



The National Agricultural Law Center

The nation's leading source for agricultural and food law research & information

NationalAgLawCenter.org | nataglaw@uark.edu

Issue Brief,
Series: 2019



This material is based upon work supported by the National Agricultural Library, Agricultural Research Service, U.S. Department of Agriculture

Chapter 12 Bankruptcy Changes

Drew Mitchell

Research Fellow, National Agricultural Law Center

Elizabeth Rumley

Senior Staff Attorney, National Agricultural Law Center

With the passage of the Family Farmer Relief Act of 2019, Chapter 12 bankruptcy filings will see a debt limit expansion. The new changes are intended to help family farmers who previously had limited bankruptcy options in proceeding with their operations. The act specifically changes the requirements of Chapter 12 bankruptcy, a type of bankruptcy only available to farmers and fisherman.

Designed to help financially distressed family farmers and fishermen, Chapter 12 of the United States Bankruptcy Code was enacted in 1986. It was initially considered “experimental,” and intended to help address issues raised during the 1980s farm crisis. After its initial enactment, Chapter 12 was extended numerous times before becoming a permanent fixture to the United States Bankruptcy Code in 2005 as part of the Bankruptcy Abuse Protection and Consumer Protection Act.

Under the current version of Chapter 12 in the United States Bankruptcy Code, debtors can reorganize their debt and finances in order to avoid the liquidation or foreclosure. Debtors may make installment payments to their creditors over a three- to five-year period. Chapter 12 is favorable to farmers and fisherman because it eliminates many of the barriers that are present in other versions of the bankruptcy code. In comparison to Chapter 11 and 13, Chapter 12 offers a more streamlined process and is less expensive for the debtor.

Chapter 12 is unique because it is only available to family farmers or commercial fishermen with a regular annual income. To qualify for Chapter 12 before the 2019 changes, applicants must: (1) be engaged in a farming or commercial fishing operation, (2) have total debts that do not exceed

The information contained in this document is provided for **educational purposes only**. It is **not legal advice**, and is not a substitute for the potential need to consult with a competent attorney licensed to practice law in the appropriate jurisdiction.

\$4,411,400 (if a farming operation) or \$1,924,550 (if a commercial fisherman), (3) have total debts that are 50% (if a farmer) or 80% (if a fisherman) related to the operation, and (4) had more than 50% of the prior year's income come a farming or commercial fishing operation. The current debt limit is indexed to inflation and adjusted accordingly every three years.

Under the Family Farmer Relief Act of 2019, the pool of potential Chapter 12 petitioners will rise because of the increase in the total debt limit. The act more than doubled the eligibility criteria for family farmers from \$4,411,400 to \$10,000,00. The goal of the act is to allow more family farmers to qualify under the program, many of which had to resort to a more complex bankruptcy chapter or foreclosure.

Introduced in April 2019, the Family Farmer Relief Act of 2019, also known as H.R. 2336, garnered bipartisan support in both chambers of Congress. The Act was able to surpass several hurdles that an identical bill, Senate Bill 897, did not. Senate Bill 897 was introduced to the Senate Judiciary Committee, but no further action was taken on it. House Resolution 2336, on the other hand, was introduced and passed by voice votes in both the U.S. House and the U.S. Senate. It was signed into law by President Trump on August 23, 2019.

A combination of weak commodity prices and low profit margins have led farmers across the nation to seek assistance through Chapter 12 to save their farming operations. Supporters of HR 2336 have described it as a tool for these producers.

STATUTES:

[United States Bankruptcy Code, 11 U.S.C. § 101](#)

[Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub.L.No. 109-8, 119 Stat. 223](#)

Text of [H.R.2336 - Family Farmer Relief Act of 2019](#)

ADDITIONAL RESOURCES:

[Chapter 12: Bankruptcy Basis](#) (U.S. Courts)

[Bankruptcy Reading Room](#) (National Agricultural Law Center)

Jeweler, Robin, [Chapter 12 of the U.S. Bankruptcy Code: Reorganization of a Family Farmer or Fisherman](#) (Congressional Research Service RS20742)

