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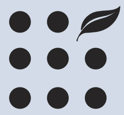

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Farmer Bankruptcies and Farm Exits in the United States, 1899-2002

Jerome M. Stam and Bruce L. Dixon

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Abstract

Farmer bankruptcies, bankruptcy rates, and related issues are explored from the beginning of modern bankruptcy legislation over a century ago. Farmer bankruptcies historically have been controversial because they are thought to indicate changes in the economic well-being and structure of the rural economy. Concerns about farmer bankruptcies were heightened twice during the past century. The first was from 1920 through the Great Depression and the second was during the 1980s. Bankruptcy data for Chapters 7, 11, and 13 exist for farmers for the 1899-1980 period, but there are no Chapter 7, 11, or 13 farmer bankruptcy data available beginning in 1980. However, data are available for the 1986-2002 period for Chapter 12, the Family Farmer Bankruptcy Act of 1986, that became effective on November 26, 1986, in response to the farm financial crisis of the 1980s. Some 22,519 Chapter 12 cases were filed through 2002, with the highest rate being in 1987. Farmer bankruptcy filing rates trended down after the late 1980s because of improved economic conditions and institutional changes.

Keywords: Bankruptcy, financial stress, farm sector structure, farm numbers, foreclosure, credit, debt, income.

Authors: Jerome M. Stam is an agricultural economist, Agricultural Structure Branch, Resource Economics Division, ERS, USDA, and Bruce L. Dixon is professor, Department of Agricultural Economics and Agribusiness and Principal in the Center for Farm and Rural Business Finance, University of Arkansas—Fayetteville.

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Summary

Bankruptcies are only one phenomenon within a broader set of changing economic circumstances — including rising agricultural productivity and expanding off-farm opportunities — that influence the size and structure of the farm sector. A comparison of historic data indicates that bankruptcy has played only a small role in the overall decline in farm numbers over the past 70 years. Most of the decline in farm numbers occurred between the 1940s and the 1970s, when bankruptcy filings were at relatively low levels and available filing options were stable. Farm numbers have even risen when bankruptcies have been relatively high or rising, such as during the early 1930s or the early 1990s. Not all bankruptcies result in farm exits, and most farm exits involve other factors.

Bankruptcy generally describes proceedings undertaken in a Federal court when a debtor is unable to pay his/her debt obligations or to reach agreement with creditors. Farmers have been subject to special treatment under bankruptcy law since the passage of the first modern bankruptcy legislation in 1898 (Ch. 541 30 Stat. 544). The primary benefit historically available to the farmer has been protection from being involuntarily forced into bankruptcy. The Bankruptcy Code contains four operative chapters (7, 11, 12, and 13) for filing personal or business bankruptcy petitions. Chapter 7 is a liquidation proceeding and involves the collection and distribution of all the debtor's nonexempt assets by a trustee appointed or approved by the court. Chapter 7 accounts for a majority of all bankruptcies, and most cases have been personal and not business.

The debtor reorganization provisions of the Code (Chapters 11, 12, and 13) differ, however, from the Chapter 7 straight bankruptcy because the debtor looks to rehabilitation and reorganization, rather than liquidation, and the creditors look to future earnings of the debtor, rather than property held by the debtor, to satisfy their claims. Chapter 11 involves an individual or business reorganization, with most cases being the latter. (Individuals most commonly file under Chapters 7 or 13.) A plan under Chapter 11 involves full or partial repayment of debts while assets are shielded from creditor action. Chapter 13 involves reorganization or adjustment of debts of an individual with regular income. Historically, most Chapter 13 cases have involved nonbusiness petitioners.

Chapter 12, the Family Farmer Bankruptcy Act of 1986 (P.L. 99-554, 100 Stat. 3088), was enacted in response to the farm financial crisis of the early to mid-1980s and became effective on November 26, 1986. It involves the adjustment of debts of a family farm household (as defined in the Bankruptcy Code) with regular income and makes available to farmers the equivalent of a Chapter 13 repayment program. Chapter 12 was originally set to expire under sunset provisions on October 1, 1993, but Congress extended it 10 times and expired on January 1, 2004. The current 108th Congress has been working to extend the Chapter 12 law and it continues to have an impact because a portion of past filers are still operating under its 3 to 5 year workout provisions. Chapter 12 gives family farmers considerably more power to demand concessions from lenders in the bankruptcy process than Chapter 11, the other chapter in the bankruptcy code governing business reorganization. Chapter 12 cases are classified as business bankruptcies.

Concerns about farmer bankruptcies were heightened twice during the past century. The first episode of concern about farmer bankruptcy numbers during the past century occurred beginning in 1920, when there were 6.4 million farms, and ran through the Great Depression of the 1930s. There were 51,863 farm bankruptcies (Chapters 7, 11, and 13) filed during 1920-29, as the farm economy collapsed following the economic boom induced by World War I, up from 12,001 for the 1910-19 decade. There were 37,814 farmer bankruptcies filed from 1930-39 during the Great Depression.

The 1920s and 1930s period is part of a timespan during the first half of the 20th century when farmer bankruptcy rates (excluding sharecroppers) varied considerably. The century began with modest rates that trended down until a low was experienced at 1.15 bankruptcies per 10,000 farms in 1911 during the 1910-14 "golden age" of American agriculture. The post-World War I depression in the farm sector's economic health caused the rate to jump in the 1920s with 6 years (1923-28) having farmer bankruptcy rates in excess of 10 per 10,000 farms (including a high of 13.71 per 10,000 farms in 1925). Rates were not as high even during the Great Depression of the 1930s, when only 1 year (1933) had a rate of over 10 bankruptcies per 10,000 farms. Rates fell when economic conditions improved during and after World War II.

The second episode of concern about farmer bankruptcies in the 20th century came during the farm financial crisis of the early to mid-1980s, when there were 2.25 million farms—some 50 years after the Great Depression. However, there are no farmer bankruptcy

data for the crucial 1980-86 period that covered the farm financial crisis period. Bankruptcy statistics specifying a filer's occupation, which included farmer, were not recorded by the Administrative Office of the U.S. Courts after October 1979. The only exceptions are quarterly data on those who filed for bankruptcy protection under Chapter 12. Some 22,519 Chapter 12 bankruptcies were filed from the date of its implementation on November 26, 1986, through December 31, 2002. There were 4,812 Chapter 12 bankruptcies filed during the year ending June 30, 1987, for the highest annual total since 1933 (year ending June 30). But based on 2.1 million farms (and this excludes the Chapter 7, 11, and 13 farmer bankruptcies filed that year, for which no data exist) compared to 5.9 million farms (excluding sharecroppers) in 1933, the 1987 filing rate of 23.05 per 10,000 farms dwarfs the 1933 rate of 10.10 per 10,000.

The 1987 farm bankruptcy rate of 23.05 per 10,000 farms is the highest annual bankruptcy rate ever recorded, eclipsing the previous high experienced in 1925. However, the high 1987 rate probably includes farmers who had waited for the new legislation to take effect; the relatively high rates in 1987 and subsequent years are influenced by the writedowns-of-debt provisions of Chapter 12. The workout period of up to 5 years and pro-farmer provisions of Chapter 12 invited bankruptcy filings in its early years that would not have been filed without the enactment of Chapter 12.

The Chapter 12 bankruptcy rate has trended down through time. The overall Chapter 12 filing rate per 10,000 farms for the entire 1986-2002 period was 6.08. Although Chapter 12 filings are reorganizations and exclude liquidations, Chapter 12 filing rates per 10,000 farms in the 1990s exceed rates of earlier decades with comparable economic conditions. Farmers, like society at large, appear less reluctant to file for bankruptcy.

Farmer Bankruptcies and Farm Exits in the United States, 1899-2002

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Introduction

Bankruptcy is a term used generally to describe proceedings undertaken in a Federal court when debtors are unable to pay debt obligations or to reach agreement with their creditors outside of court. Most bankruptcies are initiated voluntarily by the debtor, though occasionally creditors file an involuntary bankruptcy petition. Farmer bankruptcies are controversial and emotional not only for the parties directly involved but for other individuals as well. Whether regarded in a general sense of business closings or in a narrower legal sense, farmer bankruptcies may signal changes not only in economic and social well-being but also in the structure of the rural economy. They also may be regarded as a measure of the success or failure of various public policies directed at improving the economic status of the farm sector. In the 1980s and 1990s, bankruptcy became a subject for public debate both in the farm and nonfarm sectors. This was the result of a rapid increase in the number of bankruptcies filed in the overall economy, beginning in the 1980s and the farm financial crisis of that same decade, that contributed to the passage of the Chapter 12 farmer bankruptcy provisions.

Bankruptcies are important but frequently misunderstood developments in rural areas, particularly during periods of general economic stress, and need to be placed in context (*34, 35*).[1] Farmer bankruptcy is an often controversial topic for agricultural lenders, farmers, and other interested parties. Although farming is no longer the dominant industry in rural America and nonfarm businesses in rural areas also suffer bankruptcies, the historical interest has been on farm failures. The focus has largely been on farmer bankruptcies due to the economic dominance of agriculture in most rural regions until recent decades. In 1920, almost a third of the population was in farming, and among the rural population, two-thirds were in farming. Technological, market, and political forces have changed the entire structure of agriculture. Because farmer bankruptcy is inextricably linked with farm exits and changes in farm sector structure, it is important to understand this link more fully.

Net exit of farms was one of the more prominent economic and social phenomena of the last century. The United States was transformed from a largely agrarian society, with 30 percent of the population living and working on farms as late as 1920, to a highly urbanized society today with less than 2 percent of the population living on farms. Reflecting this trend is the 72-percent decline in the number of farms, as shown by the census of agriculture, from 6.8 million in 1935 to 1.9 million in the latest census in 1997. The decline in farm numbers represented huge social and economic change as populations moved from rural to urban areas, and labor was reallocated from agriculture to other sectors. According to one analysis, between 1948 and 1994, real output in the farm sector doubled, while labor input fell 70 percent (*7*). Agriculture released labor to the nonfarm economy to support the growing industrial and service sectors. Inputs that remained in agriculture were consolidated into fewer, larger farm operations that are among the most efficient in the world.

While change in U.S. farm numbers is slower today than in earlier decades, forced exit of farmers through bankruptcy or financial stress is a recurring issue that gained prominence most recently during the 1980s farm financial crisis. Farm credit policy, commodity programs, and bankruptcy laws are designed, in part, to prevent farm exits. Farmer bankruptcy is one possible factor affecting farm exit rates and thus farm sector structure. Farm sector structure covers several elements, including the distribution of farm sizes, the diversification of farm operations, linkages between resource ownership and farm organization, and business relationships among farms and with agribusinesses. Farm sector structure is driven by a complex variety of forces. For example, demographic change in the farm operator population, in combination with the increasing prevalence of contracting relationships, rapid changes in biotechnology, and farm man-

[1]Italicized numbers refer to literature cited in the References section at the end of the text.

agement practices are influencing the future structure of the farm sector.

The concern about farmer bankruptcies stems from several factors. These include the concept of the farmer as a landowner and an important economic component of the local community. The farmer is perceived to require favorable breaks due to the adverse impact of weather and financial risks. There are some equity concerns because some feel that wealthier farmers (and lending institutions) may end up acquiring additional farmland from bankrupt farmers. Historically there has been a feeling by some farmers that perhaps banks and mortgagors may have an unfair advantage in the legal system that yields results unfair to farmers who suffer financial stress. Most farmers exiting from agriculture, however, do not do so through bankruptcy. A solvent farmer may exit farming because he perceives that future farming returns are less promising than alternative activities. Other farmers exit at retirement.

This report fills a void by drawing on both the literature of agricultural economics and agricultural law to examine farmer bankruptcies including their relationships to farm numbers, farm exits, and several important linked issues. The first section of this report presents the role of bankruptcy in the U.S. economy, summarizes bankruptcy options available to farmers, and looks at the special treatment of farmers under the Bankruptcy Code. The second section is a historical analysis of farmer bankruptcy trends during the past century, including a discussion of regional differences. The third section presents an analysis of Chapter 12 filing, discharge, and failure rates based on special data provided by the Administrative Office of the U.S. Courts. This includes a look at the types of outcomes, restructuring plan characteristics, and case dispositions. The fourth section investigates some of the factors that have caused Chapter 12 bankruptcy filing rates to decline since the law was enacted in 1986. The fifth section traces the relationship (or lack thereof) between farmer bankruptcies and changes in farm sector structure, particularly farm numbers. The conclusion examines the net effect of bankruptcy on the farm sector.

Bankruptcy Law Development in Brief

The 1787 Constitution granted the National Government the power to enact "uniform laws on the subject of bankruptcies throughout the United States." But the bankruptcy power was largely dormant throughout the 19th century and only came to its own in the 20th century. During the 19th century, Congress exercised its bankruptcy power only sporadically in order to meet the periodic crises of a growing market economy. Federal bankruptcy legislation was viewed as a temporary and emergency measure, only necessary to deal with the aftermath of economic depression. In ordinary times, State creditor's rights law was viewed as sufficient to deal with problems of debtor default. Temporary national bankruptcy laws were in force during 1800 to 1803, 1841 to 1843, and 1867 to 1878.

The 1898 Act

Farmers have had options under a permanent national bankruptcy law for only a little over a century. The National Bankruptcy Act of 1898 (Ch. 541, 30 Stat. 544) marked the first modern bankruptcy law and the beginning of the era of permanent Federal bankruptcy legislation. The principal provisions of this legislation are that any debtor who is unable to meet his or her obligations as they mature may present his or her case to a Federal court, listing his or her assets and liabilities. If the court, after verifying assets and claims and after hearing creditors, decides that the case warrants the action, it may apportion the assets among the creditors, subject to the borrower's exemptions as specified under the law and may declare the debtor free from all but certain specified obligations. Enacted in the aftermath of the severe 1893 depression, this bankruptcy legislation, with subsequent amendments, governed the procedure for the legal adjustment involved in bankruptcy cases under Federal jurisdiction for over 80 years.

Farmers have been subject to special treatment under the bankruptcy laws since the passage of the 1898 Bankruptcy Act. The rationale for special consideration was based on the uncertain nature of the farm business with its attendant wide fluctuations in commodity prices and frequent weather problems. The primary benefit historically available to the farmer has been protection from being involuntarily forced into bankruptcy. While nearly any other person eligible to file a bankruptcy case may be involuntarily subjected to bankruptcy by a group of creditors, the farmer has nearly always been exempt from the provisions regarding involuntary bankruptcy. The rationale expressed in the 1898 Act for protecting farmers from involuntary bankruptcy is that the success or failure of a farming enterprise is uniquely subject to factors beyond the farmer's control, particularly the hazards of natural disasters. If a farmer could be forced into an involuntary bankruptcy by creditors, the farmer's assets conceivably could be subjected to liquidation immediate-

ly upon the failure of one year's crop. Prohibiting involuntary bankruptcies allows the farmer to retain the assets and to overcome natural disasters by successfully continuing in farming. It permits the farmer to decide the necessity for, and the timing of, bankruptcy relief.

Protection from involuntary bankruptcies was more valuable to farmers before the advent of modern agricultural finance. Today nearly all farmers in financial difficulty have a substantial portion of both their real and personal property assets encumbered by liens and security interests. Having generous State homestead law exemptions and being exempt from involuntary bankruptcy will not prevent the farmer's assets from being involuntarily liquidated by foreclosure of a lien or security interest. The involuntary bankruptcy protection thus constitutes only a limited benefit to most financially distressed farmers and holds less value today than it did historically.

The 1978 Act

There was major bankruptcy law reform in 1978 when the 1898 Bankruptcy Act was replaced. Congress, in enacting the comprehensive Bankruptcy Reform Act of 1978 (P.L. 95-598, 92 Stat. 2549), relied in part on the work of an earlier commission and on nearly a century of economic experience that included a great depression as well as periods of unprecedented prosperity. The Bankruptcy Reform Act of 1978, now referred to as the Bankruptcy Code, consists of four titles that contain the substantive law on bankruptcy.[2] The provisions of the Bankruptcy Code apply to all bankruptcy cases commenced on or after October 1, 1979. The current U.S. Bankruptcy Code follows the 1898 Bankruptcy Act in providing that farmers and family farmers are protected from involuntary bankruptcy proceedings. Section 303(a), which authorizes the filing of involuntary cases under Chapters 7 or 11, specifically excludes both farmers and family farmers from the provisions of that section.[3]

[2]Bankruptcy specialists typically refer to the Bankruptcy Act of 1898 as the Bankruptcy Act, or simply the Act, and refer to the provisions of Title 11 enacted by the Bankruptcy Reform Act of 1978 as the Bankruptcy Code, or simply as the Code.

[3]A farmer is still subject to involuntary liquidation of assets under foreclosure, but a foreclosure action requires only the payment of debts owed to the creditor bringing the foreclosure action. This may not represent a large enough total debt so that the foreclosure action would collapse the business. The farm business may survive this type of foreclosure action while it would not survive the filing of an involuntary Chapter 7 liquidation action, if the latter were allowed under the law. In practice, however, foreclosure by a creditor is typically a last resort measure to protect his/her interest where a farmer has multiple creditors holding successive lien positions on the same assets. Thus, the farmer seeks protection from the remaining creditors through the Bankruptcy Code.

Being bankrupt means filing a petition in Federal court under Title 11 of the U.S. Code, asking for the protection of the bankruptcy laws. Bankruptcy occurs when individuals' or businesses' financial circumstances deteriorate to the point that they are entitled to take advantage of the Federal bankruptcy laws, which provide for the orderly handling by a Federal court of unpaid debt held by creditors[4]. At the heart of any discussion of insolvency law are at least two insoluble problems. The first is reconciling the use of insolvency law to benefit both the insolvent and the creditors. The second is finding a way to distribute the debtor's inadequate assets among competing meritorious claims. The problems are insoluble precisely because of the insolvency; there is not enough to do everything that would be desirable. It is impossible to square this circle. On the one hand, bankruptcy is a way out of trouble for hopelessly swamped debtors; on the other, it is an efficient means of collecting obligations. It is common, in discussions about bankruptcy, to see references to the concept of the "fresh start." This concept is absolutely central to modern American insolvency law.

Bankruptcy Options Available to Farm Debtors

The functions of bankruptcy through its options of either liquidation or reorganization are to provide (1) a means of protecting the debtor from creditors, and (2) a collective debt mechanism designed to enforce cooperation among the creditors through an orderly process that at the same time helps maximize the returns to creditors. Bankruptcy law in the U.S. is unusually, perhaps uniquely, complex. The Bankruptcy Code contains five operative chapters (7, 9, 11, 12, and 13) under which bankruptcy petitions may be filed with the bankruptcy courts. Each of the five chapters of the Bankruptcy Code provides for a different type of debtor relief case, and the provisions of each chapter usually apply only to a case commenced under that particular chapter. All petitions except Chapter 9, which applies exclusively to municipalities (including cities, counties, and public agencies, such as school districts and transit districts), may be used by farmers.

[4]In general, one does not need to be insolvent or meet any other test in order to be able to file for bankruptcy. The plaintiff who does not have a strong argument for filing for bankruptcy may file and take the risk that the court will later dismiss the case. Chapter 12 does have criteria intended to restrict the option to farmers, but persons sometimes file and contest whether their farming operation qualifies. The court then rules on the matter.

Table 1—Summary of differences among Chapters 11, 12, and 13, U.S. Bankruptcy Code

Differences	Chapter 11	Chapter 12	Chapter 13
Type	Business reorganization	Farm reorganization	Personal reorganization
Eligibility:			
a) Entities	All, except estates.	Family farmers who are individuals. Partnerships and corporations whose family assets are more than 80 percent in value of all assets and if more than 50 percent owned by one family and its relatives and one or more of them conduct the farming operations.	Individuals only.
b) Income restriction	None	More than 50 percent of total farm income in prior year must be from farming and on a regular annual basis--not an aberration.	Regular income must exist.
c) Debt limits	None	Farms and ranches with total debt less than $1.5 million and at least 80 percent of debt from farming.	Secured debts of $871,550 or less and secured debts of $290,525 or less.
Adequate protection before plan confirmation:	Cash payments to offset depreciation, replacement liens, such other relief as will result in the creditor realizing the indebted equivalent of the interest in the property or no payments at all if market values are not declining.[1]	Not typically an issue	Not typically an issue
Plan approval process:	Any class of creditors can block reorganization plan if it does not receive full payment and if a lower priority claimant receives anything. But there are other allocations when plan is accepted by all classes.	Secured creditors: a) They are paid at least the net present value of the collateral and they retain their lien, or b) they are given their collateral, or c) they approve the plan. Unsecured creditors: a) They are paid the amount they would receive in Chapter 7 and all projected disposable income is applied toward payments under the plan or b) they are paid the allowed amount of their claim.	Secured creditors: a) They are paid at least the net present value of the collateral and they retain their lien, or b) they are given their collateral, or c) they approve the plan. Unsecured creditors: a)They are paid the amount they would receive in Chapter 7 and all projected disposable income is applied toward payments under the plan or b) they are paid the allowed amount of their claim.
Plan for reorganization:			
a) Who files plan and when	Debtors, exclusively for 120 days and any extensions granted by the court. Thereafter, creditors may file a plan including one for liquidation.	Debtor has 90 days to file plan, longer only if "substantially justified."	Debtor has 15 days to file plan, but it may be extended for "cause shown."

continued --

Table 1—Summary of differences among Chapters 11, 12, and 13, U.S. Bankruptcy Code, continued

Differences	Chapter 11	Chapter 12	Chapter 13
b) Confirmation of plan	No time limit for confirmation of plan.	Expedited confirmation with hearing concluded within 45 days after plan is filed.	No time limit for confirmation of plan; but payments are to begin 30 days after plan is filed.
c) Automatic stay	Until confirmation of plan.	Length of plan. The stay is expanded to individuals liable with the debtor on consumer debt.	Length of plan. The stay is expanded to individual liable with the debtor on consumer debt.
d) Duration of plan for repayment of debt	No restriction on length of plan.	3 years (up to 5 years with court approval). Secured debt can be paid out over a period longer than plan duration.	3 years (up to 5 years with court approval). Debts (secured and unsecured) can be paid out over a period longer than plan duration.
e) Time limit for payment of priority tax claims	Up to 6 years after assessment date with interest.	Same as Chapter 13	Perhaps without interest for 3 years, up to 5 years for cause.
f) Provisions on property	Plan includes pre-petition and post-petition property and proceeds of the bankrupt entity.	Same as Chapter 13.	Plan includes all property acquired until debtor receives discharge, including "disposable income."
g) Provisions on modification of secured creditors' rights	Value for lien may be reduced to "current" value subject to creditor's Sec. 1111(b) election.	Modification is possible and debt payment may be for a reasonable or contract period.	Modification is possible, but the plan period or contract applies, except for personal residence.
h) Provisions for future earnings	Fundamental for plans for a continuing business. .	Same as Chapter 13	All disposable income is available for plan payments to unsecured creditors.
i) Standards for approval	Feasible with good faith in the best interests of creditors and subject to the absolute priority rule or approval of creditors.	Same as Chapter 13.	Good faith and best interests, but no absolute priority rule.
Costs:			
a) Filing fee	$500.	$200.	$90.
b) Trustee's fee [2, 3]	Generally no trustee is appointed unless debtor is charged with fraud, dishonesty, incompetence or gross mismanagement.	Trustee is required.	Trustee is required.
	If trustee, fees are set by the court. Payment is 15 percent on first $1,000; 6 percent on amounts greater than $1,000, but not more than $3,000; 3 percent on excess.	Fees set by statute and U.S. Trustee's office. Maximum of 10 percent of payments not to exceed $450,000; 3 percent on excess.	Fees set by statute and U.S. Trustee's office. Maximum of 10 percent of payments.
c) Professional persons	Employed by debtor in possession or trustee. Payment determined by the court based upon reasonable terms and conditions. (Persons employed may include attorneys, appraisers, accountants, and farm management experts.)	Employed by debtor, otherwise same as Chapter 11.	Employed by debtor, otherwise same as Chapter 11.

continued --

Table 1—Summary of differences among Chapters 11, 12, and 13, U.S. Bankruptcy Code, continued

Differences	Chapter 11	Chapter 12	Chapter 13
d) Debtor's attorney	Appointment is approved initially by the court and later payment approved by the court after careful scrutiny.	Same as Chapter 11	Same as Chapter 11
Debtor sale of encumbered assets:	Sales permitted, but an under-secured creditor may exercise Sec. 1111(b) rights.	Same as Chapter 13.	Sales permitted with the court's approval and with a lien on proceeds. Creditor has no Sec. 1111 (b) rights.
Disclosure statement required	Yes.	No.	No.
Discharge provisions:	Discharge granted by the time of the plan's confirmation if specified in the plan. However, no hardship discharge provision.	Same as Chapter 13	Discharge granted at the completion of the plan, unless a hardship exists. Then it may be granted earlier on a limited basis. Court may revisit disposable income requirement as part of a discharge inquiry.
Conversion:			
a) To Chapter 12	At the discretion of the bankruptcy court.	Not applicable.	At the discretion of the bankruptcy court.
b) To Chapter 7 liquidation	Yes, creditors or debtor also may propose liquidation in plan	Yes. Only the debtor may convert to Chapter 7. The court may convert if fraud is found.	Yes, only the debtor may move for liquidation.

[1]In 1988, the U.S. Supreme Court ruled that adequate protection did not mandate opportunity cost payments under Chapter 11. The Court concluded that under-secured creditors are only entitled to protection against a decrease in the value of their collateral, not compensation for delay in exercising their foreclosure rights (see United Savings Association of Texas v. Timbers of Inwood Forest Associates.)

[2]Trustees fees are calculated upon all payments made under a plan, except to the debtor, but including holders of secured claims. There is much variation among courts as to which payments can be made by the debtor outside of the plan and therefore outside of the trustee fee calculation. Payments to trustees for salary and expenses are limited by the Bankruptcy Code, with excess collections paid either to the U.S. Trustee Systems Fund or the Treasury of the United States depending on whether the judicial district is part of the U.S. Trustee System.

[3]In Chapter 11 and 12 cases, the debtor in possession may handle most of the duties of a trustee but without fee.

Source: Derived from (*39*).

Four Bankruptcy Chapters Available to Farmers

Under the Bankruptcy Code of 1978, as amended, farmers may file for bankruptcy under four alternative chapters of the U.S. Bankruptcy Code. These include Chapter 7 (liquidation), and Chapters 11, 12, and 13, which allow the debtor to reorganize a business by rearranging the debtor's financial affairs to allow for continued operation of the business under court protection.

Chapter 7

Chapter 7 is a liquidation, or straight bankruptcy. It provides for straight bankruptcy in the form of a liquidation proceeding and involves the collection and distribution of all the bankrupt's nonexempt assets according to priorities established in the Bankruptcy Code by a trustee appointed or approved by the court. It is not designed to reorganize or restructure debt, but to afford the debtor an opportunity to get out from under overwhelming debt obligations through obtaining a discharge of these debts. It is available to individuals, partnerships, and corporations other than railroads, insurance companies, and banks. Chapter 7 accounts for a majority of all bankruptcies, and most Chapter 7 cases are filed for personal and not business debts.

For a farmer, a Chapter 7 case makes sense only if the farmer intends to discontinue farming, or if the farmer is prepared to start over using exempt assets. If a farmer intends to continue farming, it is likely that one of the reorganization chapters (11, 12, or 13) will be more appropriate. These chapters all offer the farmer an opportunity to retain significant assets, particularly farmland, and to carry on the farming operation. If a farmer chooses to file under Chapter 7, a significant concern will be the extent of the farmer's exemptions. This issue will be particularly important to a farmer desiring to retain exempt assets to begin farming again. Exemption rules are set by the States and vary by State.

Chapter 11

A Chapter 11 case permits a debtor engaged in business to continue operating while it reorganizes its business and proposes a debt restructuring plan to its creditors. The debtor typically stays in possession and control of its assets while it negotiates with creditors regarding restructuring of its debts. A debtor will propose a plan for approval by creditors and for confirmation by the court. If confirmed by the court, the plan will bind the debtor and its creditors, and the debtor will receive a discharge of prepetition debts in conformance with the plan. A Chapter 11 case may be filed by nearly any person eligible to file a Chapter 7 case. Chapter 11 involves an individual or business reorganization, with most cases being the latter.

Restructuring debts under this chapter is a complex and expensive process. Successful reorganization usually requires the consent of at least the major creditors. Creditors are generally divided into a committee structure and then participate actively in the reorganization process. For these reasons, it is difficult to use Chapter 11 to effectively reorganize most farming operations. Chapter 11 is perhaps best suited to large businesses and to the corporate business structure. With the enactment of Chapter 12 in 1986, Chapter 11 is generally selected as the bankruptcy reorganization option only by farmers who do not qualify for reorganization under either Chapter 12 or Chapter 13 because of the amount of debt and the nature of their income.

Chapter 13

A Chapter 13 case allows an individual with regular income and debts, not exceeding specified statutory limits, to repay all or a portion of those debts over time through future income. Payments are made through a Chapter 13 trustee who distributes the payment to creditors. A plan under Chapter 13 involves the full or partial repayment of debt while assets are shielded from creditor action. Chapter 13 cases typically involve consumer debtors who make payments from future earnings, although the chapter is also available to small business owners. Individuals most commonly file under Chapters 7 or 13.

A Chapter 13 debtor is entitled to a broader discharge than is available to debtors under any of the other bankruptcy chapters. This chapter is sometimes referred to as "consumer reorganization." Chapter 13 was designed to meet the needs of a consumer, with regular income such as wages, who wishes to restructure his or her debts. It contains many provisions that are identical to Chapter 12, but does not allow as much latitude to the debtor in reorganizing real estate debt.

Chapter 13 bankruptcy is another alternative which is available for farmers with small or medium operations. Currently, in order to be eligible for relief in bankruptcy under Chapter 13, one must be "an individual with regular income" with unsecured debts of less than $290,525 and secured debts of less than $871,550. But problems for farmers under Chapter 13 include the fact that some

courts do not consider typical farm business income sufficiently "regular" and there is a restriction on scheduling debts beyond the 3-year plan term. Farm debtors who do not meet the requirements for Chapter 12 eligibility, but do qualify under Chapter 13 may consider this alternative.

Chapter 12

Chapter 12 represents the latest in a number of special considerations in the bankruptcy laws enacted since 1898 for family farmers.[5] It began as an emergency statute provoked by a crisis in agriculture and was scheduled to expire in a set number of years. Chapter 12 is the bankruptcy reorganization option specifically designed for the adjustment of debts of family farmers with annual household income which is stable enough to fund payments under a reorganization plan (*35*). For individuals, partnerships, and corporations which qualify, the proceeding can enable the family farmer to restructure indebtedness with secured creditors and to discharge certain unsecured debt that permit continuation of the farming operation. The Chapter 12 plan may provide for reducing the amount of secured claims to the value of the underlying collateral and paying those claims over an extended period of time. Unsecured claims may be paid over a 3- to 5-year period through payments that the farmer makes to a trustee out of the farmer's excess disposable income. If approved by the court, the plan binds the farmer-debtor and the creditors, and the debtor is discharged as set forth in the plan after the 3- to 5-year life of the plan.

Chapter 12, the Family Farmer Bankruptcy Act of 1986 (P.L. 99-554, 100 Stat. 3088), was signed into law on October 27, 1986, in response to the farm financial crisis of the 1980s, and became effective on November 26, 1986. It involved the adjustment of debts of a family farm (as defined in the Code) with regular income and makes available to farmers the equivalent of the existing Chapter 13 reorganization program. Chapter 12 cases are classified as business bankruptcies. Chapter 12 modified the normal Chapter 11 bankruptcy procedure by permitting farmers to submit a reorganization plan directly to the bankruptcy court, with no review by creditors. The plan is subject to specific requirements that guide what the farmer can and cannot do. Because creditors could not reject the debt repayment plan developed under Chapter 12, farmers could reduce the amount owed, extend the payment period, and lower the interest rate to current market levels, or a rate even lower, on existing loans. The writedown of secured debt was limited to current fair market value of the underlying land or other asset, which can be less than the original loan value.

The primary purpose of the legislation is to provide family farmers facing bankruptcy a means to reorganize their debts and keep their farms. Modeled after the existing Chapter 13, it was designed to prevent abuse of the system and to ensure lenders receive fair repayment. Sullivan et al. note that Chapter 12, "is a kind of super-Chapter 13 for family farmers only, enabling them to reap most of the benefits of Chapter 13 even though their debts are too great to qualify for that Chapter" (*38*, p. 26). In effect, Chapter 12 eliminated many of the barriers faced by family farmers who previously declared bankruptcy under Chapter 11 and Chapter 13. Most distressed family farmers had more than $100,000 of unsecured debt or more than $350,000 of secured debt which were the statutory limits of Chapter 13 in 1986. Thus, these farmers could not qualify for Chapter 13 bankruptcy. Chapter 11, on the other hand, is complicated, time-consuming, expensive, and unworkable with regard to most farm bankruptcies. Chapter 11 was designed primarily for large corporate reorganizations and involves submitting a repayment plan which must pass strict statutory requirements. The submission and review of the repayment plan often requires more time and money than the distressed family farmer can endure, and, hence, Chapter 11 is not a readily workable option for the farmer. The advantage of Chapter 12 was that it was streamlined especially for the family farmer.

Chapter 12 gives family farmers in financial stress relatively more power to demand concessions from lenders than Chapter 11. Under Chapter 11, where farmers typically filed before Chapter 12 became effective, creditors have the right to block the debtor's plan and force liquidation. The availability of Chapter 12 to eligible farmers encourages creditors to negotiate debt-restructuring arrangements outside bankruptcy.

Of the changes offered by Chapter 12 relative to the other bankruptcy alternatives, two particular provisions have the greatest consequences for preserving the farming business in that they increase the incentive to reorganize rather than liquidate or continue farming without the intervention of the legal system. The first change is the relaxation of the absolute priority rule, similar to

[5]Examples include Section 75 of the Bankruptcy Act of 1933 (204, 47 Stat. 1467), and the 1934 Frazier-Lemke Act (869, 48 Stat. 1289) (as amended in 1935 in 792, 49 Stat. 942). The latter remained in effect until 1949. Frazier-Lemke permitted a farmer to retain possession of all farm assets for a 5-year period while the proceedings were stayed after payment of a reasonable rental fee. The 3- to 5-year workout provision of Chapter 12 was derived from Frazier-Lemke.

Chapter 13 bankruptcy. The absolute priority rule refers to provisions in the Bankruptcy Code that determine the order in which each claimant is paid and the amount each claimant class receives. Under Chapter 11 any class of creditors can vote to block a reorganization plan if that class does not receive the full value of its claims and any lower priority class receives any payment or retains any property. Under Chapter 12, creditors do not vote on the plan and can block its confirmation only if an individual creditor will not receive at least as much as it would under Chapter 7 liquidation[6]. This change allows the debtor to retain possession of farm assets, while secured claims are written down to the current market value of the security. The undersecured portion of each claim is then treated equally with all other unsecured claims.

The second change is the relaxation of the definition of adequate protection of secured creditors' interests. Benefits arise from avoiding liquidation of the firm through the provisions of Chapter 12 intended to aid in the preservation of the family farm and, at the same time, maintain the integrity of the bankruptcy system by ensuring that farm creditors are fairly protected. Fostering a policy of farm business reorganization as opposed to liquidation, Congress passed Chapter 12 to remedy the farmer's inability to successfully reorganize under the existing Bankruptcy Code.

Adequate protection relates to the retention and use of collateral by a debtor during the course of the bankruptcy case. The provisions of adequate protection are generally applicable to Chapter 12. The one variation in Chapter 12 is that adequate protection can be provided for real estate collateral through payments equal to market rent. Because rental payments for agricultural assets are typically considerably lower than principal plus interest costs on their value, provisions in Chapter 12 represent a significant advantage to the debtor relative to previous provisions.

A summary of some of the important differences among the provisions of the latter three chapters of the Bankruptcy Code—11, 12, and 13—is presented in table 1. These differences include eligibility, the definition of adequate protection, the application of the absolute priority rule, whether creditors may file a reorganization or liquidation plan, the duration of the plan, the creation of a separate taxable estate, and the duration of the automatic stay against lender foreclosure.

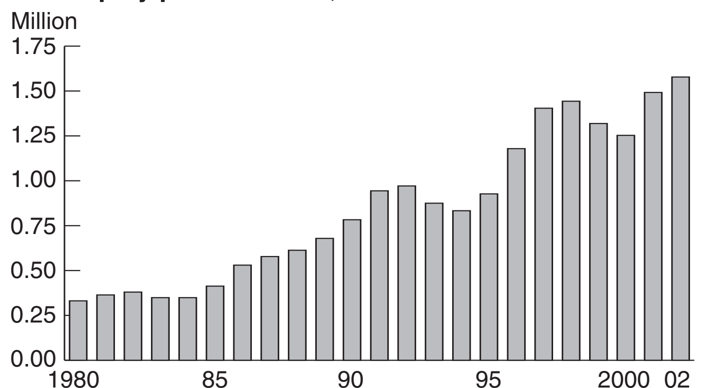
Chapter 12's Extensions

Chapter 12 originally was to expire on October 1, 1993, but it has been extended 10 times. On August 6, 1993, just under 2 months before its sunset date, Chapter 12 was renewed to October 1, 1998. From that point forward there have been nine additional extensions of Chapter 12. It expired once again on January 1, 2004. This law has lapsed seven times and is currently in a lapsed state. The first six lapses were followed by subsequent renewals with retroactive provisions. But assurance that Chapter 12 was available at all times and regions was absent after October 1, 1998, because of the lapses in the law. It was technically impossible to file during the lapses although some courts allowed filing in anticipation of a renewal by Congress. The current 108th Congress has been working to extend Chapter 12 and any extension, if it follows past patterns, most likely will contain retroactive provisions. See the Appendix for the legislative history of Chapter 12.

Bankruptcy Reform Efforts and Farmers' Options

There has been an ongoing debate on national bankruptcy policy in the United States for many years in part spurred by the rising number of bankruptcies being filed (*9, 28, 29*). Total U.S. bankruptcy filings for both business and non-business categories increased from 331,265 in 1980 to 1,577,651 (376.3 percent) in 2002 (fig. 1). Total filings grew 136.4 percent during 1980-90 and another 101.5 percent during 1990-2002. Total filings in 2002 continued to break historic records and grew 5.7 percent from 2001. Over the last seven years, bankruptcy

Figure 1. Total U.S. business and nonbusiness bankruptcy petitions filed, 1980-2002[1]



[1]Year ending December 31.
Source: (*3*).

[6]Creditors can object on numerous other grounds. The important distinction is that the court rules on the objection and can confirm despite objection if requirements of Chapter 12 are met.

filings in Federal courts have fluctuated, but have never dropped below the million-mark, first broken in 1996. The increase in filings during 2002 may have been due to a number of reasons, including a slowing economy, readily available credit from numerous sources, borrowers' willingness to take greater borrowing risks, and a bankruptcy bill pending in Congress that would have imposed stricter limits on consumer debt dischargeability.

In the early 1990s there was a feeling in Congress that there had been a revolution in the previous two decades in the way American families borrow and use credit and the way American businesses finance their growth. Congress postponed immediate action by waiting for a commission to present reform alternatives that could be considered for legislation.

Under the bankruptcy reform legislation of 1994, the 103rd Congress (1993-94) established the National Bankruptcy Review Commission as an independent body to study bankruptcy policy and make recommendations to Congress. The Commission was created as an independent body to investigate and study issues relating to the Bankruptcy Code, to solicit divergent views on the operation of the bankruptcy system, to evaluate the advisability of proposals, and to prepare a report to be submitted to the President, Congress, and the Chief Justice not later than 2 years after the date of its first meeting, which took place on October 20, 1995. The Commission presented its 1,300-page report with 172 recommendations to the 105th Congress (1997-98) on October 20, 1997 (*32*). The report included a chapter on farmer bankruptcy with recommendations to eliminate the sunset provision in order to make the Chapter 12 legislation permanent and increase the aggregate maximum allowable debt limit from $1.5 million to $2.5 million per farm. It also advocated changing trustee payment procedures and making a number of more minor changes.

Congress has been struggling with the contentious issue of comprehensive bankruptcy reform without success for several years. Omnibus legislation was introduced in each Congress beginning with the 105th (1997-98) to implement a major overhaul of the Federal Bankruptcy Code. Two bills were introduced in the 105th Congress coincident with the issuance of the National Bankruptcy Commission report that would have dramatically changed the manner in which consumer bankruptcies were administered under the Bankruptcy Code. However, the session ended before differences in the Senate and House versions could be resolved. In the 106th Congress (1999-2000), Congress passed legislation, but the bill died as the result of a pocket veto by the President (*23*). The 107th Congress (2001-02) passed their versions of the bill by wide margins, but were unable to ultimately agree on a compromise package to send to the President (*23*). The 107th Congress was active by extending Chapter 12 four times as stand alone legislation, plus it extended it as a part of the 2002 Farm Act, the "Farm Security and Rural Investment Act of 2002" (P.L. 107-171, 116 Stat. 532). In the current 108th Congress (2003-04), the House has passed a comprehensive bankruptcy reform bill as the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2003" (H.R. 975).

The agricultural sector's Chapter 12 was a subpart of all of the comprehensive reform proposals of recent years (*54*). All of the proposed legislation would make Chapter 12 a permanent part of the Bankruptcy Code with some relatively minor modifications. Modifications that have been proposed in the stalled bankruptcy reform efforts that have been considered include some or all of the following:

- expanding the population of debtors who could take advantage of Chapter 12 by indexing the amount of debt (currently $1.5 million) that a debtor may have and still seek Chapter 12 protection;

- increasing the $1.5 million maximum amount of debt (without indexing) that may be held by a debtor owning a farming operation;

- reducing from 80 percent to 50 percent the amount of that debt that must arise from a farming operation owned by such a debtor;

- eliminating the requirement that a debtor wishing to file under Chapter 12 receive from farming more than 50 percent of his or her gross income for the taxable year preceding the taxable year in which he or she files for bankruptcy by requiring that such a debtor receive more than 50 percent of his or her gross income from farming in only one of the three preceding taxable years;

- restricting the ability to modify a plan to recognize an increase in a debtor's disposable income; and

- adding a new category of "family fisherman" to Chapter 12 governing family farm reorganization.

Historical Farmer Bankruptcy Trends

During the past century American agriculture's economic fortunes varied widely. Cochrane and Gardner have documented these financial swings (*10, 20*). Even casual observers of economic history are aware of the Great Depression of the 1930s. But, as Cochrane notes, an economic depression began for farmers in 1920 well ahead of the stock market crash of October 1929 (*10*, p. 132). Gardner not only notes the problems of the 1920-40 period, but also focuses on the financial and credit problems experienced by the farm sector in the early- to mid-1980s (*20*).

First Half of the 20th Century

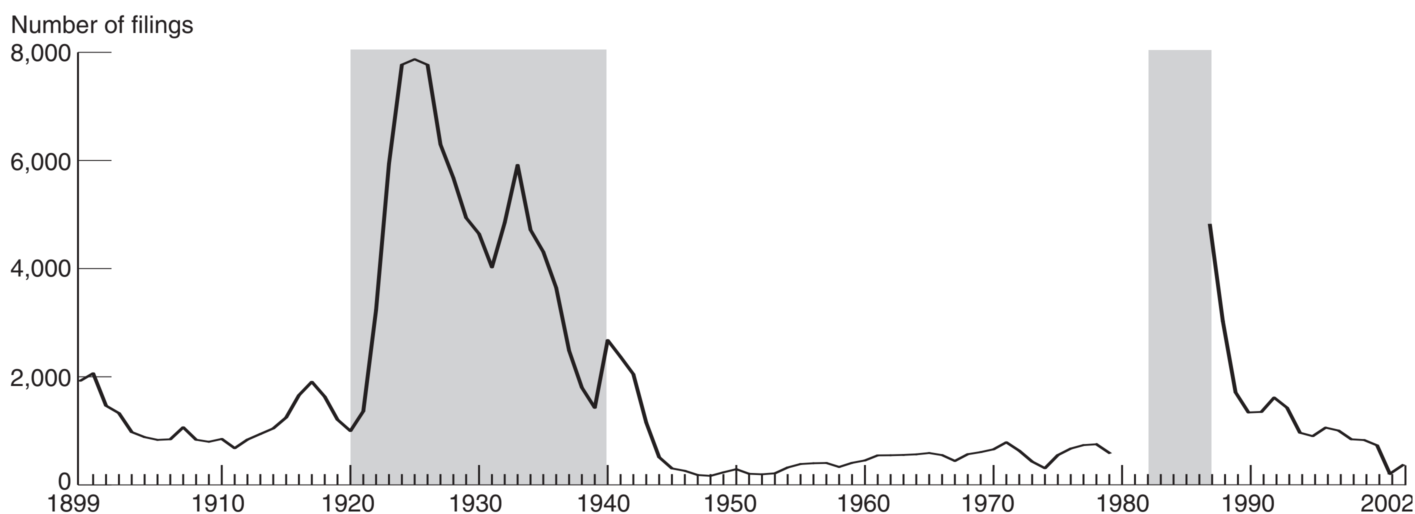
The first half of the 20th century experienced one major episode of heightened farmer bankruptcy filings (Chapters 7, 11, or 13) (fig. 2). Farmer bankruptcies soared during the extended period from 1920 through the Great Depression of the 1930s, but rates were moderate during 1900-20 and very low after 1943 (fig. 2). Reasons for this are complex. The agricultural sector was generally prosperous during the first two decades of this century. The 1910-14 period is often regarded as the golden age of American agriculture (with the subsequent farm parity price formula being based on these years), and was then followed by a boom during World War I.

After 1920, however, commodity prices collapsed. Sharply lower incomes left many farmers, who had borrowed to finance land acquisition and improvements before 1920, unable to repay their loans. The problems continued or were intensified by the general economic collapse in 1929 leading to the Great Depression and by widespread adverse weather problems affecting agriculture in the 1930s. Changes in farmland prices illustrate the magnitude of the economic forces at work. Nominal U.S. average farmland prices fell from a post-World War I high of $69 per acre in 1920 to a Great Depression low of $30 per acre in 1933. Per acre farmland values then slowly increased in most subsequent years, but it was 1951 before the per acre nominal value exceeded that of 1920. Conversely, the moderate pace of farmer bankruptcy filings ended in 1920.[7] Total filings for 1920-29 jumped 332.2 percent over 1910-19. Bankruptcies totaled 51,863 between 1920 and 1929 as the farm economy collapsed following the economic boom induced by World War I. The all-time-high single year farmer bankruptcy total was registered in 1925, when 7,872 farmers filed for bankruptcy, a rate of 12.2 per 10,000 farms based on 6.37 million farms.[8]

[7]Farmer bankruptcy data reported in appendix table 1 are for the year ending June 30 throughout the series. Annual bankruptcy data only were reported on the basis of the previous U.S. Government fiscal year ending June 30 until 1976, when the new fiscal year ending September 30 was introduced.

[8] Bankruptcy rates are reported in terms of bankruptcies per 10,000 business firms. The denominator in this calculation for farm bankruptcy rates in appendix table 1 is the number of farms in a given year. In these calculations one farm equals one farm operator because of the way the data are reported in the census of agriculture. The census of agriculture defines a farm operator as the person who does the farm work or who makes day-to-day decisions about the farm business. Census data collection procedures allow only one person to be identified as the operator, regardless of any shared management arrangement. Therefore, according to the census, the number of operators is the same as the number of farms.

Figure 2. Total farmer bankruptcy cases filed, by year, 1899-2002



Note: Shaded areas indicate general periods of farm financial stress. All applicable bankruptcy chapters were included for the 1899-1979 data. Data for 1987-2002 are for Chapter 12 only. Data for 1980-86 are not reported due to changes in the bankruptcy law.
Sources (*2, 4, 5, 6, 52,* and *55*).

There were 37,814 farmer bankruptcies from 1930 to 1939, with 28,460 of these occurring during the 1930-1935 period (fig. 2, appendix table 1). The farm financial crisis of the Great Depression left some long-lasting impressions, including accounts of the migration of rural residents from the Midwest, South, and Great Plains to the cities of these regions and to the Pacific States in search of better employment opportunities. These accounts also include scenes of multiple auctions of farms and farm assets in numerous rural settings, as foreclosures and bankruptcies took their toll. Foreclosed farms and their assets were auctioned to the highest bidder at numerous sheriff's sales under the auspices of the courts.

The improvement in farm financial conditions generated by World War II, the rising demand for food around the world in its aftermath, and the beginning of the Cold War caused total farmer bankruptcies during 1940-49 to decline 73.7 percent compared with 1930-39. Just over four-fifths of the 1940s farmer bankruptcies occurred during the 1940-43 period after which the annual filings dropped considerably following the war-induced improvement in farmers' economic fortunes (fig. 2, appendix table 1). The farm sector had experienced over a decade of severe economic stress at the time the United States entered World War II in December 1941. Farm bankruptcy rates (a lagging economic indicator) continued at a high level through 1942 (3.73 per 10,000 farms—excluding sharecroppers), and it was 1943 before they began to fall (to 2.11 per 10,000 farms) as World War II induced improved economic fortunes for American farmers (*34*). By 1944 there was a dramatic decline to 0.94 bankruptcies per 10,000 farms.

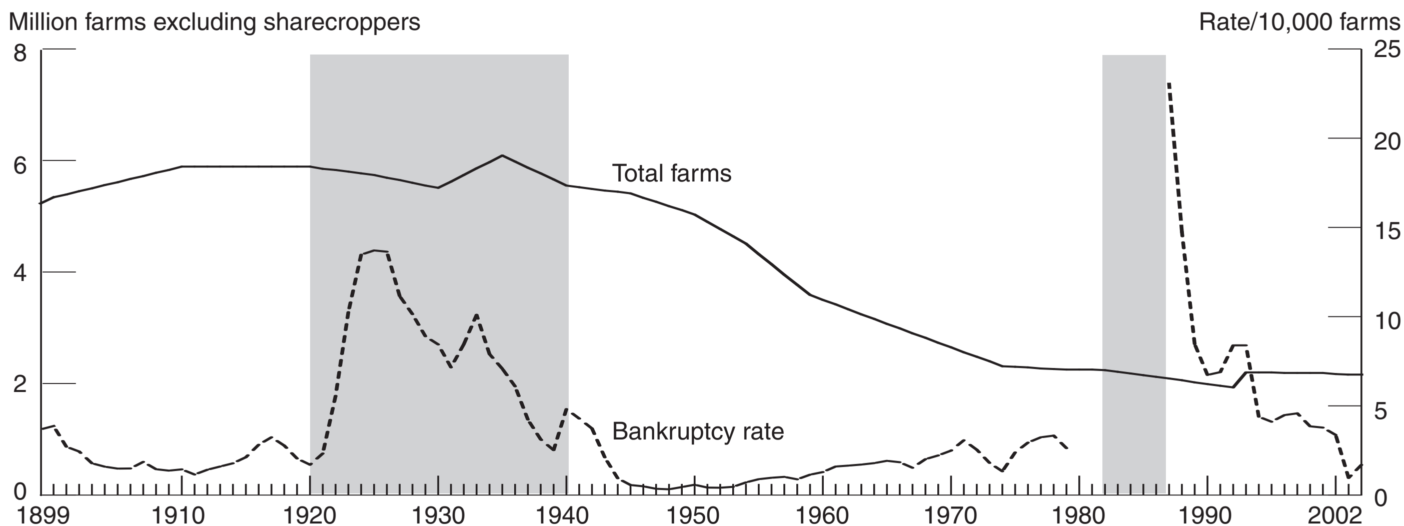
It is revealing to examine the trends in the bankruptcy rate per 10,000 farms for the first half of the 20th century. Here, in calculating this rate in appendix table 1, the total number of all sharecroppers are subtracted from the total number of farms before the bankruptcy rates are calculated.[9] This yields a better measure of farms subject to bankruptcy.[10] The historical farmer bankruptcy rates (excluding sharecroppers) are given in the right column of appendix table 1 and graphed in figure 3. The 20th century began with modest rates that trended down until a low was experienced at 1.15 bankruptcies per 10,000 farms in 1911, during the 1910-14 golden age of American agriculture. The post-World War I depression

[9] Farm numbers through 1992 in appendix table 1 were taken from the census of agriculture with straight-line interpolation used to fill in the intercensal years. Beginning in 1993 data on farm numbers were obtained from the U.S. Department of Agriculture's National Agricultural Statistics Service (NASS). See footnote 9 of appendix table 1 for details regarding the post-1992 NASS farm numbers.

[10] Because sharecroppers actually were wage laborers largely paid in kind, they are dropped from total farm figures in calculating farmer bankruptcy rates (*8*). Sharecropper numbers peaked at 783,459 or 12.5 percent of all farms in the 1930 Census of Agriculture, but their importance dwindled and they were no longer enumerated after the 1959 Census of Agriculture, when they accounted for only 3.3 percent of all farms.

Figure 3. Total farms (excluding sharecroopers) and farmer bankruptcy cases filed per 10,000 farms, 1889-2002

Farm-sector financial stress during the 1920's, 1930's, and 1980's led to higher bankruptcy rates but had little effect on farm numbers.



Note: Shaded areas indicate general periods of farm financial stress. All applicable bankruptcy chapters were included for the 1899-1979 data. Data for 1987-2002 are for Chapter 12 only. Data for 1980-86 are not reported due to changes in the bankruptcy law.
Sources (*2, 4, 5, 6, 45, 46, 47, 50, 51, 52,* and *55*).

in the farm sector's economic health caused the rate to jump in the 1920s with six years (1923-28), having farmer bankruptcy rates in excess of 10 per 10,000 farms with a high of 13.71 per 10,000 farms in 1925. Rates were not as high even during the Great Depression of the 1930s with only one year (1933) having over 10 bankruptcies per 10,000 farms. Rates fell when times improved in World War II and during its aftermath. The all-time low rate of 0.32 bankruptcies per 10,000 farms was experienced in 1948.

Second Half of the 20th Century

The 1950-79 period was characterized by declining farm numbers and modest though increasing numbers of farmer bankruptcies (figs. 2 and 3). It is instructive to analyze the total farmer bankruptcy figures for this period and compare them with earlier periods. A total of 14,697 farmer bankruptcies were filed during the entire three-decade 1950-79 span, which was only 28.3 percent of the total filings experienced in the single decade of the 1920s alone. There were no administrative or legislative changes that caused farmer bankruptcy rates to continue to run this low. Off-farm job opportunities generally were good after 1950, helping to absorb the surplus farm labor, as farms consolidated largely without bankruptcy or foreclosure being factors.

The second episode of concern about farmer bankruptcies in the 20th century came during the early to mid-1980s, 50 years after the Great Depression and 60 years after the highest rates of farmer bankruptcies occurred. In the 1980s, there were 2.25 million farms and a much differently structured industry than during the earlier period of financial stress in the 1920s and 1930s. The economic climate of the 1970s encouraged farmers to expand production in an effort to benefit from improved export opportunities and strong commodity prices, farm income, and farmland values. High rates of inflation and low real interest rates further encouraged investment in farmland. Abundant credit from various sources helped finance the expansion. A considerable number of farmers took on heavy debt loads and became quite vulnerable to sudden shifts in economic forces.

Economic conditions reversed in the early 1980s, when export markets contracted and input prices and interest rates rose. Monetary policies designed to reduce inflation prompted interest rates to rise to unprecedented levels in the early 1980s. The financial stress became more severe when declines in farm commodity prices, income, and land values (the largest asset used to secure debt) made it difficult for some farmers to service their debts. These economic changes produced the most severe financial stress for the U.S. farm sector since the 1920s and 1930s.

There are no farmer bankruptcy data for the crucial 1980-86 period that covered the farm financial crisis period. Bankruptcy statistics specifying a filer's occupation, including farmer, were recorded by the Administrative Office of the U.S. Courts until October 1979. Under the Bankruptcy Reform Act of 1978 (P.L. 95-598, 92 Stat. 2549), these occupational data were no longer reported. The only exception are quarterly data on those who filed for bankruptcy protection under Chapter 12. Some 21,655 Chapter 12 bankruptcies were filed from the date of its implementation on November 26, 1986 to December 31, 2000 (app. table 1).[11] Chapter 12 bankruptcies totaled 9,556 during the 1980s and 12,064 during 1990-2000 (app. table 1). There were 4,812 Chapter 12 bankruptcies filed during the year ending June 30, 1987 for the highest annual total since 1933. The 1987 filing rate of 23.05 per 10,000 (even though it excludes the Chapter 7, 11, and 13 farmer bankruptcies filed that year, for which no data exists) dwarfs that of 1925 and 1933 which were 13.71 and 10.10 per 10,000, respectively (app. table 1).[12]

Bankruptcies per 10,000 farms for the Nation were low during the post-1950 period until Chapter 12 was enacted (fig. 3, app. table 1). After Chapter 12 was implemented in November 1986, a large number of filings occurred in the year ending June 30, 1987 (app. table 1). The result for 1987, as noted above, was a bankruptcy rate of 23.05 per 10,000 farms. This is the highest annual bankruptcy rate recorded, eclipsing the previous high experienced in 1925. However, the 1987 rate probably includes farmers who had waited for the new legislation to take effect; the rates in subsequent years were influenced by the writedown-of-debt provisions of Chapter 12. The up-to-5-year workout and profarmer provisions of Chapter 12 invited filings in its early years that would not have been experienced under the provisions of the Bankruptcy Code prior to 1986 (*35*).

One study conducted in Missouri gives some information on the relative use of Chapter 12 by farmers vis-à-vis the other chapters. Matthews, Kalaitzandonakes, and Monson conducted a complete enumeration of all farms filing for bankruptcy from 1981 through 1989 (*26, 27*).

[11]There were 206 and 365 Chapter 12 farmer bankruptcies filed during 2001 and 2002, respectively (appendix table 1).

[12]There were 2.1 million farms in 1987 compared with 5.7 and 5.9 million (excluding sharecroppers), respectively, in 1925 and 1933 (appendix table 1).

During 1981-85, 67 percent of the Missouri farm bankruptcies were Chapter 7, 29 percent were Chapter 11, and 4 percent were Chapter 13. In the first three years of Chapter 12 (1987-89), there were 853 farm bankruptcies filed, but only 374 (44 percent) were Chapter 12 filings. Half of the 853 filings were Chapter 7, and the remaining 6 percent were Chapter 11 and Chapter 13 filings. This suggests that Chapter 12 was substituted for Chapter 11 to a large extent, and for Chapter 7 to a lesser extent. Matthews et al., felt that the availability of Chapter 12 would severely depress the use of the other reorganization Chapters (11 and 13) in the longer run (*27*). They felt that Chapter 12 was a key tool in helping financially troubled farmers keep their operations going and that it added significant bargaining leverage with their creditors.

Farmers welcomed Chapter 12 and used it frequently during its first two years of existence. What is remarkable is that the pre-1979 bankruptcy filings reported in figures 2 and 3 sum over all possible farmer bankruptcy options, whereas the totals for 1986 forward include only farmers filing under Chapter 12. Given the evidence of Matthews et al., it is clear that in the late 1980s bankruptcy filings by farmers were occurring at rates greatly in excess of levels observed previously in the century (*26, 27*). Part of this phenomenon can be attributed to a pent-up demand by farmers waiting for the enactment of Chapter 12. Since 1993 Chapter 12 filing rates per 10,000 have generally remained higher than those in the years previous to 1979 when there was not widespread financial peril in the farm sector. This is compounded by the fact that farmers could also avail themselves of Chapters 7, 11, and 13 during the 1990s. And many farmer bankrupts are undoubtedly forced into Chapters 7, 11, and 13 since Chapter 12 requires that at least 80 percent of total debts be farm related.

One reason that farmer bankruptcy filing rates are higher post-1986 than pre-1979 is that farmers are attracted to Chapter 12 because of its more accommodating features for farmers than bankruptcy options available prior to 1986. But the higher rates are also consistent with increases in overall bankruptcy filing rates being generated by the U.S. population (fig. 1). It is evident that Americans in general are much less reluctant to file for bankruptcy relief than they were two decades ago. Shephard and Collins estimated that a 1-percent increase in the nonfarm bankruptcy rate was associated with a 0.44 percent increase in the farm bankruptcy rate over the 1946-78 period (*33*). The result is that even with improved farm financial conditions in the 1990s and declining Chapter 12 filing rates since inception, bankruptcy filing rates among farmers were most likely higher in the 1990s than in other periods of comparative financial well-being in the latter half of the 20th century.

Regional Differences

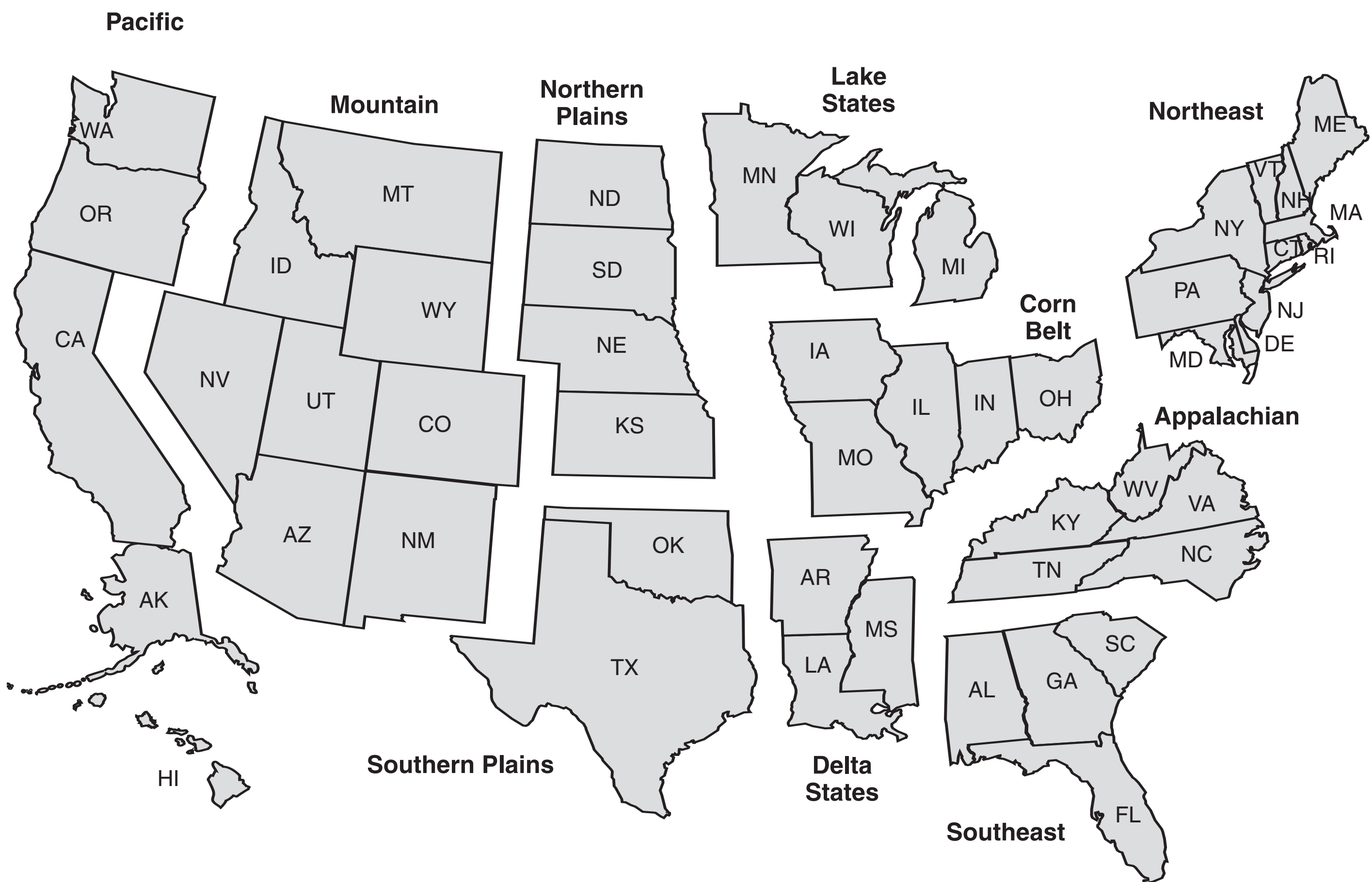
Chapter 12 total filings vary considerably by region. The number of Chapter 12 filings for the years ending December 31 for each of the 10 U. S. Department of Agriculture farm production regions (fig. 4) on an annual basis for 1986-2002 are given in appendix table 2.[13] Since Chapter 12 began in November 1986, a total of 22,519 Chapter 12 petitions were filed through December 31, 2002.[14] The fraction of farmers filing for bankruptcy varies across regions as would be expected (table 2). Each value in appendix table 2 was divided by the number of farms in that region, as defined by NASS to obtain the statistics in table 2.[15] The results show the number of Chapter 12 filings per 10,000 farms in each region in each year. A very important initial observation is that 1987 (the first full year that Chapter 12 was available) showed the greatest amount of activity on a per farm basis (table 2). Farmer bankruptcy rates during

[13]Prior to fiscal 1999, the U.S. Department of Agriculture classified the States into 10 regions based on homogeneity of the resource base and agricultural production. These 10 regions and the States that comprise each are shown in table 2 and in figure 4. In fiscal 1999 new regional classifications were developed that follow crop reporting district lines and cut across State lines. However, since the data examined in this article are aggregated at the State level, only the prior regional classifications are utilized.

[14]Farmer bankruptcy data reported in table 2 and appendix table 2 are based on the calendar year ending December 31. Farmer bankruptcy data in appendix table 1 are reported on a year ending June 30 basis. This is because the historical annual bankruptcy data were reported by the Administrative Office of the U.S. Courts only on a fiscal year basis with the fiscal year ending on June 30 for most years prior to 1980. The end of the Federal fiscal year was changed from June 30 in 1976 to September 30 beginning in 1977 through the use of a transition quarter consisting of the July-September period in 1976.

[15]Given the inclusive concept of a farm under the NASS (and census of agriculture) definition of farms, it should be recognized that some of the NASS definition farms may not qualify for Chapter 12. Since 1974 a farm has been defined as any establishment from which $1,000 or more of agricultural products were sold or would normally be sold during the year. This includes the entire period of the Chapter 12 bankruptcy law that was enacted in 1986. Chapter 12 eligibility criteria (not less than 80 percent of the liquidated debts from the farming operation and those who receive more than 50 percent of their gross income from farming operations for the taxable year preceding filing) are narrower than the single NASS definition of a farm and tend to impact the large number of smaller farms. Thus, a simple count of NASS farms exceeds the number of farms eligible for Chapter 12 provisions. Also, urban fringe areas generally support high land values thus diminishing write down possibilities under Chapter 12.

Figure 4. Farm production regions



Source: Economic Research Service.

1987-2002 were highest in all regions for the year 1987. As noted above, this undoubtedly reflects, in part, a pent-up demand for Chapter 12 due to the agricultural financial crisis of the mid-1980s to avoid filing under other bankruptcy chapters. Also, the Agricultural Credit Act of 1987 (P.L. 100-233, 99 Stat. 1717), enacted on January 6, 1988, placed a temporary moratorium on Farmers Home Administration (FmHA) loan foreclosures and required consideration of principal and interest write-downs on debt restructuring for both FmHA and the Farm Credit System (FCS). These provisions likely offered an alternative to Chapter 12 and produced Chapter 12-like results without the cost and paperwork of bankruptcy filing. Therefore, it is not surprising that the flow of Chapter 12 filings fell in the years following 1987. Moreover, the overall financial standing of the agricultural sector began to improve from 1987 onward.

The second important pattern revealed in table 2 data is that the Northeast and Appalachian regions had much less bankruptcy activity than the remaining regions. The smaller farms sometimes located near metropolitan areas facilitate off-farm work found in these regions and may have served to reduce the bankruptcy rates.[16] The smaller farms found in these areas also are less amenable to Chapter 12 because this section of the Bankruptcy Code requires at least 50 percent of gross household income must come from farming. In addition, there are other farm-related requirements that do not favor very small farms. In contrast, the Northern Plains, Delta States, and Mountain regions all exhibited high farmer bankruptcy rates. The Northern Plains with relatively large farms experienced a great deal of farm financial stress in the mid-1980s and it was slow to subside. The Delta States and Mountain regions had higher farmer bankruptcy rates that extended into the 1990s making their 1986-2002 overall rates higher than average.

Third, although farmer bankruptcy rates fell after 1987-88 in all regions, they remained elevated by historical

[16]Also, urban fringe areas generally support high land values thus diminishing write down possibilities under Chapter 12.

Table 2.—Chapter 12 farmer bankruptcy case filings per 10,000 farms by farm production region, 1986-2002

	Farm production region[1]										
Year[2]	Northeast	Lake States	Corn Belt	Northern Plains	Appalachian	Southeast	Delta States	Southern Plains	Mountain	Pacific	United States
	Number per 10,000 farms										
1986[3]	0.57	2.14	2.15	7.46	2.74	2.83	3.39	1.57	3.42	1.47	2.67
1987	6.38	20.22	27.73	78.43	14.24	20.55	43.24	15.21	44.79	22.23	27.40
1988	2.56	7.61	9.63	18.31	3.15	6.40	13.71	7.06	21.11	11.48	9.20
1989	1.62	6.50	6.36	11.21	2.15	5.14	9.27	6.44	12.90	9.92	6.59
1990	3.38	5.83	5.07	11.52	2.56	7.33	10.76	5.30	11.35	6.47	6.23
1991	5.86	6.56	4.87	9.85	2.86	8.88	14.57	6.48	12.88	7.83	6.99
1992	4.77	7.24	5.97	12.30	3.85	7.78	13.63	6.69	15.25	7.66	7.57
1993	5.19	6.34	4.74	9.08	2.30	5.00	10.83	3.91	8.93	7.04	5.61
1994	4.38	4.78	2.80	6.58	1.96	3.93	6.42	3.40	6.07	5.28	4.05
1995	5.16	4.73	2.80	7.15	2.04	5.00	4.71	3.56	6.28	5.52	4.21
1996	5.58	4.51	2.64	10.51	2.08	5.00	9.22	5.65	5.67	4.90	4.99
1997	5.77	3.76	2.11	8.26	1.48	4.94	7.52	4.71	8.28	3.62	4.32
1998	3.86	3.71	2.18	7.96	1.88	4.56	5.27	3.17	6.72	2.58	3.68
1999	3.46	2.88	3.37	9.18	1.94	3.99	4.28	3.22	6.19	2.62	3.80
2000	2.42	1.59	1.85	2.66	0.62	1.33	2.32	1.38	4.32	2.30	1.86
2001	1.35	1.15	1.20	3.24	0.62	2.61	1.51	1.82	1.77	4.12	1.77
2002	1.83	1.78	1.78	3.38	0.72	1.39	4.23	2.46	3.80	3.53	2.23
Total[4]	3.77	5.46	5.25	13.06	2.82	5.65	9.75	4.68	10.35	6.32	6.08
1986-88	3.16	9.94	13.07	34.78	6.71	9.88	20.00	7.92	23.05	11.73	13.04
1989-02	3.91	4.43	3.44	8.13	1.93	4.74	7.43	4.07	7.73	5.19	4.55

Note: Northeast=CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT. Lake States=MI, MN, WI. Corn Belt=IL, IN, IA, MO, OH. Northern Plains=KS, NE, ND, SD. Appalachian=KY, NC, TN, VA, WV. Southeast=AL, FL, GA, SC. Delta States=AR, LA, MS. Southern Plains=OK, TX. Mountains=AZ, CO, ID, MT, NV, NM, UT, WY. Pacific=AK, CA, HI, OR, WA.
[1]Data exclude Guam, Puerto Rico, and the Virgin Islands. [2]Ending December 31. [3]Filings began on November 26, 1986. [4]Total Chapter 12 farmer bankruptcies for 1986-2002 divided by all farms for 1986-2002 for each respective region.
Source: Calculated from data obtained from *3, 45, 46, 47, 48*, and *49*.

standards for several years (table 2). For example, the U.S. rate was 27.4 in 1987 and 9.2 in 1988. During the 1989-94 span, the U.S. Chapter 12 bankruptcy rate varied from 4.05 to 7.57 per 10,000 farms and was even higher in several of the regions (table 2). These rates were similar to some of the rates experienced for all farmer bankruptcies during the Great Depression years of 1930-37 (appendix table 1). One major difference, however, was that Chapter 12 represented an opportunity for a 3 to 5 year workout from financial problem, whereas the 1930-37 farmer bankruptcy filings typically were the death knell of the business. The Chapter 12 rate has generally trended downward since 1987 in all regions with only small to moderate increases in some of the years before a general downward trend resumes (table 2).

Fourth, as annual filing rates declined through time, the regional disparities in rates diminished although they do not disappear (table 2). For example, during the 1986-88 period, the U.S. filing rate per 10,000 farms was 13.04 with a range from a low of 3.16 (Northeast) to a high of 34.78 (Northern Plains). The Northern Plains' rate was 11 times that of the Northeast. But during 1989-2002, the U.S. filing rate fell to 4.55 with a low of 1.93 (Appalachian) to a high of 8.13 (Northern Plains). The Northern Plains rate was 4.2 times that of the Appalachian rate. The overall U.S. filing rate for the entire 1986-2002 period was 6.08 with a high of 13.06 (Northern Plains) and a low of 2.82 (Appalachian). The 1986-2002 Northern Plains rate was 4.6 times that of the Appalachian rate.

Chapter 12 Discharge, Conversion, and Dismissal Rates

Filing a Chapter 12 bankruptcy does not guarantee the debtor will emerge successfully from the plan and continue as a viable business. The heart of a Chapter 12 plan is to reorganize debts such that the principal outstanding on secured debt is lowered to current market value and the terms of such debt are possibly changed. Unsecured

debts are paid off to the extent possible within the plan's timespan. When that period is completed, typically from 3 to 5 years, the debtor receives a discharge. This means the debtor has fulfilled his/her obligations under the plan and all remaining unsecured debt need not be paid back. Payments on secured debt continue after the plan period under the terms specified by the plan. However, at the beginning of a Chapter 12 filing, there is no guarantee that: (1) the debtor will present a plan that will be deemed viable and confirmed by the court and, (2) a debtor will be able to comply with the terms of a confirmed plan over the plan's life. "Success" in Chapter 12 can be defined as receiving a discharge from the court. Cases can also be resolved by negotiations between debtors and creditors outside of bankruptcy, or a termination by the court that is less satisfactory to the debtor, creditors or both than a discharge or negotiated settlement.

Types of Outcomes and Plan Length

A Chapter 12 filing is typically terminated in one of three ways. The first is the discharge (table 3). The second is *dismissal* by the court (table 3). A case can be dismissed for any number of reasons. One reason is the debtor does not file a viable plan. This can arise from the debtor failing to file any plan at all to filing a plan that is judged unworkable by the court. However, the court can dismiss a case even after some payments have been made under a confirmed plan. Thus, dismissal can be either pre or post confirmation. The third possible outcome is conversion to another chapter in the Bankruptcy Code. As with dismissal, this can occur either pre or post confirmation. Other types of termination are used infrequently.

Under the Code a plan can run from 3 to 5 years after confirmation. The time from filing to plan confirmation is not to exceed 135 days. However, Flaccus and Dixon found the average time from filing to confirmation for a sample of Arkansas Chapter 12 cases was over 6 months which indicates some flexibility by the court (*16*).

Case Disposition

Table 3 gives percentages of Chapter 12 cases terminated by the end of 1991, 1996 and 2001 as a function of calendar year filed.[17] In a similar format, percentages of terminations that were discharges, dismissals or conversions are also given in this table. Table 3 does not include all possible termination categories. The sum of discharges, dismissals and conversions is less than the number of terminations. For the most part the other terminations are transfers from one district to another. Termination types also omitted are: discharge not applicable, discharge waived/revoked, discharge denied or, for a few filings, cases closed but without a correct termination code in the records.

Time to termination is decreasing for cases filed in later years. For cases filed from 1987-1991 the percentages of cases terminated by 1991 are lower than the percentages for cases filed from 1992-1996 and terminated by 1996 and those filed in 1997-2001 and terminated by 2001. For example, of the 5,788 cases filed in 1987, 64 percent were terminated by 1991. By contrast for cases filed in 1992, 72 percent were terminated by the end of 1996. The time to termination rates do not display much variability in the 1990s.

As noted in Dixon, Flynn and Flaccus, receiving a discharge in Chapter 12 is far from certain (*15*). Cases filed in the earliest years of Chapter 12 have the highest discharge rates. Cases filed in 1986 and 1987 have discharge rates just over 50 percent (52 and 51 percent, respectively). Cases filed in later years, 1988-1996, have lower discharge rates ranging from 42 percent to 28 percent. However, the latter two years, 1995 and 1996, have lower percentages of terminated cases, therefore, their respective discharge rates of 31 and 28 percent can be expected to rise as more time elapses and remaining open cases are terminated. From 1997 onward it is more difficult to analyze discharge rates because a large percentage of the cases remain to be terminated and discharges tend to come later than dismissals and conversions. To see this, observe in table 3 that as time elapses for any given filing year, the discharge rate never declines over time and usually increases. Dismissal rates for a given year generally decline as the time from filing increases. Conversions are a fairly constant proportion of terminations after the first year of filing.

The declining discharge rates over time are complemented by increasing dismissal rates. For cases filed in 1986 and 1987, 26 percent and 27 percent of the terminated cases received dismissals as of 2001, respectively. For cases filed from 1988 though 1996, these percentages rise and range between 40 and 50 percent. The rates for 1995 and 1996 might decline somewhat as open cases are terminated. The percentages of conversions to other bankruptcy chapters are more constant over time, leaving the discharge and dismissal rates as the changing rates.

[17]In table 3 the numbers of cases filed (total filed) are not consistent with those in the last column of appendix table 2. The data used in constructing table 3 come from a continually updated database. The numbers of filings regularly published by the Administrative Office of the U.S. Courts are not updated.

Table 3—Disposition rates of Chapter 12 bankruptcy cases as of year end: 1991, 1996, and 2001

Year filed	Total filed[1]	Filed cases terminated by the end of:[2]			Terminated cases discharged by end of:			Terminated cases dismissed by end of:			Terminated cases converted to Chapter 7, 11 or 13 by end of:		
		1991	1996	2001	1991	1996	2001	1991	1996	2001	1991	1996	2001
	Number							*Percent*					
1986	557	69	98	99	39	52	52	34	26	26	19	16	15
1987	5,788	64	99	100	36	51	51	37	27	27	20	16	16
1988	1,962	50	98	99	19	42	42	61	38	38	17	14	14
1989	1,411	39	97	99	5	37	38	80	44	44	14	14	13
1990	1,313	28	94	99	2	35	36	80	45	43	15	15	16
1991	1,477	7	85	98	5	32	37	85	45	41	4	18	17
1992	1,606		72	98		31	42		50	40		15	13
1993	1,237		58	98		12	36		66	45		20	17
1994	901		45	97		7	35		75	50		15	13
1995	927		34	91		8	31		77	49		13	17
1996	1,085		12	86		5	28		82	51		7	18
1997	955			72			19			60			19
1998	813			54			13			66			19
1999	841			45			6			75			15
2000	408			37			5			80			13
2001	383			9			15			76			6
Total	21,664												

[1]Figures include observations from Puerto Rico. 2 The discharged, dismissed, and coverted case percentages do not add to 100 percent of terminated cases because terminations also include some other minor classifications, such as cases transferred to other jurisdictions.
Source: (*1*).

As noted earlier, the length of time before a case is terminated has decreased over time. In contrast, the percentage of cases receiving discharges as a function of year of filing and length of time to receiving the discharge does not vary greatly over time. In order to observe this, annual cumulative percentages of cases filed from 1987 through 1996 and discharged by the end of 2001 can be computed for years subsequent to the filing year. For example, 46 percent of the cases filed in 1987 and discharged by the end of 2001 had been discharged by the end of 1991. For the cases filed between 1988 and 1994, the percentage of cases receiving discharges within 4 years ranged from 52 percent to 56 percent. Roughly three-quarters of the cases filed from 1988-1994 receiving discharges were terminated within 5 years of filing. It is not surprising that 4 to 5 years is the norm for receiving discharges since plans can run from 3 to 5 years. The fact that cases filed in 1987 took longer to receive discharges is likely due to parties involved in the process having to learn how to use (the new) Chapter 12.

Time to dismissal is decreasing. The data show that the later the year of filing, the higher the percentage of terminated cases dismissed tends to be. For example, of the 1,565 cases filed in 1987 that were dismissed by the end of 2001, 1,359 (87 percent) received the dismissal within 4 years of 1987. In contrast, for cases filed from 1988-1996, the percentages of dismissals within 4 years of filing (given that a case was dismissed by 2001) were higher than the 1987 rate. Cases filed in 1988 and 1991 had 90 percent of their dismissals within 4 years and 97 percent of the 1996 dismissals came with 4 years. All the other years between 1988 and 1996 had rates between 90 percent and 97 percent. Also, first year dismissal rates for cases filed in the early and mid 1990s increased from 15 percent in 1991 to 22 percent in 1996.

Although not shown in table 3, 81 percent of the conversions through 2001 were to Chapter 7. Ten percent of the conversions were to Chapter 11 and 9 percent were to Chapter 13. The high Chapter 7 conversion rate is not surprising considering that both Chapters 11 and 13 are also reorganizations. If a farmer cannot reorganize successfully to obtain a discharge under Chapter 12, the next preferred alternative apparently is liquidation (Chapter 7). Chapter 7 gives a farm operator a fresh start and is more debtor friendly than Chapter 11. Chapter 13 has lower debt limits than Chapter 12 and, therefore, some farmers filing in Chapter 12 may not be eligible to

file in Chapter 13.[18] The preference for Chapter 7 has grown over time. By the end of 1991, 72 percent of the conversions to that date were to Chapter 7. For the cases filed from 1996 to 2001, 90 percent of the conversions were to Chapter 7.

Factors Inducing Chapter 12 Bankruptcy Rates To Decline

Chapter 12 filing rates have generally trended downward through time since the 1987 high (table 2, app. table 1). The reasons for this are complex and involve not only improved farm sector economic conditions, but legal and institutional changes as well. Since 1980 an assortment of measures have been undertaken by the Federal Government to enable farmers to cope with a variety of economic challenges and to remain in business. Many of these actions were spurred by the 1982-86 farm financial crisis and its aftermath. The intent of these actions was to assist farmers, and the results may be to retain more farmers in agriculture than would have been the case in the absence of these programs. The new laws had a lasting impact on agricultural credit markets.

Improved Farm Sector Economic Conditions

Farm economic conditions generally improved following the financial crisis of 1982-86. Farm income increased, debt levels declined, land values increased, and when commodity prices did fall in late 1998, the Federal Government increased financial assistance.

[18]In October 1994 the limit on unsecured debt in Chapter 13 was raised from $100,000 to $250,000 and the limit on secured debt was lifted from $350,000 to $750,000 by the Bankruptcy Reform Act of 1994 (P.L. 103-394, 108 Stat. 4107). Currently, the unsecured debt limit is $290,525 and the secured debt limit is $871,550.

Farm Income Increased

Both net farm income and net cash farm income increased in the mid- to late-1980s and into the 1990s as the farm sector recovered from the farm financial crisis (fig. 5). Net cash income gives a measure of the funds that farmers have available to purchase assets, retire debt, and cover all other expenditures. Net farm income assesses the net value of calendar-year production, including the portion placed in storage. Increased farm income was a factor, other variables being equal, in reducing the demand for farmer bankruptcy filings.

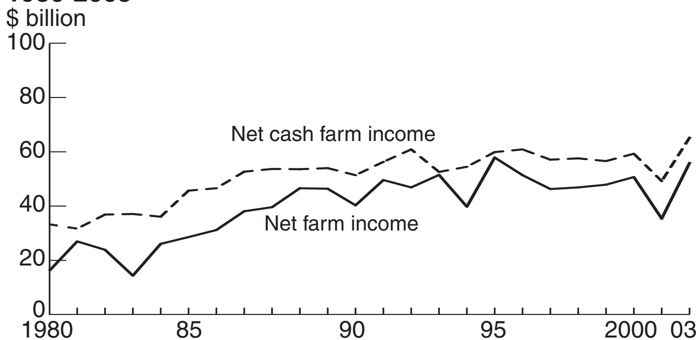
Debt Levels Subsided

Total farm sector debt peaked at $188.8 billion in 1984 during the farm debt crisis. It then dropped 30.6 percent to $131.0 billion by 1989 as farmers both paid down and charged off debt. During 1985-89, agricultural loan chargeoffs by the three lender categories—commercial banks, Farm Credit System, and Farm Service Agency—totaled $13.7 billion (*36*). Total farm debt outstanding at the end of 2002 at $193.3 billion represented an increase of 47.6 percent from the low in 1989 (*36*). The farm debt burden may be measured by comparing farm debt with net cash income. The ratio of farm debt to net cash income peaked at 5.62 in 1981 (fig. 6). The decrease in farm sector debt coupled with income growth dropped it to a low of 2.21 in 1993 and it never got higher than 2.92 in the 1990s. These developments would tend to reduce the demand for Chapter 12 bankruptcy filings.

Land Values Increased

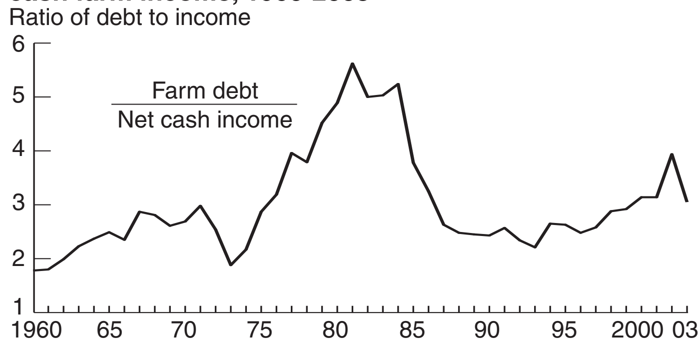
Another factor changing the demand for Chapter 12 is the different farmland value situation in the 1990s. Chapter 12 has advantages in a depressed farmland market, if one expects recovery, but in recent years farmland values have been increasing (fig. 7). For example, the

Figure 5. Net farm income and net cash income, 1980-2003



Source: (*42*).

Figure 6. Total farm sector debt compared with net cash farm income, 1960-2003



Source: (*41, 42*).

precipitous decline in farmland values was one of the most difficult aspects of the farm financial crisis of the 1980s. Farmland typically comprises 75-80 percent of total farm sector assets. One of the factors inducing the use of Chapter 12 at that time was the expectation that if farmers used its 3 to 5 year workout provisions, farmland values would rebound and the farmer would be much more creditworthy at the end of the period.

U.S. farmland values did begin a recovery after 1987 and they more than doubled on a per acre basis by 2003 (fig. 7). The steady growth in farmland values in the 1990s did not offer the farmer a substantial rebound from a depressed farmland situation as was the case that characterized the mid-1980s. Farmers in financial difficulty in the 1990s could not blame depressed farmland collateral values for part of their problems. Nor could they use Chapter 12 for a 3 to 5 year workout in the hope of a farmland price rebound. Farmland prices were already climbing.

Government Payments Helped Stabilize Farm Income

Government assistance has helped stabilize farm income and reduce the need for bankruptcy filings. Such assistance has been delivered via an array of legislation ranging from the periodic farm acts to diverse pieces of emergency legislation in response to a variety of problems, weather, disaster, and otherwise. During the 1980s direct government program payments to farmers in the wake of the farm financial crisis peaked at $16.7 billion in 1987 (fig. 8). Generally favorable conditions were experienced by the farm economy over the 1990-98 period, contributing to a strengthening of farmers' financial pictures. But beginning in the latter half of 1998, declining farm commodity prices left reduced farm revenues. For example, crop sales fell from an annual average of $105.3 billion during 1995-98 to $94.3 billion in 1999-2002. Federal payments helped make up the revenue shortfall increasing to $22.9 billion in nominal dollars in 2000. In real terms, the direct payments received by farmers in 2000 ($21.4 billion) were the second highest annual payout on record, with 1987 ($21.6 billion) being the highest (fig. 8). (Real values were deflated from nominal values using the Gross Domestic Product (GDP) chain-type index where 1996 equals 100.)

Institutional Shifts Benefit Farmers

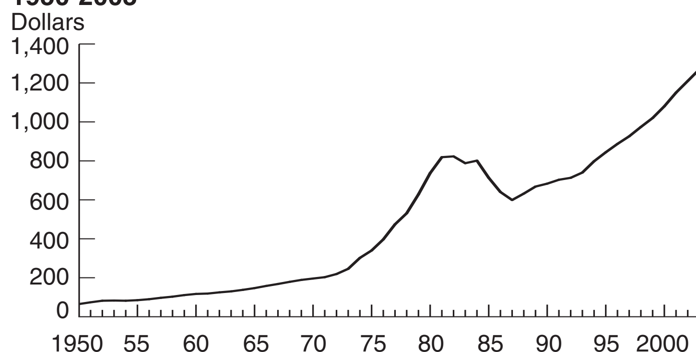
A number of institutional measures were made to assist farmers during the past two decades. Three have major importance for farmers facing the possibility of filing for bankruptcy. The first two, farm loan mediation and borrower rights, grew out of the 1982-86 farm financial crisis and its aftermath. The third, enhanced risk management, has long been a concern, but came to its own during Federal policy actions of the 1990s.

Farm Loan Mediation

The general goal of mediation programs is to provide a forum for financially distressed farmers and their creditors to discuss alternative solutions to threatened foreclosure and bankruptcy. The presence of a mediator helps to facilitate the discussion, control individuals' frustration, monitor individuals' failure to act in good faith, and to keep the discussion focused on developing a feasible financial plan for the farm. Farm mediation programs can reduce the level of farmer bankruptcy activity for all bankruptcy chapters.

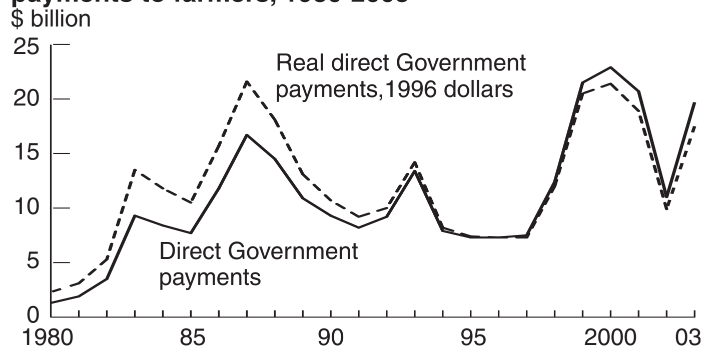
The U.S. Department of Agriculture's mediation program was born out of the farm financial crisis of the 1980s. The Farmers Home Administration (FmHA) farm loan portfolio peaked at $24.5 billion in 1985 and represented 13.8 percent of all farm debt, and the FmHA share

Figure 7. Average value of U.S. farmland per acre, 1950-2003[1]



[1]Includes the value of farmland and buildings.
Source: (*24, 40, 43, and 44*).

Figure 8. Direct Federal Government farm program payments to farmers, 1980-2003



Source: (*42*).

peaked at 16.3 percent in 1987. At the end of January 1988, about 85,000 FmHA farm borrowers were delinquent, and another 33,000 were in bankruptcy, foreclosure, or some other related "inactive" status. The loan portfolios of delinquent borrowers totaled over $11.4 billion, with about $9.6 billion in overdue payments of principal and interest.

The farm credit crisis provided fertile soil for innovation in the mediation field. In 1985, Iowa and Minnesota launched farmer-creditor mediation programs to keep their farmers and lenders from being overwhelmed with bankruptcy and foreclosure actions. During the fall of 1986, 10 additional States started mediation programs. While progress was being made at the State level, FmHA ruled that State governments could not mandate participation by a Federal agency in mediation and county FmHA officials could not attend any mediation sessions under either a mandatory program or a voluntary program. The FmHA decision was based on the historic Eighth Circuit Court of Appeals decision in Coleman vs. Block in which the court ruled that FmHA could not foreclose on a loan because it had not adequately notified borrowers of their rights.[19]

This ruling prevented the U.S. Department of Agriculture from foreclosing on loans and by extension from participating in any process that could lead to foreclosure. Many settlements that for various reasons depended on FmHA's participation were delayed. Consequently, farmers began filing for bankruptcy because FmHA would then be forced to participate in bankruptcy proceedings. This led to national legislation supporting mediation, including a provision defining the rights of borrowers.

Congress showed its support for the concept of State mediation programs by enacting several provisions involving State mediation programs in the Agricultural Credit Act of 1987 (P.L. 100-233, 101 Stat. 1717). This legislation institutionalized farmer-creditor mediation at the Federal level. Section 502 of the Act authorized the Secretary of Agriculture to help States develop USDA Certified State Mediation Programs and to participate in those programs. The U.S. Department of Agriculture's Farm Service Agency (FSA) administers the program through the Administrator's Outreach Staff. The Act also authorized an appropriation of $7.5 million for each of the fiscal years 1988 through 1991, with the Federal matching grants to the States limited to the lesser of 50 percent of the cost of any State program or $500,000 each year of the cost of any State program. Actual appropriations were less than the authorization. The funds could only be used for operation and administration of the mediation program. They were to be awarded only if the Secretary of Agriculture had certified the State as a qualifying State.

The 1987 Act required the Secretary to write regulations mandating that all programs which guarantee or insure agricultural loans participate in good faith in mediation programs. This included the FmHA and Agricultural Stabilization and Conservation Service (ASCS) and later the successor agency—the FSA created in fiscal 1995. The law also required that as of the date of enactment, January 6, 1988, FmHA and ASCS must participate in good faith in any State mediation programs. The agencies were also required to both present and explore debt restructuring proposals that may arise in mediation.

The program has continued to be viable with the U.S. Department of Agriculture certifying 32 State programs since August 1988. It also has obligated a total of over $35 million for U.S. Department of Agriculture Certified Mediation Programs since August 1988 and 29 States currently are in the program.[20] The annual funding has ranged between $2 and $4 million. The total number of mediation clients was 5,081 and the number of resolutions was 3,782 in fiscal 2002.[21] Thus, some 74 percent of all mediation cases resulted in agreements or resolutions in fiscal 2002. The mediation program helps producers avoid expensive litigation and bankruptcy. Farm loan mediation legislation has been extended three times.

Mediation and Chapter 12 farmer bankruptcy actions have a complex interaction. Mediation can serve to help reduce the farmer bankruptcy rate. But an important

[19]In early 1984 in Coleman vs. Block [Coleman v. Block 580 F. Supp. 194 (D.N.D. 1984)] decision Judge Bruce Van Sickle of the U.S. District Court of North Dakota imposed a moratorium on foreclosure actions by FmHA pending adequate notification to the borrowers of servicing options and appeal rights. The moratorium was lifted by the court in November 1985 with publication of revised servicing regulations by FmHA. However, in May 1987 further adverse actions of FmHA were discontinued with the reimposition of the moratorium in an additional ruling by Judge Van Sickle [Coleman v. Lyng, 663 F. Supp. 1315 (D.N.D. 1987)]. FmHA was prohibited even from contacting farmers to discuss payment problems.

[20]States currently in the program include Alabama, Arizona, Arkansas, California, Colorado, Florida, Idaho, Illinois, Indiana, Iowa, Louisiana, Kansas, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Nevada, New York, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming.

[21]In comparison, in calendar 2002 a total of 482 Chapter 12 farmer bankruptcies were filed (appendix table 2).

impact of Chapter 12 is its influence on lenders to seek resolution outside of bankruptcy courts. Many lenders prefer mediation to Chapter 12 proceedings (*11, 53*). A farmer in financial difficulty must choose between filing of a bankruptcy case or mediation with creditors without filing a bankruptcy case. An out-of-court workout is almost always preferable for both lenders and the borrower, if the debtor can persuade its creditors to agree voluntarily to a compromise or extension of the debt. This is often not possible, of course, and a bankruptcy filing will be the only alternative.

Borrower Rights

Federal legislation in the 1980s enhanced the contractual rights of farm borrowers vis-à-vis the FmHA and FCS (*25*). This had the effect of giving farmers another set of options before being forced into bankruptcy. The net effect of such changes was to lower the demand for farmer bankruptcies, especially under the provisions of Chapter 12. The Food Security Act of 1985 (P.L. 99-198, 99 Stat. 1354) first addressed borrower rights for FmHA borrowers. The act placed limits on the time taken by FmHA to approve or disapprove loans and disburse loan money, required written notice of loan actions, provided new appeal mechanisms for adverse loan decisions, and allowed borrower access to loan file information. The act also introduced homestead protection rules to assist former FmHA borrowers in reclaiming their farm homestead after being acquired by FmHA. Former borrowers were given the right to rent out their farm homestead for up to five years, and the right to repurchase it at any time during the rental agreement.

The Farm Credit Amendments Act of 1985 (P.L. 99-205, 99 Stat. 1678) contained borrower rights rules for the Farm Credit System (FCS). It required FCS institutions to give borrowers complete and accurate information on loan interest rates and terms, access to FCS loan documents, and placed a farmer-director on FCS credit review committees which are involved through the appeal process. Prior to the 1985 Act, FCS loan servicing regulations spoke of forbearance in default cases when reasonable to do so where the borrower is cooperative, making an honest effort, and capable of working out his debt burden. Forbearance contemplates an effort to rehabilitate a farmer borrower and to avoid liquidation. The 1985 Act codified that FCS institutions adopt a policy governing forbearance actions. Each FCS district board must have a written policy describing circumstances when restructuring of loans will be considered, setting forth criteria, and providing for internal review. Restructuring can include deferral or rescheduling of principal or interest, renewal or extension of a loan, a reduction in interest rate, a write-off of principal, and other actions that will make it probable that the operations of "borrower will become financially viable."

The Agricultural Credit Act of 1987 (P.L. 100-233, 101 Stat. 1717) furthered earlier rights given to FmHA and FCS borrowers. Stricter borrower notification requirements of loan actions and legal rights, and greater access to loan information were required by the Act. But, most importantly, the Act required that both FmHA and the FCS implement mandatory debt restructuring policies and, thus, possibly increase their borrowers' ability to avoid losing their farms through foreclosure. For the FCS, each district was required to adopt debt restructuring policies calling for the restructuring of delinquent loans before foreclosure proceedings could begin. Loans were to be restructured if such restructuring would be of a lower cost than foreclosure. Restructuring could include reamortizations, deferrals, interest rate adjustments, and the write-down of loan principal and interest. Prior to the legislation many FCS districts had been aggressively restructuring loans on a voluntary basis.

Similar, but more encompassing debt restructuring rules, were required of FmHA by the 1987 Act. The new rules were part of a comprehensive loan servicing policy which had the objective of reducing high FmHA Farmer Program delinquencies, while keeping farmers on the farm at the lowest cost to the government. The new policy provided delinquent farm borrowers with specific servicing tools to assist them. Initial consideration included rescheduling and reamortization, reducing interest rates, and payment deferral. If these were not sufficient in assisting the borrower, FmHA was required to writedown debt to an amount that the borrower could repay as long as this would result in greater recovery than foreclosure. If this was not sufficient to save the farm, FmHA was required to offer the borrower an opportunity to purchase the entire debt at the net recovery value of the collateral.[22] All loan decisions were required to be made under strict deadlines and were subject to strong appeal rights.

If restructuring did not avoid foreclosure, both the FCS and FmHA were required to also give former borrowers the right to lease or repurchase property that they had acquired in foreclosure. Former FCS borrowers had the

[21]Net recovery buyout was offered if the debtor could not cash flow the net recovery value in a restructured loan. This option was changed in 1996 to buyout at the current market value of the loan security.

right to repurchase their lost farm at fair market value and the right of first refusal (the opportunity to match an offer made by another person) before the acquired farm could be sold or leased to another person. If the farm property came into FmHA ownership, former borrowers had even greater rights. They had the right to lease lost property with an option to buy, or exercise homestead protection rights if the property contained their residence. Lost property could be repurchased at its current market value. Leaseback and buyback rights could be extended to immediate family members.

Enhanced Risk Management

Understanding risk helps farmers develop strategies for mitigating the possibility of adverse events, and aids in circumventing extreme outcomes, such as bankruptcy or foreclosure. During the past two decades there has been increased attention to risk management in the farm sector, especially in the wake of the farm financial crisis of the early- to mid-1980s. Farmers have employed a gamut of risk management tools. Federal assistance flowing through expanded crop yield insurance and crop revenue insurance programs coupled with expanded use by farmers have been central to this effort. Federal legislation was passed enhancing crop insurance in 1980, 1990, 1994, 1996, 1998, 1999, and 2000. Although growers obtain insurance through private companies and their agents, the Federal Government plays a prominent role in the provision of crop insurance. During 1995-98, the U.S. Department of Agriculture's Risk Management Agency (RMA), which administers programs of the Federal Crop Insurance Corporation (FCIC), spent about $1.2 billion per year, on average, for premium subsidies, administrative and operating subsidies, and net underwriting losses (*13*, p. 16). The premium subsidy increased to $1.7 billion in 2001-02. About 16 private insurance companies deliver crop insurance through a network of 14,000 crop insurance agents.

Crop yield insurance provides payments to a crop producer when realized yield falls below the producer's insured yield level. Coverage may be through private hail insurance (or other single peril insurance) or federally subsidized multi-peril crop insurance. Multiple peril crop insurance (MPCI) was established in the 1930s to cover yield losses from most natural causes. MPCI operated on a limited basis up through the early 1980s, when insurance availability was greatly expanded and premium subsidies increased in hopes of replacing the disaster payment program. Major changes introduced in 1994 by the Crop Insurance Reform Act (P.L. 103-354, 108 Stat. 3208) expanded the program. In 2002, the FCIC had insurance products for over 100 commodities covering both crop and livestock production. Program liability has increased from nearly $28 billion in 1998 to over $37 billion in 2002. Insured acres increased from nearly 182 million in 1998 to over 215 million in 2002. In 2002, over 50 percent of the insured acreage was insured at 70 percent or higher coverage compared to only 9 percent in 1998.

Crop revenue insurance pays indemnities to farmers based on revenue shortfalls instead of yield or price shortfalls. Several revenue insurance products, including Crop Revenue Coverage, Income Protection, Revenue Assurance, Group Risk Income Protection, and Adjusted Gross Revenue are offered to producers. These products are subsidized and reinsured by RMA. Revenue insurance, a cousin of MCPI, was introduced after the 1994 legislation and became available in 1996 as a part of the FAIR Act (P.L. 104-127, 110 Stat. 888). A pilot program was authorized by the 1996 Farm Act. Crop revenue insurance has become the most popular form of insurance for some crops in some areas, and now accounts for about 40 percent of all insured acres. Revenue insurance products pay a producer when any combination of yield and price result in revenue below the revenue guarantee selected by the producer.

The 1994 Crop Insurance Reform Act also introduced a number of changes including the introduction of catastrophic coverage (CAT), increasing premium subsidies for coverage levels above CAT, and establishing Noninsured Assistance Program (NAP) for crops not covered by insurance.[23] Farmer participation has grown as new types of insurance have been included and premium subsidies have been increased. Coverage under the current crop insurance programs are designed so that the government can eliminate or at least substantially reduce the need for ad hoc disaster assistance payments to the agricultural community. Current CAT program participation rate is about 80 percent of farms.

Premium subsidies, a prominent feature of the crop insurance program since the early 1980s, were increased in 1999 when premium discounts were added to existing premium subsidies in the Agricultural Appropriations Act (P.L. 106-78, 113 Stat. 1135). In 2000, Congress passed the Agricultural Risk Protection Act of 2000 (ARPA) of

[23]NAP payments are direct payments to producers of crops for which crop insurance is unavailable. NAP originally had an area yield loss trigger in addition to a farm yield loss trigger. The area yield loss requirement was eliminated in the Agricultural Risk Protection Act of 2000 (P.L. 106-224, 114 Stat. 358).

2000 (P.L. 106-224, 114 Stat. 358). It increased subsidy rates and increased government funding of premium subsidies for 2001-05, moved to equal subsidy rates for yield and revenue insurance, and authorized pilot programs for new forms of insurance (*14*). Since the enactment of ARPA, premium subsidies, the largest program cost item, have averaged $1.7-$1.8 billion per year. Producers have been moving to higher coverage levels since ARPA increased premium subsidies at higher coverage levels. In 2002, RMA provided approximately $37 billion of protection to farmers, and paid indemnity payments to farmers for 2002 losses of approximately $4.2 billion.

Farm Bankruptcies and Farm Sector Structure

Farm structure typically refers to a broad set of characteristics that describe U.S. farms, as well as the distribution of farm production resources and returns to those engaged in farm production activities. It is steadily evolving because of changes in production technology, off-farm opportunities, and the organization of markets and linked industries.

Bankruptcies and Farm Exits

The challenge is to take the bankruptcy information that has been developed and compare it to farm exits. The goal is to derive measures that will answer the question concerning the relative importance of bankruptcies to farm exits. Gross exit (and entry) or turnover are much larger than indicated by net changes in farm numbers. A small change in farm numbers masks larger underlying offsetting changes. The focus below is on the measurement of gross farm exits. Available relevant studies of farm exits largely deal with the post-1980 period.

First, consider the available studies that yield gross farm exit numbers. Murdock, Potter, Hamm, Backman, Albrecht, and Leistritz (1988) estimated that 213,500 farmers in the 472 farming-dependent counties would discontinue farming between 1985 and 1995 due to the long-term implications of the farm crisis (*30*, pp. 143-45).[24] The 213,500 farm failure figure during the 10 years was termed conservative by the researchers (*30*, p. 145). According to U.S. Department of Agriculture analysis published in 1989, the "…best we can tell by piecing together various bits of information…" is that some 200,000-300,000 farmers became bankrupt, foreclosed, and/or were financially restructured because of farm sector financial stress between 1980 and 1988 (*12*). Goetz and Debertin (2001) using Bureau of Economic Analysis proprietorship and other data estimated that there were 233,000 farm proprietor exits for 1987-97 (*21*, p. 1014). Gale (2003) estimated, based on detailed analysis of census of agriculture data, that 205,800 farms exited the sector for all reasons (not just financial) during the 1978-87 period and another 166,800 farms left during the 1987-97 span (*17*).

These studies yield annual gross exits in the range of 16,700 to 37,500 farms. There were 22,519 Chapter 12 bankruptcies filed during 1986-2002 (app. table 2). This converts to an average of 1,325 Chapter 12 filings per year. However, farmers also could file under Chapters 7, 11, and 13 and the data do not exist for these. The only study that looks at the entire range of farmer filings since Chapter 12 was enacted was conducted in Missouri (*26*, *27*). It showed that in the first 3 years of Chapter 12 (1987-89), that Chapter 12 filings comprised 44 percent of total farmer filings. Thus, based on this research if one doubles the Chapter 12 filing rate to 2,650 per year, still only 7.1 to 15.9 percent of all 1986-2002 farm exits would be accounted for by bankruptcy filings.

Next, let us turn to the studies of farm exit rates. Based on work conducted by Gale and Peterson (1990) using longitudinal data from the census of agriculture, it is estimated that 27 percent of all U.S. farms in 1978 exited the sector by 1982, or 6.75 percent per year (*19*). Gale and Henderson (1991) analyzed published data from the census of agriculture's "years on present farm" series that yielded exit estimates of 18.6 percent (4.65 percent per year) for 1978-82 and 23.7 percent (4.74 percent per year) for 1982-87 (*18*).[25] Later work published in 2003 estimated farm exit rates of 18 percent (4.5 percent per year) for 1978-82, 23.5 percent (4.7 percent per year) for 1982-87, 24 percent (4.8 percent per year) for 1987-92, and 17.5 percent (3.5 percent per year) for 1992-97

[24]Farming-dependent counties are nonmetropolitan counties in which agriculture generates 20 percent or more of total earnings.

[25]Each census of agriculture contains data regarding the number of years farmers have operated their present farms. Estimates of exits from farming, entrances to farming, and survival between censuses can be derived from this data and census farm counts (*17*). First, select two consecutive censuses. Entrants are estimated as farms with operators who report 5 or fewer "years on present farm" in the later census. Exits are calculated as entrants, plus the count in the earlier census, minus the count in the later census. Survivors equal the difference between the farm count in the earlier census and exits.

(*17*).[26] These data indicate that the 1982-86 farm financial crisis did not affect exit rates much. Rather, the impact came largely through a fall in the annual rate of farm entries (*17, 18*). Farms with sales of less than $10,000 annually and operating smaller acreages have higher exit (and entry) rates than larger, traditional farms (*22, 37,* pp. 24-25). Overall, the range in gross farm exit rates in these studies is from 3.5 to 6.75 per year.

A direct comparison of farmer bankruptcies with estimated gross farm exits, based on the above exit rates, yields a weak relationship between the two. There were 9,792 Chapter 12 farmer bankruptcies filed during 1990-99, and there were 2,145,820 farms in 1990 according to NASS data. Based on the farm exits research presented above, we assume that a conservative 4.5 percent of all farms exited each year during the 1990s. This would be 96,562 of the 1990 farms or approximately 965,600 exits for the entire 1990-99 period. Chapter 12 bankruptcies would comprise some 10.1 percent of all these exits. If, based on the research by Matthews et al., one doubles the 1990-99 total filing figure of 9,792 to 19,584, total farmer bankruptcies still only account for about 20 percent of all farm exits during this span (*26, 27*). Anecdotal evidence suggested that the rate of Chapter 7 farmer filings increased during the 1990s.

Let us consider one final example from an important earlier time period. The all-time highs in farmer bankruptcy rates for a decade were experienced during the 1920-29 period when 51,863 farmers filed (app. table 1). There were 5.88 million farms (excluding sharecroppers) in 1920. Assuming exit rates similar to the 1980s and 1990s (farm numbers excluding sharecroppers declined 5.6 percent 1920-29) and thus using the 4.5 percent annual exit measure again, yields 264,656 exits in 1920 or about 2.6 million for 1920-29. Bankruptcies would only account for about 2 percent of all these exits.[27] Even assuming only a 1-percent rate of total farm exits would make bankruptcies account for only 8.8 percent of all exits for the entire 1920-29 period.

Bankruptcies and Changes in Farm Numbers

The link between farmer bankruptcy filings and changes in farm numbers is even more tenuous than the bankruptcy and total farm exits relationship. First, consider the bankruptcy cases filed and total farms data shown in appendix table 1. Farm numbers (excluding sharecroppers) peaked at 6.1 million in 1935. Total farm numbers increased just over 750,000 during 1900-35 while bankruptcy filings were 103,413. During the 1930-39 period of the Great Depression, there was an increase of almost 154,000 farms while bankruptcy filings were 37,814. But as economic fortunes improved in the 1940-49 span, farm numbers dropped over 445,000 while bankruptcies were only 9,903. The biggest drop in farm numbers occurred during the 1950-69 period when farms declined by 2.3 million (45.7 percent) while bankruptcy filings were only 8,580. The absolute reduction in farm numbers during 1950-69 can never be experienced again, even though the declines in the late 1970s and 1980s captured more public attention. Farm numbers decreased over 393,000 in the 1970s , but bankruptcies were only 6,117.

Second, the weak relationship based on annual percentage changes in farm numbers and annual farmer bankruptcy filings is shown in figure 9. NASS has annual estimates of farm numbers beginning in 1910 thus allowing the calculation of annual percentage changes in farm numbers starting in 1911.[28] The two lines shown in figure 9 show little correlation. For example, farmer bankruptcy filing rates were high during the 1920s and 1930s while the annual changes in farm numbers were very small. Bankruptcy filing rates were very low in the 1940s through the 1960s at the same time that the annual changes in farm numbers were substantially negative. Farm numbers changed little in the 1990s while farmer bankruptcy rates were fairly high by historical standards.

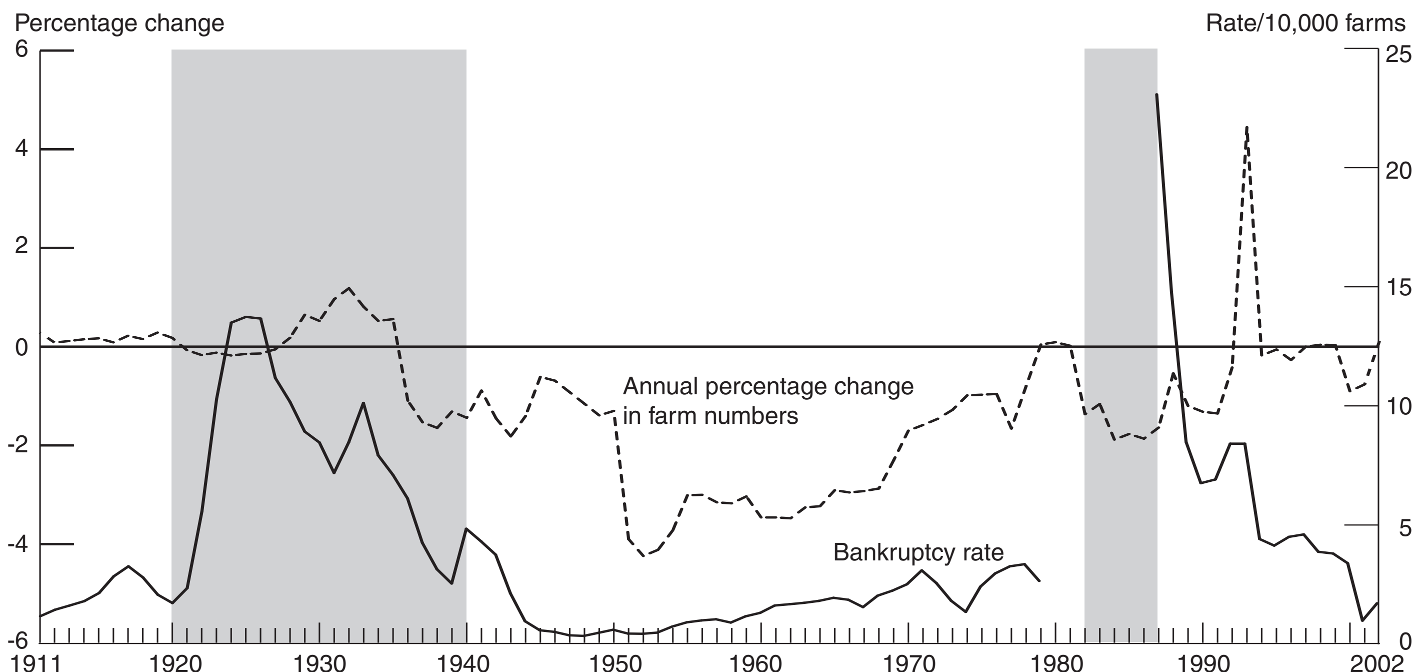
We conclude that bankruptcies are subsumed and overwhelmed by the larger shifts induced by a complex range

[26]Currently, just over half of all farms have sales of less than $10,000 annually (*31*). They rely heavily on off-farm income from the local economy and often farming is their avocation. Their decisions to enter or exit farming are driven by nonfarming factors, such as lifestyle changes or moves connected with their primary jobs. Turnover is important to this small farm segment (*37*, pp. 22-27). Turnover of this segment as they exit and reenter farming is an important consideration as the economy has urbanized because it can generate higher rates of exit and entry that are largely unrelated to any farm sector developments.

[27]Tenants were much more important in the farm sector prior to World War II. A higher proportion of tenants likely would result in higher turnover and exit rates for the farm sector in the 1920s than was experienced in the post-1980 period. Thus, the 4.5 percent annual exit rate assumed for the 1920s may have been too low.

[28]The annual farm numbers for 1899-2002 shown in appendix table 1 were derived by the use of straight-line interpolations between the Census of Agriculture years. This technique yields the same annual percentage change within each respective intercensus periods (but different values result for each segment of years) thus making them of dubious utility in comparing with the annual farmer bankruptcy filings.

Figure 9. Annual percentage change in U.S. farm numbers and farmer bankruptcy cases filed per 10,000 farms, 1911-2002[1]



Note: Shaded areas indicate general periods of farm financial stress. All applicable bankruptcy chapters were included for the 1899-1979 data. Data for 1987-2002 are for Chapter 12 only. Data for 1980-86 are not reported due to changes in the bankruptcy law.

[1]Annual percentage changes in farm numbers as reported by the U.S. Department of Agriculture's National Agricultural Statistics Service (NASS) are graphed in this figure with no adjustments except that 1975 is the average between 1974 and 1976 because of a break caused by the new definition of a farm introduced in 1974. The definition of a farm was revised in 1950, 1959, and 1974. Between 1992 and 1997 substantial changes to what is included as agriculture in order to be counted as a farm occurred. In addition, new industries were added to both the census of agriculture and NASS farm numbers series with the implementation of the new North American Industry Classification System (NAICS). The changes were carried back to 1993 during NASS's review connected with the production of the 1997 Census of Agriculture. The industry changes and revision policy explain the spike in the percentage change in farm numbers between 1992 and 1993.
Sources (*2, 4, 5, 6, 49, 52,* and *55*).

of factors causing changes in exits, entries, and farm numbers. This appears to be the case as there is little if any relationship between bankruptcies and farm numbers. This is not to say that bankruptcies do not matter for they are traumatic for those involved. Moreover, bankruptcy law, the possibility of its use, and the rules it prescribes are important factors affecting credit markets.

Conclusions

Total farm numbers according to the census of agriculture fell from 6.8 million in 1935 to 1.9 million in 1997 causing concern about the loss of farming as a way of life. Most of these losses were not through bankruptcies, however. Bankruptcies are only a subset of the complex phenomenon of farm business exit and entry, with their number contributing in only a minor way to the trend toward fewer farms. Farm numbers have even risen when bankruptcies have been high—such as during the 1920s and the Great Depression of the 1930s. In short, large numbers of farm bankruptcies do not necessarily translate into a decline in farm numbers. Moreover, farm bankruptcies did not prevent farm numbers (excluding sharecroppers) from peaking at 6.1 million in 1935 during the Great Depression. In part, this phenomenon resulted from the growth of quasi-commercial subsistence farms rather than from favorable economic returns on the farm. Still, the net outflow of people from farming began in earnest during the post-World War II prosperity rather than during a period of financial stress. By contrast, the bankruptcies of the 1980s occurred in the midst of a long decline in farm numbers, setting off a particularly acute wave of concern.

Farmer bankruptcies have always been a very small proportion of total farm numbers. Bankruptcies have been relatively more numerous, as would be expected, in periods of farm sector financial problems following periods in which debt had increased substantially. But the farmer bankruptcy cases per year are typically less than 0.1 percent of the total number of farmers and are measured in

bankruptcies per 10,000 farms. The number of farmer bankruptcies occurring from year to year appears to lag behind the movement of farm prices, farm income, and other economic conditions that are the primary causes of insolvency.

Bankruptcy law is a blunt policy instrument overhanging the workings of the credit markets, rather than being finely tuned to specific subgroups. Bankruptcies occur during both prosperous and troubled economic times, but the effect of the law obviously is much more noticeable when times are hard. Chapter 12 has allowed some financially stressed farmers to continue farming, but the short-run gain to financially stressed farmers comes at the expense of some creditors and, ultimately, other borrowers.

Chapter 12, a special section in the Bankruptcy Code enacted in 1986 in response to the farm financial crisis, was originally scheduled to expire on October 1, 1993. But it has been extended 10 times and has succeeded in keeping some farmers in business and encouraged informal lender-farmer settlements out of court. However, it increases costs by encouraging both inefficient farmers who would otherwise liquidate and efficient farmers who would otherwise continue their operations at greater expense to reorganize their businesses and charge off part of their debts under the protection of bankruptcy. Some of these costs could be mitigated by allowing lenders the option of recapturing writedowns of secured debt if asset values increase subsequent to the writedown.

Chapter 12 gives family farmers in financial stress more power to demand concessions from lenders than does Chapter 11. Chapter 12 was not necessarily designed to frame creditor negotiations, but it has had that effect. Under Chapter 11, where farmers desiring to reorganize typically filed before Chapter 12 became effective, creditors could more easily block the debtor's plan and force liquidation. The availability of Chapter 12 to eligible farmers encourages creditors to negotiate debt-restructuring arrangements outside bankruptcy. But the effect may also include lenders' restricting credit and raising interest rates to some degree. The decreasing discharge rate over time may indicate that more farm debtors are negotiating successfully with their creditors outside of Chapter 12.

Chapter 12 thus has had a larger historical impact than what is indicated by the number of cases filed annually. The threat of possible Chapter 12 actions by farmers is an enduring possibility facing agricultural lenders. But debt-restructuring laws, such as Chapter 12, requiring debt writedown do not necessarily mean higher loan losses, as long as the value of restructured debt is greater than the amount the lender would receive through foreclosure. However, the risk of future default on the restructured debt is still present, and is an unknown cost to the lender. Because the lender in Chapter 12 loses the opportunity to recoup loan losses when restructured loan collateral appreciates in value, these higher costs are borne by the lender.

Although Chapter 12 filings are reorganizations and exclude liquidations, Chapter 12 filings per 10,000 farms in the 1990s exceeded rates in earlier decades with comparable economic conditions. The higher rates are consistent with increases in overall U.S. bankruptcy filings. Americans, in general, are much less reluctant to file for bankruptcy relief than two decades ago.

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Appendix

Legislative History of Chapter 12 Farmer Bankruptcy

Chapter 12, *Adjustment of Debts of a Family Farmer with Regular Annual Income*, was first enacted in October 1986 as a response to the farm crisis of the 1980s. *Bankruptcy Judges, United States Trustees and Family Farmer Bankruptcy Act of 1986*, Pub. L. No. 99-554, tit. II, § 255, 100 Stat. 3088, 3105-3113 (1986) (codified at 11 U.S.C. §§ 1201 - 1231). Originally, it had a sunset provision that provided for repeal on October 1, 1993. Pub. L. No. 99-554, tit. III, § 302(f), 100 Stat. 3088, 3124 (1986).

On August 6, 1993, Chapter 12 was extended for another 5 years. *Farm Bankruptcies, Extension*, Pub. L. No. 103-65, 107 Stat. 311 (1993). Chapter 12 officially sunset at the end of this extension, on October 1, 1998.

Chapter 12, however, was resurrected with a 6-month retroactive extension as part of an omnibus appropriations bill passed later in October 1998. *Omnibus Consolidated and Emergency Supplemental Appropriations Act,* Pub. L. 105-277, div. C, tit. 1, § 149, 112 Stat. 2681, 2681-610-11 (1999). This extension was for 6 months, retroactive to the sunset date. Chapter 12 was thus set to expire again on April 1, 1999.

On March 30, 1999, a short-term extension to the provisions of Chapter 12 was once again enacted. *Bankruptcy: Extension of Reenactment of Chapter 12, Family Farmers Indebtedness*, Pub. L. No. 106-5, 113 Stat. 9 (1999). This extension provided a 6-month extension, allowing Chapter 12 to remain available to eligible family farmers until October 1, 1999.

Chapter 12 sunset on October 1, 1999, but was resurrected on October 9, 1999. *Bankruptcy-Extension of Family Farmer Debt Adjustment,* Pub.L. 106 70, 113 Stat. 1031 (1999) reenacted Chapter 12 for 9 months, retroactive to October 1, 1999. The new sunset date became July 1, 2000.

Congress did not take action to stop the July 1, 2000 sunset. Chapter 12 was repealed as of that date and was not resurrected for almost a year.

On May 11, 2001, *Bankruptcy, Chapter 12-Reenactment*, Pub.L. 107 8, 115 Stat. 10 (2001) revived Chapter 12. It provided for an 11-month extension, although because the effective date applied retroactively to the previous sunset, July 1, 2000, the bill extended Chapter 12 only to June 1, 2001. Chapter 12 was only available under this extension for 20 days.

Chapter 12 was again repealed according to its sunset terms as of June 1, 2001. On June 6, 2001, the House passed H.R. 1914, a bill that revived and extended Chapter 12 bankruptcy, this time until October 1, 2001. It passed overwhelmingly with a vote of 411-1. On June 8, the Senate passed the bill by unanimous consent. The bill was signed by President Bush on June 26, 2001. *Act of June 26, 2001*, Pub. L. 107-17, 115 Stat. 151 (2001).

On October 1, 2001, Chapter 12 again expired. It was not reenacted until Spring 2002 when an 8-month retroactive extension was passed by the House with a 407-3 vote and the Senate by unanimous consent. The President signed the extension on May 7, 2002. *Bankruptcy-Chapter 12 Reenactment*, Pub. L. 107-170, 116 Stat. 133 (2002). Because of the retroactive extension and the long period prior to reenactment, the new law only provided authority for Chapter 12 for less than a month, until May 31, 2002.

The Farm Bill that was enacted in May 2002 contained a further provision authorizing a continuation of Chapter 12. The bill passed the House on May 2, 2002, and the Senate on May 8, 2002. The President signed the bill into law on May 13, 2002. *Farm Security and Rural Investment Act of 2002*, Pub. L. 101-171, 116 Stat. 532 (2002). It provided for a 7-month extension of Chapter 12, from June 1, 2002, until January 1, 2003. Pub. L. 107-171, tit. X, subtit. I, § 10814.

In October 2002, as the sunset date approached and Congress continued its debate of the overall bankruptcy reform bill, the House passed a bill that authorized another 6-month extension of Chapter 12. *Protection of Family Farmers Act of 2002*, H.R. 5472. Initially, no Senate action was taken. In late October, it appeared that overall bankruptcy reform legislation, including a provision that would make Chapter 12 permanent, was on the verge of passage. The Conference Committee Report on that legislation, however, was rejected by the House and the bill returned to Committee. *Bankruptcy Abuse Prevention and Consumer Protection Act of 2001*, H.R. 333, 148 CONG. REC. D-1154-55 (November 14, 2002). In light of this defeat, on November 20, 2002, the Senate considered the legislation to temporarily extend Chapter 12. The Senate passed the temporary reauthorization of Chapter 12 by unanimous consent, and President Bush signed it on December 19, 2002. Pub.L.

107-377, 116 Stat. 3115 (2002). This extension sunset on July 1, 2003.

On June 23, 2003, the House again passed a temporary extension of Chapter 12, providing authorization for another 6 months. *Family Farmer Relief Act of 2003*, H.R. 2465. The bill passed the House by a vote of 379-3. On July 31, 2003, after Chapter 12 had sunset, the Senate passed the bill by unanimous consent and resurrected Chapter 12. It was signed into law by President Bush on August 15 and became Public Law 108-73, 117 Stat. 891. Chapter 12 once again expired on January 1, 2004.

The current 108th Congress has been working to extend Chapter 12. On November 20, 2003 two Chapter 12 bills were introduced in the House and referred to the Committee on the Judiciary. The first (H.R. 3540) would extend Chapter 12 for 1 year to January 1, 2005 and the second (H.R. 3542) for 6 months to July 1, 2004. Meanwhile, the Senate passed S. 1920 on November 25, 2003 and referred the bill to the House Committee on Judiciary where it awaits further action. This bill would extend Chapter 12 for 6 months to July 1, 2004. Also under consideration is the omnibus bankruptcy bill *Bankruptcy Abuse and Consumer Protection Act of 2003* (H.R. 975) that was passed by the House on March 19, 2003. It contains a provision that would make Chapter 12 a permanent part of the Bankruptcy Code.

Compiled by—

Susan A. Schneider
Director and Associate Professor
Graduate Program in Agricultural Law
University of Arkansas School of Law--Fayetteville

Appendix table 1—Total farmer bankruptcy cases filed and farmer bankruptcies per 10,000 farms, 1899-2002

Year[1]	Total farms[2]	Total sharecroppers (17 Southern States)[2,3]	Total farms (excluding sharecroppers)[2]	Farmer bankruptcy cases filed[4]	Total farms: Bankruptcy rate per 10,000 farms[5]	Total farms (excluding sharecroppers): Bankruptcy rate per 10,000 farms[6]
1899	5,620,099	386,085	5,234,014	1,926	3.43	3.68
1900*	5,737,372	399,678	5,337,694	2,064	3.60	3.87
1901	5,799,785	407,001	5,392,784	1,464	2.52	2.71
1902	5,862,198	414,321	5,447,877	1,327	2.26	2.44
1903	5,924,611	421,641	5,502,970	977	1.65	1.78
1904	5,987,024	428,961	5,558,063	884	1.48	1.59
1905	6,049,437	436,281	5,613,156	832	1.38	1.48
1906	6,111,850	443,601	5,668,249	844	1.38	1.49
1907	6,174,263	450,921	5,723,342	1,065	1.72	1.86
1908	6,236,676	458,241	5,778,435	835	1.34	1.45
1909	6,299,089	465,561	5,833,528	797	1.27	1.37
1910*	6,361,502	472,881	5,888,621	849	1.33	1.44
1911	6,370,187	482,299	5,887,884	679	1.07	1.15
1912	6,378,871	491,720	5,887,147	837	1.31	1.42
1913	6,387,555	501,141	5,886,410	942	1.47	1.60
1914	6,396,239	510,562	5,885,673	1,045	1.63	1.78
1915	6,404,923	519,983	5,884,936	1,246	1.95	2.12
1916	6,413,607	529,404	5,884,199	1,658	2.59	2.82
1917	6,422,291	538,825	5,883,462	1,906	2.97	3.24
1918	6,430,975	548,246	5,882,725	1,632	2.54	2.77
1919	6,439,659	557,667	5,881,988	1,207	1.87	2.05
1920*	6,448,343	567,088	5,881,255	997	1.55	1.70
1921	6,433,002	579,613	5,853,389	1,363	2.12	2.33
1922	6,417,661	592,139	5,825,523	3,236	5.04	5.55
1923	6,402,320	604,665	5,797,657	5,940	9.28	10.25
1924	6,386,979	617,191	5,769,791	7,772	12.17	13.47
1925*	6,371,640	629,717	5,741,923	7,872	12.35	13.71
1926	6,355,042	660,467	5,694,576	7,769	12.22	13.64
1927	6,338,444	691,215	5,647,229	6,296	9.93	11.15
1928	6,321,846	721,963	5,599,882	5,679	8.98	10.14
1929	6,305,248	752,711	5,552,535	4,939	7.83	8.90
1930*	6,288,648	783,459	5,505,189	4,644	7.38	8.44
1931	6,393,390	771,231	5,622,157	4,023	6.29	7.16
1932	6,498,130	759,003	5,739,125	4,849	7.46	8.45
1933	6,602,870	746,775	5,856,093	5,917	8.96	10.10
1934	6,707,610	734,547	5,973,061	4,716	7.03	7.90
1935*	6,812,350	722,321	6,090,029	4,311	6.33	7.08
1936	6,669,240	686,989	5,982,251	3,646	5.47	6.09
1937	6,526,130	651,657	5,874,473	2,482	3.80	4.23
1938	6,383,020	616,325	5,766,695	1,800	2.82	3.12
1939	6,239,910	580,993	5,658,917	1,426	2.29	2.52

continued --

Appendix table 1—Total farmer bankruptcy cases filed and farmer bankruptcies per 10,000 farms, 1899-2002, continued

Year[1]	Total farms[2]	Total sharecroppers (17 Southern States)[2,3]	Total farms (excluding sharecroppers)[2]	Farmer bankruptcy cases filed[4]	Total farms: Bankruptcy rate per 10,000 farms[5]	Total farms (excluding sharecroppers): Bankruptcy rate per 10,000 farms[6]
1940*	6,096,799	545,660	5,551,139	2,678	4.39	4.82
1941	6,049,273	526,953	5,522,302	2,367	3.91	4.29
1942	6,001,747	508,246	5,493,501	2,048	3.41	3.73
1943	5,954,221	489,539	5,464,682	1,151	1.93	2.11
1944	5,906,695	470,832	5,435,863	512	0.87	0.94
1945*	5,859,169	452,125	5,407,044	305	0.52	0.56
1946	5,763,768	432,098	5,331,669	260	0.45	0.49
1947	5,668,367	412,071	5,256,294	183	0.32	0.35
1948	5,572,966	392,044	5,180,919	167	0.30	0.32
1949	5,477,565	372,017	5,105,544	232	0.42	0.45
1950*	5,382,162	351,991	5,030,171	290	0.54	0.58
1951	5,232,225	333,000	4,899,225	205	0.39	0.42
1952	5,082,288	314,009	4,768,279	196	0.39	0.41
1953	4,932,351	295,018	4,637,333	214	0.43	0.46
1954*	4,782,416	276,029	4,506,387	322	0.67	0.71
1955	4,568,033	245,537	4,322,496	386	0.85	0.89
1956	4,353,650	215,045	4,138,605	400	0.92	0.97
1957	4,139,267	184,553	3,954,714	405	0.98	1.02
1958	3,924,884	154,061	3,770,823	332	0.85	0.88
1959*	3,710,503	123,570	3,586,933	408	1.10	1.14
1960	3,599,974	98,856	3,501,118	453	1.26	1.29
1961	3,489,445	74,142	3,415,303	546	1.57	1.60
1962	3,378,916	49,428	3,329,488	548	1.62	1.65
1963	3,268,387	24,714	3,243,673	554	1.70	1.71
1964*	3,157,857	NA	3,157,857	565	1.79	1.79
1965	3,072,336	NA	3,072,336	589	1.92	1.92
1966	2,986,815	NA	2,986,815	551	1.84	1.84
1967	2,901,294	NA	2,901,294	443	1.53	1.53
1968	2,815,773	NA	2,815,773	567	2.01	2.01
1969*	2,730,250	NA	2,730,230	606	2.22	2.22
1970	2,647,003	NA	2,647,003	658	2.49	2.49
1971	2,563,756	NA	2,563,756	788	3.07	3.07
1972	2,480,509	NA	2,480,509	631	2.54	2.54
1973	2,397,262	NA	2,397,262	431	1.80	1.80
1974*	2,314,013	NA	2,314,013	308	1.33	1.33
1975	2,299,953	NA	2,299,953	550	2.39	2.39
1976	2,285,893	NA	2,285,893	672	2.94	2.94
1977	2,271,833	NA	2,271,833	736	3.24	3.24
1978*	2,257,775	NA	2,257,775	751	3.33	3.33
1979	2,253,575	NA	2,253,575	592	2.63	2.63

continued --

Appendix table 1—Total farmer bankruptcy cases filed and farmer bankruptcies per 10,000 farms, 1899-2002, continued

Year[1]	Total farms[2]	Total sharecroppers (17 Southern States)[2,3]	Total farms (excluding sharecroppers)[2]	Farmer bankruptcy cases filed[4]	Total farms: Bankruptcy rate per 10,000 farms[5]	Total farms (excluding sharecroppers): Bankruptcy rate per 10,000 farms[6]
1980	2,249,375	NA	2,249,375	NA7	NA7	NA7
1981	2,245,175	NA	2,245,175	NA7	NA7	NA7
1982*	2,240,976	NA	2,240,976	NA7	NA7	NA7
1983	2,210,333	NA	2,210,333	NA7	NA7	NA7
1984	2,179,690	NA	2,179,690	NA7	NA7	NA7
1985	2,149,047	NA	2,149,047	NA7	NA7	NA7
1986	2,118,404	NA	2,118,404	NA7	NA7	NA7
1987*	2,087,759	NA	2,087,759	4,812[8]	23.05[8]	23.05[8]
1988	2,005,267	NA	2,055,267	3,033[8]	14.76[8]	14.76[8]
1989	2,022,775	NA	2,022,775	1,711[8]	8.46[8]	8.46[8]
1990	1,990,283	NA	1,990,283	1,340[8]	6.73[8]	6.73[8]
1991	1,957,791	NA	1,957,791	1,349[8]	6.89[8]	6.89[8]
1992*	1,925,300	NA	1,925,300	1,615[8]	8.39[8]	8.39[8]
1993[9]	2,201,590	NA	2,201,590	1,427[8]	6.48[8]	8.39[8]
1994[9]	2,197,690	NA	2,197,690	964[8]	4.39[8]	4.39[8]
1995[9]	2,196,400	NA	2,196,400	902[8]	4.11[8]	4.11[8]
1996[9]	2,190,500	NA	2,190,500	1,059[8]	4.84[8]	4.48[8]
1997*[9]	2,190,510	NA	2,190,510	1,004[8]	4.58[8]	4.58[8]
19989	2,191,360	NA	2,191,360	844[8]	3.85[8]	3.85[8]
19999	2,192,070	NA	2,192,070	829[8]	3.78[8]	3.78[8]
2000[9]	2,172,280	NA	2,172,280	731[8]	3.37[8]	3.37[8]
2001[9]	2,155,680	NA	2,155,680	206[8]	0.96[8]	0.96[8]
2002[9]	2,158,090	NA	2,158,090	365[8]	1.69[8]	1.69[8]

'NA= Not available. [1]Years in which a Census of Agriculture was conducted are indicated with an asterisk. [2]Based on U.S. Census of Agriculture data with straight-line interpolations between census years except for the years 1993-2000. See footnote 9 below. Data series exclude Alaska and Hawaii until 1959. Alaska and Hawaii became States on January 3, 1959 and August 21, 1959, respectively. [3]AL, AR, DE, FL, GA, KY, LA, MD, MO, MS, NC, OK, SC, TN, TX, VA, and WV. Sharecroppers institutionally were similar to hired employees rather than independent farm operators. The importance of sharecropping declined after the 1930s and the 1959 U.S. Census of Agriculture was the last census to enumerate sharecroppers. The 1960-63 total sharecropper numbers are based on a straight-line interpolation between the 1959 and 1964 censuses of agriculture. [4]Year ending June 30 throughout the series. Annual bankruptcy data only were reported on the basis of the previous U.S. Government fiscal year ending June 30 until 1976 when the new fiscal year ending September 30 was introduced. Data include both voluntary and involuntary farmer bankruptcies for the 1899-1939 period. Involuntary farmer bankruptcies comprised only 516 of the total 114,606 farmer bankruptcies filed during 1899-1939, or 0.45 percent of the total. Farmer bankruptcy data for 1940-79 exclude involuntary corporate and involuntary straight cases, but they are estimated to be less than one percent of total farmer bankruptcies during this period. [5]Ratio of all farms (including sharecroppers) filing for bankruptcy during the given year. [6]Ratio of all farms (excluding sharecroppers) filing for bankruptcy during the given year. [7]Bankruptcy filing statistics specifying a filer's occupation, including farming, were recorded by the Administrative Office of the U.S. Courts through October 1979, when the Bankruptcy Reform Act of 1978 (P.L. 95-598, 92 Stat. 2549) terminated bankruptcy by occupation data collection. [8]Data include only farmer bankruptcies filed under Chapter 12, adjustment of debts of a family farmer with regular income, which became effective on November 26, 1986, and exclude Puerto Rico, Guam, and the Virgin Islands. There were 600 Chapter 12 bankruptcies filed between November 26, 1986, and the end of the calendar year on December 31, 1986. Farmer bankruptcy data filed under Chapter 7 (liquidation of nonexempt assets of businesses or individuals), Chapter 11 (individual or business reorganization), or Chapter 13 (adjustment of debts of an individual with regular income) are not available after 1979. [9]Responsibility for the census of agriculture was transferred to USDA, NASS from the Bureau of the Census starting with the 1997 Census of Agriculture. During the 1993-98 period, some changes occurred in the farm definition so that the census of agriculture and NASS official series could have the same definition. In addition, new industries were added to both counts because of implementation of the new North American Industry Classification System (NAICS). These changes are detailed in Appendix E of the 1997 Census of Agriculture: United States Summary and State Data volume and in the publication U.S. Department of Agriculture, National Agricultural Statistics Service, *Farms and Land in Farms: Final Estimates by State and United States*, 1993-97, Stat. Bul. No. 955, Jan. 1999. In 1999 all changes in the farm definition occurring over the 1993-98 period were carried back to 1993 and included in the 1993-97 estimates. The same methodology has been carried forward in the series U.S. Department of Agriculture, National Agricultural Statistics Service, *Farms and Land in Farms:* February 2003, Report SpSy3 (03), Feb. 2003. Thus, beginning in 1993, the new NASS series was used for total farm numbers.
'Sources: (*2, 4, 5, 6, 46, 47, 50, 51, 52*, and *55*).

Appendix table 2--Chapter 12 farmer bankruptcy case filings by farm production region, 1986-2002

	Farm production region[1]										
Year[2]	Northeast	Lake States	Corn Belt	Northern Plains	Appalachian	South-east	Delta States	Southern Plains	Mountain	Pacific	United States
	Number										
1986[3]	9	50	103	148	92	47	44	41	42	24	600
1987	99	465	1,292	1,553	470	335	547	394	546	363	6,064
1988	39	175	447	358	102	105	170	185	256	188	2,025
1989	24	147	290	218	68	83	115	170	155	163	1,433
1990	49	130	226	224	79	118	128	141	135	106	1,336
1991	85	145	213	190	86	139	169	173	152	127	1,479
1992	69	160	259	235	116	121	154	180	178	124	1,596
1993	78	140	210	172	73	84	131	116	114	117	1,235
1994	66	105	123	124	62	66	77	102	78	88	891
1995	78	103	122	134	64	84	57	108	81	93	924
1996	84	97	114	195	65	84	112	173	74	83	1,081
1997	87	80	91	152	46	83	91	145	109	62	946
1998	58	78	94	146	58	77	64	98	89	45	807
1999	52	61	145	168	60	67	52	100	82	46	833
2000	36	33	79	48	19	22	28	43	57	40	405
2001	20	24	50	58	19	43	18	57	23	70	382
2002	27	37	74	60	22	23	51	78	50	60	482
Total	960	2,030	3,932	4,183	1,501	1,581	2,008	2,304	2,221	1,799	22,519
1986-88	147	690	1,842	2,059	664	487	761	620	844	575	8,689
1989-02	813	1,340	2,090	2,124	837	1,094	1,247	1,684	1,377	1,224	13,830

Note: Northeast=CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT. Lake States=MI, MN, WI. Corn Belt=IL, IN, IA, MO, OH. Northern Plains=KS, NE, ND, SD. Appalachian=KY, NC, TN, VA, WV. Southeast=AL, FL, GA, SC. Delta States=AR, LA, MS. Southern Plains=OK, TX. Mountains=AZ, CO, ID, MT, NV, NM, UT, WY. Pacific=AK, CA, HI, OR, WA.

[1]Data exclude Guam, Puerto Rico, and the Virgin Islands. [2]Ending December 31. [3]Filings began on November 26, 1986.

Source: (*3*).