. L. 102-552, §504, inserted "at any time (whether or not they have a loan from the bank outstanding)" after "assistance" in first sentence.

Subsec. (f). Pub. L. 102-552, §505, in introductory provisions, substituted "installing, maintaining, expanding, improving, or operating" for "the installation, expansion, or improvement of" and "extending" for "to extend".

1991—Subsec. (b). Pub. L. 102-237 designated existing provisions as par. (1), redesignated cl. (1) as (A) and inserted "or products thereof" after "commodities", redesignated cl. (2) as (B) and substituted "subparagraph (A)" for "clause (1) of this subsection", and added pars. (2) and (3).

1990—Subsec. (f). Pub. L. 101-624 added subsec. (f).

1980—Pub. L. 96-592 designated existing provisions as subsec. (a), inserted provisions relating to currency exchanges and provisions relating to loans, etc., to domestic parties, and added subsecs. (b) to (e).

§ 2129. Eligibility

(a) Any association of farmers, producers or harvesters of aquatic products, or any federation of such associations, which is operated on a cooperative basis, and has the powers for processing, preparing for market, handling, or marketing farm or aquatic products; or for purchasing, testing, grading, processing, distributing, or furnishing farm or aquatic supplies or furnishing farm or aquatic business services or services to eligible cooperatives and conforms to either of the two following requirements:

(1) no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein; or

(2) does not pay dividends on stock or membership capital in excess of such per centum per annum as may be approved under regulations of the Farm Credit Administration; and in any case

(3) does not deal in farm products or aquatic products, or products processed therefrom, farm or aquatic supplies, farm or aquatic business services, or services to eligible cooperatives with or for nonmembers in an amount greater in value than the total amount of such

business transacted by it with or for members, excluding from the total of member and non-member business transactions with the United States or any agency or instrumentality thereof or services or supplies furnished as a public utility; and

(4) a percentage of the voting control of the association not less than 80 per centum (60 per centum (A) in the case of rural electric, telephone, public utility, and service cooperatives; (B) in the case of local farm supply cooperatives that have historically served needs of the community that would not adequately be served by other suppliers and have experienced a reduction in the percentage of farmer membership due to changed circumstances beyond their control such as, but not limited to, urbanization of the community; and (C) in the case of local farm supply cooperatives that provide or will provide needed services to a community and that are or will be in competition with a cooperative specified in paragraph (B)) or, with respect to any type of association or cooperative, such higher percentage as established by the bank board, is held by farmers, producers or harvesters of aquatic products, or eligible cooperative associations as defined herein;

shall be eligible to borrow from a bank for cooperatives. Any such association that has received a loan from a bank for cooperatives shall, without regard to the requirements of paragraphs (1) through (4), continue to be eligible for so long as more than 50 percent (or such higher percentage as is established by the bank board) of the voting control of the association is held by farmers, producers or harvesters of aquatic products, or eligible cooperative associations.

(b) Notwithstanding any other provision of this section:

(1) The following entities shall also be eligible to borrow from a bank for cooperatives:

(A) Cooperatives and other entities that have received a loan, loan commitment, or loan guarantee from the Rural Electrification Administration (or any successor agency), or that are eligible under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) for a loan, loan commitment, or loan guarantee from the Administration or the Bank (or a successor of the Administration or the Bank), and subsidiaries of such cooperatives or other entities.

(B) Any legal entity that (i) holds more than 50 percent of the voting control of an association or other entity that is eligible to borrow from a bank for cooperatives under subsection (a) or subparagraph (A) of this paragraph, and (ii) borrows for the purpose of making funds available to that association or entity, and makes funds available to that association or entity under the same terms and conditions that the funds are borrowed from a bank for cooperatives.

(C) Any cooperative or other entity described in subsection (b) or (f) of section 2128 of this title.

(D) Any creditworthy private entity that satisfies the requirements for a service cooperative under paragraphs (1), (2), and (4), or under the last sentence, of subsection (a) and

subsidiaries of the entity, if the entity is organized to benefit agriculture in furtherance of the welfare of its farmer-members and is operated on a not-for-profit basis.

(2) Notwithstanding the provisions of section 2130 of this title, the board of directors of a bank for cooperatives may determine that, with respect to a loan to any borrower eligible to borrow from a bank under paragraph (1)(A) that is fully guaranteed by the United States, no stock purchase requirement shall apply, other than the requirement that a borrower eligible to own voting stock shall purchase one share of such stock.

(3) Each association and other entity eligible to borrow from a bank for cooperatives under this subsection, for purposes of section 2128(a) of this title, shall be treated as an eligible cooperative association and a stockholder eligible to borrow from the bank.

(4) Nothing in this subsection shall be construed to adversely affect the eligibility, as it existed on January 6, 1988, of cooperatives and other entities for any other credit assistance under Federal law.

(Pub. L. 92-181, title III, § 3.8, Dec. 10, 1971, 85 Stat. 605; Pub. L. 94-184, § 1(a), Dec. 31, 1975, 89 Stat. 1060; Pub. L. 96-592, title III, § 305, Dec. 24, 1980, 94 Stat. 3445; Pub. L. 99-198, title XIII, § 1322, Dec. 23, 1985, 99 Stat. 1534; Pub. L. 100-233, title IV, § 421, title VIII, § 805(m), Jan. 6, 1988, 101 Stat. 1654, 1715; Pub. L. 100-399, title IV, § 410, title IX, § 901(e), Aug. 17, 1988, 102 Stat. 1003, 1007; Pub. L. 101-624, title XXIII, § 2323(b), Nov. 28, 1990, 104 Stat. 4013; Pub. L. 102-237, title V, § 502(e)(2), (f), Dec. 13, 1991, 105 Stat. 1869; Pub. L. 102-552, title V, § 506, Oct. 28, 1992, 106 Stat. 4131; Pub. L. 103-376, § 4, Oct. 19, 1994, 108 Stat. 3498; Pub. L. 104-105, title II, §§ 204, 205, Feb. 10, 1996, 110 Stat. 172; Pub. L. 115-334, title V, § 5411(8), title VI, § 6602(b)(17), Dec. 20, 2018, 132 Stat. 4680, 4777.)

Editorial Notes

REFERENCES IN TEXT

The Rural Electrification Act of 1936, referred to in subsec. (b)(1)(A), is act May 20, 1936, ch. 432, 49 Stat. 1363, which is classified generally to chapter 31 (§ 901 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 901 of Title 7 and Tables.

AMENDMENTS

2018—Subsec. (b)(1)(A). Pub. L. 115-334, § 6602(b)(17), struck out “or a loan or loan commitment from the Rural Telephone Bank,” before “or that are eligible”.

Pub. L. 115-334, § 5411(8), inserted “(or any successor agency)” after “Rural Electrification Administration”.

1996—Subsec. (a). Pub. L. 104-105, § 204(a), inserted at end “Any such association that has received a loan from a bank for cooperatives shall, without regard to the requirements of paragraphs (1) through (4), continue to be eligible for so long as more than 50 percent (or such higher percentage as is established by the bank board) of the voting control of the association is held by farmers, producers or harvesters of aquatic products, or eligible cooperative associations.”

Subsec. (b)(1)(A). Pub. L. 104-105, § 205, substituted “are eligible under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) for” for “have been certified by the Administrator of the Rural Electrification Administration to be eligible for such” and “loan guarantee from

the Administration or the Bank (or a successor of the Administration or the Bank), and” for “loan guarantee, and”.

Subsec. (b)(1)(D). Pub. L. 104-105, § 204(b), substituted “and (4), or under the last sentence, of subsection (a)” for “and (4) of subsection (a)”.

1994—Subsec. (b)(1)(B) to (E). Pub. L. 103-376 redesignated subpars. (C) to (E) as (B) to (D), respectively, realigned margin of subpar. (D), and struck out former subpar. (B) which read as follows: “Any legal entity more than 50 percent of the voting control of which is held by one or more associations or other entities that are eligible to borrow from a bank for cooperatives under subsection (a) of this section or subparagraph (A) of this paragraph, except that any such legal entity, when considered together with one or more such associations or other entities that hold such control, meet the requirement of subsection (a)(3) of this section.”

1992—Subsec. (b)(1)(E). Pub. L. 102-552 added subpar. (E).

1991—Subsec. (a)(4). Pub. L. 102-237, § 502(f)(1), substituted “a percentage” for “A percentage”.

Subsec. (b)(1)(D). Pub. L. 102-237, § 502(e)(2), (f)(2), substituted “subsection (b) or (f) of section 2128 of this title” for “section 2128(f) of this title” and realigned margin of subpar. (D).

1990—Subsec. (b)(1)(D). Pub. L. 101-624 added subpar. (D).

1988—Pub. L. 100-399, § 901(e), substituted “bank board” for “district board” in subsec. (a)(4).

Pub. L. 100-399, § 410, substituted “makes” for “make” in subsec. (b)(1)(C).

Pub. L. 100-233, § 805(m), redesignated subsec. (1) as subsec. (a) and pars. (a) to (d) as pars. (1) to (4), respectively, in par. (4) redesignated cls. (1) to (3) as (A) to (C), respectively, and in cl. (C) substituted “paragraph (B)” for “paragraph (2)”.

Pub. L. 100-233, § 421, added subsec. (b) and struck out former subsec. (2) which read as follows: “Notwithstanding any other provision of this subchapter, cooperatives and other entities that have received a loan, loan commitment, or loan guarantee from the Rural Electrification Administration, or a loan or loan commitment from the Rural Telephone Bank, or that have been certified by the Administrator of the Rural Electrification Administration to be eligible for such a loan, loan commitment, or loan guarantee, and subsidiaries of such cooperatives or other entities, shall also be eligible to borrow from a bank for cooperatives.”

1985—Pub. L. 99-198, § 1322(1), designated existing provisions as subsec. (1) and added subsec. (2).

1980—Pub. L. 96-592, § 305(1), inserted reference to aquatic business in introductory text.

Subsec. (c). Pub. L. 96-592, § 305(2), inserted reference to aquatic business services or services to eligible cooperatives.

Subsec. (d). Pub. L. 96-592, § 305(3), substituted “60” for “70”, and designated former parenthetical material as item (1), and added items (2) and (3) and limitation with respect to any type of association or cooperative.

1975—Subsec. (d). Pub. L. 94-184 inserted provision relating to 70 per centum of voting control in the case of rural electric, telephone, and public utility cooperatives.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 502(f) of Pub. L. 102-237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101-624, to which the amendment relates, see section 1101(b)(4) of Pub. L. 102-237, set out as a note under section 1421 of Title 7, Agriculture.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-399 effective as if enacted immediately after enactment of Pub. L. 100-233, which was approved Jan. 6, 1988, see section 1001(a) of Pub. L. 100-399, set out as a note under section 2002 of this title.

§ 2130. Ownership of stock by borrowers

(a) Each borrower entitled to hold voting stock shall, at the time a loan is made by a bank for cooperatives, own at least one share of voting stock and shall be required by the bank to invest in additional voting stock or non-voting investment stock at that time, or from time to time, as the lending bank may determine, but the requirement for investment in stock at the time the loan is closed shall not exceed an amount equal to 10 per centum of the face amount of the loan. Such additional ownership requirements may be based on the face amount of the loan, the outstanding loan balance or on a percentage of the interest payable by the borrower during any year or during any quarter thereof, or upon such other basis as the bank determines will provide adequate capital for the operation of the bank and equitable ownership thereof among borrowers.

(b) Notwithstanding the provisions of subsection (a) of this section, the purchase of stock need not be required with respect to that part of any loan made by a bank for cooperatives which it sells to or makes in participation with financial institutions other than any of the banks for cooperatives. In such cases the distribution of earnings of the bank for cooperatives shall be on the basis of the interest in the loan retained by such bank.

(Pub. L. 92-181 title III, §3.9, Dec. 10, 1971, 85 Stat. 605; Pub. L. 96-592, title III, §306, Dec. 24, 1980, 94 Stat. 3445; Pub. L. 100-233, title VIII, §802(q), Jan. 6, 1988, 101 Stat. 1712; Pub. L. 115-334, title V, §5411(9), Dec. 20, 2018, 132 Stat. 4680.)

Editorial Notes**AMENDMENTS**

2018—Subsec. (a). Pub. L. 115-334 struck out at end “In the case of a direct loan by the Central Bank, the borrower shall be required to own or invest in the necessary stock in a district bank or banks and such district bank shall be required to own a corresponding amount of stock in the Central Bank, but voting stock shall be in the one district bank, designated by the Farm Credit Administration.”

1988—Subsec. (a). Pub. L. 100-233 substituted “by the bank to invest” for “by the bank with the approval of the Farm Credit Administration to invest”, “or upon such other basis as the bank determines” for “or upon such other basis as the bank, with the approval of the Farm Credit Administration, determines”, and “in a district bank or banks and such district bank shall be required” for “in a district bank or banks as may be approved by the Farm Credit Administration and such district bank shall be required”.

1980—Subsec. (a). Pub. L. 96-592 inserted provisions respecting entitlement to hold voting stock.

§ 2131. Loans**(a) Interest rates and charges**

Loans made by a bank for cooperatives shall bear interest at a rate or rates determined by the board of directors of the bank from time to time. In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers at the lowest reasonable cost on a sound business basis, taking into account the net cost of money to the bank, necessary reserves and expenses of the bank, and

services provided. The loan documents may provide for the interest rate or rates to vary from time to time during the repayment period of the loan, in accordance with the rate or rates currently being charged by the bank.

(b) Security

Loans shall be made upon such terms, conditions, and security, if any, as may be determined by the bank in accordance with regulations of the Farm Credit Administration.

(c) Lien

Each bank for cooperatives shall have a first lien on all stock or other equities in the bank as collateral for the payment of any indebtedness of the owner thereof to the bank.

(d) Cancellation; application on indebtedness

In any case where the debt of a borrower is in default, or in any case of liquidation or dissolution of a present or former borrower from a bank for cooperatives, the bank may, but shall not be required to, retire and cancel all or a part of the stock, allocated surplus or contingency reserves, or any other equity in the bank owned by or allocated to such borrower, at the fair market value thereof not exceeding par, and, to the extent required in such cases, corresponding shares and allocations and other equity interests held by a bank in another bank for cooperatives (or any successor bank) on account of such indebtedness, shall be retired or equitably adjusted. In no event shall the bank's equities be retired or canceled if the retirement or cancellation would adversely affect the bank's capital structure, as determined by the Farm Credit Administration.

(Pub. L. 92-181, title III, §3.10, Dec. 10, 1971, 85 Stat. 606; Pub. L. 96-592, title III, §307, Dec. 24, 1980, 94 Stat. 3445; Pub. L. 99-509, title I, §1033(c), Oct. 21, 1986, 100 Stat. 1877; Pub. L. 115-334, title V, §5411(10), Dec. 20, 2018, 132 Stat. 4680.)

Editorial Notes**AMENDMENTS**

2018—Subsec. (c). Pub. L. 115-334, §5411(10)(A), struck out at end “In the case of a direct loan to an eligible cooperative by the Central Bank, the Central Bank shall have a first lien on the stock and equities of the borrower in the district bank and the district bank shall have a lien thereon junior only to the lien of the Central Bank.”

Subsec. (d). Pub. L. 115-334, §5411(10)(B), substituted “held by a bank in another bank for cooperatives (or any successor bank) on account of such indebtedness” for “held by a district bank in another district bank on account of such indebtedness”.

1986—Subsec. (a). Pub. L. 99-509 struck out “, with the approval of the Farm Credit Administration as provided in section 2205 of this title” after “from time to time”.

1980—Subsec. (a). Pub. L. 96-592, §307(1), inserted reference to section 2205 of this title.

Subsec. (d). Pub. L. 96-592, §307(2), substituted “market” for “book” and inserted provisions respecting retirement or cancellation of equities as affected by the capital structure.

§ 2132. Earnings and reserves; application of savings**(a) Application of savings**

At the end of each fiscal year, the net savings shall, under regulations prescribed by the Farm

Credit Administration, continue to be applied on a cooperative basis with provision for sound, adequate capitalization to meet the changing financing needs of eligible cooperative borrowers and prudent corporate fiscal management, to the end that current year's patrons carry their fair share of the capitalization, ultimate expenses, and reserves related to the year's operations and the remaining net savings shall be distributed as patronage refunds as provided in subsection (b). Such regulations may provide for application of net savings to the restoration or maintenance of an allocated surplus account, reasonable additions to unallocated surplus, or to unallocated reserves after payment of operating expenses, and provide for allocations to patrons not qualified under title 26, or payment of such per centum of patronage refunds in cash, as the board may determine.

(b) Patronage refunds

The net savings of each bank for cooperatives, after the earnings for the fiscal year have been applied in accordance with subsection (a) of this section shall be paid in stock, participation certificates, or cash, or in any of them, as determined by its board, as patronage refunds to borrowers to whom such refunds are payable who are borrowers of the fiscal year for which such patronage refunds are distributed. All patronage refunds shall be paid in proportion that the amount of interest and service fees on the loans to each borrower during the year bears to the interest and service fees on the loans of all borrowers during the year or on such other proportionate patronage basis as may be approved by the board of directors.

(c) Loss carryover

In the event of a net loss in any fiscal year after providing for all operating expenses (including reasonable valuation reserves and losses in excess of any applicable reserves), such loss may be carried forward or carried back, if appropriate, or otherwise shall be absorbed by charges to unallocated reserve or surplus accounts established after December 10, 1971; charges to allocated contingency reserve account; charges to allocated surplus accounts; charges to other contingency reserve and surplus accounts; the impairment of voting stock; or the impairment of all other stock.

(d) Charge of unrecognized costs or expenses to reserve, surplus, or patronage allocations

Notwithstanding any other provisions of this section any costs or expenses attributable to a prior year or years but not recognized in determining the net savings for such year or years may be charged to reserves or surplus of the bank or to patronage allocations for such years, as may be determined by the board of directors.

(e) Payment of patronage refunds in cash

A bank for cooperatives may pay in cash such portion of its patronage refunds as will permit its taxable income to be determined without taking into account savings applied as allocated surplus, allocated contingency reserves, and patronage refunds under subsection (a) of this section.

(Pub. L. 92-181, title III, §3.11, Dec. 10, 1971, 85 Stat. 606; Pub. L. 96-592, title III, §308, Dec. 24,

1980, 94 Stat. 3445; Pub. L. 99-205, title II, §205(e)(7), (8), Dec. 23, 1985, 99 Stat. 1705; Pub. L. 100-233, title VIII, §§802(r), 805(n), Jan. 6, 1988, 101 Stat. 1712, 1716; Pub. L. 115-334, title V, §5411(11), Dec. 20, 2018, 132 Stat. 4680.)

Editorial Notes

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-334, §5411(11)(A), substituted “subsection (b)” for “subsections (b) and (c) of this section”.

Subsec. (b). Pub. L. 115-334, §5411(11)(B), struck out “district” before “bank for cooperatives” and substituted “All patronage” for “Except as provided in subsection (c) below, all patronage”.

Subsecs. (c) to (f). Pub. L. 115-334, §5411(11)(C), (D), redesignated subsecs. (d) to (f) as (c) to (e), respectively, and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows: “The net savings of the Central Bank for Cooperatives after the earnings for the fiscal year have been applied in accordance with subsection (a) of this section shall be paid in stock or cash, or both, as determined by the board, as patronage refunds to the district banks on the basis of interests held by the Central Bank in loans made by the district banks and upon any direct loans made by the Central Bank to cooperative associations, or on such other proportionate patronage basis as may be approved by the board of directors. In cases of direct loans, such refund shall be paid to the district bank or banks which issued their stock to the borrower incident to such loans, and the district bank or banks shall issue a like amount of patronage refunds to the borrower.”

1988—Subsec. (a). Pub. L. 100-233, §§802(r)(1), 805(n)(1), (5), redesignated subsec. (b) as (a), substituted “(b) and (c)” for “(c) and (d)”, struck out “as may be approved by the Farm Credit Administration” after “payment of operating expenses”, and struck out at end “If during the fiscal year but not at the end thereof a bank shall have had outstanding capital stock held by the United States, provision will be made for payment of franchise taxes required in section 2151 of this title.”

Subsec. (b). Pub. L. 100-233, §§802(r)(2), 805(n)(2), (5), redesignated subsec. (c) as (b) and substituted “(a) of this section” for “(b) of this section, whichever is applicable,” “(c) below” for “(d) below”, and “may be approved by the board of directors” for “the Farm Credit Administration may approve”. Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 100-233, §§802(r)(3), 805(n)(3), (5), redesignated subsec. (d) as (c) and substituted “(a) of this section” for “(b) of this section whichever is applicable,” and “may be approved by the board of directors” for “the Farm Credit Administration may approve”. Former subsec. (c) redesignated (b).

Subsecs. (d), (e). Pub. L. 100-233, §805(n)(5), redesignated subsecs. (e) and (f) as (d) and (e), respectively. Former subsec. (d) redesignated (c).

Subsecs. (f), (g). Pub. L. 100-233, §805(n)(4), (5), redesignated subsec. (g) as (f), substituted “A bank for cooperatives” for “For any year that a bank for cooperatives is subject to Federal income tax, it”, and struck out “or (b)” after “subsection (a)”. Former subsec. (f) redesignated (e).

1985—Subsec. (a). Pub. L. 99-205, §205(e)(7), struck out subsec. (a) which provided for application of savings when bank for cooperatives has outstanding stock held by the Governor.

Subsec. (b). Pub. L. 99-205, §205(e)(8)(A), substituted “At the end of each fiscal year, the net” for “Whenever at the end of any fiscal year a bank for cooperatives shall have no outstanding capital stock held by the Governor of the Farm Credit Administration, the net”.

Subsecs. (c), (d). Pub. L. 99-205, §205(e)(8)(B), substituted “subsection (b) of this section” for “subsection (a) or (b) of this section”.

1980—Subsec. (b). Pub. L. 96-592, §308(1), struck out provisions relating to 25 per centum requirement for net savings.

Subsec. (c). Pub. L. 96-592, §308(2), inserted applicability to participation certificates and to borrowers to whom refunds are payable.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as a note under section 2001 of this title.

§ 2133. Distribution of assets on liquidation or dissolution

In the case of liquidation or dissolution of any bank for cooperatives, after payment or retirement, first, of all liabilities; second, of all capital stock issued before January 1, 1956, at par, and all nonvoting stock at par; and third, all voting stock at par; any surplus and reserves existing on January 1, 1956, shall be paid to the holders of stock issued before that date, and voting stock pro rata; and any remaining allocated surplus and reserves shall be distributed to those entities to which they are allocated on the books of the bank, and any other remaining surplus shall be paid to the holders of outstanding voting stock. If it should become necessary to use any surplus or reserves to pay any liabilities or to retire any capital stock, unallocated reserves or surplus, allocated reserves and surplus shall be exhausted in accordance with rules prescribed by the Farm Credit Administration.

(Pub. L. 92-181, title III, §3.12, Dec. 10, 1971, 85 Stat. 608; Pub. L. 99-205, title II, §205(e)(9), Dec. 23, 1985, 99 Stat. 1705; Pub. L. 100-233, title VIII, §805(o), Jan. 6, 1988, 101 Stat. 1716.)

Editorial Notes

AMENDMENTS

1988—Pub. L. 100-233 inserted “the” before “Farm Credit Administration”.

1985—Pub. L. 99-205 struck out “, any stock held by the Governor of the Farm Credit Administration at par” before “, and all nonvoting stock at par”, and struck out “stock held by the Governor of the Farm Credit Administration,” before “and voting stock pro rata” in first sentence.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as a note under section 2001 of this title.

§ 2134. Taxation

Each bank for cooperatives and its obligations are instrumentalities of the United States and as such any and all notes, debentures, and other obligations issued by such bank shall be exempt, both as to principal and interest from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States or any State, territorial, or local taxing authority, except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder.

(Pub. L. 92-181, title III, §3.13, Dec. 10, 1971, 85 Stat. 608; Pub. L. 99-205, title II, §205(e)(10), Dec. 23, 1985, 99 Stat. 1705; Pub. L. 100-233, title VIII, §805(p), Jan. 6, 1988, 101 Stat. 1716.)

Editorial Notes

AMENDMENTS

1988—Pub. L. 100-233 inserted before period at end “, except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder”.

1985—Pub. L. 99-205 struck out last two sentences relating to exemption of banks for cooperatives and their property, franchises, capital, reserves, surplus, other funds, and income from Federal and non-Federal taxation except for Federal income taxation of interest on obligations of such banks and for Federal and non-Federal taxation of real and tangible personal property of such banks to same extent as similar property is taxed, and making such exemption provisions applicable only for any year or part thereof in which stock in such banks was held by the Governor of the Farm Credit Administration.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as a note under section 2001 of this title.

PART B—NATIONAL BANKS FOR COOPERATIVES

Editorial Notes

CODIFICATION

Pub. L. 115-334, title V, §5411(12), Dec. 20, 2018, 132 Stat. 4680, struck out “United and” before “National” in part heading.

§ 2141. Charter, powers, and operation

(a) Charter

The National Bank for Cooperatives (hereinafter in this part referred to as the “consolidated bank”), established under section 413 of the Agricultural Credit Act of 1987, shall be a federally chartered instrumentality of the United States and an institution of the Farm Credit System.

(b) Powers

The consolidated bank and the board of directors of such bank shall have all of the powers, rights, responsibilities, and obligations of the constituent banks described in section 413(b) of the Agricultural Credit Act of 1987 (12 U.S.C. 2121 note; Public Law 100-233) and the boards of directors of such banks, except as otherwise provided for in this chapter.

(c) Operation

The consolidated bank shall be organized and operated on a cooperative basis.

(Pub. L. 92-181, title III, §3.20, as added Pub. L. 100-233, title IV, §415(2), Jan. 6, 1988, 101 Stat. 1642; amended Pub. L. 100-399, title IV, §407(a), (b), Aug. 17, 1988, 102 Stat. 1000; Pub. L. 115-334, title V, §5411(13), Dec. 20, 2018, 132 Stat. 4680.)

Editorial Notes

REFERENCES IN TEXT

Section 413 of the Agricultural Credit Act of 1987, referred to in subsecs. (a) and (b), is section 413 of Pub. L. 100-233, which is set out as a note under section 2121 of this title.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-334, §5411(13)(A), struck out “or the United Bank for Cooperatives, as the case may be” after “National Bank for Cooperatives”.