

Family Farmers Relief Act of 2019 – Amendments to Chapter 12 of the Bankruptcy Code

On August 23, 2019, President Donald Trump signed the Family Farmers Relief Act of 2019¹ (hereinafter the “FFRA” or “Act”) into law. The FFRA intends to facilitate the process of debt reorganization through Chapter 12 and accommodate more dairy farmers and fishermen. Chapter 12 of the U.S. Bankruptcy Code—enacted in response to the farm crisis of the 1980s—was originally enacted to assist dairy farmers and fisherman with debt restructuring, providing an alternative to the stricter and costlier reorganization procedures under Chapter 11. It was sought to combine the best aspects of Chapter 11 and Chapter 13 into one new chapter specifically designed for family farmers and fishermen. In recent years, the U.S. agriculture industry has been experiencing difficult times, especially with respect to small to medium-sized dairy and livestock operations, which have been on the rise in the last few years. The FFRA was introduced in Congress to expand the availability of Chapter 12 proceedings to debtors carrying additional debt, and provide a flexible way for farmers to reorganize their debt, and continue operations during this challenging time for agriculture.² Back in April 2019, before to this Act was signed into law, the National Farmers Union (NFU) endorsed the legislation for the help it would provide family farmers looking to avoid liquidation or foreclosure.³

Through the years, Congress has established debt limits to farmers under Chapter 12. If these limits are exceeded, farmers would be forced to file under Chapter 11. In 1986, the debt limit for Chapter 12 was \$1,500,000 since the majority of farmers during this time were single farmers or extended family. Later on, farming progressed from intense labor and small equipment to limited labor and more expensive technology. Today, the FFRA increased the debt limit from \$4,153,150 to **\$10,000,000**, becoming its most considerable change in years. American Bankruptcy Institute Commission Co-Chair, Robert Keach, says that the main reason behind this dramatic expansion is that “[i]t lifts the liability cap and gives more farmers an opportunity to qualify for chapter 12 bankruptcy provides the restructuring and seasonal repayment flexibility that many farmers need in today’s lagging farm economy and will help to align bankruptcy law with the scale and credit needs of U.S. agriculture...”.⁴ Also, “[t]he debt limit increase will dramatically expand Chapter 12 bankruptcy eligibility at a time of turmoil for the U.S. agriculture industry, precipitated by years of depressed farm income, crop overproduction, increased debt loads, natural disasters, extreme weather events, and, more recently, retaliatory tariffs on many U.S. agricultural products as part of a renewed trade war.”⁵

Puerto Rico has considerable Chapter 12 filings. Farm bankruptcies under Chapter 12 are expected to rise due to all the benefits this Act provides. When filing under Chapter 12, the debtor has 90 days from the petition date to file a proposed plan. If comparing it to Chapter 11, farmers have 30 additional days than a small business debtor. Also, filing under this chapter is less expensive than other chapters, with a filing fee of only \$275. Lastly, Chapter 12 debtors may modify any secure loan, which includes residential and nonresidential mortgages, equipment loans and vehicle loans.⁶ Furthermore, Chapter 12 provides certain tax benefits to farmers who qualify to file under this chapter. Before, the IRS was able to collect any tax liabilities generated during the bankruptcy reorganization of a family farmer, but now family farmers are allowed to sell portion of their farms to reorganize without gaining taxes and risking the reorganization.⁷

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¹ Family Farmers Relief Act of 2019, Pub. L. 116-51

² Delgado’s Bipartisan Family Farmer Relief Act Signed into Law, Tri-State Livestock News, August 27, 2019, <https://www.tsln.com/news/delgados-bipartisan-family-farmer-relief-act-signed-into-law/>

³ “Reactions to Family Farmers Relief Act of 2019”, Morning AG Clips, August 5, 2019 <https://www.morningagclips.com/reactions-to-family-farmer-relief-act-of-2019/>

⁴ Keach, Robert, *ABI Testifies on Family Farmers and Small Business Reorganization*, American Bankruptcy Institute Journal, August 2019 <https://www.abi.org/abi-journal/abi-testifies-on-family-farmers-and-small-business-reorganizations>

⁵ Hawkins, Christopher and Moore, Cathy, *The Family Farmer Relief Act of 2019: Will the Increased Debt Limit Lead to an Uptick in Chapter 12 Filings?*, August 14, 2019, <https://www.financialservicesperspectives.com/2019/08/the-family-farmer-relief-act-of-2019-will-the-increased-debt-limit-lead-to-an-uptick-in-chapter-12-filings/>

⁶ *The Family Farmer Relief Act of 2019: Will the Increased Debt Limit Lead to an Uptick in Chapter 12 Filings?*, *Id.*

⁷ Baxter, Trav, “Reorganization of the Family Farm: Recent Tax and Debt Limit Updates to Chapter 12”, *JDSupra*, August 12, 2019 <https://www.idsupra.com/legalnews/reorganization-of-the-family-farm-17724/>