

bank" means any System bank whose participation in notes, bonds, debentures, and other obligations issued under subsection (c) or (d) of section 4.2 is insured under this part.

(5) STATE. The term "State" means any of the 50 States, the District of Columbia, any Territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands.

12 U.S.C. 2277a-1

SEC. 5.52. ESTABLISHMENT OF FARM CREDIT SYSTEM INSURANCE CORPORATION.

There is hereby established the Farm Credit System Insurance Corporation which shall insure, in accordance with this part, the timely payment of principal and interest on notes, bonds, debentures, and other obligations issued under subsection (c) or (d) of section 4.2 on behalf of one or more System banks all of which are entitled to the benefits of insurance under this part.

12 U.S.C. 2277a-2

SEC. 5.53. BOARD OF DIRECTORS.

(a) ESTABLISHMENT. The Corporation shall be managed by a Board of Directors that shall consist of the members of the Farm Credit Administration Board.

(b) CHAIRMAN. The Board of Directors shall be chaired by any Board member other than the Chairman of the Farm Credit Administration Board.

12 U.S.C. 2277a-3

SEC. 5.54. COMMENCEMENT OF INSURANCE.

Effective beginning on January 1, 1989, or 12 months after the date of the enactment of this part, whichever is later, each System bank shall be an insured System bank and shall be subject to this part. Each System bank that is authorized to commence or resume operations under a title of this Act shall be an insured System bank from the time of such authorization. A bank resulting from the merger or consolidation of insured System banks shall be an insured System bank.

12 U.S.C. 2277a-4

SEC. 5.55. PREMIUMS.

(a) AMOUNT IN FUND NOT EXCEEDING SECURE BASE AMOUNT.

(1) IN GENERAL. If at the end of any calendar year the aggregate of amounts in the Farm Credit Insurance Fund does not exceed the secure base amount, subject to paragraph (3), the premium due from any insured System bank for the calendar year shall be equal to the sum of—

(A) the average outstanding insured obligations issued

by the bank for the calendar year, after deducting from the obligations the percentages of the guaranteed portions of loans and investments described in paragraph (2), multiplied by 0.0020; and

(B) the product obtained by multiplying--

(i) the sum of--

(I) the average principal outstanding for the calendar year on loans made by the bank that are in nonaccrual status; and

(II) the average amount outstanding for the calendar year of other-than-temporarily impaired investments made by the bank; by

(ii) 0.0010.

(2) DEDUCTIONS FROM AVERAGE OUTSTANDING INSURED OBLIGATIONS.--The average outstanding insured obligations issued by the bank for the calendar year referred to in paragraph (1)(A) shall be reduced by deducting from the obligations the sum of (as determined by the Corporation)--

(A) 90 percent of each of--

(i) the average principal outstanding for the calendar year on the guaranteed portions of Federal government-guaranteed loans made by the bank that are in accrual status; and

(ii) the average amount outstanding for the calendar year of the guaranteed portions of Federal government-guaranteed investments made by the bank that are not permanently impaired; and

(B) 80 percent of each of--

(i) the average principal outstanding for the calendar year on the guaranteed portions of State government-guaranteed loans made by the bank that are in accrual status; and

(ii) the average amount outstanding for the calendar year of the guaranteed portions of State government-guaranteed investments made by the bank that are not permanently impaired.

(3) REDUCED PREMIUMS. The Corporation, in the sole discretion of the Corporation, may reduce by a percentage uniformly applied to all insured System banks the premium due from each insured System bank during any calendar year, as determined under paragraph (1).

(4) DEFINITION OF GOVERNMENT-GUARANTEED LOANS OR INVESTMENTS. In this section, the term "government-guaranteed", when applied to a loan or an investment, means a loan, credit, or investment, or portion of a loan, credit, or investment, that is guaranteed—

(A) by the full faith and credit of the United States Government or any State government;

(B) by an agency or other entity of the United States

Government whose obligations are explicitly guaranteed by the United States Government; or

(C) by an agency or other entity of a State government whose obligations are explicitly guaranteed by such State government.

(b) **AMOUNT IN FUND EXCEEDING SECURE BASE AMOUNT.** At any time the aggregate of amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the Corporation shall reduce the premium due from each insured System bank, as determined under subsection (a)(1) of this section, by a percentage determined by the Corporation so that the aggregate of the premiums payable by all System banks is sufficient to ensure that the aggregate of amounts in the Farm Credit Insurance Fund after such premiums are paid is not less than the secure base amount at such time.

(c) **SECURE BASE AMOUNT.**

(1) **IN GENERAL.**--For purposes of this part, the term "secure base amount" means, with respect to any point in time, 2 percent of the aggregate outstanding insured obligations of all insured System banks at such time (as adjusted under paragraph (2)), or such other percentage of the aggregate amount as the Corporation in its sole discretion determines is actuarially sound to maintain in the Insurance Fund taking into account the risk of insuring outstanding insured obligations.

(2) **ADJUSTMENT.**--The aggregate outstanding insured obligations of all insured System banks under paragraph (1) shall be adjusted downward to exclude an amount equal to the sum of (as determined by the corporation)--

(A) 90 percent of each of--

(i) the guaranteed portions of principal outstanding on Federal government-guaranteed loans in accrual status made by the banks; and

(ii) the guaranteed portions of the amount of Federal government-guaranteed investments made by the banks that are not permanently impaired; and

(B) 80 percent of each of--

(i) the guaranteed portions of principal outstanding on State government-guaranteed loans in accrual status made by the banks; and

(ii) the guaranteed portions of the amount of State government-guaranteed investments made by the banks that are not permanently impaired.

(d) **DETERMINATION OF LOAN AND INVESTMENT AMOUNTS.** For the purpose of subsections (a) and (c), the principal outstanding on all loans made by an insured System bank, and the amount outstanding on all investments made by an insured System bank, shall be determined based on—

(1) all loans or investments made by any production credit association, or any other association making direct loans under authority provided under section 7.6, that is able to make such loans or investments because such association is receiving, or has received,

funds provided through the insured System bank;

(2) all loans or investments made by any bank, company, institution, corporation, union, or association described in section 1.7(b)(1)(B), that is able to make such loans or investments because such entity is receiving, or has received, funds provided through the insured System bank; and

(3) all loans or investments made by such insured System bank (other than loans made to any party described in paragraph (1) or (2)).

(e) ALLOCATION TO SYSTEM INSTITUTIONS OF EXCESS RESERVES.

(1) ESTABLISHMENT OF ALLOCATED INSURANCE RESERVES ACCOUNTS. There is hereby established in the Farm Credit Insurance Fund an Allocated Insurance Reserves Account—

(A) for each insured System bank; and

(B) subject to paragraph (6)(C), for all holders, in the aggregate, of Financial Assistance Corporation stock.

(2) **TREATMENT.** Amounts in any Allocated Insurance Reserves Account shall be considered to be part of the Farm Credit Insurance Fund.

(3) **ANNUAL ALLOCATIONS.** If, at the end of any calendar year, the aggregate of the amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the Corporation shall allocate to the Allocated Insurance Reserves Accounts the excess amount less the amount that the Corporation, in its sole discretion, determines to be the sum of the estimated operating expenses and estimated insurance obligations of the Corporation for the immediately succeeding calendar year.

(4) **ALLOCATION FORMULA.** From the total amount required to be allocated at the end of a calendar year under paragraph (3)—

(A) 10 percent of the total amount shall be credited to the Allocated Insurance Reserves Account established under paragraph (1)(B), subject to paragraph (6)(C); and

(B) there shall be credited to the allocated insurance reserves account of each insured system bank an amount that bears the same ratio to the total amount (less any amount credited under subparagraph (A)) as--

(i) the average principal outstanding for the calendar year on insured obligations issued by the bank (after deducting from the principal the percentages of the guaranteed portions of loans and investments described in subsection (a)(2)); bears to

(ii) the average principal outstanding for the calendar year on insured obligations issued by all insured System banks (after deducting from the principal the percentages of the guaranteed portions of loans and investments described in subsection (a)(2)).

(5) **USE OF FUNDS IN ALLOCATED INSURANCE RESERVES ACCOUNTS.** To the extent that the sum of the

operating expenses of the Corporation and the insurance obligations of the Corporation for a calendar year exceeds the sum of operating expenses and insurance obligations determined under paragraph (3) for the calendar year, the Corporation shall cover the expenses and obligations by—

(A) reducing each Allocated Insurance Reserves Account by the same proportion; and

(B) expending the amounts obtained under subparagraph (A) before expending other amounts in the Fund.

(6) OTHER DISPOSITION OF ACCOUNT FUNDS.

(A) IN GENERAL. As soon as practicable during each calendar year, the Corporation may—

(i) subject to subparagraph (D), pay to each insured System bank, in a manner determined by the Corporation, an amount equal to the balance in the Allocated Insurance Reserves Account of the System bank; and

(ii) subject to subparagraphs (C) and (E), pay to each System bank and association holding Financial Assistance Corporation stock a proportionate share, determined by dividing the number of shares of Financial Assistance Corporation stock held by the institution by the total number of shares of Financial Assistance Corporation stock outstanding at the time of the termination of the Financial Assistance Corporation, of the balance in the Allocated Insurance Reserves Account established under paragraph (1)(B).

(B) AUTHORITY TO ELIMINATE OR REDUCE PAYMENTS. The Corporation may eliminate or reduce payments during a calendar year under subparagraph (A) if the Corporation determines, in its sole discretion, that the payments, or other circumstances that might require use of the Farm Credit Insurance Fund, could cause the amount in the Farm Credit Insurance Fund during the calendar year to be less than the secure base amount.

(C) REIMBURSEMENT FOR FINANCIAL ASSISTANCE CORPORATION STOCK.

(i) SUFFICIENT FUNDING. Notwithstanding paragraph (4)(A), on provision by the Corporation for the accumulation in the Account established under paragraph (1)(B) of funds in an amount equal to \$56,000,000, the Corporation shall not allocate any further funds to the Account except to replenish the Account if funds are diminished below \$56,000,000 by the Corporation under paragraph (5).

(ii) TERMINATION OF ACCOUNT.--On disbursement of an amount equal to \$56,000,000, the Corporation shall--

(I) close the account established under paragraph (1)(B); and

(II) transfer any remaining funds in the Account to the remaining Allocated Insurance Reserves Accounts in accordance with paragraph (4)(B) for the calendar year in which the transfer occurs.

(D) DISTRIBUTION OF PAYMENTS RECEIVED.

Not later than 60 days after receipt of a payment made under subparagraph (A)(i), each insured System bank, in consultation with affiliated associations of the insured System bank, and taking into account the direct or indirect payment of insurance premiums by the associations, shall develop and implement an equitable plan to distribute payments received under subparagraph (A)(i) among the bank and associations of the bank.

(E) EXCEPTION FOR PREVIOUSLY REIMBURSED ASSOCIATIONS. For purposes of subparagraph (A)(ii), in any Farm Credit district in which the funding bank has reimbursed 1 or more affiliated associations of the bank for the previously unreimbursed portion of the Financial Assistance Corporation stock held by the associations, the funding bank shall be deemed to be the holder of the shares of Financial Assistance Corporation stock for which the funding bank has provided the reimbursement.

12 U.S.C. 2277a-5

SEC. 5.56. CERTIFICATION OF PREMIUMS.

(a) **FILING CERTIFIED STATEMENT.** On a date to be determined in the sole discretion of the Board of Directors of the Corporation, each insured System bank that became insured before the beginning of the period for which premiums are being assessed (referred to in this section as the "period") shall file with the Corporation a certified statement showing—

(1) the average outstanding insured obligations for the period issued by the bank;

(2)(A) the average principal outstanding for the period on the guaranteed portion of Federal government-guaranteed loans that are in accrual status; and

(B) the average amount outstanding for the period of Federal government-guaranteed investments that are not permanently impaired (as defined in section 5.55(a)(4));

(3)(A) the average principal outstanding for the period on State government-guaranteed loans that are in accrual status; and

(B) the average amount outstanding for the period of State government-guaranteed investments that are not permanently impaired (as defined in section 5.55(a)(4));

(4)(A) the average principal outstanding for the period on loans that are in nonaccrual status; and

(B) the average amount outstanding for the period of other-than-temporarily impaired investments; and

(5) the amount of the premium due the Corporation from the bank for the period.

(b) CONTENTS AND FORM OF STATEMENT. The certified statement required to be filed with the Corporation under subsection (a) of this section shall be in such form and set forth such supporting information as the Board of Directors shall prescribe, and shall be certified by the president of the bank or any other officer designated by its board of directors that to the best of the persons knowledge and belief the statement is true, correct, complete, and has been prepared in accordance with this part and all regulations issued thereunder.

(c) PREMIUM PAYMENTS.--

(1) IN GENERAL.--Except as provided in paragraph (2), each insured System bank shall pay to the Corporation the premium payments required under subsection (a), not more frequently than once in each calendar quarter, in such manner and at such 1 or more times as the Board of Directors shall prescribe.

(2) PREMIUM AMOUNT.--The amount of the premium shall be established not later than 60 days after filing the certified statement specifying the amount of the premium.

(d) REGULATIONS. The Board of Directors shall prescribe all rules and regulations necessary for the enforcement of this section. The Board of Directors may limit the retroactive effect, if any, of any of its rules or regulations.

NOTE: The amendments made by section 5403 of Public Law 107-171 shall apply with respect to determinations of premiums for calendar year 2002 and for any succeeding calendar year, and to certified statements with respect to such premiums.

12 U.S.C. 2277a-6

SEC. 5.57. OVERPAYMENT AND UNDERPAYMENT OF PREMIUMS; REMEDIES.

(a) OVERPAYMENTS. The Corporation may refund to any insured System bank any premium payment made by the bank exceeding the amount due the Corporation.

(b) UNDERPAYMENTS.

(1) RECOVERY. The Corporation, in a suit brought at law or in equity in any court of competent jurisdiction, may recover from any insured System bank the amount of any unpaid premium lawfully payable by the bank to the Corporation, whether or not the bank has filed any certified statement under section 5.56, and whether or not suit has been brought to compel the bank to file any such statement.

(2) LIMITATION. Any action or proceeding for the recovery of any premium due the Corporation under paragraph (1), or for the recovery of any amount paid to the Corporation exceeding the amount due the Corporation, shall be brought within 5 years after the right accrued for which the claim is made. If an insured System

bank has filed with the Corporation a false or fraudulent certified statement with the intent to evade, in whole or in part, the payment of a premium, the claim shall not be deemed to have accrued until the Corporation discovers that the certified statement is false or fraudulent.

(c) FAILURE TO FILE STATEMENT OR PAY PREMIUM.

(1) FORFEITURE OF RIGHTS. If any insured System bank fails to file any certified statement required to be filed by such bank under section 5.56 or fails to pay any premium required to be paid by such bank under any provision of this part, and if the bank does not correct such failure within 30 days after the Corporation gives written notice to an officer of the bank, citing this subsection and stating that the bank has failed to so file or pay as required by law, all the rights, privileges, and franchises of the bank granted to it under this Act shall be thereby forfeited.

(2) ENFORCEMENT. The Corporation may bring an action to enforce this subsection against any such bank in any court of competent jurisdiction for the judicial district in which the bank is located.

(3) LIABILITY OF DIRECTORS. Every director who participated in or assented to a failure (described in paragraph (1)) shall be held personally liable for all consequential damages.

(d) EFFECT ON OTHER REMEDIES. The remedies provided in subsections (b) and (c) of this section shall not be construed as limiting any other remedies against any insured System bank, but shall be in addition thereto.

12 U.S.C. 2277a-7

SEC. 5.58. GENERAL CORPORATE POWERS.

On the date of the enactment of this part, the Corporation shall become a body corporate and as such shall have the following powers:

(1) SEAL. The Corporation may adopt and use a corporate seal.

(2) SUCCESSION. The Corporation may have succession until dissolved by an Act of Congress. The Corporation shall succeed to the rights of the Farm Credit System Assistance Board under agreements between the Farm Credit System Assistance Board and System institutions certifying the institutions as eligible to issue preferred stock pursuant to title VI on the termination of the Assistance Board on the date provided in section 6.12.

(3) CONTRACTS. The Corporation may make contracts.

(4) LEGAL ACTIONS.

(A) IN GENERAL. The Corporation may sue and be sued, complain and defend, in any court of law or equity, State or Federal.

(B) JURISDICTION. All suits of a civil nature at common law or in equity to which the Corporation shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original