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APPROVED
DEC 31 1975

signed 12/31/75

THE WHITE HOUSE
WASHINGTON

ACTION

Last Day: December 31

December 24, 1975

*Posted
12/31
To Archives
12/31*

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON
SUBJECT: H.R. 7862 - Revision of Farm Credit Eligibility Standards

Attached for your consideration is H.R. 7862, sponsored by Representative Bergland, which would amend the Farm Credit Act of 1971 relating to credit eligibility for cooperatives serving agricultural producers and would enlarge the access of production credit associations to the Federal district courts.

A discussion of the provisions of the enrolled bill is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus), Bill Seidman and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 7862 at Tab B.





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 23 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 7862 - Revision of farm
credit eligibility standards
Sponsor - Rep. Bergland (D) Minnesota

Last Day for Action

December ~~13~~³¹, 1975 - Wednesday

Purpose

Amends the Farm Credit Act of 1971 relating to credit eligibility for cooperatives serving agricultural producers, and to enlarge the access of production credit associations to the Federal district courts.

Agency Recommendations

Office of Management and Budget	Approval
Farm Credit Administration	Approval
Department of Agriculture	Approval
Department of the Treasury	No recommendation
Department of Justice	Defers to interested agencies

Discussion

Banks for cooperatives of the Farm Credit System make loans to eligible cooperatives at interest rates that are usually lower than the going market rate. In order to qualify for these loans, the Farm Credit Act requires that farmers must have at least 80 percent of the voting control of such cooperatives. Furthermore, another of the Farm Credit System's lending institutions, the production credit associations, have generally been prohibited from suing or being sued in Federal district courts. This prohibition was based on the fact that many farmers were located relatively long distances from their Federal district court, and that these farmers had much better access to State courts.



H.R. 7862 would amend the Farm Credit Act concerning the two provisions discussed above by:

1. Lowering to 70 percent the minimum "farmer" voting control requirement for rural electric, telephone, and public utility cooperatives; and,
2. Eliminating the provision which prohibits production credit associations from suing or being sued in Federal district courts.

In its report on H.R. 7862, the House Agriculture Committee explained the need and desirability of these two amendments as it noted that:

"The communities served by rural electric cooperatives are changing. More and more non-farm people and businesses are moving to rural areas. The Rural Development Act of 1972 encourages such movement as beneficial to the economy of rural areas. In providing farmers adequate electric service, service frequently must be provided for other electric consumers in the cooperative's chartered territory as well.

" ... by making available financing for rural electric service to residents and establishments in farm communities, the Banks would strengthen their own earnings base and their capacity to serve all farmer cooperatives. It will provide additional rural electric cooperatives with an additional source of supplemental financing and may tend to reduce Government involvement in the rural electric and telephone program."

* * * * *

"The provision in the Farm Credit Act which states that the district courts of the United States shall not have jurisdiction (except in certain limited situations) of any suit by or against a production credit association presents substantial difficulties in enforcing a lien of a preferred ship mortgage and serves as an impediment to financing fishermen.



"The amendment of the Farm Credit Act to permit production credit associations access to the Federal district courts will provide a mechanism by which the associations themselves can enforce a lien on ships if the need arises. The ability of a production credit association to take an enforceable lien on a fishing vessel, just as it now can on a farmer's property, equipment, or livestock, will make credit service more readily available to producers and harvesters of aquatic products.

"The adoption of the proposal will also give PCAs the same access to the Federal district courts as is enjoyed by private citizens, corporations, and other legal entities."

James M. Frey
James M. Frey
Assistant Director for
Legislative Reference

Enclosures



To -
J. Conaway
12-23-75
5:30 p.m.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 23 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 7862 - Revision of farm credit eligibility standards
Sponsor - Rep. Bergland (D) Minnesota

Last Day for Action

December ~~13~~³¹, 1975 - Wednesday

Purpose

Amends the Farm Credit Act of 1971 relating to credit eligibility for cooperatives serving agricultural producers, and to enlarge the access of production credit associations to the Federal district courts.

Agency Recommendations

Office of Management and Budget	Approval
Farm Credit Administration	Approval
Department of Agriculture	Approval
Department of the Treasury	No recommendation
Department of Justice	Defers to interested agencies

Discussion

Banks for cooperatives of the Farm Credit System make loans to eligible cooperatives at interest rates that are usually lower than the going market rate. In order to qualify for these loans, the Farm Credit Act requires that farmers must have at least 80 percent of the voting control of such cooperatives. Furthermore, another of the Farm Credit System's lending institutions, the production credit associations, have generally been prohibited from suing or being sued in Federal district courts. This prohibition was based on the fact that many farmers were located relatively long distances from their Federal district court, and that these farmers had much better access to State courts.



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: December 24

Time: 900am

FOR ACTION: Paul Leach *ll*
Max Friedersdorf *ah* cc (for information):
Ken Lazarus *ll*
Bill Seidman *ah*

Jack Marsh
Jim Cavanaugh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 29

Time: 1100am

SUBJECT:

H.R. 7862 - Revision of farm credit eligibilty standards

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President



490 L'ENFANT PLAZA, S.W. WASHINGTON, D.C. 20578

December 22, 1975

Director, Office of Management and Budget
Executive Office of the President
Washington, DC 20503

Attention: Assistant Director for
Legislative Reference

Subject: Report on enrolled bill H.R. 7862, 94th Congress

This is in response to your request of December 18, 1975, for a report on enrolled bill H.R. 7862, an act "To amend the Farm Credit Act of 1971 relating to credit eligibility for cooperatives serving agricultural producers, and to enlarge the access of production credit associations to Federal district courts."

Section (a) of H.R. 7862 pertains to the banks for cooperatives, which are under the supervision of the Farm Credit Administration. The Farm Credit Act of 1971 now requires that any cooperative, in order to be eligible for a loan from such bank, have not less than 80 percent (or such higher percentage as may be established by the district board) of its voting control in the hands of farmers. This requirement has prevented some rural electric cooperatives, which are the organizations most likely to be benefited by section (a), from being considered eligible for bank for cooperatives financing. In lowering the minimum farmer voting control from 80 to 70 percent in the case of rural electric, telephone, and public utility cooperatives, section (a) of the bill will permit more of these organizations to be served by the banks for cooperatives.

The communities served by rural electric cooperatives are changing. More and more nonfarm people and businesses are moving to rural areas. The Rural Development Act of 1972 encourages such movement as beneficial to the economy of rural areas. In providing farmers adequate electric service, service must be provided for all other electric consumers in the cooperative's chartered territory as well. The Rural Electrification Act adopted a policy designed to move rural electric cooperatives into the private money markets and indicated that the banks for cooperatives are among the "legally organized lending institutions" authorized to make loans to rural electric cooperatives. A 1973 amendment to that Act anticipates increasing needs of the rural electric program for capital.

2-Director, Office of Management and Budget

The needs are also recognized by the board of directors of the National Rural Electric Cooperative Association which supports this proposal, and by the affirmative vote of all 10 Rural Electric Cooperative Regional boards. There is strong support for the proposal within the Farm Credit System. In addition, the proposal has the support of the United States Department of Agriculture, and a number of farm organizations.

All available sources of financing should be available to rural electric cooperatives to expand their services and strengthen the economies of rural communities as a basis for agricultural production and rural living. The proposal will provide credit potential for some 150 to 200 rural electric cooperatives. It will provide them with an additional source of supplemental financing, giving them greater choice of selecting a lender. At the same time, it will not detract from other private sources of credit, though it may tend to reduce Government involvement in the rural electric program.

The change will also make joint financing, with other sources of credit, easier for the large generation and transmission cooperatives. It will enable rural electric cooperatives to bargain for better terms and lower costs than might be obtained in a more restricted market. So while only a limited number of rural electric cooperatives are expected to borrow, all such cooperatives will benefit from the potential availability of credit from the banks for cooperatives with their direct access to the Nation's capital markets.

The enactment of this legislation will allow the banks to further strengthen their loan portfolios. The credit risks among the rural electric cooperatives are minimal because: (a) they have monopoly access to their market areas, (b) they provide an irreplaceable public service for which there is no substitute and no serious threat of competition, (c) they have a regular cash flow that is not subject to major market fluctuations, and (d) annual audits and management reports reviewed by the Rural Electrification Administration provide reasonable assurance of efficient management.

The proposed legislation is written so as to make its use optional with each bank. Any bank that so chooses can adopt the 70 percent eligibility requirement or one that is more stringent. However, by making available financing for rural electric service to residents and establishments in farm communities, the banks would strengthen their own earnings base and their capacity to serve all farmer cooperatives.

3-Director, Office of Management and Budget

The banks currently are owned by some 4,000 agricultural cooperatives of which 3,000 are active borrowers. The proposal will not detract from the ownership and control of the banks by these cooperatives. Their eligibility for loans would not be changed.

The proposal will not result in any cost to the U. S. Government. The cooperatives borrowing from the banks for cooperatives will pay the cost of the money borrowed and the cost of making the loans available. Loan funds are obtained primarily through the sale of bonds to private investors. This, too, is at no cost to the Government.

Loan funds available to other types of cooperatives will not be affected. Any amounts of capital which rural electric cooperatives are justified in borrowing, will, for the most part, be obtained from the "agency" market. The total amount of credit available at any given time is competitively obtained by several organizations from that market, and the banks for cooperatives, like the other Farm Credit banks, are extremely effective in raising the loan funds they require.

Money borrowed by rural electric cooperatives is invested in rural America and helps enhance the quality of life for all who live there while making more efficient the agricultural productivity of the Nation.

Section (b) of H.R. 7862 would delete from current law provisions which now prevent the Federal district courts from entertaining actions by or against production credit associations on the same footing as for other parties. The Farm Credit Administration supervises the 431 production credit associations throughout the United States which make loans to farmers, ranchers, and producers and harvesters of aquatic products. The Farm Credit Act of 1933, under which the production credit associations were established, restricted their access to the Federal district courts. The argument against access was based on the remoteness of the Federal courts to farmers. Consequently, it was thought to be more satisfactory to have the resolution of PCA matters in State courts. The Farm Credit Act of 1971, under which PCAs now operate, similarly restricts PCA access to the Federal district courts except in limited circumstances.

Section (b) would simply amend the Farm Credit Act of 1971 to eliminate any restrictions on production credit associations to sue and be sued in Federal district courts. Then, all Farm Credit institutions--Federal land banks, Federal land bank associations, Federal intermediate credit banks, banks for cooperatives, and production credit associations--will have the same access to the Federal district court system.

4-Director, Office of Management and Budget

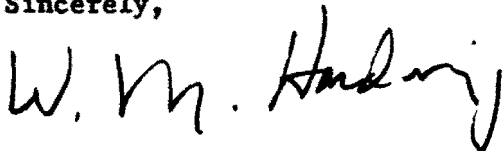
The Farm Credit Act of 1971 contains, among several new authorities, one which allows production credit associations to make loans to producers and harvesters of aquatic products. In making such loans, production credit associations frequently find it prudent and desirable to take liens on fishing boats. These liens are called "preferred ship mortgages." The maritime laws of the United States, however, place exclusive jurisdiction of the foreclosure of preferred ship mortgages in the Federal district courts. Therefore, the production credit associations cannot directly foreclose the lien of a preferred ship mortgage.

The amendment of the Farm Credit Act to permit production credit associations access to the Federal district courts will provide a mechanism by which the associations themselves can enforce a lien on ships if the need arises. The ability of a production credit association to take an enforceable lien on a fishing vessel, just as it now can on a farmer's property, equipment, or livestock, will make credit service more readily available to producers and harvesters of aquatic products.

The proposal has the endorsement of Federal intermediate credit banks which supervise the production credit associations on a local basis, and of the production credit associations involved in loans to producers and harvesters of aquatic products. No known opposition to the proposal exists.

The Farm Credit Administration recommends that the enrolled bill be approved by the President.

Sincerely,

A handwritten signature in dark ink, appearing to read "W. M. Harding". The signature is written in a cursive style with a large, sweeping "H" and "D".

Governor



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

December 22, 1975

Honorable James T. Lynn
Director, Office of
Management and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

In reply to the request of your office, the following report is submitted on enrolled enactment of H. R. 7862 "To amend the Farm Credit Act of 1971 relating to credit eligibility for cooperatives serving agricultural producers, and to enlarge the access of production credit associations to Federal district courts".

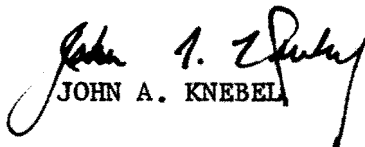
The Department recommends that the President approve this Bill.

The Amendment of Section 3.8(d) increases the capability of Banks for Cooperatives to make loans to rural electric, telephone, and public utility cooperatives by reducing the percentage of members in such cooperatives that are required to be producers of agricultural or aquatic products from 80 to 70 percent. Such action is consistent with the national policy of enhancing the quality of life in rural areas and promoting rural development. It would also facilitate the movement of rural service cooperatives towards a larger dependence on the private money market and lessen dependence on the government as a source of funds.

The Amendment of Section 5.24 would have the effect of eliminating restrictions on production credit associations to bring suit or be sued in Federal district courts. This Amendment relates primarily to loans that may be made to fishermen under the Farm Credit Act of 1971. Exclusive jurisdiction for foreclosure on vessels rests with the Federal district courts under U.S. Maritime Law. The exclusion of access to the U.S. district courts by production credit associations constitutes a severe impediment to making loans to many deserving and needy fishermen, and in some measure thwarts the basic intent of the Farm Credit Act of 1971.

Since the Farm Credit System is now owned and controlled by member-borrowers and draws its funds entirely from the private money market, these Amendments would involve no cost to the Federal Government.

Sincerely,


JOHN A. KNEBEL

Under Secretary



THE DEPUTY SECRETARY OF THE TREASURY

WASHINGTON, D.C. 20220

DEC 22 1975

Director, Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

Attention: Assistant Director for Legislative
Reference

Sir:

Reference is made to your request for the views of this Department on the enrolled enactment of H.R. 7862, "To amend the Farm Credit Act of 1971 relating to credit eligibility for cooperatives serving agricultural producers, and to enlarge the access of production credit associations to Federal district courts."

The enrolled enactment would reduce from 80 percent to 70 percent the amount of voting control of a rural electric, telephone, or public utility cooperative which must be held by farmers, producers of aquatic products, or eligible cooperative associations in order for a cooperative to obtain financing from the Banks for Cooperatives. It would also delete the provisions in the Farm Credit Act which prohibit production credit associations from bringing suit or being sued in Federal district courts.

The Department did not comment on this legislation during its consideration by the Congress. We have no recommendation to make with regard to the enrolled enactment.

Sincerely yours,


Stephen S. Gardner

Department of Justice
Washington, D.C. 20530

December 19, 1975

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

In compliance with your request, I have examined a facsimile of the enrolled bill (H.R. 7862), "To amend the Farm Credit Act of 1971 relating to credit eligibility for cooperatives serving agricultural producers, and to enlarge the access of production credit associations to Federal district courts."

Section (a) of H.R. 7862 would lower the percentage of voting control by farmers, producers or harvesters of rural electric, telephone and public utility cooperatives from 80 to 70 percent as a condition of eligibility for obtaining financing from the Bank of Cooperatives.

Section (b) of H.R. 7862 would allow production credit associations to sue or be sued in Federal district courts.

The Department of Justice defers to the interested agencies as to recommendations for Executive action on this measure.

Sincerely,



Michael M. Uhlmann



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: December 24

Time: 900am

FOR ACTION: Paul Leach
Max Friedersdorf
Ken Lazarus
Bill Seidman

cc (for information): Jack Marsh
Jim Cavanaugh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 29

Time: 1100am

SUBJECT:

H.R. 7862 - Revision of farm credit eligibility standards

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

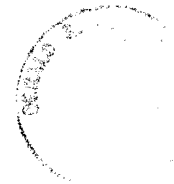
No objection.

Dudley Chapman

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

For information only
For information only



THE WHITE HOUSE

WASHINGTON

December 24, 1975

MEMORANDUM FOR:

JIM CAVANAUGH

FROM:

MAX FRIEDERSDORF *M.F.*

SUBJECT:

H.R. 7862 - Revision of Farm Credit
Eligibility Standards

The Office of Legislative Affairs has reviewed subject bill
and recommends it be signed.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: December 24

Time: 900am

FOR ACTION: Paul Leach
Max Friedersdorf
Ken Lazarus
Bill Seidman

cc (for information): Jack Marsh
Jim Cavanaugh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 29

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SUBJECT:

H.R. 7862 - Revision of farm credit eligibility standards

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

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Draft Reply

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Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

OK PLZ

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James H. ...
For the Staff Secretary

DEC 24 RECD

THE WHITE HOUSE
WASHINGTON

LOG NO.:

ACTION MEMORANDUM

Date: December 24

Time: 900am

FOR ACTION: Paul Leach
Max Friedersdorf
Ken Lazarus
Bill Seidman

cc (for information):

Jack Marsh
Jim Cavanaugh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 29

Time: 1100am

SUBJECT:

H.R. 7862 - Revision of farm credit eligibility standards

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

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Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

*Approval
JWS*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James G. Thompson
Staff Secretary

FARM CREDIT ELIGIBILITY STANDARDS REVISIONS

NOVEMBER 1, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FOLEY, from the Committee on Agriculture,
submitted the following

REPORT

[To accompany H.R. 7862]

The Committee on Agriculture, to whom was referred the bill (H.R. 7862) to amend the Farm Credit Act of 1971 relating to credit eligibility for cooperatives serving agricultural producers, and to enlarge the access of production credit associations to Federal district courts, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, line 6, strike "60 per centum" and insert in lieu thereof "70 per centum".

PURPOSE AND NEED FOR THE LEGISLATION

The Farm Credit Act of 1971 requires that in order for a cooperative of farmers, producers, or harvesters of aquatic products or a federation of such cooperatives to be eligible to receive loans from the Banks for Cooperatives of the Farm Credit System, at least 80 per cent of the voting control must be held by farmers, producers or harvesters of aquatic or in the case of a federated cooperative by eligible cooperative associations.

Section (a) of H.R. 7862 lowers the minimum requirement for public utilities, telephone and rural electric cooperatives to 70 percent.

Section (b) amends the Farm Credit Act of 1971 to eliminate the provision which prohibits production credit associations from suing or being sued in Federal district courts. Thus, all Farm Credit institutions—Federal land banks, Federal land bank associations, Federal intermediate credit banks, banks for cooperatives, and production credit associations—will have the same access to the Federal district courts.

The communities served by rural electric cooperatives are changing. More and more nonfarm people and businesses are moving to rural areas. The Rural Development Act of 1972 encourages such movement

as beneficial to the economy of rural areas. In providing farmers adequate electric service, service frequently must be provided for other electric consumers in the cooperative's chartered territory as well. Congress, in approving the Rural Electrification Act, adopted a policy designed to move rural electric cooperatives into the private money markets and indicated that the Banks for Cooperatives are among the "legally organized lending institutions" authorized to make loans to rural electric cooperatives. A 1973 amendment to that Act anticipates increasing needs of the rural electric program for capital.

The proposed legislation is written so as to make its use optional with each Bank. Any Bank that so chooses can adopt the 70 percent eligibility requirement or one that is more stringent. However, by making available financing for rural electric service to residents and establishments in farm communities, the Banks would strengthen their own earnings base and their capacity to serve all farmer cooperatives. It will provide additional rural electric cooperatives with an additional source of supplemental financing and may tend to reduce Government involvement in the rural electric and telephone program.

The Banks currently are owned by some 4,000 agricultural cooperatives of which 3,000 are active borrowers. The bill will not detract from the ownership and control of the Banks by these cooperatives. Their eligibility for loans would not be changed.

This provision of H.R. 7862, as amended, has the support of the Farm Credit Administration, most of the districts that comprise the Farm Credit System, the United States Department of Agriculture, the Board of Directors of the National Rural Electric Cooperative Association, the 10 Rural Electric Cooperative Regional Boards, and a number of farm organizations.

The other provision of H.R. 7862, as amended, deletes language from the Act which prohibits access to Federal district courts by production credit associations.

The Farm Credit Act of 1971 contains, among several new authorities, one which allows production credit associations to make loans to producers and harvesters of aquatic products. In making such loans, production credit associations frequently find it prudent and desirable to take liens on fishing boats. These liens are called "preferred ship mortgages." The maritime laws of the United States, however, place exclusive jurisdiction of the foreclosure of preferred ship mortgages in the Federal district courts.

The provision in the Farm Credit Act which states that the district courts of the United States shall not have jurisdiction (except in certain limited situations) of any suit by or against a production credit association presents substantial difficulties in enforcing a lien of a preferred ship mortgage and serves as an impediment to financing fishermen.

The amendment of the Farm Credit Act to permit production credit associations access to the Federal district courts will provide a mechanism by which the associations themselves can enforce a lien on ships if the need arises. The ability of a production credit association to take

an enforceable lien on a fishing vessel, just as it now can on a farmer's property, equipment, or livestock, will make credit service more readily available to producers and harvesters of aquatic products.

The adoption of the proposal will also give PCAs the same access to the Federal district courts as is enjoyed by private citizens, corporations, and other legal entities.

This provision has the endorsement of Federal intermediate credit banks and production credit associations involved in loans to producers and harvesters of aquatic products and there is no known opposition thereto.

SECTION-BY-SECTION ANALYSIS

Subsection (a) amends section 3.8(d) of the Farm Credit Act of 1971 so as to change one of the requirements applicable to rural electric, telephone, and public utility cooperatives which is a condition of eligibility for obtaining financing from the Banks for Cooperatives. This subsection provides that not less than 70 percent (in lieu of the current requirement of 80 percent) of the voting control of the cooperative must be held by farmers or producers or harvesters of aquatic products or in the case of a federated cooperative by eligible cooperative associations. The district board may establish a higher percentage of voting control if it so elects.

Subsection (b) deletes the provision in the Farm Credit Act which prohibits production credit association (with a few limited exceptions) from being able to sue or be sued in the Federal district courts.

COMMITTEE CONSIDERATION

H.R. 7862 was introduced on June 12, 1975, and referred to the Conservation and Credit Subcommittee. One day of hearings was held, with testimony presented by representatives of the Farm Credit Administration, the Department of Agriculture, and the Banks for Cooperatives.

In the Subcommittee consideration of H.R. 7862, some opposition was raised to the bill, as introduced, which lowered the percentages of voting control required to be held by farmers from 80 to 60 percent. Accordingly, Mr. Poage offered an amendment which set the minimum farmer voting control requirement for borrowers from the Banks for Cooperatives at 70 percent. The amendment was adopted unanimously.

In an open business meeting on October 2, 1975, in the presence of a quorum, the Subcommittee voted unanimously that H.R. 8762, as amended, be reported to the full Committee.

In an open business meeting on October 29, 1975, H.R. 7862, as amended, was reported and recommended to pass by an unanimous voice vote in the presence of a quorum.

ADMINISTRATION POSITION

The following letters were received by Chairman Foley from the Farm Credit Administration and the Department of Agriculture on H.R. 8762:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., July 8, 1975.

Mr. THOMAS S. FOLEY,
Chairman, U.S. House of Representatives, Committee on Agriculture,
Longworth House Office Building, Washington, D.C.

DEAR MR. FOLEY: This is in response to your request for recommendations on H.R. 7862, a bill "To amend the Farm Credit Act of 1971 relating to credit eligibility for cooperatives serving agricultural producers, and to enlarge the access of production credit associations to Federal district courts."

The Department favors enactment of this bill.

The first amendment provided by the bill, by reducing the percentage of members required to be producers of agricultural products from 80 percent to 60 percent, would increase the number of rural electric and telephone cooperatives which would be eligible for loans from Banks for Cooperatives. The additional source of credit would be beneficial and in line with the President's policy for promoting rural development. Also, this amendment would facilitate the movement of the rural electric and telephone cooperatives into the private money market.

The other amendment provided by the proposed bill would simply amend the Farm Credit Act of 1971 to eliminate any restrictions on production credit associations to sue and be sued in Federal district courts. The 1971 Act authorizes production credit associations to make loans to producers and harvesters of aquatic products. In making such loans they frequently find it desirable to take liens on fishing boats, called "preferred ship mortgages." Exclusive jurisdiction of the foreclosure of preferred ship mortgages is placed in the Federal district courts by the Maritime laws of the United States. Permitting the production credit association access to the Federal district courts would eliminate this impediment to financing fishermen.

Since the Farm Credit Institutions are now privately financed, there would be no cost to the Federal Government.

The Office of Management and Budget advises there is no objection to the presentation of this report.

Sincerely,

J. PHIL CAMPBELL,
Acting Secretary.

FARM CREDIT ADMINISTRATION,
Washington, D.C., April 30, 1975.

Hon. THOMAS S. FOLEY,
Chairman, House Committee on Agriculture, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request, I am pleased to provide you with information regarding the need for legislation to make it possible for more public utility cooperatives to borrow from the Banks for Cooperatives. Also, I am enclosing a draft of a bill dealing with this matter.

The Federal Farm Credit Board, based on official action taken at its January 1975 meeting, favors enactment of such a bill for the reasons hereinafter stated.

The proposal, as you know, will primarily affect rural electric cooperatives. In order to be eligible now, such cooperatives must not have less than 80 percent of their voting controls in the hands of farmers. The proposed legislation will reduce that requirement to 60 percent, or whatever higher figure may be established by the district Farm Credit Board.

NEED FOR REVISING ELIGIBILITY

The communities served by rural electric cooperatives are changing. More and more non-farm people and businesses are moving to rural areas. The Rural Development Act of 1972 encourages such movement as beneficial to the economy of rural areas. In providing farmers adequate electric service, service must be provided for all other electric consumers in the cooperative's chartered territory as well. Congress, in approving the Rural Electrification Act, adopted a policy designed to move rural electric cooperatives into the private money markets and indicated that the Banks for Cooperatives are among the "legally organized lending institutions" authorized to make loans to rural electric cooperatives. A 1973 amendment to that Act anticipates increasing needs of the rural electric program for capital.

The needs are also recognized by the board of directors of the National Rural Electric Cooperative Association which supports this proposal and by the affirmative vote of all 10 Rural Electric Cooperative Regional boards. There is strong support for the proposal within the Farm Credit System, although two of the twelve districts, the tenth (Houston) and eleventh (Berkeley) have indicated opposition.

In addition, the proposal has the support of the United States Department of Agriculture, and a number of farm organizations.

All available sources of financing should be available to rural electric cooperatives to expand their services and strengthen the economies of rural communities as a basis for agricultural production and rural living.

Effect on Rural Electric Cooperatives

The proposal will provide credit potential for some 150 to 200 rural electric cooperatives. It will provide them with an additional source of supplemental financing, giving them greater choice of selecting a lender. At the same time, it will not depreciate or detract from other private sources of credit, though it may tend to reduce Government involvement in the rural electric program.

The change will also make joint financing, with other sources of credit, for the large generation and transmission cooperatives easier.

It will enable rural electric cooperatives to bargain for better terms and lower costs than might be obtained in a more restricted market. So while only a limited number of rural electric cooperatives are expected to borrow, all such cooperatives will benefit from the potential availability of credit from the Banks for Cooperatives with their direct access to the Nation's capital markets.

Effect on the Banks for Cooperatives

The enactment of legislation making it possible for a greater number of rural electric cooperatives to borrow from the Banks for Cooperatives

tives will allow the Banks to further strengthen their loan portfolios. The credit risks among the rural electric cooperatives are minimal because: (a) they have monopoly access to their market areas, (b) they provide an irreplaceable public service for which there is no substitute and no serious threat of competition, (c) they have a regular cash flow that is not subject to major market fluctuations, and (d) annual audits and management reports reviewed by the Rural Electrification Administration provide reasonable assurance of efficient management.

The proposed legislation is written so as to make its use optional with each Bank. Any Bank that so chooses can adopt the 60 percent eligibility requirement or one that is more stringent. However, by making available financing for rural electric service to residents and establishments in farm communities, the Banks would strengthen their own earnings base and their capacity to serve all farmer cooperatives.

The Banks currently are owned by some 4,000 agricultural cooperatives of which 3,000 are active borrowers. The proposal will not detract from the ownership and control of the Banks by these cooperatives. Their eligibility for loans would not be changed.

Effect on Others

The proposal will not result in any cost to the U.S. Government. The cooperatives borrowing from the Banks for Cooperatives will pay the cost of the money borrowed and the cost of making the loans available. Loan funds are obtained primarily through the sale of bonds to private investors. This, too, is at no cost to the Government.

Loan funds available to other types of cooperatives will not be affected. Any amounts of capital which rural electric cooperatives are justified in borrowing, will, for the most part, be obtained from the "agency" market. The total amount of credit available at any given time is competitively obtained by several organizations from that market, and the Banks for Cooperatives, like the other Farm Credit Banks, are extremely effective in raising the loan funds they require.

Money borrowed by rural electric cooperatives is invested in rural America and helps enhance the quality of life for all who live there while making more efficient the agricultural productivity of the Nation.

Sincerely,

W. M. HARDING, *Governor.*

Enclosure.

FARM CREDIT ADMINISTRATION,
Washington, D.C., May 9, 1975.

HON. THOMAS S. FOLEY,
*Chairman, House Committee on Agriculture,
House of Representatives, Washington, D.C.*

DEAR CHAIRMAN FOLEY: The Federal Farm Credit Board, this Agency's top policymaking body, has endorsed the proposal that would enlarge the access of production credit associations to Federal district courts. This proposal in bill form is enclosed. It would delete from current law those provisions which now preclude the Federal district courts from entertaining actions by or against production credit associations on the same footing as for other petitioners.

There are 432 production credit associations throughout the United States which make loans to farmers, ranchers, and producers and harvesters of aquatic products. The Farm Credit Act of 1933, under which the production credit associations were established, restricted their access to the Federal district courts. The argument against access was based on the remoteness of the Federal courts to farmers. Consequently, it was thought to be more satisfactory to have the resolution of PCA matters in State courts. The Farm Credit Act of 1971, under which PCAs now operate, similarly restricts PCA access to the Federal district courts except in limited circumstances.

This proposal would simply amend the Farm Credit Act of 1971 to eliminate any restrictions on production credit associations to sue and be sued in Federal district courts. Then, all Farm Credit institutions—Federal land banks, Federal land bank associations, Federal intermediate credit banks, banks for cooperatives, and production credit associations—will have the same access to the Federal district court system.

Need

The Farm Credit Act of 1971 contains, among several new authorities, one which allows production credit associations to make loans to producers and harvesters of aquatic products. In making such loans, production credit associations frequently find it prudent and desirable to take liens on fishing boats. These liens are called "preferred ship mortgages." The Maritime laws of the United States, however, place exclusive jurisdiction of the foreclosure of preferred ship mortgages in the Federal district courts.

One of the factors on which all PCA loan decisions are made involves collateral. The collateral needs are usually dictated by the strengths and weaknesses of other credit factors. The collateral taken must reasonably protect the lender, provide the necessary control of equity and repayment, and leave the borrower in a position to constructively manage his business. Under present circumstances, the difficulty in enforcing a lien of a preferred ship mortgage, if that becomes necessary, is an impediment to financing fishermen.

Effect on production credit associations

The amendment of the Farm Credit Act to permit production credit associations access to the Federal district courts will provide a mechanism by which the associations themselves can enforce a lien on ships if the need arises.

The adoption of the proposal will also give PCAs the same access to the Federal district courts as is enjoyed by private citizens, corporations, and other legal entities.

Effect on borrowers

The ability of a production credit association to take an enforceable lien on a fishing vessel, just as it now can on a farmer's property, equipment, or livestock, will make credit service more readily available to producers and harvesters of aquatic products.

Effect on others

The proposal, if enacted into law, will permit persons and other entities to pursue their claims against production credit associations in Federal district courts, if jurisdictional elements are present, the same as if the defendant were not the PCA.

Access to Federal district courts would result in little, if any, additional costs to PCAs. Improved transportation and communications permit ready access to Federal district courts by everyone and, therefore, the proposal should not result in significant increased costs to litigating parties.

The proposal has the endorsement of Federal intermediate credit banks and production credit associations involved in loans to producers and harvesters of aquatic products. No known opposition to the proposal exists and none is expected.

The Farm Credit Administration is authorized by the Farm Credit Act of 1971 to recommend legislative changes in the Act directly to Congress. Therefore, it has not been necessary to submit this proposal to the Office of Management and Budget for clearance.

Sincerely,

W. M. HARDING, *Governor.*

Enclosure.

CURRENT AND FIVE SUBSEQUENT FISCAL YEAR COST ESTIMATES

Pursuant to clause 7 of Rule XIII of the Rules of the House of Representatives, the Committee estimates that there would be no cost incurred by the Federal Government during the current and five subsequent fiscal years as a result of the enactment of this legislation, since the Farm Credit institutions are privately financed.

The Farm Credit Administration and the U.S. Department of Agriculture concur in this statement.

INFLATIONARY IMPACT STATEMENT

Pursuant to Rule XI, clause 2(1)(4), of the Rules of the House of Representatives, the Committee estimates that enactment of H.R. 7862, as amended, would not have any inflationary impact on prices and costs in the operation of the national economy.

BUDGET ACT COMPLIANCE (SECTION 308 AND SECTION 403)

The provisions of clause (1)(3)(B) and clause (1)(3)(C) of Rule XI of the Rules of the House of Representatives, and Section 308(a) and Section 403 of the Congressional Budget Act of 1974 (relating to estimates of new budget authority or new or increased tax expenditures and estimates and comparisons prepared by the Director of the Congressional Budget Office), are not considered applicable.

OVERSIGHT STATEMENT

No specific oversight activities, other than the hearings accompanying the Committee's consideration of H.R. 7862, as amended, were made by the Committee, within the definition of clause 2(b)(1) of Rule X of the House. No summary of oversight findings and recommendations made by the Committee on Government Operations under clause 2(b)(2) of Rule X of the Rules of the House of Representatives was available to the Committee with reference to the subject matter specifically addressed by H.R. 7862.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italics*, and existing law in which no change is proposed is shown in *roman*):

FARM CREDIT ACT OF 1971

* * * * *

SEC. 3.8. ELIGIBILITY.—Any association of farmers, producers, or harvesters of aquatic products, or any federation of such associations, which is operated on a cooperative basis, and has the powers for processing, preparing for market, handling, or marketing farm or aquatic products; or for purchasing, testing, grading, processing, distributing, or furnishing farm or aquatic supplies or furnishing farm business services or services to eligible cooperatives and conforms to either of the two following requirements:

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

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

(c) does not deal in farm products or aquatic products, or products processed therefrom, farm or aquatic supplies, or farm business services with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members, excluding from the total of member and non-member business transactions with the United States or any agency or instrumentality thereof or services or supplies furnished as a public utility; and

(d) a percentage of the voting control of the association not less than [80 per centum] *70 per centum*, or such higher percentage as established by the district board is held by farmers, producers or harvesters of aquatic products, or eligible cooperative associations as defined herein;

shall be eligible to borrow from a bank for cooperatives.

SEC. 5.24. JURISDICTION.—Each institution of the System shall for the purposes of jurisdiction be deemed to be a citizen of the State commonwealth, or District of Columbia in which its principal office is located. [No district court of the United States shall have jurisdiction of any action or suit by or against any production credit association upon the ground that it was incorporated under this Act or prior Federal law, or that the United States owns any stock thereof, nor shall any district court of the United States have jurisdiction, by removal or otherwise, of any suit by or against such association except in cases by or against the United States or by or against any officer of the United States or against any person over whom the courts of the State have no jurisdiction, and except in cases by or against any receiver or conservator of any such association appointed in accordance with the provisions of this Act.]

FARM CREDIT SYSTEM LOANS TO RURAL UTILITY COOPERATIVES

DECEMBER 15, 1975.—Ordered to be printed

Mr. MCGOVERN, from the Committee on Agriculture and Forestry,
submitted the following

REPORT

[To accompany H.R. 7862]

The Committee on Agriculture and Forestry, to which was referred the bill (H.R. 7862) to amend the Farm Credit Act of 1971 relating to credit eligibility for cooperatives serving agricultural producers, and to enlarge the access of production credit associations to Federal district courts, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

SHORT EXPLANATION

The Farm Credit Act of 1971 requires that in order for a cooperative of farmers, producers or harvesters of aquatic products or a federation of such cooperatives to be eligible to receive loans from the Banks for Cooperatives of the Farm Credit System, at least 80 percent of the voting control must be held by farmers, producers or harvesters of aquatic products, or in the case of a federated cooperative by eligible cooperative associations. H.R. 7862 lowers the minimum requirement for rural electric, telephone, and public utility cooperatives to 70 percent.

The bill also amends the Farm Credit Act of 1971 to eliminate the provision which prohibits production credit associations from suing or being sued in Federal district courts. Thus, all Farm Credit institutions—Federal land banks, Federal land bank associations, Federal intermediate credit banks, banks for cooperatives, and production credit associations—will have the same access to the Federal district courts.

BACKGROUND AND NEED FOR LEGISLATION

I.

The communities served by rural electric and telephone cooperatives are changing.

More and more nonfarm people and businesses are locating in rural areas. The Rural Development Act of 1972 encourages such movement as beneficial to the economy of the Nation. In providing farmers adequate electric service, service frequently must be provided for other electric consumers in the cooperative's chartered territory. Congress, in approving amendments to the Rural Electrification Act, has adopted a policy designed to move rural electric cooperatives into the private money markets. Banks for Cooperatives are among the "legally organized lending institutions" authorized to make loans to rural electric cooperatives.

The proposed legislation makes the use of the new minimum voting control requirement optional with each Bank. Any Bank that so chooses can adopt the 70 percent eligibility requirement or one that is more stringent. However, by making available financing for rural electric service to residents and establishments in farm communities, the Banks would strengthen their own earnings base and their capacity to serve all farmer cooperatives. Rural electric cooperatives would have an additional source of supplemental financing which may tend to reduce Government involvement in the rural electric and telephone program.

The Banks currently are owned by some 4,000 agricultural cooperatives of which 3,000 are active borrowers. There is no Federal money involved.

The provision of H.R. 7862 relating to voting control has the support of the Farm Credit Administration, most of the districts that comprise the Farm Credit System, the United States Department of Agriculture, and the National Rural Electric Cooperative Association.

II.

H.R. 7862 also deletes language from the Farm Credit Act which prohibits access to Federal district courts by production credit associations.

The Act contains, among several authorities, one which allows production credit associations to make loans to producers and harvesters of aquatic products. In making such loans, production credit associations frequently find it prudent and desirable to take liens on fishing boats. These liens are called "preferred ship mortgages." The maritime laws of the United States, however, place exclusive jurisdiction of the foreclosure of preferred ship mortgages in the Federal district courts.

The provision in the Act which states that the district courts of the United States shall not have jurisdiction (except in certain limited situations) of any suit by or against a production credit association presents substantial difficulties in enforcing a lien of a preferred ship mortgage and serves as an impediment to financing fishermen.

The amendment of the Act to permit production credit associations access to the Federal district courts will provide a mechanism by

which the associations themselves can enforce a lien on ships if the need arises. The ability of a production credit association to take an enforceable lien on a fishing vessel, just as it now can on a farmer's property, equipment, or livestock, will make credit service more readily available to producers and harvesters of aquatic products.

The adoption of the amendment will also give production credit associations the same access to the Federal district courts as is enjoyed by private citizens, corporations, and other legal entities. The amendment was requested by the Governor of the Farm Credit Administration in a letter to Chairman Talmadge dated May 9, 1975. The Department of Agriculture submitted a favorable report on August 13, 1975.

The provision has the endorsement of Federal intermediate credit banks and production credit associations involved in loans to producers and harvesters of aquatic products, and there is no known opposition thereto.

SECTION-BY-SECTION ANALYSIS

Subsection (a) amends section 3.8(d) of the Farm Credit Act of 1971 so as to change one of the requirements applicable to rural electric, telephone, and public utility cooperatives which is a condition of eligibility for obtaining financing from the Banks for Cooperatives. This subsection provides that not less than 70 percent (in lieu of the current requirement of 80 percent) of the voting control of the cooperative must be held by farmers or producers or harvesters of aquatic products or in the case of a federated cooperative by eligible cooperative associations. The district board may establish a higher percentage of voting control if it so elects.

Subsection (b) deletes the provision in the Farm Credit Act which prohibits production credit associations (with a few limited exceptions) from being able to sue or be sued in the Federal district courts.

COMMITTEE CONSIDERATION

Legislation similar to H.R. 7862 was introduced in the Senate in the 93d Congress and in the 94th Congress.

During the 93d Congress, the Subcommittee on Agricultural Credit and Rural Electrification, of the Committee on Agriculture and Forestry, heard testimony on December 4, 1973, on S. 2150, a bill to reduce the farmer-membership percentage to 60 percent.

Testimony was strongly in favor of the more liberal eligibility provision. Accordingly, S. 2150 was reported by the full Committee December 12, 1973, and was approved without objection by the Senate on December 14, 1973. There was no action in the House of Representatives on S. 2150 in the 93d Congress.

A similar bill, S. 706, was introduced in the Senate on February 18, 1975, and referred to the Committee. The Committee noted a request from Paul I. Enns, Chairman, Farm Credit Board of Berkeley, California, that he be notified if hearings were scheduled on S. 706, and a letter from Senator Quentin N. Burdick transmitting a letter from Basin Electric Power Cooperative, Bismarck, North Dakota, endorsing S. 706.

H.R. 7862, as amended, was passed by the House of Representatives on November 4, 1975, and referred to the Senate Committee on Agriculture and Forestry on November 5. The bill was then referred to the Subcommittee on Agricultural Credit and Rural Electrification. The bill was reported from the Subcommittee to the full Committee on December 2. The Committee considered the bill and ordered it favorably reported without amendment on December 3.

ADMINISTRATION POSITION

I.

The following letters recommending enactment of S. 706 were received by the Committee:

A.

FARM CREDIT ADMINISTRATION,
Washington, D.C., May 2, 1975.

HON. HERMAN E. TALMADGE,
Chairman, Senate Committee on Agriculture and Forestry, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for a report on S. 706, a bill to amend Public Law 92-181 (85 Stat. 583) relating to credit eligibility for public utility cooperatives serving producers of food, fiber, and other agricultural products.

The Federal Farm Credit Board, based on official action taken at its January 1975 meeting, favors enactment of such a bill for reasons hereinafter stated.

S. 706 will primarily affect rural electric cooperatives in the event they should desire to borrow from the Banks for Cooperatives.

In order to be eligible now, such cooperatives must have not less than 80 percent of their voting control in the hands of farmers. The proposed legislation will reduce that requirement to 60 percent, or whatever higher figure may be established by the district Farm Credit Board.

Need for revising eligibility

The communities served by rural electric cooperatives are changing. More and more non-farm people and businesses are moving to rural areas. The Rural Development Act of 1972 encourages such movement as beneficial to the economy of rural areas. In providing farmers adequate electric service, service must be provided for all other electric consumers in the cooperative's chartered territory as well. Congress, in approving the Rural Electrification Act, adopted a policy designed to move rural electric cooperatives into the private money markets and indicated that the Banks for Cooperatives are among the "legally organized lending institutions" authorized to make loans to rural electric cooperatives. A 1974 amendment to that Act anticipates increasing needs of the rural electric program for capital.

The needs are also recognized by the board of directors of the National Rural Electric Cooperative Association which supports this

proposal and by the affirmative vote of all 10 Rural Electric Cooperative Regional boards. There is strong support for the proposal within the Farm Credit System although two of the twelve districts, the tenth (Houston) and eleventh (Berkeley) have indicated opposition.

In addition, the proposal also has the support of the United States Department of Agriculture, and a number of farm organizations.

All available sources of financing should be available to rural electric cooperatives to expand their services and strengthen the economies of rural communities as a basis for agricultural production and rural living.

Effect on Rural Electric Cooperatives

The proposal will provide credit potential for some 150 to 200 rural electric cooperatives. It will provide them with an additional source of supplemental financing, giving them greater choice of selecting a lender. At the same time, it will not depreciate or detract from other private sources of credit, though it may tend to reduce Government involvement in the rural electric program.

The change will also make joint financing, with other sources of credit, for the large generation and transmission cooperatives easier.

It will enable rural electric cooperatives to bargain for better terms and lower costs than might be obtained in a more restricted market. So while only a limited number of rural electric cooperatives are expected to borrow, all such cooperatives will benefit from the potential availability of credit from the Banks for Cooperatives with their direct access to the Nation's capital markets.

Effect on the Banks for Cooperatives

The enactment of legislation making it possible for a greater number of rural electric cooperatives to borrow from the Banks for Cooperatives will allow the Banks to further strengthen their loan portfolios. The credit risks among the rural electric cooperatives are minimal because: (a) they provide an irreplaceable public service for which there is no substitute and no serious threat of competition, (b) they have monopoly access to their market areas, (c) they have a regular cash flow that is not subject to major market fluctuations, and (d) annual audits and management reports reviewed by the Rural Electrification Administration provide reasonable assurance of efficient management.

The proposed legislation is written so as to make its use optional with each Bank. Any Bank that so chooses can adopt the 60 percent eligibility requirement or one that is more stringent. However, by making available financing for rural electric service to residents and establishments in farm communities, the Banks would strengthen their own earnings base and their capacity to serve all farmer cooperatives.

The Banks currently are owned by some 4,000 agricultural cooperatives of which 3,000 are active borrowers. The proposal will not detract from the ownership and control of the Banks by these cooperatives. Their eligibility for loans would not be changed.

Effect on Others

The proposal will not result in any cost to the U.S. Government. The cooperatives borrowing from the Banks for Cooperatives will pay the cost of the money borrowed and the cost of making the loans available. Loan funds are obtained primarily through the sale of bonds to private investors. This, too, is at no cost to the Government.

Loan funds available to other types of cooperatives will not be affected. Any amounts of capital which rural electric cooperatives are justified in borrowing, will, for the most part, be obtained from the "agency" market. The total amount of credit available at any given time is competitively obtained by several organizations from that market, and the Banks for Cooperatives, like the other Farm Credit Banks, are extremely effective in raising the loan funds they require.

Money borrowed by rural electric cooperatives is invested in rural America and helps enhance the quality of life for all who live there while making more efficient the agricultural productivity of the Nation.

Sincerely,

W. M. HARDING, *Governor.*

B.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., April 1975.

HON. HERMAN E. TALMADGE,
*Chairman, Committee on Agriculture and Forestry,
U.S. Senate.*

DEAR MR. CHAIRMAN: This is in response to your request for a report on S. 706, a bill "To amend Public Law 92-181 (85 Stat. 583) relating to credit eligibility for public utility cooperatives serving producers of food, fiber, and other agricultural products."

This Department recommends that the bill be enacted.

By reducing the percentage of cooperative members required to be producers of agricultural products, this measure increases the number of rural electric and telephone cooperatives that will be eligible for loans from the Banks for Cooperatives. The additional source of credit would seem to be beneficial and in line with the President's policy for promoting rural development. Also the proposed bill would facilitate the movement of the rural electric and telephone cooperatives into the private money market.

Since Banks for Cooperatives are now privately financed, there would be no cost to the Federal Government.

The Office of Management and Budget advises there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

II.

The following letters recommending enactment of the amendment giving production credit associations access to the Federal district courts were received by the Committee:

A.

FARM CREDIT ADMINISTRATION,
Washington, D.C., May 9, 1975.

HON. HERMAN E. TALMADGE,
*Chairman, Senate Committee on Agriculture and Forestry, U.S.
Senate, Washington, D.C.*

DEAR CHAIRMAN TALMADGE: The Federal Farm Credit Board, this Agency's top policymaking body, has endorsed the proposal that would enlarge the access of production credit associations to Federal district courts. This proposal in bill form is enclosed. It would delete from current law those provisions which now preclude the Federal district courts from entertaining actions by or against production credit associations on the same footing as for other petitioners.

There are 432 production credit associations throughout the United States which make loans to farmers, ranchers, and producers and harvesters of aquatic products. The Farm Credit Act of 1933, under which the production credit associations were established, restricted their access to the Federal district courts. The argument against access was based on the remoteness of the Federal courts to farmers. Consequently, it was thought to be more satisfactory to have the resolution of PCA matters in State courts. The Farm Credit Act of 1971, under which PCAs now operate, similarly restricts PCA access to the Federal district courts except in limited circumstances.

This proposal would simply amend the Farm Credit Act of 1971 to eliminate any restrictions on production credit associations to sue and be sued in Federal district courts. Then, all Farm Credit institutions—Federal land banks, Federal land bank associations, Federal intermediate credit banks, banks for cooperatives, and production credit associations—will have the same access to the Federal district court system.

Need

The Farm Credit Act of 1971 contains, among several new authorities, one which allows production credit associations to make loans to producers and harvesters of aquatic products. In making such loans, production credit associations frequently find it prudent and desirable to take liens on fishing boats. These liens are called "preferred ship mortgages." The Maritime laws of the United States, however, place exclusive jurisdiction of the foreclosure of preferred ship mortgages in the Federal district courts.

One of the factors on which all PCA loan decisions are made involves collateral. The collateral needs are usually dictated by the strengths and weaknesses of other credit factors. The collateral taken must reasonably protect the lender, provide the necessary control of equity and repayment, and leave the borrower in a position to constructively manage his business. Under present circumstances, the difficulty in enforcing a lien of a preferred ship mortgage, if that becomes necessary, is an impediment to financing fishermen.

Effect on production credit associations

The amendment of the Farm Credit Act to permit production credit associations access to the Federal district courts will provide a

mechanism by which the associations themselves can enforce a lien on ships if the need arises.

The adoption of the proposal will also give PCAs the same access to the Federal district courts as is enjoyed by private citizens, corporations, and other legal entities.

Effect on borrowers

The ability of a production credit association to take an enforceable lien on a fishing vessel, just as it now can on a farmer's property, equipment, or livestock, will make credit service more readily available to producers and harvesters of aquatic products.

Effect on others

The proposal, if enacted into law, will permit persons and other entities to pursue their claims against production credit associations in Federal district courts, if jurisdictional elements are present, the same as if the defendant were not the PCA.

Access to Federal district courts would result in little, if any, additional costs to PCAs. Improved transportation and communications permit ready access to Federal district courts by everyone and, therefore, the proposal should not result in significant increased costs to litigating parties.

The proposal has the endorsement of Federal intermediate credit banks and production credit associations involved in loans to producers and harvesters of aquatic products. No known opposition to the proposal exists and none is expected.

The Farm Credit Administration is authorized by the Farm Credit Act of 1971 to recommend legislative changes in the Act directly to Congress. Therefore, it has not been necessary to submit this proposal to the Office of Management and Budget for clearance.

Sincerely,

W. M. HARDING, *Governor.*

Enclosure.

A BILL To amend the Farm Credit Act of 1971 to enlarge the access of production credit associations to Federal district courts

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That section 5.24 of the Farm Credit Act of 1971 is amended by striking out all after the first sentence.

B.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C. August 13, 1975.

HON. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture and Forestry,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the Department's views on S. 1733, a bill "To amend the Farm Credit Act of 1971 to enlarge the access of production credit associations to Federal district courts."

The Department favors enactment of this bill.

The amendment provided by the bill would simply amend the Farm Credit Act of 1971 to eliminate any restrictions on production credit associations to sue and be sued in Federal district courts. The 1971 Act authorizes production credit associations to make loans to producers and harvesters of aquatic products. In making such loans they frequently find it desirable to take liens on fishing boats, called, "preferred ship mortgages." Exclusive jurisdiction of the foreclosure of preferred ship mortgages is placed in the Federal district courts by the Maritime laws of the United States. Permitting the production credit association access to the Federal district courts would eliminate this impediment to financing fishermen.

Since the Farm Credit Institutions are now privately financed, there would be no cost to the Federal Government.

The Office of Management and Budget advises there is no objection to the presentation of this report.

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

COST ESTIMATE

Pursuant to section 252 of the Legislative Reorganization Act of 1970, the Committee estimates that there would be no cost incurred by the Federal Government as a result of the enactment of this legislation, since the Farm Credit institutions are privately financed.

The Farm Credit Administration and the U.S. Department of Agriculture concur in this estimate.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

FARM CREDIT ACT OF 1971

* * * * *

SEC. 3.8. ELIGIBILITY.—Any association of farmers, producers, or harvesters of aquatic products, or any federation of such associations, which is operated on a cooperative basis, and has the powers for processing, preparing for market, handling, or marketing farm or aquatic products; or for purchasing, testing, grading, processing, distributing, or furnishing farm or aquatic supplies or furnishing farm business services or services to eligible cooperatives and conforms to either of the two following requirements:

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

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

(c) does not deal in farm products or aquatic products, or prod-

ucts processed therefrom, farm or aquatic supplies, or farm business services with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members, excluding from the total of member and non-member business transactions with the United States or any agency or instrumentality thereof or services or supplies furnished as a public utility; and

(d) a percentage of the voting control of the association not less than 80 per centum (*70 per centum in the case of rural electric, telephone, and public utility cooperatives*), or such higher percentage as established by the district board is held by farmers, producers or harvesters of aquatic products, or eligible cooperative associations as defined herein;

shall be eligible to borrow from a bank for cooperatives.

* * * * *

SEC. 5.24. JURISDICTION.—Each institution of the System shall for the purposes of jurisdiction be deemed to be a citizen of the State commonwealth, or District of Columbia in which its principal office is located. [No district court of the United States shall have jurisdiction of any action or suit by or against any production credit association upon the ground that it was incorporated under this Act or prior Federal law, or that the United States owns any stock thereof, nor shall any district court of the United States have jurisdiction, by removal or otherwise, of any suit by or against such association except in cases by or against the United States or by or against any officer of the United States or against any person over whom the courts of the State have no jurisdiction, and except in cases by or against any receiver or conservator of any such association appointed in accordance with the provisions of this Act.]

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Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the fourteenth day of January,
one thousand nine hundred and seventy-five*

An Act

To amend the Farm Credit Act of 1971 relating to credit eligibility for cooperatives serving agricultural producers, and to enlarge the access of production credit associations to Federal district courts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Farm Credit Act of 1971 (Public Law 92-181, 85 Stat. 583) is amended as follows:

(a) Section 3.8(d) is amended by inserting after "80 per centum" the following: "(70 per centum in the case of rural electric, telephone, and public utility cooperatives)".

(b) Section 5.24 is amended by striking out all after the first sentence.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

December 19, 1975

Dear Mr. Director:

The following bills were received at the White House on December 19th:

✓ H.R. 3474 ✓	✓ H.R. 8631 ✓
✓ H.R. 4073 ✓	✓ H.R. 10555 ✓
✓ H.R. 5541 ✓	✓ H.R. 10792 ✓
✓ H.R. 6461 ✓	✓ H.R. 11016 ✓
✓ H.R. 7862 ✓	✓ H.R. 11172 ✓

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.

