

**COMMODITY CREDIT CORPORATION—FISCAL  
AND MISCELLANEOUS LAWS**

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**FISCAL AND MISCELLANEOUS LAWS APPLICABLE TO COMMODITY CREDIT CORPORATION****PUBLIC LAW 87-155**

[As Amended Through P.L. 110-246, Effective May 22, 2008]

[ANNUAL APPROPRIATIONS TO REIMBURSE COMMODITY CREDIT CORPORATION FOR NET REALIZED LOSSES]

SEC. 2. [15 U.S.C. 713a-11] There is hereby authorized to be appropriated annually for each fiscal year by means of a current, indefinite appropriation, out of any money in the Treasury not otherwise appropriated, an amount sufficient to reimburse Commodity Credit Corporation for its net realized loss incurred during such fiscal year, as reflected in its accounts and shown in its report of its financial condition as of the close of such fiscal year. Reimbursement of net realized loss shall be with appropriated funds, as provided herein, rather than through the cancellation of notes.

[DEPOSIT OF NET REALIZED GAIN OF COMMODITY CREDIT CORPORATION IN TREASURY]

SEC. 3. [15 U.S.C. 713a-12] In the event the accounts of the Commodity Credit Corporation reflect a net realized gain for any such fiscal year, the amount of such net realized gain shall be deposited in the Treasury by the Commodity Credit Corporation and shall be credited to miscellaneous receipts.

**ACT OF MARCH 8, 1938**

[As Amended Through P.L. 110-246, Effective May 22, 2008]

BORROWING POWER

SEC. 4. [15 U.S.C. 713a-4] With the approval of the Secretary of the Treasury, the Commodity Credit Corporation is authorized to issue and have outstanding at any one time, bonds, notes, debentures, and other similar obligations in an aggregate amount not exceeding \$30,000,000,000. Such obligations shall be in such forms and denominations, shall have such maturities, shall bear such rates of interest, shall be subject to such terms and conditions, and shall be issued in such manner and sold at such prices as be prescribed by the Commodity Credit Corporation, with the approval of the Secretary of the Treasury. Such obligations shall be fully and unconditionally guaranteed both as to interest and principal by the United States, and such guaranty shall be expressed on the face thereof, and such obligations shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. In the event that the Commodity Credit Corporation shall be unable to pay upon demand, when due, the principal of, or interest on, such obligations, the Secretary of the Treasury shall pay to the holder the amount thereof which is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such obligations. The Secretary of the Treasury, in his discretion, is authorized to purchase any obligations of the Commodity Credit Corpora-

tion issued hereunder, and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities hereafter issued under Chapter 91 of Title 31 and the purposes for which securities may be issued under such chapter are extended to include any purchases of the Commodity Credit Corporation's obligations hereunder. The Secretary of the Treasury may at any time sell any of the obligations of the Commodity Credit Corporation acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of the obligations of the Commodity Credit Corporation shall be treated as public-debt transactions of the United States. No such obligations shall be issued in excess of the assets of the Commodity Credit Corporation, including the assets to be obtained from the proceeds of such obligations, but a failure to comply with this provision shall not invalidate the obligations or the guaranty of the same: *Provided*, That this sentence shall not limit the authority of the Corporation to issue obligations for the purpose of carrying out its annual budget programs submitted to and approved by the Congress pursuant to Chapter 91 of Title 31. The Commodity Credit Corporation shall have power to purchase such obligations in the open market at any time and at any price.

**DEPARTMENT OF AGRICULTURE APPROPRIATION ACT,  
1966**

[As Amended Through P.L. 110-246, Effective May 22, 2008]

INTEREST

**[15 U.S.C. 713a-11a]** To partially reimburse the Commodity Credit Corporation for net realized losses sustained but not previously reimbursed, pursuant to the Act of August 17, 1961 (15 U.S.C. 713a-11, 713a-12), \$2,800,000,000: *Provided*, That after June 30, 1964, the portion of borrowings from Treasury equal to the unreimbursed realized losses recorded on the books of the Corporation after June 30<sup>1</sup> of the fiscal year in which such losses are realized, shall not bear interest and interest shall not be accrued or paid thereon.

**OMNIBUS BUDGET RECONCILIATION ACT OF 1987**

[As Amended Through P.L. 110-246, Effective May 22, 2008]

OPERATING EXPENSES

**SEC. 1506. [15 U.S.C. 713a-11 note] [\* \* \*]**

(b) **OPERATING EXPENSES.**—No funds may be appropriated for operating expenses of the Commodity Credit Corporation except as authorized under section 2 of Public Law 87-155 to reimburse the Corporation for net realized losses.

<sup>1</sup>“June 30” of the fiscal year is construed to mean Sept. 30, by P.L. 94-274, 90 Stat. 392, Apr. 21, 1976.

**ACT OF MARCH 8, 1938**

[As Amended Through P.L. 110-246, Effective May 22, 2008]

## TAXATION

SEC. 5.<sup>2</sup> [15 U.S.C. 713a-5] Bonds, notes, debentures, and other similar obligations issued by the Commodity Credit Corporation under the provisions of this Act shall be deemed and held to be instrumentalities of the Government of the United States and as such they and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation (except surtaxes, estate, inheritance, and gift taxes). The Commodity Credit Corporation, including its franchise, its capital, reserves, and surplus, and its income shall be exempt from all taxation now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; except that any real property of the Commodity Credit Corporation shall be subject to State, Territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

**ACT OF JULY 16, 1943**

[As Amended Through P.L. 110-246, Effective May 22, 2008]

## FEDERAL RESERVE BANKS AS FISCAL AGENTS

SEC. 3. [12 U.S.C. 395] The Federal Reserve Banks are hereby authorized to act as depositories, custodians, and fiscal agents for the Commodity Credit Corporation.

## ADMINISTRATIVE EXPENSE LIMITATION

See Sec. 9104 of Title 31, United States Code (P.L. 97-258, 96 Stat. 1043, Sept. 13, 1982). Sec. 9104 provides for enactment of necessary appropriations making available corporate funds of each wholly owned Government corporation for administrative expenses or limiting the use thereof.

**ACT OF JULY 16, 1943**

[As Amended Through P.L. 110-246, Effective May 22, 2008]

## REIMBURSEMENT BY OTHER AGENCIES

SEC. 4. [15 U.S.C. 713a-9] Full reimbursement shall be made to the Commodity Credit Corporation for services performed, losses sustained, operating costs incurred, or commodities purchased or delivered to or on behalf of the Lend-Lease Administration, the Army or Navy, the Board of Economic Warfare, the Reconstruction Finance Corporation, or any other Government agency, from the appropriate funds of these agencies.

**AGRICULTURAL ADJUSTMENT ACT OF 1938**

## CROP INSURANCE AND CONSERVATION MATERIALS

SEC. 391. [7 U.S.C. 1391] [\* \* \*]<sup>391-1</sup>

<sup>2</sup> See P.L. 7, 77th Cong., 55 Stat. 9, Feb. 19, 1941, as amended by P.L. 510, 77th Cong., 56 Stat. 190, March 28, 1942, 31 U.S.C. 742a, abolishing tax exemption for income from obligations issued or guaranteed by the United States or any agency or instrumentality thereof.

<sup>391-1</sup> See Sec. 391(c) of Agricultural Adjustment Act of 1938 in this Vol.

**DEPARTMENT OF AGRICULTURE APPROPRIATION ACT,  
1950**

[As Amended Through P.L. 110-246, Effective May 22, 2008]

COST OF CLASSING OR GRADING

**[7 U.S.C. 440]** On and after June 29, 1949, appropriations available for classing or grading any agricultural commodity without charge to the producers thereof may be reimbursed from non-administrative funds of the Commodity Credit Corporation for the cost of classing or grading any such commodity for producers who obtain Commodity Credit Corporation price support.

**DEPARTMENT OF AGRICULTURE APPROPRIATION ACT,  
1952**

[As Amended Through P.L. 110-246, Effective May 22, 2008]

[TRANSFER OF CCC FUNDS FOR CLASSING AND GRADING PURPOSES]

**[7 U.S.C. 414a]** Hereafter there may be transferred to appropriations available for classing or grading any agricultural commodity without charge to the producers thereof such sums from nonadministrative funds of the Commodity Credit Corporation as may be necessary in addition to other funds available for these purposes, such transfers to be reimbursed from subsequent appropriations therefor.

**SECOND SUPPLEMENTAL APPROPRIATION ACT, FY 1984**<sup>3</sup>

[As Amended Through P.L. 110-246, Effective May 22, 2008]

PREVENTING FARM FORECLOSURES

The \$250,000,000 transferred to insured and guaranteed operating loans on July 9, 1984, by the Secretary of Agriculture is available to prevent foreclosure of farm loans through extending the period of repayment of existing loans or refinancing of loans, or other means, as authorized by 7 U.S.C. 1981a.

Should such sum be insufficient to meet the need to extend or to refinance farm loans to avoid foreclosure, the Commodity Credit Corporation has authority under law to provide this type of financial assistance in order to protect farm income and provide for adequate supplies of food and fiber as authorized by 15 U.S.C. 714.

**INTERNAL REVENUE CODE OF 1986**

[As Amended Through P.L. 110-246, Effective May 22, 2008]

**SEC. 77. COMMODITY CREDIT LOANS.**

(a) **ELECTION TO INCLUDE LOANS IN INCOME.**—Amounts received as loans from the Commodity Credit Corporation shall, at the election of the taxpayer, be considered as income and shall be included in gross income for the taxable year in which received.

(b) **EFFECT OF ELECTION ON ADJUSTMENTS FOR SUBSEQUENT YEARS.**—If a taxpayer exercises the election provided for in subsection (a) for any taxable year, then the method of computing income so adopted shall be adhered to with respect to all subse-

<sup>3</sup> Chapter 1 of title I of P.L. 98 Stat. 1370, Aug. 22, 1984.

quent taxable years unless with the approval of the Secretary a change to a different method is authorized.

\* \* \* \* \*

**SEC. 1016. ADJUSTMENTS TO BASIS.**

(a) GENERAL RULE.—Proper adjustment in respect of the property shall in all cases be made—

\* \* \* \* \*

(8) in the case of property pledged to the Commodity Credit Corporation, to the extent of the amount received as a loan from the Commodity Credit Corporation and treated by the taxpayer as income for the year in which received pursuant to section 77, and to the extent of any deficiency on such loan with respect to which the taxpayer has been relieved from liability; [\* \* \*]

**TITLE 40, UNITED STATES CODE**

**§ 113. Limitations**

[\* \* \*]

(e) OTHER LIMITATIONS.—Nothing in this subtitle impairs or affects the authority of—

[\* \* \*]

(2) an executive agency, with respect to any program conducted for purposes of resale, price support, grants to farmers, stabilization, transfer to foreign governments, or foreign aid, relief, or rehabilitation, but the agency carrying out the program shall, to the maximum extent practicable, consistent with the purposes of the program and the effective, efficient conduct of agency business, coordinate its operations with the requirements of this subtitle and with policies and regulations prescribed under this subtitle; [\* \* \*]

**BALANCED BUDGET AND EMERGENCY DEFICIT  
CONTROL ACT OF 1985**

**SEC. 256. [2 U.S.C. 906] EXCEPTIONS, LIMITATIONS, AND SPECIAL RULES.**

\* \* \* \* \*

(j) COMMODITY CREDIT CORPORATION.—

(1) POWERS AND AUTHORITIES OF THE COMMODITY CREDIT CORPORATION.—This title shall not restrict the Commodity Credit Corporation in the discharge of its authority and responsibility as a corporation to buy and sell commodities in world trade, to use the proceeds as a revolving fund to meet other obligations and otherwise operate as a corporation, the purpose for which it was created.

(2) REDUCTION IN PAYMENTS MADE UNDER CONTRACTS.—(A) Loan eligibility under any contract entered into with a person by the Commodity Credit Corporation prior to the time an order has been issued under section 254 shall not be reduced by an order subsequently issued. Subject to subparagraph (B), after an order is issued under such section for a fiscal year, any cash payments for loans or loan deficiencies made by the Commodity Credit Corporation shall be subject to reduction under the order.

(B) Each loan contract entered into with producers or producer cooperatives with respect to a particular crop of a com-

modity and subject to reduction under subparagraph (A) shall be reduced in accordance with the same terms and conditions. If some, but not all, contracts applicable to a crop of a commodity have been entered into prior to the issuance of an order under section 254, the order shall provide that the necessary reduction in payments under contracts applicable to the commodity be uniformly applied to all contracts for the next succeeding crop of the commodity, under the authority provided in paragraph (3).

(3) DELAYED REDUCTION IN OUTLAYS PERMISSIBLE.—Notwithstanding any other provision of this title, if an order under section 254 is issued with respect to a fiscal year, any reduction under the order applicable to contracts described in paragraph (1) may provide for reductions in outlays for the account involved to occur in the fiscal year following the fiscal year to which the order applies.

(4) UNIFORM PERCENTAGE RATE OF REDUCTION AND OTHER LIMITATIONS.—All reductions described in paragraph (2) which are required to be made in connection with an order issued under section 254 with respect to a fiscal year shall be made so as to ensure that outlays for each program, project, activity, or account involved are reduced by a percentage rate that is uniform for all such programs, projects, activities, and accounts, and may not be made so as to achieve a percentage rate of reduction in any such item exceeding the rate specified in the order.

(5) DAIRY PROGRAM.—Notwithstanding any other provision of this subsection, as the sole means of achieving any reduction in outlays under the milk price support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use. That price reduction (measured in cents per hundred weight of milk marketed) shall occur under section 201(d)(2)(A) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued under section 254, and shall not exceed the aggregate amount of the reduction in outlays under the milk price support program that otherwise would have been achieved by reducing payments for the purchase of milk or the products of milk under this subsection during the applicable fiscal year.

(6) CERTAIN AUTHORITY NOT TO BE LIMITED.—Nothing in this joint resolution shall limit or reduce, in any way, any appropriation that provides the Commodity Credit Corporation with budget authority to cover the Corporation's net realized losses.

## **CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985**

[As Amended Through P.L. 110-246, Effective May 22, 2008]

### **SEC. 1001.<sup>4</sup> AGRICULTURAL PROGRAM SAVINGS.**

The expenditures and outlays resulting from the provisions of title XI (relating to the export sales of dairy products) and title XIII (relating to emergency disaster loans and loan authorizations under

<sup>4</sup>P.L. 99-272, 100 Stat. 82, Apr. 7, 1986.

the Agricultural Credit Insurance Fund) of the Food Security Act of 1985 (H.R. 2100, 99th Congress) shall be counted for purposes of determining savings under the Consolidated Omnibus Budget Reconciliation Act of 1985 as having been enacted under this Act.A

## PROMPT PAYMENT ACT

### TITLE 31 UNITED STATES CODE

#### CHAPTER 39—PROMPT PAYMENT

#### § 3901. Definitions and application

(a) In this chapter—

(1) “agency” has the same meaning given that term in section 551(1) of title 5 and includes an entity being operated, and the head of the agency identifies the entity as being operated, only as an instrumentality of the agency to carry out a program of the agency.

(2) “business concern” means—

(A) a person carrying on a trade or business; and

(B) a nonprofit entity operating as a contractor.

(3) “proper invoice” is an invoice containing or accompanied by substantiating documentation the Director of the Office of Management and Budget may require by regulation and the head of the appropriate agency may require by regulation or contract.

(4) for the purposes of determining a payment due date and the date upon which any late payment interest penalty shall begin to accrue, the head of the agency is deemed to receive an invoice—

(A) on the later of—

(i) the date on which the place or person designated by the agency to first receive such invoice actually receives a proper invoice; or

(ii) on the 7th day after the date on which, in accordance with the terms and conditions of the contract, the property is actually delivered or performance of the services is actually completed, as the case may be, unless—

(I) the agency has actually accepted such property or services before such 7th day; or

(II) the contract (except in the case of a contract for the procurement of a brand-name commercial item for authorized resale) specifies a longer acceptance period, as determined by the contracting officer to be required to afford the agency a practicable opportunity to inspect and test the property furnished or evaluate the services performed; or

(B) on the date of the invoice, if the agency has failed to annotate the invoice with the date of receipt at the time of actual receipt by the place or person designated by the agency to first receive such invoice.

(5) a payment is deemed to be made on the date a check for payment is dated or an electronic fund transfer is made.

(6) a contract to rent property is deemed to be a contract to acquire the property.



(b) This chapter applies to the Tennessee Valley Authority. However, regulations prescribed under this chapter do not apply to the Authority, and the Authority alone is responsible for carrying out this chapter as it applies to contracts of the Authority.

(c) This chapter, except section 3906 of this title, applies to the United States Postal Service. However, the Postmaster General shall be responsible for issuing the implementing procurement regulations, solicitation provisions, and contract clauses for the United States Postal Service.

### **§ 3902. Interest penalties**

(a) Under regulations prescribed under section 3903 of this title, the head of an agency acquiring property or service from a business concern, who does not pay the concern for each complete delivered item of property or service by the required payment date, shall pay an interest penalty to the concern on the amount of the payment due. The interest shall be computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), which is in effect at the time the agency accrues the obligation to pay a late payment interest penalty.

(b) Except as provided in section 3906 of this title, the interest penalty shall be paid for the period beginning on the day after the required payment date and ending on the date on which payment is made.

(c)(1) A business concern shall be entitled to an interest penalty of \$1.00 or more which is owed such business concern under this section, and such penalty shall be paid without regard to whether the business concern has requested payment of such penalty.

(2) Each payment subject to this chapter for which a late payment interest penalty is required to be paid shall be accompanied by a notice stating the amount of the interest penalty included in such payment and the rate by which, and period for which, such penalty was computed.

(3) If a business concern—

(A) is owed an interest penalty by an agency;

(B) is not paid the interest penalty in a payment made to the business concern by the agency on or after the date on which the interest penalty becomes due;

(C) is not paid the interest penalty by the agency within 10 days after the date on which such payment is made; and

(D) makes a written demand, not later than 40 days after the date on which such payment is made, that the agency pay such a penalty,

such business concern shall be entitled to an amount equal to the sum of the late payment interest penalty to which the contractor is entitled and an additional penalty equal to a percentage of such late payment interest penalty specified by regulation by the Director of the Office of Management and Budget, subject to such maximum as may be specified in such regulations.

(d) The temporary unavailability of funds to make a timely payment due for property or services does not relieve the head of an agency from the obligation to pay interest penalties under this section.

(e) An amount of an interest penalty unpaid after any 30-day period shall be added to the principal amount of the debt, and a penalty accrues thereafter on the added amount.

(f) This section does not authorize the appropriation of additional amounts to pay an interest penalty. The head of an agency shall pay a penalty under this section out of amounts made available to carry out the program for which the penalty is incurred.

(g) A recipient of a grant from the head of an agency may provide in a contract for the acquisition of property or service from a business concern that, consistent with the usual business practices of the recipient and applicable State and local law, the recipient will pay an interest penalty on amounts overdue under the contract under conditions agreed to by the recipient and the concern. The recipient may not pay the penalty from amounts received from an agency. Amounts expended for the penalty may not be counted toward a matching requirement applicable to the grant. An obligation to pay the penalty is not an obligation of the United States Government.

(h)(1) This section shall apply to contracts for the procurement of property or services entered into pursuant to section 4(h) of the Act of June 29, 1948 (15 U.S.C. 714b(h)).

(2)(A) In the case of a payment to which producers on a farm are entitled under the terms of an agreement entered into under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), an interest penalty shall be paid to the producers if the payment has not been made by the required payment or loan closing date. The interest penalty shall be paid—

(i) on the amount of payment or loan due; and

(ii) for the period beginning on the first day beginning after the required payment or loan closing date and ending on the date the amount is paid or loaned.

(B) As used in this subsection, the “required payment or loan closing date” means—

(i) for a purchase agreement, the 30th day after delivery of the warehouse receipt for the commodity subject to the purchase agreement;

(ii) for a loan agreement, the 30th day beginning after the date of receipt of an application with all requisite documentation and signatures, unless the applicant requests that the disbursement be deferred;

(iii) for refund of amounts received greater than the amount required to repay a commodity loan, the first business day after the Commodity Credit Corporation receives payment for such loan;

(iv) for land diversion payments (other than advance payments), the 30th day beginning after the date of completion of the production adjustment contract by the producer;

(v) for an advance land diversion payment, 30 days after the date the Commodity Credit Corporation executes the contract with the producer;

(vi) for a deficiency payment (other than advance payments) based upon a 12-month or 5-month period, 91 days after the end of such period; or

(vii) for an advance deficiency payment, 30 days after the date the Commodity Credit Corporation executes the contract with the producer.

(3) Payment of the interest penalty under this subsection shall be made out of funds available under section 8 of the Act of June 29, 1948 (15 U.S.C. 714f).

(4) Section 3907 of this title shall not apply to interest penalty payments made under this subsection.

\* \* \* \* \*

**JOINT RESOLUTION OF DECEMBER 22, 1987<sup>5</sup>**

[As Amended Through P.L. 110-246, Effective May 22, 2008]

COMMODITY CREDIT CORPORATION

OPERATING EXPENSES

\* \* \* \* \*

*Provided further*, That notwithstanding any other provision of law, the Commodity Credit Corporation shall pay an interest penalty, determined on the basis of the provisions of the Prompt Payment Act (31 U.S.C. 3901 et seq.), on the amount of all payments and price support loans which the Commodity Credit Corporation is obligated to make if payment is not made by the required payment date. This provision shall be applicable to all such payments for obligations incurred after January 1, 1988.

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<sup>5</sup>Rural Development, Agriculture, and Related Agencies Appropriation Act, 1988, P.L. 100-202, 101 Stat. 1329-335, Dec. 22, 1987.