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FARMER CHOICE OF BANKRUPTCY CHAPTER: A LOOK BEYOND CHAPTER 12

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ABSTRACT

Bankruptcy is a tool for alleviating financial stress for borrowers, enabling individuals and businesses to reorganize or discharge their financial obligations and obtain a fresh start. Chapter 12 of the US bankruptcy code is specifically designed for financially distressed farmers to seek debt relief through the US court system. Yet a recent study shows approximately 56% of farm bankruptcies with FSA loan obligations are filed under chapters 7, 11, or 13. Unlike the consumer who is usually faced with two options, chapters 7 or 13, farmers are faced with even more options, making it a more difficult decision to determine how to move forward through financial recovery. A deeper understanding is needed to explore the factors that influence farm debtors' decisions when selecting among different bankruptcy chapters. The data used in this study identifies farm bankruptcies filed under chapters in addition to chapter 12, providing a comprehensive view of all available avenues for farmers seeking financial protection through the court. Using farm debtors' financial standings and agricultural and macroeconomic factors at the time of filing, we explore what determines the choice between reorganization and liquidation, and the choice among the different reorganization chapters: chapters 11, 12, and 13. This analysis offers valuable insights into the conditions under which some farmers opt for alternative chapters, even though chapter 12 is supposed to be specifically designed to meet their needs. Findings from this study can help policymakers assess whether chapter 12 provides sufficient protection for farmers.

1.0 INTRODUCTION

Farm financial stress and insolvency force farmers out of operation, posing a risk to the rural communities and the agricultural economy. Chapter 12 bankruptcy was designed specifically for farmers and was first introduced in 1986 to eliminate barriers in the already existing bankruptcy chapters that prevent insolvent farms from successfully navigating the bankruptcy system to obtain debt relief. However, Bafowaa et. al. (2025) documented that well over half of farm bankruptcies are filed under other chapters besides chapter 12. Using bankruptcy cases with the United States Department of Agriculture (USDA) Farm Service Agency (FSA) listed as a creditor, figure 1 shows for every year from 2008 to 2023 except 2011, 2020, and 2021, the number of farm bankruptcy petition filed under other chapters exceeds those filed under chapter 12.

Based on chapter 12 requirement, prior literature mentioned farm debtors may not file for chapter 12 if they do not meet the income test and the debt limit (Dinterman et al., 2018). However, a deeper and more empirical understanding of what leads farmers to explore other chapters is yet to be uncovered in the literature. Among the six bankruptcy chapters under the U.S. bankruptcy code, farmers may file for all except chapters 9 (designed for municipalities) and 15 (for insolvency involving more than one country). Unlike the consumer who is usually faced with two options, chapters 7 or 13, farmers are faced with even more options, making it a more difficult decision to determine how to move forward through financial recovery.

This study aims to underscore the factors that are associated with a farmers' bankruptcy chapter choice. We specifically explore the determinants of farmers' bankruptcy choice, focusing on the debtor's financial standing, macroeconomics, and agricultural variables at the time of filing, and the legal climate in the debtor's state or county. Farm debtors are faced with the option of liquidation (an option that allows debtors to liquidate their non-exempt assets to pay creditors) or reorganization (the option that allows debtors to propose a plan to repay their debt while remaining in operation). Even within the reorganization options, farm debtors must choose between chapter 12 or non-chapter 12 reorganizations (chapters 11 and 13). In this study we first explore the choice between liquidation and reorganization, then the choice between chapter 12 and other chapters. Analyzing farmer bankruptcy choice offers valuable insights into the factors associated with farmers choosing alternative chapters besides chapter 12, the effectiveness of chapter 12 in serving the farming community, and for policymakers working to improve the financial health of agriculture.

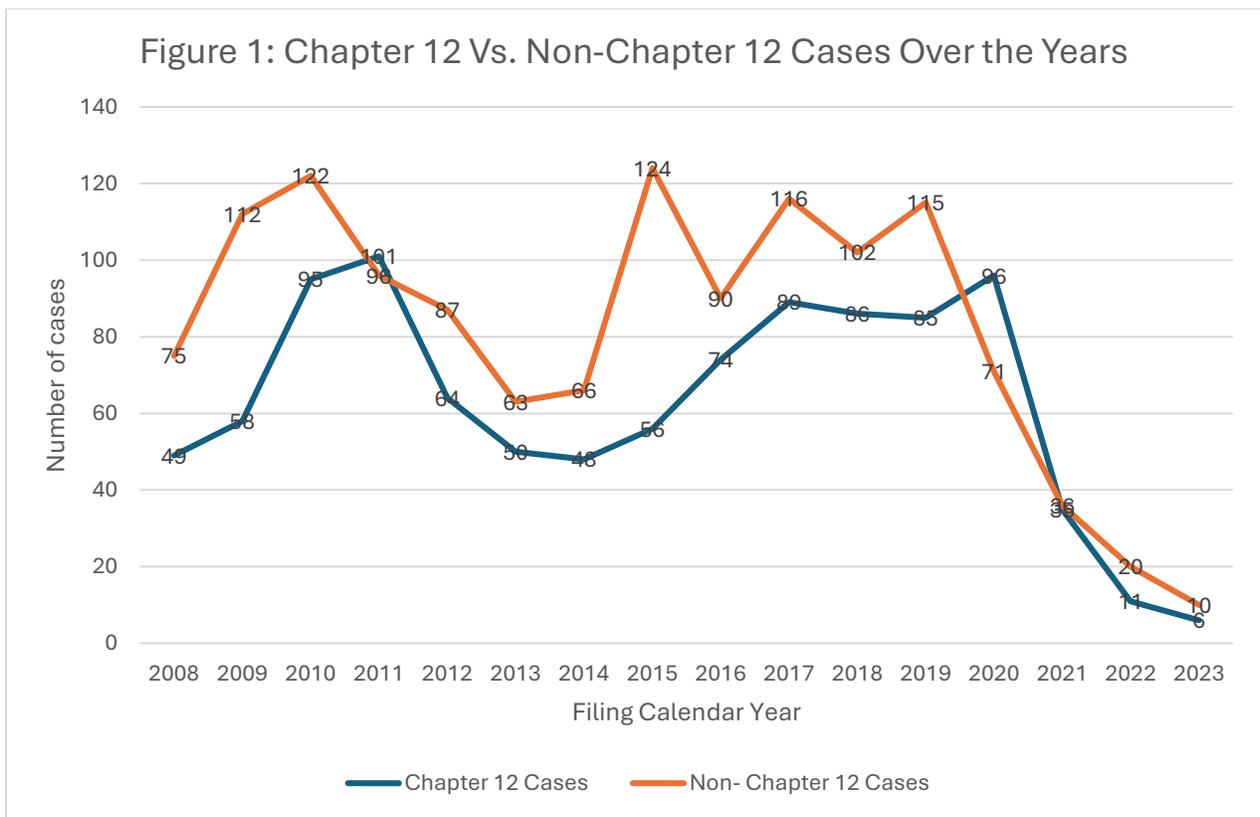
1.1 The Choice Between Chapter 12 Versus Non-Chapter 12

1.1.1 Chapter 12

The introduction of chapter 12 of the bankruptcy code was a response to the farm crisis in the late 1980s when farmers experienced declining land values and commodity prices coupled with higher interest rates (Schmitt, 2024). In 1986, Congress introduced chapter 12 as a tool for

distressed farmers to reorganize and restructure their debt while remaining in operation. An initiative that was set to be temporary became permanent in 2005 under the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA), after having been extended multiple times. Thus, chapter 12 bankruptcy has provided financial relief since the late 1980s for “family farmers” and “family fishermen”.

As defined in the U.S. bankruptcy code “family farmers” and “family fishermen” fall under two categories: (1) individual or individual and spouse and (2) a corporation or partnership (U.S. Courts). Farmers and fishermen within each category have a set of the eligibility criteria they must meet to qualify for chapter 12 (see appendix A1 and A2 for more details) Chapter 12, modeled after the already existing reorganization chapters (chapters 11 and 13), eliminates some barriers such as the high cost and complexities of chapter 11 and extends the debt limit of chapter 13 (Schmitt, 2024).



Data Source: Public Access to Court Electronic Records (PACER)

1.1.2 Other Bankruptcy Chapters

There are three other chapters besides chapter 12 which a farmer may use when filing for bankruptcy. Chapter 7 provides debt relief through the liquidation and sale of non-exempt property with the proceeds distributed to creditors. This chapter is accessible to individuals, partnerships, and corporations irrespective of their debt limit. Under this chapter, debtors usually liquidate their assets but do not make any future payments to receive a discharge. Since there is no repayment plan, cases under this chapter do not take as long in court compared to other chapters. This allows debtors to obtain quicker discharge and debt relief. For farmers, this might be a desirable option when faster relief or exiting the farm business is the goal. Individual debtors are granted a discharge in more than 99% of chapter 7 cases (US Court). If the goal is to continue farming in some capacity, then reorganization is the better option.

Chapter 11 provides debt relief through reorganization, usually for corporations and partnerships, and rarely for sole proprietors and individuals. In chapter 11, a debtor proposes a repayment plan that allows them to remain in business. Farmers may opt for chapter 11 either because they are ineligible for chapter 12 or chapter 11 is most suitable for their case. Choosing chapter 11, however, means forgoing certain protection tailored for farmers and provided under chapter 12. While chapter 11 is often more complex, time-consuming, and expensive, it entails provisions that farmers may find appealing. Chapter 11 includes small business cases created in 2005 by BAPCPA, and Subchapter V created in 2019 by the Small Business Reorganization Act (SBRA). Although the debt limits under these provisions are lower than those for chapter 12, one major advantage of chapter 11 and its sub-provision is the discharge upon plan confirmation unlike chapter 12 and 13. Additionally, small business cases and subchapter V offer accelerated deadlines and faster plan confirmations resulting in a fast track to debt relief.

Chapter 13 provides debt restructuring for individuals with regular income including self-employed individuals and individuals operating unincorporated businesses (US Courts). Like chapter 11 and 12, it provides relief through a court-approved repayment plan that allows debtors to repay creditors in installments over time. Chapter 13's debt limit is however lower than chapter 12. Total secured and unsecured debt under chapter 13 must be less than \$1,580,125 and \$526,700 respectively. Farmers who are not eligible for chapter 12, especially those with more consumer debt than farm-related debt, can opt for chapter 13 and may pursue reorganization under this provision.

Even though other bankruptcy chapters besides chapter 12 sometimes best fit farmers' debt relief needs, filing under other chapters means forfeiting the unique benefits chapter 12 provides. All bankruptcy filings provide benefits such as the automatic stay which stops all wage garnishment, creditor harassment, and any collection activities on debt owed prior to filing the petition. This includes stopping the foreclosure process, which is often the most significant immediate benefit to file bankruptcy and maintaining land ownership. Additionally, reorganization

chapters allow for cramming down where the value of secured debt owed to the associated asset is reduced to reflect the current market value of the asset.

Chapter 12, however, offers unique benefits to farmers that other chapters do not. First, chapter 12 eliminates key barriers in other chapters: it allows for debt restructuring that chapter 7 does not offer; it offers more debt limit than chapter 13; the process is easier, less expensive and quicker than chapter 11. Second, the repayment plan under chapter 12 considers the seasonality of the farm industry as well as the farm debtor's expenses, income and production (Rumley, 2020). Also, under chapter 12 the debtor can choose to auction extra or unused farm equipment, unlike chapter 7 it is not compulsory (Schmitt, 2024). Moreover, empirical analysis of farm bankruptcy outcomes suggests that farm debtor that filed under chapter 12 are more likely to obtain a discharge than chapter 11 and 13, indicating its effectiveness for debt relief for farmers (Bafowaa et.al.,2025).

1.2 The Choice Between Liquidation Versus Reorganization

The liquidation option under the bankruptcy code allows debtors, through a court-appointed trustee, to sell their non-exempt assets to pay creditors. Unlike reorganization options, liquidation provides a different form of relief enabling debtors to forgo their non-exempt assets in exchange to keep their future income (Li & Sarte, 2006). Chapter 7 among the other bankruptcy chapters is the only chapter that offers liquidation. It allows debtors to liquidate their non-exempt assets, use the proceeds to pay creditors and discharge most of the remaining unsecured debts, with few exceptions¹. This option provides the debtors with a fresh financial start after qualifying debts have been cleared. For Farmers, chapter 7 is typically used to liquidate assets and exit operations because most or all their farm-related assets are liquidated.

In contrast, reorganization chapters under the bankruptcy code including chapters 11, 12, and 13, allow debtors to restructure and pay their debt under a court-approved payment plan. This provision enables debtors to retain their assets while committing future income toward debt repayment (Li & Sarte, 2006). Reorganization allows debtors to remain in operation while repaying their debt. Under this option, debtors propose a plan that pays in full secure claims such as debt backed by collateral. Unsecured priority claims, such as the taxes and court-ordered

¹ According to the US Court “debts not discharged include debts for alimony and child support, certain taxes, debts for certain educational benefit overpayments or loans made or guaranteed by a governmental unit, debts for willful and malicious injury by the debtor to another entity or to the property of another entity, debts for death or personal injury caused by the debtor's operation of a motor vehicle while the debtor was intoxicated from alcohol or other substances, and debts for certain criminal restitution orders. 11 U.S.C. § 523(a)”.

payments, receive payment based on the amount of funds available. Payment for unsecured claims, such as claims without collateral, is generally not paid in full².

²“As long as: (1) the debtor will pay all projected "disposable income" over an "applicable commitment period," and 2) ensure unsecured creditors receive at least as much as they would under a chapter 7 liquidation” (US Court).

2.0 LITERATURE REVIEW

Some existing literature investigates farm bankruptcy and farm financial stress (Dinterman & Katchova, 2021; Turrisi, 2022; Wyche, 2021; Dinterman et al., 2018; Stam & Dixon, 2004). Stam and Sixon (2004) highlighted bankruptcy options available to farmers, historical trends in farm bankruptcy, and factors that led to the decline in farm bankruptcy between 1987 and 2002. Dinterman et al. (2018) investigated macroeconomics and agricultural factors affecting bankruptcy filing rate across the U.S. and evaluated the effect of these variables on the post-BAPCPA, the act that made chapter 12 permanent in 2005. A survival analysis on farm bankruptcy was also conducted by Dinterman & Katchova (2021). They investigated the trend in bankruptcy completion time and the characteristics of chapter 12 filers. Turrisi (2022) extended the study on factors that affect bankruptcy filing by examining the role of U.S. Ag Policy on chapter 12 filings. Wyche (2021) also explores the determinants of farm bankruptcy outcomes. In this study, we extend the literature by investigating what factors influence the choice of farm debtors' bankruptcy filing chapter.

Several studies in the literature examine bankruptcy chapter choice focusing on consumer chapter choice (Desai, 2016; Li & Sarte, 2006; Nelson, 1999; Domowitz & Sartain, 1999). Li and Sarte (2006) examine how consumer bankruptcy chapter choice impacts resource allocation and welfare and their findings reveal that chapter 13 directly affects production and welfare. Nelson (1999) explores the determinants of individuals choosing chapter 13 relative to chapter 7 focusing on the importance of bankruptcy laws and legal variables. Domowitz and Sartain (1999) examine whether the new incentives embedded in the 1978 reform act affect personal bankruptcy chapter choice. Desai (2016) explores the effect of mortgage credit on bankruptcy chapter choice. Other strand of literature investigates the choice between liquidation and reorganization (Yu & He, 2018; Wang, 2012). Wang (2012) conducted an international comparison of reorganization and liquidation and the factors that determine those choices. Yu and He (2018) explored the choice between liquidation and reorganization and found that larger firms and firms with more assets are likely to choose reorganization. While these studies investigate consumer chapter choice and the choice between reorganisation and liquidation, our study extends the literature by investigating the choice of bankruptcy chapter for farmers in the U.S.

Literature on farm bankruptcy focuses on chapter 12 filings as a measure of farm bankruptcy. Most studies typically use chapter 12 filings when investigating farm bankruptcy because it is the chapter tailored specifically for farmers and fishermen. A good strand of the literature uses this approach (Dinterman & Katchova, 2021; Turrisi, 2022; Wyche, 2021; Dinterman et al., 2018; Stam & Dixon, 2004) Our study contributes to existing literature by using different data sets that allow us to study farm bankruptcy in other chapters besides chapter 12. We followed an approach used by Bafowaa et al. (2025) by using bankruptcy filings with USDA FSA loans as a measure of farm bankruptcy.

Several studies have explored consumer bankruptcy chapter choice, examining the factors that influence individuals or firms selecting a bankruptcy chapter. However, the decision-making process for farm debtors when seeking debt relief through the court system remains unexplored. Unlike the consumer, farmers are faced with more options, making the path to financial recovery more difficult to navigate. A deeper understanding of the factors influencing a farm debtor's bankruptcy chapter decision, particularly what drives them toward or away from chapter 12 is essential to improving on chapter 12 to better serve financially distressed farmers.

3.0 DATA AND METHODS

This study uses data from the Public Access to Court Electronic Records (PACER) database, which provides electronic access to US court records. Unlike many other bankruptcy studies that utilize chapter 12 filings as a measure of farm bankruptcy, we follow Bafowaa et al. (2025) to use bankruptcy filings with FSA listed as a creditor as a more general indicator of farm financial stress. Using this data allows us to explore all four major chapters (7,11,12 and 13) and covers all opportunities for financially distressed farmers to use court protection. We employed this measure because one must prove to be a farm to qualify for FSA loan, hence filings with FSA listed as a creditor can be classified as farms.

We supplemented the PACER search with additional bankruptcy information from the Integrated Database (IDB) sourced from the Federal Judicial Center. We focused on cases filed between 2008 and 2023 to reflect changes in the IDB data beginning in 2008. Aside from the filing information, we also considered some agricultural and macroeconomic variables. These variables are obtained from multiple sources including the Bureau of Economic Analysis (BEA), the Bureau of Labor Statistics (BLS), and the National Agricultural Statistics Service (NASS). These variables include GDP, land value, net farm income, and unemployment rate.

A farm debtor is often faced with the choice between liquidation and reorganization, then within reorganisation, the choice between chapter 12, and other reorganization chapters. To reflect the choices farm debtors face, two dependent variables will be created, the first reflects the choice between liquidation (chapter 7) and reorganization (chapter 11, 12 and 13). The second dependent variable reflects the choice between chapter 12, liquidation (chapter 7), and other reorganization chapters (chapter 11 and 13). Given the discrete nature of the dependent variables, we will consider logit and multinomial logit models. Two models will be estimated, the dependent variable in the first model (logit model) measures the choice between liquidation($y=0$) and reorganization ($y=1$). The dependent variable in the second estimation measures the choice between chapter 12 ($y = 0$), chapter 7 ($y = 1$), and other chapters ($y = 2$). For each model, the farm debtors' financial information, as well as the agricultural and macroeconomic factors in the debtor's state or county will be controlled for.

4.0 PRELIMINARY RESULTS

The table below presents the descriptive statistics of debtor specific financial situation at the time of filing for bankruptcy. Chapter 12 eligibility variable indicates whether a case was within the applicable debt limit in the year it was filed. The debt requirements have increased over time, with the current debt limit set at over \$ 12million for farmers and over \$2.5 million for fishermen. To qualify for chapter 12, farm debtors must meet these debt limits and additional eligibility criteria outlined in Appendices A1 and A2. In this analysis, vast majority of cases under each categories meet the chapter 12 debt limit with very few exceeding the threshold.

Average monthly income exceeds average monthly expenses for cases filed under chapter 12 and other reorganization chapters. The opposite is true for the cases filed under the liquidation chapter. Repeat filings are more common among cases filed under chapter 11 and 13, with 28% of those filers having previously filed for bankruptcy, compared to 19% of chapter 12 filers and only 9% of liquidation filers. Notably, all chapter 12 cases have primarily business debt, in contrast to only 34% of liquidation cases and 24% of cases under either chapter 11 or 13 , with more than 60% of the debt under these chapters being consumer debt.

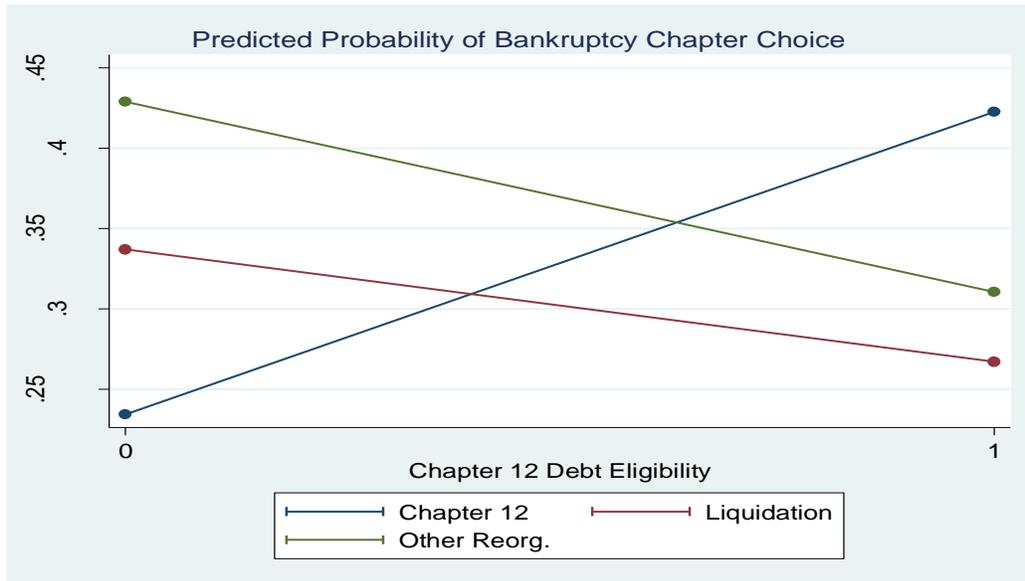
Table 1: Descriptive Statistics of Debtors' Filing and Financial Characteristics

	Mean	SD	Min	Max
<i>Chapter 12 (N = 759)</i>				
Chapter 12 Debt Eligible(%)	0.98	0.13	0.00	1.00
Total Asset (million)	1.11	1.62	0.00	26.01
Share of Secure Debt (%)	0.79	0.21	0.00	1.00
Share of Unsecured Priority Debt(%)	0.01	0.04	0.00	0.69
Average Monthly Income (1,000)	10.36	31.84	0.00	793.32
Average Monthly Expenses (1,000)	8.22	27.49	0.00	689
Personal Property (million)	0.43	1.05	0.00	25.11
Prior Filer (Yes) (%)	0.19	0.39	0.00	1.00
Nature of Debt (Business =1)(%)	1.00	0.00	1.00	1.00
Asset of Case (Yes) (%)	0.93	0.25	0.00	1.00
<i>Liquidation (N = 487)</i>				
Chapter 12 Debt Eligible(%)	0.99	0.10	0.00	1.00
Total Asset (million)	0.27	0.39	0.00	4.80
Share of Secure Debt (%)	0.57	0.32	0.00	1.00
Share of Unsecured Priority Debt(%)	0.02	0.07	0.00	0.89

Average Monthly Income (1,000)	3.53	2.87	0.00	28.22
Average Monthly Expenses(1,000)	4.04	3.28	0.00	29.03
Personal Property(million)	0.11	0.22	0.00	3.29
Prior Filer (Yes) (%)	0.09	0.29	0.00	1.00
Nature of Debt (Business)(%)	0.34	0.48	0.00	1.00
Asset of Case (Yes) (%)	0.25	0.43	0.00	1.00
<i>Reorganisation (N = 571)</i>				
Chapter 12 Debt Eligible(%)	0.97	0.17	0.00	1.00
Total Asset (million)	0.62	2.18	0.00	39.50
Share of Secure Debt (%)	0.75	0.23	0.00	1.00
Share of Unsecured Priority Debt(%)	0.02	0.04	0.00	0.52
Average Monthly Income (1,000)	6.40	18.68	0.00	300.63
Average Monthly Expenses(1,000)	5.22	20.10	0.00	334.36
Personal Property(million)	0.21	0.92	0.00	15.97
Prior Filer (Yes) (%)	0.28	0.45	0.00	1.00
Nature of Debt (Business)(%)	0.24	0.43	0.00	1.00
Asset of Case (Yes) (%)	0.92	0.26	0.00	1.00

Unlike chapters 7 and 13 which do not have any debt restrictions, chapter 12 does have a debt threshold that debtors must meet to file under chapter 12. The diagram below shows the likelihood of a farm debtor selecting each bankruptcy chapter based on whether they meet the chapter 12 debt eligibility criteria. Farm debtors who do not meet the chapter 12 debt requirement are less likely to choose chapter 12 and more likely to select other reorganizations chapters such as chapter 11 or 13 compared to a liquidation chapter. This suggests that even when farm debtors are ineligible for chapter 12, many still seek reorganization options which has similar purpose as chapter 12, indicating a strong preference for restructuring over liquidation.

Figure 2: Predicted Probability of Farm Bankruptcy Chapter choice



5.0 CONCLUSION

This study explores factors that influence a farm debtor’s choice of bankruptcy chapter. While farmers have the unique opportunity to use chapter 12, they are also eligible to seek relief through chapters 7,11 or 13. Although other chapters besides chapter 12 offers may offer debt relief, opting for alternative chapters means foregoing some specific benefits embedded in chapter 12 that was designed to support agricultural producers. This study contributes to the bankruptcy literature by studying farmers’ bankruptcy chapter selection and provides insight into the circumstances under which some farmers choose alternative chapters over chapter 12.

We utilize the debtor’s financial characteristic from the bankruptcy dataset and other agriculture and macroeconomic factors at the time of filing to identify which factors leads farm debtors to select a particular chapter. While prior literature suggests that farmers may consider alternative chapters when their debt exceeds the chapter 12 debt limit, our descriptive analysis reveals nearly all cases filed under non-chapter 12 chapters meet the debt requirement. This finding indicates that debt limits alone do not fully explain why some farmers choose other bankruptcy options. As such, this study aims to further explore the additional factors that shape farm debtors' chapter selection decisions.

It is important to recognize a limitation in this study. We do not observe the percentage of income or debt from farming relative to other sources. This is a crucial element of chapter 12 eligibility where at least 50% of income must come from farming. Unfortunately, we do not have this information. It is possible that some of the farmers that have chosen to file under an alternative

to chapter 12 are simply not eligible for chapter 12. Also, most of the filing information is reported by the debtor and not validated by the court in most cases.

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7.0 Appendix

A1: Chapter 12 eligibility criteria for individual or individual and spouse

1. Must be engaged in a farming or commercial fishing operation
2. The total debt must not exceed \$12,562,250 for farmers and \$2,568,000 for fishermen.
3. For farmers at least 50%, and fishermen at least 80% of debt must be farming or fishing related.
4. More than 50% of the gross income of individuals or the individual and spouse for the preceding tax year must be farming or fishing related.

A2: Chapter 12 eligibility criteria for corporation or partnership

1. More than one-half of the outstanding stock or equity in the corporation or partnership must be owned by one family member or family member and its relatives.
2. More than 80% of the value of the corporation or partnership's asset must be farming or fishing related.
3. If the corporation issues stock, the stock cannot be publicly traded
4. Must be engaged in a farming or commercial fishing operation
5. The total debt must not exceed \$12,562,250 for farmers and \$2,568,000 for fishermen.
6. For farmers at least 50%, and fishermen at least 80% of debt must be farming or fishing related.

Note: These requirements are sourced from the United States Court website