

At the appropriate place, insert the following new section:

SEC. . RESOLUTION OF PENDING LATINO/HISPANIC AND WOMEN FARMER COMPLAINTS.

(a) Findings.—Congress finds that—

- (1) the Secretary of Agriculture has conceded that the Department has discriminated against minority and women farmers and ranchers in the operation of the Department's farm loan and benefit programs;
- (2) the extended delay in the resolution of several pending actions against the Department over this discrimination is not in the public interest.

(b) SETTLEMENT - Within thirty days after the date of the enactment of this Act, the Secretary of Agriculture or his designee who has authority to settle outstanding litigation shall meet with representatives of the Garcia and Love claimants to resolve both cases. If within one hundred twenty additional days, or greater if the Secretary and the respective claimants agree, a settlement cannot be reached,

(1) the Secretary of Agriculture shall not initiate or conduct acceleration on or foreclosure of collateral or secured property or assist any other creditor or state in connection with a foreclosure if the borrower is a Garcia or Love claimant.

(2) Garcia and Love claimants shall receive priority consideration for Department loans, including loans to purchase property inventory;

(a) in considering eligibility for priority consideration, the Secretary shall not deny loans due to debt relief provided under this section or negative credit information caused by the Department's prior refusal to provide credit or loan servicing to the claimant;

(b) to the extent that a claimant's former property is in inventory, the claimant shall have priority to reclaim his or her property.

(3) the Farm Service Agency shall review and determine approval of complete applications for farm loans and benefits in local Agency offices in the order in which the office receives them.

(4) any Garcia or Love claimant who has not previously obtained a determination on the merits of a civil action against the Secretary for discrimination based on race, ethnicity or gender in the issuance of farm credit, benefits or loan servicing shall be permitted to pursue an individual civil action in federal court against the Secretary of Agriculture within one hundred twenty days of the denial of all pending motions and motions for class certification of Garcia and Love claims that have or may be filed in Garcia v. Johanns and Love v. Johanns, or December 31, 2010, whichever is later. The burden of proof for denying damages or discharge shall be borne by the Secretary. The burden of proof for the amount of damages shall be borne by the claimant. Any payment or debt relief awarded pursuant to this subsection shall not be treated as federal taxable income.

(5) At the end of each fiscal year, the Secretary shall return to the U.S. Treasury all undistributed funding available for socially disadvantaged farmers.

(c) ANNUAL REPORTING - Within one year of the enactment of this Act, the Secretary of Agriculture shall collect and retain the following information on all persons who are provided or have applied for farm loans, noncredit benefit programs or loan servicing directly from the Department of Agriculture:

- (1) the gender of the applicant or applicants;
- (2) the race or ethnicity of the applicant or applicants;
- (3) the date of the application or request, and the decision;
- (4) the location of the Department of Agriculture office making the loan, benefit or loan servicing decision, and
- (5) all data relevant to the process of deciding each application for a loan or benefit or request for loan servicing.

Beginning on March 1, 2009 and by March 1 of each year thereafter, the Secretary of Agriculture shall report to Congress and make available to the public the information collected in the preceding calendar year. The reports provided shall not contain information that would identify any applicant for a loan, disaster benefit or loan servicing.

(d) GAO Audit – The General Accountability Office shall conduct an audit of the Farm Service Agency administration of farm loan and benefit programs to identify which data must be collected to determine whether the Agency is providing equal access to all programs. This audit should also determine whether the technology currently used by the Agency is adequate to collect and store such data. If existing technology is adequate, GAO shall determine the reasons why it is not being used properly. If such existing technology is not adequate, GAO shall identify which technology would be necessary.

(e) DEFINITIONS – In this Act,

(1) the term “Garcia claimant” means an individual who is a named plaintiff or would have been covered as a putative class member for the claims originally filed under the Third Amended Complaint in the civil action Garcia v. Johanns, C.A. No. 1:00-CV-2445 (U.S. District Court for the District of Columbia)

(2) the term “Love claimant” means an individual who is a named plaintiff or would have been covered as a putative class member for the claims originally filed under the Third Amended Complaint in the civil action Love v. Johanns, C.A. No. 1:00-CV- 2502 (U.S. District of Columbia), and has not filed and obtained a determination on the merits in the Pigford v. Veneman litigation, 1:97-CV-1978 (U.S. District Court for the District of Columbia).