BETTING THE FARM: DEBT AND DISTRESS IN AMERICAN AGRICULTURE

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ABSTRACT

American agriculture operates within a distinct financial and legal ecosystem, shaped by volatile commodity markets, biological and ecological risks, and a complex legal and regulatory regime. This Article explores the historical and institutional landscape of farm finance in the United States, emphasizing the unique characteristics that distinguish agricultural credit and restructuring. It traces the evolution of modern farm lending from the 1980s Farm Crisis to the present, examining the role of the Farm Credit System, commercial banks, and alternative lenders. The Article then evaluates the causes of financial distress in agriculture and outlines the tools available to address distress, including workouts and bankruptcy.

I. INTRODUCTION

We live in a technological age. Algorithms dictate our preferences, artificial intelligence writes our emails, autonomous drones sail through the seas and skies. But our technology-enabled world has not relieved humanity of its biological requirements—each day, billions of people break from their work, sit, and eat. The system that delivers food into our hands is the world's oldest market, and it has undergone dramatic changes across the span of history.[1] In the year 1500, pre-industrial farmers only had to feed 500 million mouths.[2] Today, they have to feed over eight billion.[3] American farmers have felt these changes acutely.

Behind every industry exists an ecosystem of investment where monied investors provide capital to cash-poor entrepreneurs.[4] Farming is no different. American agriculture is characterized by relationships and information-sharing among a relatively tight-knit group of farmers, investors, lenders, and lawyers.

1. EILEEN R. CHOFFNES ET AL., IMPROVING FOOD SAFETY THROUGH A ONE HEALTH APPROACH 189 (2012).

2. *Historical Estimates of World Population*, U.S. CENSUS BUREAU (Dec. 4, 2025), https://www.census.gov/data/tables/time-series/demo/international-programs/historical-est-worldpop.html [https://perma.cc/J8YT-QTDU] (showing the U.N. 1999 population estimate of 500 million for the year 1500 AD).

3. Anne Morse, *Global Population Estimates Vary but Trends Are Clear: Population Growth is Slowing*, U.S. CENSUS BUREAU (Nov. 9, 2023), https://www.census.gov/library/stories/2023/11/world-population-estimated-eight-billion.html [https://perma.cc/P92C-FBD3].

4. *See*, *e.g.*, *Fund Your Business*, U.S. SMALL BUS. ADMIN. (Nov. 13, 2024), https://www.sba.gov/business-guide/plan-your-business/fund-your-business [https://perma.cc/JB5Q-FXFX].

Despite many excellent attorneys specializing in agricultural law and finance, farmers and ranchers in rural areas often face limited access to legal services compared with clients in more densely served sectors.[5] Capital remains constrained by conservative loan-to-value (LTV) ratios adopted in the aftermath of the Farm Crisis of the 1980s and tight commercial underwriting standards implemented after the Great Recession, resulting in less credit extended to farmers.[6] These conservative standards minimize risk, which can be a boon to lenders, but they make it more difficult for farmers to leverage the equity from their land to expand their operations, thereby restricting growth in an era which demands adaptation and innovation.[7]

This Article broadly explores agricultural law and finance, especially as it relates to farmers in financial distress, and examines the unique challenges and opportunities presented to modern American farmers and farm creditors. Commercial banks and the Farm Credit System (FCS) dominate the agricultural credit markets and service an outsized majority of all farm loans (over 80%).[8] FCS is a government-sponsored enterprise, created by Congress 13 years before the Great Depression, which consists of a cooperative "network of borrower-owned lending institutions."[9] Its importance and the implications of its borrower-owned structure will be discussed in Part III.[10] Trade and equipment creditors, the USDA Farm Service Agency (FSA), and other lenders including state government agencies, life insurance companies, and individuals provide the remaining debt.[11]

Several features differentiate agricultural finance from other industries, like the unique nature of collateral, the importance of government subsidies and regulation, and the oft-personalized style of transactions.[12] Meanwhile, distress in

5. Roger A. McEowen, *Firm to Farm: Addressing the Rural Attorney & Tax Professional Shortage*, RFDTV (Dec. 31, 2024, at 11:49 CT), https://www.rfdtv.com/business/blogs/firm-to-farm/addressing-the-rural-attorney-and-tax-professional-shortage [https://perma.cc/H5UF-U9DZ].

6. JIM MONKE, CONG. RSCH. SERV., RS21977, AGRICULTURAL CREDIT: INSTITUTIONS AND ISSUES 3–5 (2018).

7. *See id.*

8. *Id.* at 2.

9. *Id.* at 7.

10. *See* discussion *infra* Part III.

11. *See* MONKE, *supra* note 6, at 1–2.

12. *See* OFF. OF THE COMPTROLLER OF THE CURRENCY, *Safety and Soundness: Agricultural Lending, in* COMPTROLLER'S HANDBOOK 1, 6–7 (2014), https://www.occ.gov/publications-and-resources/publications/comptrollers-handbook/files/agricultural-lending/index-agricultural-lending.html [https://perma.cc/2UR8-48VG]; Michelle W. Bowman, Governor, Bd. of Governors of the Fed. Rsrv., Speech at the Ag Lenders Conference in Deming, New Mexico (Mar. 28, 2019),

agricultural finance stems from three main causes: (1) external economic or political factors, (2) unforeseen events like natural disasters, and (3) poor management.[13] Distress in agricultural finance reflects a mix of farm-specific human and management problems and unhedged external shocks, such as weather, commodity prices, and broader macroeconomic conditions varying across studies.[14] Moreover, agricultural lenders are particularly, even peculiarly, considerate of reputational risks when handling distressed credit.[15] This is partially cultural and partially a function of the regulatory regime governing agricultural credit, which often skews in favor of the borrower.[16]

Whether a borrower can successfully exit distress with a restructured or reinvigorated operation depends on the borrower's financial characteristics and the following questions: Does the farmer have unburdened collateral that can be used to raise new financing? Are there alternative revenue streams that the farmer can explore or access? In addition, questions focused on operating characteristics are also important and ask: Is the farmer able to present a feasible plan for how to rightsize the operation? Is he or she proactive in risk management? While the

https://www.federalreserve.gov/newsevents/speech/bowman20190328a.htm? [https://perma.cc/D5EU-W2R3].

13. *See* OFF. OF THE COMPTROLLER OF THE CURRENCY, *supra* note 12, at 5–6, 9.

14. *See id.* at 5–6; NIGEL KEY, CHRISTOPHER BURNS & GREG LYONS, ECON. RSCH. SERV., U.S. DEP'T OF AGRIC., ECON. INFO. BULL. NO. 211, FINANCIAL CONDITIONS IN THE U.S. AGRICULTURAL SECTOR: HISTORICAL COMPARISONS 1 (2019), https://ers.usda.gov/sites/default/files/_laserfiche/publications/95238/EIB-211.pdf?v=68519 [https://perma.cc/9DWM-TS3V] (explaining that lower commodity prices, rising interest rates, and declines in farm income can increase insolvency risk); Frederick Murdoch Quaye, Denis Nadolnyak & Valentina Hartarska, *Factors Affecting Farm Loan Delinquency in the Southeast*, 9 RSCH. APPLIED ECON. 75, 75–77, 88–89 (2017) (finding delinquency associated with borrower-specific factors such as farm size, insurance, net income, debt-to-asset ratio, and number of loans, while weather affected outcomes only by "minute magnitudes"). But certain markets are more vulnerable to price swings, like the hog and almond markets. *See* Jennifer Shike, *Volatility and a Little Luck: Will 2025 Set Producers on the Path to Profitability?*, FARM J.'S PORK (Jan. 1, 2025, at 09:00 CT), https://www.porkbusiness.com/news/hog-production/volatility-and-little-luck-will-2025-set-producers-path-profitability [https://perma.cc/ZNU2-QVAR]; Hayden Swegal, *The Rise and Fall of Almond Prices: Asia, Drought, and Consumer Preference*, U.S. BUREAU OF LAB. STATS.: BEYOND THE NOS. (Oct. 2017), https://www.bls.gov/opub/btn/volume-6/the-rise-and-fall-of-almond-prices-asia-drought-and-consumer-preference.htm [https://perma.cc/2NPZ-6RFQ].

15. *See* Tara L. Humston, *Slowing Agricultural Markets Highlight the Importance of Sound Risk Management Principles*, CMTY. BANKING CONNECTIONS (2019), https://www.communitybankingconnections.org/articles/2019/i1/slowing-agricultural-markets [https://perma.cc/8L53-4RBL].

16. *See id.*

average farmer will successfully emerge from financial stress, the odds of liquidation increase dramatically once bankruptcy is declared, even though agricultural bankruptcy law tends to privilege borrowers.[17] Agricultural lenders are generally sympathetic to distressed borrowers, but foreclosures, receiverships, and liquidation occur when the creditors are left with no alternative for recovery.[18]

In short, the unique features of agricultural finance create distinct challenges in both the initial financing and the subsequent restructuring of farm debt. This Article will explore those features and challenges. Part II will trace the historical context of agricultural finance in the United States and examine how boom-and-bust cycles produce the modern credit landscape.[19] Key inflection points include the Farm Crisis of the 1980s and post-2008 regulatory changes.[20] The section also considers how globalization, trade policy, and immigration pressures have introduced new vulnerabilities into the farm economy.[21] Finally, it will briefly review the current literature on farm finance and restructuring, which is less extensive than scholarship covering these topics in other sectors.[22]

Part III will examine the characteristics and processes of farm financing by considering the ecosystem of agricultural lenders, with a particular focus on the FCS and commercial banks, as well as alternative non-bank lenders like trade creditors and private credit funds.[23] Key features of the sector include volatile income streams tied to commodity prices, illiquid collateral such as land and livestock, and the pervasive influence of both federal and state regulation.[24] This section also explores the conservative lending posture of most agricultural creditors and its implication for farm solvency, especially during economic agricultural downturns.[25]

Part IV will consider the legal and practical challenges of restructuring farm debt, including private workouts, mandatory mediation regimes, and bankruptcy

17. Susan A. Schneider, *A Reconsideration of Agricultural Law: A Call for the Law of Food, Farming, and Sustainability*, 34 WM. & MARY ENV'T L. & POL'Y REV. 935, 936 (2010) [hereinafter Schneider, *A Reconsideration of Agricultural Law*] ("[T]he concept is evident throughout the law, with farmers protected from involuntary bankruptcy, exempted from many environmental regulations, and excepted from anti-trust restrictions.").

18. *See id.* at 942.

19. *See* discussion *infra* Part II.

20. *See* discussion *infra* Part II.

21. *See* discussion *infra* Part II.

22. *See* discussion *infra* Part II.

23. *See* discussion *infra* Part III.

24. *See* discussion *infra* Part III.

25. *See* discussion *infra* Part III.

options (e.g., Chapter 12, Chapter 11, etc.).[26] It will also identify the most common triggers of financial distress in agriculture.[27]

By articulating sector-specific challenges and processes, this Article seeks to contribute to the underdeveloped legal scholarship on agricultural finance and distress. The Article will conclude by identifying areas for further inquiry.[28]

II. The Roots of Modern Farm Finance

This Part introduces the landscape of American agriculture, including long-term trends in farm demographics, land use, and consolidation. Sections A and B provide a historical analysis of the 1980s Farm Crisis, the 2008 Great Recession, and the COVID-19 pandemic, each of which have impacted agricultural production and lending practices.[29] Part C describes some current trends in agriculture, including a brief discussion of changing agricultural policy.[30] Part D provides a brief literature review.[31]

In 1790, nine out of every ten Americans lived on a farm.[32] By 1900, that number had dropped to four out of ten.[33] Farming went from a basic fact of life with which almost every person in the country was personally involved, to an afterthought for many. Every so often a person may stop to consider that their calories do not spring fully formed and packaged onto grocery store shelves as though from the head of Zeus. But when an American bites into a burger, are they really considering the cow slaughtered for beef, or the grain harvested for the bun, or where the lettuce and tomatoes were cultivated?

Agricultural productivity has steadily increased over time, with farm outputs tripling between 1948 and 2021 despite slightly diminishing inputs.[34] Since 1961,

26. *See* discussion *infra* Part IV.

27. *See* discussion *infra* Part IV.

28. *See* discussion *infra* Part V.

29. *See* discussion *infra* Sections I.A, I.B.

30. *See* discussion *infra* Section I.C.

31. *See* discussion *infra* Section I.D.

32. *About NASS*, U.S. DEP'T OF AGRIC.: NAT'L AGRIC. STATS. SERV. (May 4, 2018), https://www.nass.usda.gov/About_NASS/History_of_Ag_Statistics/index.php [https://perma.cc/7FE4-3D5U].

33. Jayson L. Lusk, *The Evolving Role of the USDA in the Food and Agricultural Economy*, GEO. MASON UNIV: MERCATUS CTR. (June 24, 2016), https://www.mercatus.org/research/research-papers/evolving-role-usda-food-and-agricultural-economy [https://perma.cc/RLD3-EQA3].

34. *Agricultural Productivity in the United States - Productivity Growth in U.S. Agriculture*, U.S. DEP'T OF AGRIC.: ECON. RSCH. SERV. (Nov. 13, 2025),

world agricultural output increased 53% per capita.[35] While world population grew approximately 2.6 times, agricultural output has nearly quadrupled.[36] At the same time, the number of farmers globally decreased from a peak of over one billion in 2003 to approximately 841 million in 2020.[37] The increase in farm productivity is almost entirely a function of humanity's spectacular technological improvements.[38] Genetic engineering has made crops resistant to pests and disease, mechanization and automation have reduced labor inputs, and synthetic fertilizers and improved animal feed have increased yields without any concomitant increases in land and labor requirements.[39]

Today, less than 1% of Americans live on a farm.[40] A parallel decrease in the number of farms and in the importance of agriculture vis-à-vis other sectors of the economy, such as healthcare, has also occurred.[41] The average size of farms, on the other hand, has been increasing, although the actual amount of land used for farming has decreased in the past several years.[42]

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https://www.ers.usda.gov/data-products/agricultural-productivity-in-the-united-states/productivity-growth-in-us-agriculture [https://perma.cc/KZ5B-H4VB].

35. Keith Fuglie, Stephen Morgan & Jeremy Jelliffe, *Global Changes in Agricultural Production, Productivity, and Resource Use Over Six Decades*, ECON. RSCH. SERV., U.S. DEP'T OF AGRIC.: AMBER WAVES (Sep. 30, 2024), https://www.ers.usda.gov/amber-waves/2024/september/global-changes-in-agricultural-production-productivity-and-resource-use-over-six-decades [https://perma.cc/6EEE-MLZK].

36. *Id.*

37. *Id.*

38. *See* RL Phillips, *Green Revolution: Past, Present, and Future*, in 3 ENCYCLOPEDIA OF AGRICULTURE AND FOOD SYSTEMS 529, 529 (2014). The Green Revolution refers to the development of high-yielding plant varieties—especially of wheat and rice, that increased food supplies in the 1940s–60s and staved off widespread starvation in developing countries. *Id.* at 529–30.

39. Fuglie, Morgan & Jelliffe, *supra* note 35.

40. Ocean Robbins, *Why Small Family Farms are Disappearing — and What it Means for Our World*, FOOD REVOLUTION NETWORK (Mar. 1, 2023), https://foodrevolution.org/blog/small-family-farms/ [https://perma.cc/M8TA-895X].

41. NAT'L AGRIC. STAT. SERV.: U.S. DEP'T OF AGRIC., 2022 CENSUS OF AGRICULTURE HIGHLIGHTS: FARMS AND FARMLAND 1 (2024), https://www.nass.usda.gov/Publications/Highlights/2024/Census22_HL_FarmsFarmland.pdf [https://perma.cc/28YW-36WX]; AARON C. CATLIN & CATHY A. COWAN, U.S. CTRS. FOR MEDICARE AND MEDICAID SERVS., HISTORY OF HEALTH SPENDING IN THE UNITED STATES, 1960–2013, exhibits 1 & 5 (2015), https://www.cms.gov/research-statistics-data-and-systems/statistics-trends-and-reports/nationalhealthexpenddata/downloads/historicalnhepaper.pdf [https://perma.cc/6FJZ-79T6].

42. NAT'L AGRIC. STAT. SERV., *supra* note 41, at 1.

The decline in farming—in terms of labor, not productivity—has mirrored a comparable decline in the percentage of the United States population living in rural areas.[43] Indeed, declining employment in agriculture is one of the causes of rural population decline, along with the globalization of manufacturing and more favorable economic conditions in urban centers.[44] A majority of Americans lived in rural areas until around 1920.[45] According to the most recent census, 80% of Americans now live in urban areas.[46] This shift has radically transformed America's economy and society. It has led to political division, economic transformation, social deracination, and cultural upheaval. Much ink has been spilled on this topic in recent years.[47] Yet, it has also led to economic growth and modernization for millions of Americans.[48]

43. *Id.*; Alexander Marré, *Rural Population Loss and Strategies for Recovery*, FED. RSRV. BANK OF RICHMOND: ECON FOCUS, First Quarter 2020, at 27, 27.

44. Marré, *supra* note 43, at 27.

45. *History of Urban and Rural Areas*, U.S. CENSUS BUREAU (Sep. 3, 2024), https://www.census.gov/about/history/historical-censuses-and-surveys/census-programs-surveys/geography/urban-and-rural-areas.html [https://perma.cc/SP7J-QY9Z].

46. *Nation's Urban and Rural Populations Shift Following 2020 Census*, U.S. CENSUS BUREAU (Dec. 29, 2022), https://www.census.gov/newsroom/press-releases/2022/urban-rural-populations.html [https://perma.cc/CG8U-4MAV].

47. *See generally* J.D. VANCE, HILLBILLY ELEGY: A MEMOIR OF A FAMILY AND CULTURE IN CRISIS (2016) (recounting the social and economic struggles faced by working class rural people in Appalachia); MARIE MUTSUKI MOCKETT, AMERICAN HARVEST: GOD, COUNTRY, AND FARMING IN THE HEARTLAND (2020) (exploring the cultural and religious dynamics of rural America through the lens of farming); NICHOLAS F. JACOBS & DANIEL M. SHEA, THE RURAL VOTER: THE POLITICS OF PLACE AND THE DISUNITING OF AMERICA 49 (2023) (arguing that rural political identity is shaped by place and by a growing sense of alienation from urban-dominated political and cultural institutions); EZRA KLEIN, WHY WE'RE POLARIZED (2020) (describing how and why American politics became polarized around identity in the twentieth century and how this polarization reinforces social, geographic, and partisan divisions); Emily Badger, *How the Rural-Urban Divide Became America's Political Fault Line*, N.Y. TIMES: THE UPSHOT (May 21, 2019), https://www.nytimes.com/2019/05/21/upshot/america-political-divide-urban-rural.html (explaining how geographic sorting in metropolitan and rural areas turned the rural-urban divide into a central axis of American political conflict).

48. *See* CAROLYN DIMITRI, ANNE EFFLAND & NEILSON CONKLIN, THE 20TH CENTURY TRANSFORMATION OF U.S. AGRICULTURE AND FARM POLICY, ECON. RSCH. SERV., U.S. DEP'T OF AGRIC., ECON. INFO. BULL. NO. 3 at 2 (2005), https://ers.usda.gov/sites/default/files/_laserfiche/publications/44197/13566_eib3_1_.pdf?v=35127 [https://perma.cc/798S-QDD9] (explaining that agricultural transformation contributed to overall economic growth by reducing food's share of household spending and freeing labor for nonfarm occupations that supported growth and development).

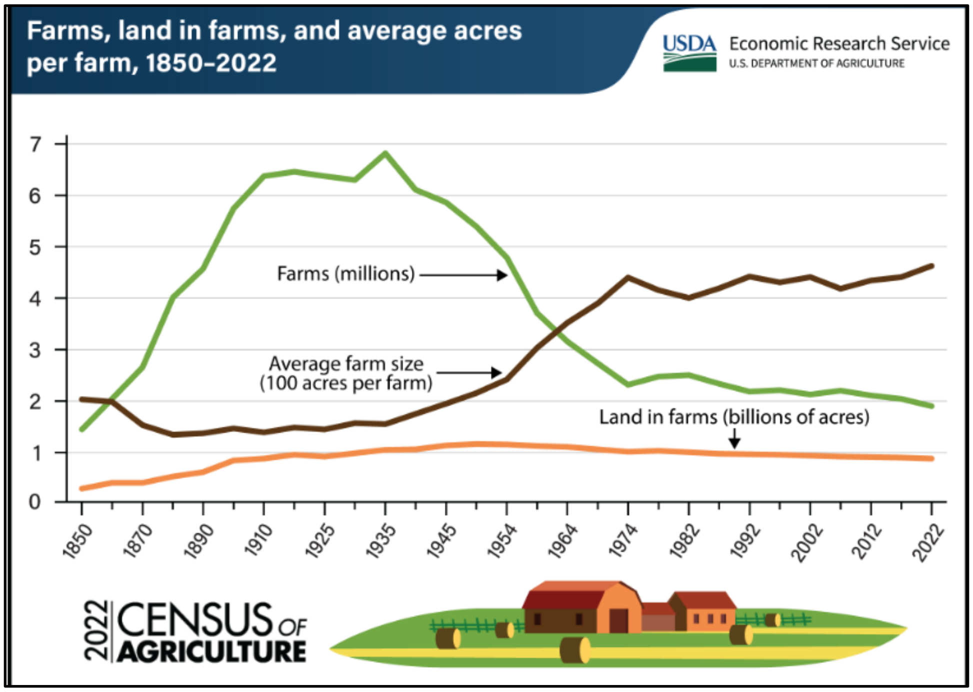

Figure 1 – Source: 2022 Census of Agriculture: Number of U.S. farms falls below 2 million[49]

Still, most United States farmers work on small family farms,[50] which account for 46% of United States agricultural land and 19% of total value production.[51] Of course, not all farmers are small family farmers.[52] Larger farms

49. Andrew Keller, *2022 Census of Agriculture: Number of U.S. Farms Falls Below 2 Million*, U.S. DEP'T OF AGRIC.: ECON. RSCH. SERV. (Feb. 28, 2024), https://www.ers.usda.gov/data-products/chart-gallery/gallery/chart-detail?chartId=108629 ("Because of data coverage concerns, data from 1978 to 2002 were adjusted to more accurately estimate the number of farms and land in farms. This chart uses the coverage adjusted values for these years.").

50. *Family Farms Continue to Power U.S. Agriculture*, U.S. DEP'T. OF AGRIC.: BLOG (Jan. 27, 2021, at 12:25 CT), https://www.usda.gov/about-usda/news/blog/family-farms-continue-power-us-agriculture [https://perma.cc/2U6Z-HBJY].

51. CHRISTINE WHITT, KATHERINE LACY & KATHERINE LIM, AMERICA'S FARMS AND RANCHES AT A GLANCE, ECON. RSCH. SERV., U.S. DEP'T OF AGRIC. 5–6 (Dec. 2023), https://www.govinfo.gov/content/pkg/GOVPUB-A93-PURL-gpo223023/pdf/GOVPUB-A93-PURL-gpo223023.pdf [https://perma.cc/ZBN8-Y48B].

52. *Id.*

operate under more corporate models which often involve complex supply chains and significant capital investment with sophisticated risk management strategies.[53] This occurs on smaller farms as well, albeit in a somewhat less sophisticated fashion.[54] The average farm size in the United States in 2024 was only 466 acres, up slightly from 440 acres in the early 1970s.[55] Perhaps more meaningfully, the average farm size increased from 441 acres in 2017 to 463 acres in 2022 amid consolidation during the severe downturn at the end of the 2010s.[56] It also bears repeating that family farms are not necessarily small. Large-scale family farms dominate many commodities, including beef, hogs, cotton, soybeans, dairy, and specialty crops.[57] In 2022, nonfamily farms accounted for only 3% of total farms and 10% of total farm production.[58]

Consolidation is an important and palpable trend in American agriculture, but stories of consolidation and widespread "corporate" farming can give the impression that most American farming is not family farming.[59] As noted, this is not the case.[60] Moreover, most American farms hold no debt.[61] Only a quarter of United States farms held any debt in 2022.[62] But debt still plays a vital role for farmers, especially when financial pressures drive down profits or force unexpected capital expenditures; debt can provide the liquidity necessary to weather the down years.[63]

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53. *See* ERIK J. O'DONOGHUE ET AL., ECON. RSCH. SERV., U.S. DEP'T OF AGRIC., ECON. INFO. BULL. NO. 88, THE CHANGING ORGANIZATION OF U.S. FARMING 1, 50 (2011), https://ers.usda.gov/sites/default/files/_laserfiche/publications/44619/EIB-88.pdf?v=51882 [https://perma.cc/6QQ5-3HK7] (explaining that larger farms have increasingly relied on contracting and corporate forms of organization, are more likely to adopt new technologies, and are more likely to use production or marketing contracts in evolving supply chains).

54. *See id.*

55. Katherine Lacy, *The Number of U.S. Farms Continues Slow Decline*, U.S. DEP'T OF AGRIC.: ECON. RSCH. SERV. (Mar. 12, 2025), https://www.ers.usda.gov/data-products/chart-gallery/gallery/chart-detail?chartId=58268 [https://perma.cc/5SD2-BUGY].

56. Leah Douglas, *Number of US Farms Falls and Size Increases, Census Shows*, REUTERS (Feb. 13, 2025), https://www.reuters.com/world/us/number-us-farms-falls-size-increases-census-shows-2024-02-13/ [https://perma.cc/8QT3-JV39].

57. WHITT, LACY & LIM, *supra* note 51, at 6.

58. *Id.* at 5.

59. *Id.* at 29.

60. *Id.*

61. *Id.* at 10.

62. *Id.*

63. *Id.* at 9; *see* RODNEY JONES, COURTNEY BIR & BRENT LADD, OKLA. COOP. EXTENSION SERV., FACT SHEET AGEC-208, FARMERS IN TRANSITION: EVALUATING OPTIONS FOR CHANGE 1–2 (2022), https://extension.okstate.edu/fact-sheets/print-

Overall, it has been a difficult period for farmers in the United States. The late 2010s were marked by a sharp downturn in commodity prices.[64] Producers were buffeted between a trade war with China, poor weather conditions, and sinking commodities prices.[65] Chapter 12 bankruptcies were being declared at higher rates, and were up 50% in the Northwest region between July 2018 and June 2019.[66] Then, the COVID-19 pandemic and Russia's invasion of Ukraine ushered in higher commodity prices, which helped to push net farm income to a record high $181.9 billion.[67] However, higher commodity prices also came with higher input costs.[68] These costs peaked in 2023, but the cost declines of 2024 were accompanied by price declines for commodities.[69] In 2025, costs are once again increasing, with forecasts predicting overall costs to increase by $12 billion from 2024.[70]

American farmers also balance the demands of farming with a complex regulatory regime that sets parameters around their businesses and a financial system that can feel onerous and inaccessible.[71] It is therefore unsurprising that larger farms tend to outperform rather dramatically on profitability metrics and

publications/agec/agec-208-farmers-in-transition-evaluating-options-for-change-a.pdf [https://perma.cc/V2XU-BT5H].

64. Alana Semuels, *'They're Trying to Wipe Us Off the Map.' Small American Farmers Are Nearing Extinction*, TIME (Nov. 26, 2019, at 12:16 CT), https://time.com/5736789/small-american-farmers-debt-crisis-extinction/ [https://perma.cc/9HK8-LGNE].

65. *Id.*

66. *Id.*

67. Caitlin Welsh, *Russia, Ukraine, and Global Food Security: A Two-Year Assessment*, CTR. FOR STRATEGIC & INT'L STUD. (Feb. 8, 2023), https://www.csis.org/analysis/russia-ukraine-and-global-food-security-two-year-assessment [https://perma.cc/6W74-2CZ7]; Daniel Munch, *2024 Farm Income Decline Confirmed in USDA Update*, AM. FARM BUREAU FED'N (Dec. 3, 2024), https://www.fb.org/market-intel/2024-farm-income-decline-confirmed-in-usda-update [https://perma.cc/DML9-GKT9].

68. *See* Welsh, *supra* note 67.

69. Olivia McClure, *Despite Falling Production Costs, Depressed Commodity Prices Likely to Keep Farm Margins Tight in 2025*, LA. STATE UNIV. AGCENTER (Jan. 14, 2025, at 08:48 CT), https://www.lsuagcenter.com/articles/page1736887704188 [https://perma.cc/B4D7-NFY8].

70. Lauren Cross, *Farmers Squeezed as DOJ, USDA Examine Rising Expenses*, INVESTIGATE MIDWEST (Oct. 1, 2025), https://investigatemidwest.org/2025/10/01/farmers-squeezed-as-doj-usda-examine-rising-expenses/ [https://perma.cc/4AAR-GXNU].

71. *See* John Newton, *A Promise Worth Keeping: Restoring Certainty to America's Farmers*, AM. FARM BUREAU FED'N (Nov. 4, 2025), https://www.fb.org/focus-on-agriculture/a-promise-worth-keeping-restoring-certainty-to-americas-farmers [https://perma.cc/E6ER-HXBX].

capture far more profit gains than smaller ones.[72] Indeed, many small family farmers are forced to supplement farm income with non-farm income because so many of their farms operate with net losses.[73]

Off-farm income is not the only way that farmers support their farming operations. External financing is another. The modern system of farm finance is a function of historical events, market dynamics, and public policy, especially the federal Farm Bill.[74] American agriculture has undergone dramatic changes in the twentieth and twenty-first centuries, and the structure of how farmers acquire and manage their finances, especially their debts, has not been immune to these changes.[75] The Farm Crisis of the 1980s, the Great Recession, and the COVID-19 pandemic each ushered in changes to which farmers, and their creditors, had to adapt.[76]

As noted, there will always be down years in farming. That is a natural consequence of precipitation, drought, and nutrient depletion if soil quality is not carefully stewarded, not to mention global forces impacting expenses and prices.[77] The deeper question is whether these down years can be weathered given current debt loads or likelihood of forbearance. Mimicking the caprices of the weather, agriculture is a boom-and-bust industry.[78] The surges and collapses generally follow a similar pattern.[79]

Because American farming is a highly decentralized commodities industry, the market—rather than any individual farmer—sets the price for farm products.[80]

72. Robert A. Hoppe, *Profitability Varies by Farm Size*, U.S. DEP'T OF AGRIC.: ECON. RSCH. SERV.: CHARTS OF NOTE (July 10, 2015), https://www.ers.usda.gov/data-products/chart-gallery/gallery/chart-detail?chartId=78328 [https://perma.cc/DNE6-K899].

73. *Id.* In addition, supplementing with off-farm income can disadvantage farmers in various ways under existing regulations. *See* discussion *infra* Section I.D.; *see also Ecclesiastes* 11:1–2 (New International Version) ("Ship your grain across the sea; after many days you may receive a return. Invest in seven ventures, yes, in eight; you do not know what disaster may come upon the land.").

74. *See* JIM MONKE & MEGAN STUBBS, CONG. RSCH. SERV., R48775, THE FARM BILL AFTER FY2025 BUDGET RECONCILIATION: FREQUENTLY ASKED QUESTIONS 3 (2025).

75. *See* Alexandria C. Quinn, *The Next Generation of Chapter 12 Bankruptcy: Revising the Remedy*, 22 DRAKE J. AGRIC. L. 245, 245–47 (2017).

76. *See id.* at 248; discussion *infra* Section I.B.2.

77. Semuels, *supra* note 64.

78. *See* Jason Henderson, Brent Gloy & Michael Boehlje, *Agriculture's Boom-Bust Cycles: Is This Time Different?*, ECON REV., Oct.–Dec. 2011, at 83, 83.

79. *See id.* at 84.

80. Shelby Myers, *Analyzing Farm Inputs: The Cost to Farm Keeps Rising*, AM. FARM BUREAU FED'N (Mar. 17, 2022), https://www.fb.org/market-intel/analyzing-farm-inputs-the-cost-to-farm-keeps-rising [https://perma.cc/U4HT-PTK4].

As price-takers, farmers are often powerless in the face of fluctuating prices.[81] It is not altogether unusual for the costs of producing a product to exceed the price for which the product is ultimately sold.[82] Given these dynamics, farmers face intense pressure to differentiate, either through operation expansion or technological development.[83] But it is costly to invest in future operations, farm upgrades, land improvements, land acquisitions, and other big capital expenditures.[84] Nonetheless, farmers can feel as though they have no choice: either the investments are made, or else failure is inevitable. These investments are usually financed with debt, which may feel manageable when conditions are favorable (e.g., high farmland real estate valuations or commodity prices).[85] But as land valuations stagnate or fall, or as buyer demand slackens, farmers can be left with too much debt to service.[86] Yet, instead of scaling back production, farmers are incentivized to scale up to squeeze out competition.[87] When the competition is doing the same exact thing, the market is left with a glut of product.[88] The bubble bursts, and the creditors come calling.[89]

Beth Hoffman, an Iowa farmer, calls this cycle "the 'bigger is better' myth."[90] But far from being just an illusion, bigger often is more profitable in agriculture. According to recent data from the University of Kentucky, higher profit farms were consistently larger than lower profit farms and had lower power and equipment costs, efficiently spread over more acres.[91] Most farms are nowhere near the scale required to capture these types of efficiencies.[92] 86% of farms in America earn less than $350,000 in gross cash farm income.[93] Chasing scale can

81. *Id.*

82. *See id.*

83. *See id.*

84. *See id.*

85. *See* WHITT, LACY & LIM, *supra* note 51, at 9.

86. *See* Semuels, *supra* note 64.

87. *Fair Prices for Farmers*, NAT'L FAM. FARM COAL. (Feb. 21, 2026, at 18:48 CT), https://nffc.net/what-we-do/fair-prices-for-farmers/ [https://perma.cc/JZY7-3KRR].

88. *Id.*

89. *See* Semuels, *supra* note 64.

90. BETH HOFFMAN, BET THE FARM: THE DOLLARS AND SENSE OF GROWING FOOD IN AMERICA 138 (2021).

91. Lauren Omer Turley, *Characteristics of Higher Profit Farms*, ECON. & POL'Y UPDATE (Univ. of Ky.), Aug. 31, 2021, at 1, 3.

92. Farm Income Team, *Most Farms Are Small, but Large Farms Account for the Largest Share of Production Value*, U.S. DEP'T OF AGRIC.: ECON. RSCH. SERV.: AMBER WAVES (Feb. 5, 2026), https://www.ers.usda.gov/data-products/chart-gallery/chart-detail?chartId=108013 [https://perma.cc/P9ML-LSHH].

93. *Id.*

therefore be a fool's errand for many family farms, if debt burdens increase without the hoped-for return on investment. Instead of growing more than their neighbors, they are barely able to keep up.[94] Likewise, rather than producing less when prices decline, farmers often tend to produce more, hoping to eke out some profit.[95] "Much like superpowers in a cold war arms race, the more farmers invest and produce, the more their neighbors also need to invest and produce, driving the price for goods lower and lower as more and more product floods the market[,]" writes Hoffman.[96]

A. The Farm Crisis of the 1980s

Many Americans, especially those disconnected from the Heartland, do not know that there was a major American crisis in farming in the latter part of the twentieth century, the most severe since the Great Depression and Dust Bowl.[97] But they may have heard of Farm Aid (Keep America Growing!), the benefit concert first organized by Willie Nelson, Neil Young, and John Mellencamp in 1985 to raise awareness for family farm loss and raise funds to help those families preserve their farms.[98] So, why did Shotgun Willie decide to start Farm Aid? Why did more banks fail in the 1980s than since the Great Depression, and why did agricultural banks account for so many of these failures? It is impossible to understand the modern system of farm finance without first understanding the 1980s Farm Crisis.

1. The Boom of the 1970s

The early 1970s saw a steep increase in the demand for wheat, corn, and soybeans.[99] This increase resulted in part from the unanticipated entry into global

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94. As Beth Hoffman writes,

> Growing your farm steadily over decades doesn't give you the benefits of a massive corporate operation; getting big is not an incremental game but an exponential one. One more machine and a little more debt are not enough to improve a farm's financial prospects. Instead, to get big you have to go really big: risking it all, working with investors (be they banks or agribusinesses), and buying the latest and greatest equipment and seed year after year to keep yourself relevant.

HOFFMAN, *supra* note 90, at 139–40.

95. *Fair Prices for Farmers*, *supra* note 85.

96. HOFFMAN, *supra* note 90, at 21.

97. *See* Quinn, *supra* note 75, at 245–48.

98. *About Us*, FARM AID (Jan. 21, 2026, at 08:20 CT), https://www.farmaid.org/about-us/ [https://perma.cc/T68B-LQQY].

99. May Peters, Suchada Langley & Paul Westcott, *Agricultural Commodity Price Spikes in the 1970s and 1990s: Valuable Lessons for Today*, U.S. DEP'T OF AGRIC.: ECON.

agricultural markets by centrally planned economies, particularly the Soviet Union.[100] In 1972, the Soviet Union bought a quarter of American-grown wheat.[101] At the time, this was likely the world's largest ever commodities deal.[102] But within two years, the United States slowed down its foreign food aid because the government was concerned that reserves were being depleted too quickly.[103] The events prompted the quickest rise in prices since the Civil War.[104] Wheat prices increased by 100%, and corn prices increased by 200%.[105]

Simultaneously, the United States dollar was depreciating.[106] Because currency depreciation decreases production costs relative to foreign producers, American exports became more competitive on the global market, further driving up demand and creating a supply crunch.[107] As it happens, in 1972, Peruvian fisherman were unable to catch as many anchovies as they had hoped for during the fishing season, resulting in a steep increase in demand for soybean meal as a

RSCH. SERV.: AMBER WAVES (Mar. 1, 2009), https://www.ers.usda.gov/amber-waves/2009/march/agricultural-commodity-price-spikes-in-the-1970s-and-1990s-valuable-lessons-for-today [https://perma.cc/Q9T4-K3L3].

100. *Id.*

101. Michael Hill, *Foes or Friends? The US-Soviet Grain Trade in the Cold War*, UNIV. OF KAN. CTR. FOR RUSSIAN, E. EUROPEAN, & EURASIAN STUDS. (Jan. 24, 2026, at 14:55 CT), https://coldwarheartland.ku.edu/documents/foes-or-friends [https://perma.cc/7ZWK-REVY].

102. Dan Morgan, *The Shadowy World of Grain Trade*, WASH. POST (June 10, 1979), https://www.washingtonpost.com/archive/business/1979/06/10/the-shadowy-world-of-grain-trade/354b11cd-6dc2-4ac0-b047-51dd7e9ffe83/.

103. *Id.* With disastrous consequences, this policy change created the conditions for famine in Bangladesh. *See* Emma Rothschild, *The Economics of Starvation—II: The Rats Don't Starve*, N.Y. TIMES (Jan. 11, 1977), https://www.nytimes.com/1977/01/11/archives/the-economics-of-starvationii-the-rats-dont-starve.html.

104. Stephen B. Reed, *One Hundred Years of Price Change: The Consumer Price Index and the American Inflation Experience,* MONTHLY LAB. REV. (Apr. 2014), https://www.bls.gov/opub/mlr/2014/article/one-hundred-years-of-price-change-the-consumer-price-index-and-the-american-inflation-experience.htm [https://perma.cc/7VAJ-JVRK].

105. PBS, *The Farm Crisis*, at 8:00 (PBS, June 30, 2013) [hereinafter PBS, *The Farm Crisis*], https://www.pbs.org/video/iptv-specials-farm-crisis/ [https://perma.cc/2TDE-A4ZM].

106. Memorandum from Charles Cooper, Nat'l Sec. Council Staff, to Henry Kissinger, President's Assistant for Nat'l Sec. Aff. (July 11, 1973) (on file with the United States Department of State Office of the Historian).

107. *See* Hoffman, *supra* note 90, at 141–42; Troy Segal, *How Currency Fluctuations Impact Global Economies*, INVESTOPEDIA (Feb. 27, 2026), https://www.investopedia.com/articles/forex/080613/effects-currency-fluctuations-economy.asp [https://perma.cc/5J8R-AKU4].

protein substitute.[108] Soybean prices went on a spectacular ascent.[109] By midsummer 1973, the Nixon Administration introduced an export embargo of soybeans and instituted a policy of buying dollars to strengthen the currency and appease America's concerned European allies.[110] All the while, the government set a new record for payments to farmers in the early 1970s.[111] Net farm income increased from $14.37 billion in 1970 to $34.36 billion in 1973.[112] These were very good years for American farmers, who earned more than Americans in urban areas during this period.[113]

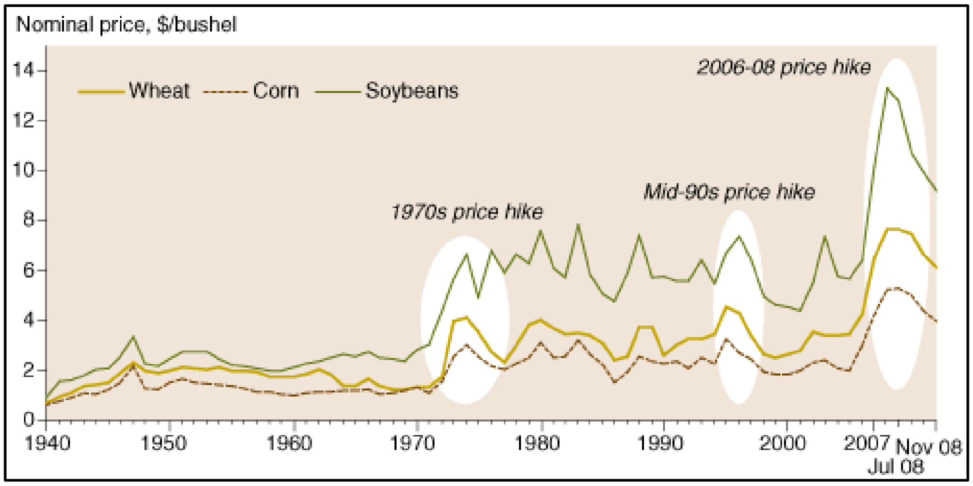

Figure 2 – Source: Agricultural Commodity Price Spikes in the 1970s and 1990s: Valuable Lessons for Today[114]

108. H.J. Maidenberg, *Peru Seeks to Overcome Anchovy Fishing Crisis*, N.Y. TIMES (Dec. 9, 1972), https://www.nytimes.com/1972/12/09/archives/peru-seeks-to-overcome-anchovy-fishing-crisis.html.

109. *Id.*

110. Memorandum from Charles Cooper to Henry Kissinger, *supra* note 106.

111. Don A. Langford, *Agriculture in the Seventies—A Decade of Turbulence*, ECON. PERSPS., Sep.–Oct. 1978, at 3, 3.

112. *Net Farm Income, USDA*, FED. RSRV. BANK OF ST. LOUIS: FRED (Dec. 30, 2025, at 19:37 CT), https://fred.stlouisfed.org/series/B1448C1A027NBEA [https://perma.cc/S7KU-2HEJ].

113. *See The 1970s See Good Times in Agriculture*, IOWA PBS: IOWA PATHWAYS (2013), https://www.iowapbs.org/iowapathways/artifact/1544/1970s-see-good-times-agriculture [https://perma.cc/48XP-V4SE].

114. May Peters, Suchada Langley & Paul Westcott, *Agricultural Commodity Price Spikes in the 1970s and 1990s: Valuable Lessons for Today*, U.S. DEP'T OF AGRIC.: ECON.

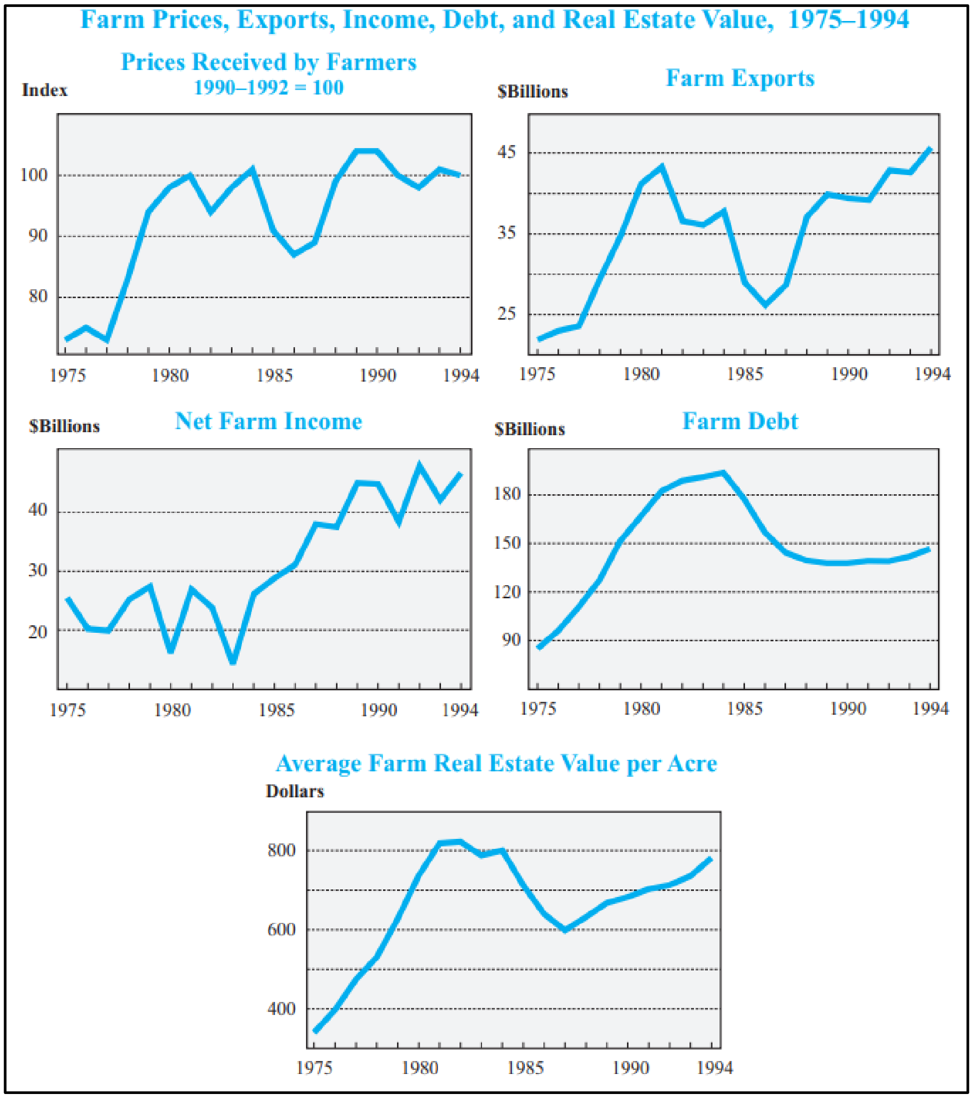

Figure 3 – Source: Chapter 1: The Banking Crisis of the 1980s and Early 1990s: Summary and Implications[115]

RSCH. SERV.: AMBER WAVES (Mar. 1, 2009), https://www.ers.usda.gov/amber-waves/2009/march/agricultural-commodity-price-spikes-in-the-1970s-and-1990s-valuable-lessons-for-today [https://perma.cc/Q9T4-K3L3].

115. *Chapter 1: The Banking Crisis of the 1980s and Early 1990s: Summary and Implications*, FED'L DEPOSIT INSURANCE CORP. (June 12, 2023),

Exports continued to rise, albeit at a slower pace, throughout the decade.[116] Prices for most staples—except for soybeans, thanks to a Brazilian drought—began to fall off by the mid-1970s, but between 1970 and 1978, farm equity doubled while farm debt increased by a third.[117]

Farmland real estate values more than doubled over the same period, collateralizing the new debt as farmers made capital expenditures and bought more land.[118] Indeed, the 1970s saw farm capital expenditures average approximately $11 billion annually, almost double the 1960s average.[119] While the debt-to-equity ratio stayed relatively flat over the course of the decade thanks to rising farm assets, primarily rising land values, the debt-to-net-income ratio skyrocketed in the mid-1970s.[120] It was also in this era that concerns about foreign ownership of American farmland—concerns which resound today—first floated into the mainstream.[121]

Several factors led to elevated farmland real estate values, which rose from an average value per acre of farmland in 1970 of $197 to an average value in 1980 of $737.[122] As discussed, rising prices created rising farm income as the financial

https://www.fdic.gov/publications/history-eighties-lessons-future-volume-1 [https://perma.cc/9CDK-S6ES].

116. *See* Richard K. Abrams & C. Edward Harshbarger, *U.S. Agricultural Trade in the 1970s: Progress and Problems*, ECON. REV., May 1979, at 3, 3–5.

117. Langford, *supra* note 111, at 3, 7, 10.

118. *Id.* at 10. In general, I use the word "farmland" to denote all agricultural land, although farmland is sometimes used to refer exclusively to cropland. Some government sources prefer the more general "agricultural land" to farmland, but I differentiate between the two when necessary.

119. *Id.*

120. *Id.*

121. *See* MARY ESTEP ET AL., FARM SERV. AGENCY, U.S. DEP'T OF AGRIC., FOREIGN HOLDINGS OF U.S. AGRICULTURAL LAND THROUGH DECEMBER 31, 2023, at 1 (2024), https://www.fsa.usda.gov/sites/default/files/2024-12/AFIDAYR2023ReportwithPageNumbers.pdf [https://perma.cc/SA7N-33VN]. Today, American farmland remains an attractive investment for Americans and foreign nationals alike. According to the USDA, foreign ownership of this land has increased 50% since 2017. *Foreign Investment in U.S. Agricultural Land is Raising National Security Concerns*, U.S. GOV'T ACCOUNTABILITY OFF. (Jan. 23, 2024), https://www.gao.gov/blog/foreign-investment-u.s.-agricultural-land-raising-national-security-concerns [https://perma.cc/T7FL-FT23]. Foreign investors must also disclose their dealings to the USDA under the Agricultural Foreign Investment Disclosure Act of 1978 (AFIDA), but unlike the Committee on Foreign Investment in the United States (CFIUS), AFIDA was not drafted from a national security perspective. *Id.*

122. *Land Values*, U.S. DEP'T OF AGRIC.: NAT'L AGRIC. STAT. SERV.: TRENDS IN U.S. AGRIC. (May 4, 2018),

yield on a given acre became more profitable.[123] Likewise, the increase in agricultural exports boosted profits.[124] Inflation, which "averaged 7.4% annually during the 1970s[,]" also played a role in boosting values.[125] Because low interest rates accompanied the inflation, farmland was seen as (and indeed was) an affordable inflation hedge, leading to widespread land speculation.[126] To support the frenzy, the FCS and agricultural banks began aggressive lending programs.[127]

2. The Bust of the 1980s

Of course, an inexorable bust followed the boom. In an effort to combat inflation, Federal Reserve Chair Paul Volcker initiated a controversial and steep increase in interest rates.[128] The flows of credit from lenders to borrowers quickly dried up, and with it, the appetite for land purchases.[129] With the frenzy at an end, land prices started declining.[130] The high interest rates weighed heavily on the farmers who had absorbed vast amounts of debt into their balance sheets to support the seemingly relentless growth.[131] At the same time, the Iranian revolution led to higher input costs by boosting fuel and fertilizer prices,[132] and foreign exports

https://www.nass.usda.gov/Publications/Trends_in_U.S._Agriculture/Land_Values/index.php [https://perma.cc/T5U8-CH4B].

123. *Id.*

124. Abrams & Harshbarger, *supra* note 116, at 3–4.

125. *The Farm Economy, Inflation, and the 1970s*, AGRIC. ECON. INSIGHTS (Nov. 30, 2020), https://aei.ag/overview/article/the-farm-economy-inflation-and-the-1970s [https://perma.cc/96LL-7EXF].

126. James B. Rutledge, *Farmland Values, Equities and Mortgages from the Inflationary 1970s*, J. ASFMRA, Apr. 1983, at 10, 14.

127. *See A Short-Lived Agriculture Boom Leads to the 1980s Farm Crisis*, IOWA PBS: IOWA PATHWAYS (2013), https://www.iowapbs.org/iowapathways/artifact/1584/short-lived-agriculture-boom-leads-1980s-farm-crisis [https://perma.cc/QD4A-D6VR].

128. William Poole, *President's Message: Volcker's Handling of the Great Inflation Taught Us Much*, FED. RSRV. BANK OF ST. LOUIS: REG'L ECONOMIST (Jan. 1, 2005), https://www.stlouisfed.org/publications/regional-economist/january-2005/volckers-handling-of-the-great-inflation-taught-us-much [https://perma.cc/2DLM-MXSP].

129. *Land Values*, *supra* note 122; *see also History of Mortgages in the U.S. (1970s to Today)*, ALL DAY FIN. (Mar. 1, 2025), https://alldayfinance.com/history-of-mortgages-in-the-u-s-1970s-to-today/ [https://perma.cc/BN39-6MFY] (discussing the broader impact on lending resulting from the Federal Reserve's decision to increase interest rates in the early 1980s).

130. *Land Values*, *supra* note 122.

131. *See* OFF. OF REGUL. POL'Y, FARM CREDIT ADMIN., WHY WE ARE NOT FACING ANOTHER 1980S-STYLE FARM SECTOR CRISIS 5 (2017), https://www.fca.gov/template-fca/download/EconomicReports/WhyWeAreNotFacingAnother1980sStyleFarmSectorCrisis.pdf [https://perma.cc/3TD8-VKBG].

132. *Id.* at 2.

plunged thanks to a grain embargo which President Carter instituted as retaliation against the Soviet Union's invasion of Afghanistan.[133] But instead of cutting production, farmers actually overproduced crops and animals in an attempt to squeeze out additional income, creating a vicious cycle of plummeting prices.[134] Ultimately, around 300,000 farmers faced loan defaults in the 1980s.[135] "There was always a feeling, an underlying feeling of fear, waiting for the other shoe to fall." said Dean Hagedorn, an Iowa farmer.[136] And fall it did.

3. The Government Response to the Farm Crisis

Unsustainable debt created a farm financial crisis as the earnings at agricultural banks dropped 50% between 1980 and 1984 amid foreclosures and consolidation.[137] Congress passed the 1985 Farm Bill, also called the Food Security Act of 1985, in an effort to shore up agricultural price supports, resource conservation, and the availability of credit to farmers.[138] A year later, Congress

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133. BRIAN REISINGER, LAND RICH, CASH POOR 111 (2024). Farmers quickly learned that the large Soviet crop orders of the 1970s had a flipside: American agricultural goods became weapons of trade in the Cold War. *See id.* With the federal government able to open and close markets with the stroke of a pen, farmers were left to the whims of politicians and diplomats. *See id.* Other countries, like Argentina, Brazil, Canada, and Australia stepped in to fill the gap in global trade and became more competitive vis-à-vis American farmers. *See* Frank Morris, *Farmers Swept Up in Trade Wars Remember '80s Grain Embargo*, NPR (Aug. 16, 2018), https://www.npr.org/2018/08/16/639149657/farmers-caught-up-in-u-s-trade-war-s-remember-80-s-grain-embargo [https://perma.cc/G5FD-ZJAY].

134. As one writer put it:

> Some say the problem is too many farmers. But forcing farmers out of business does not necessarily cut production. The defunct farmers are bought out by their neighbors, who stay afloat by farming more acres. The survivors are pushed toward greater and greater efficiency simply to stay in business, but their efforts only result in more overproduction and lower prices for all.

A.C. Robbins, Letter to the Editor, *Family Farm Suffers from Too Much Efficiency*, N.Y. TIMES (Dec. 12, 1986), https://www.nytimes.com/1986/12/12/opinion/l-family-farm-suffers-from-too-much-efficiency-697386.html.

135. *See* PBS, *The Farm Crisis*, *supra* note 105, at 04:26.

136. *Id.* at 5:10.

137. REISINGER, *supra* note 133, at 118–19.

138. Food Security Act of 1985, Pub. L. No. 99-198, 99 Stat. 1354. Significantly, the 1985 Farm Bill was the first piece of legislation that conditioned government support on conservation. *See* Mychal Wilmes, *The 1985 Farm Bill Changed the Trajectory of the Farm Crisis*, AGWEEK, (Jan. 2, 2024, at 05:33 CT), https://www.agweek.com/opinion/columns/the-1985-farm-bill-changed-the-trajectory-of-the-farm-crisis.

added a new chapter to the United States Bankruptcy Code for the benefit of family farmers and fishermen: Chapter 12.[139]

In January 1988, President Reagan signed the Agricultural Credit Act into law to provide federal guarantees for FCS.[140] FCS is a nationwide network of farmer-owned cooperatives created early in the twentieth century which remains an important part of the modern agricultural lending ecosystem.[141]

The Agricultural Credit Act, however, came into effect too late to stop much of the farm loss and consolidation that had already occurred during the preceding years.[142] Farm loss and consolidation reached their peak in the 1980s, but have never stopped their steady decline.[143]

139. 11 U.S.C. §§ 1201–1231; *Chapter 12 - Bankruptcy Basics*, U.S. CTS. (Feb. 10, 2026, at 14:15 CT), https://www.uscourts.gov/court-programs/bankruptcy/bankruptcy-basics/chapter-12-bankruptcy-basics# [https://perma.cc/HT3T-9J3S].

140. *See Reagan Signs a Bill to Rescue Troubled Farm Credit System*, N.Y. TIMES (Jan. 7, 1988), https://www.nytimes.com/1988/01/07/us/reagan-signs-a-bill-to-rescue-troubled-farm-credit-system.html; *President Signs $4-Billion Farm Credit Bailout, with Misgivings*, L.A. TIMES (Jan. 7, 1988, 02:00 CT), https://www.latimes.com/archives/la-xpm-1988-01-07-mn-33796-story.html.

141. *See Reagan Signs a Bill to Rescue Troubled Farm Credit System*, *supra* note 136; *President Signs $4-Billion Farm Credit Bailout, with Misgivings*, *supra* note 136.

142. According to Senator Tom Harkin when discussing the Agricultural Credit Act of 1987:

> As we said to the farmers with all this debt and they were paying these high interest rates leftover from the early 80s and the late 70s . . . we're going to restructure it, we'll buy back your loans, those debts, we'll stretch it out over 20 years and we'll give you a lower interest rate. Basically that's what happened, we just restructured all those loans. And then we gave the Farm Credit System enough money to be able to do that. And that stopped the bleeding. Of course by that time a lot of people said it was too late for them because a lot of them had already been thrown out of agriculture. So we did lose a lot. I wish we could have done it earlier.

Federal Policy Changes During the Farm Crisis, IOWA PBS (July 1, 2013), https://www.iowapbs.org/shows/farmcrisis/clip/5272/federal-policy-changes-during-farm-crisis [https://perma.cc/FXH7-AYCK].

143. James M. MacDonald & Robert A. Hoppe, *Examining Consolidation in U.S. Agriculture*, U.S. DEP'T OF AGRIC.: ECON. RSCH. SERV.: AMBER WAVES (Mar. 14, 2018), https://www.ers.usda.gov/amber-waves/2018/march/examining-consolidation-in-u-s-agriculture [https://perma.cc/3WAP-M8ZD] ("[United States] farmland shows very little consolidation since the 1980s. However, that seeming stability reflects two diverging underlying trends: considerable consolidation in cropland and in crop and livestock production, set against shifts of pasture and rangeland toward smaller operations.").

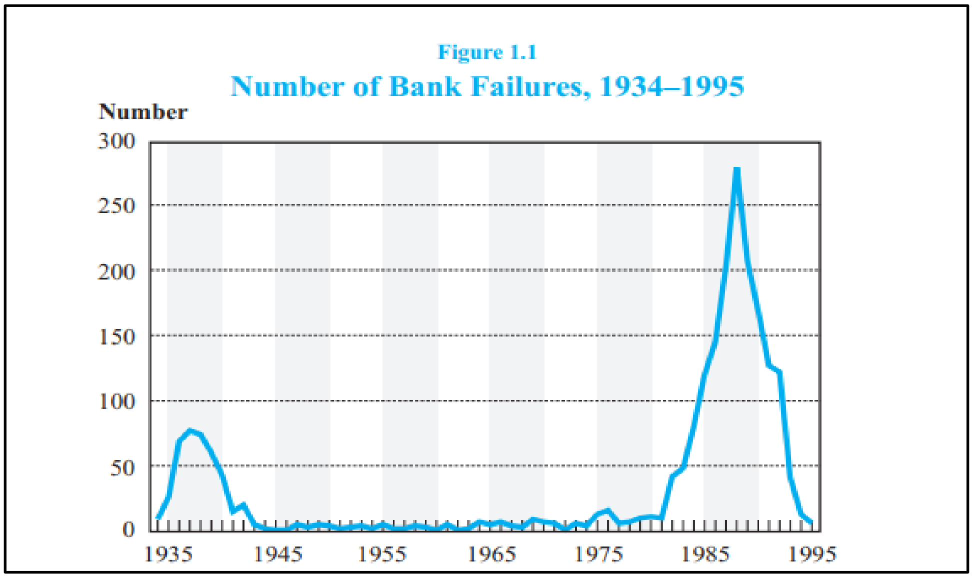

Figure 4 – Source: Chapter 1: The Banking Crisis of the 1980s and Early 1990s: Summary and Implications[144]

144. *Chapter 1: The Banking Crisis of the 1980s and Early 1990s: Summary and Implications*, FED'L DEPOSIT INSURANCE CORP. (June 12, 2023), https://www.fdic.gov/publications/history-eighties-lessons-future-volume-1 [https://perma.cc/8GQR-7RTB] ("Data refer to FDIC-insured commercial and savings banks that were closed or received FDIC assistance.")

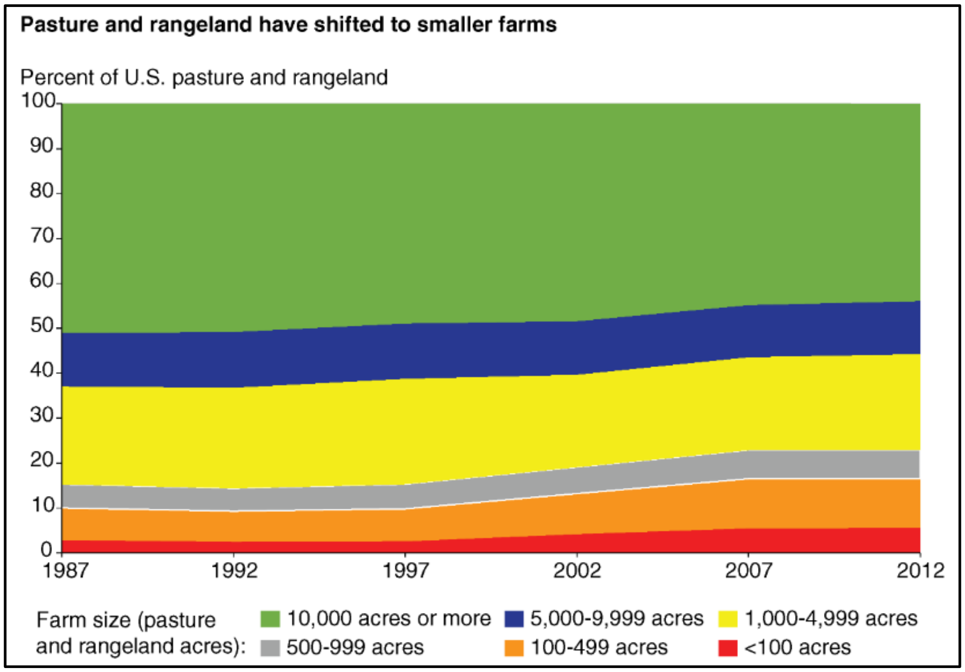

Figure 5 – Source: Examining Consolidation in U.S. Agriculture[145]

B. The Great Recession and the COVID-19 Pandemic

1. Impact of the Great Recession on Agriculture

More recently, the 2008 Great Recession ushered in new challenges for lenders across sectors.[146] Real estate values plummeted, eroding collateral bases and exposing the fragility of overleveraged loan portfolios.[147] Financial institutions faced liquidity crises and adopted a reinvigorated appreciation of credit

145. James M. MacDonald & Robert A. Hoppe, *Examining Consolidation in U.S. Agriculture*, U.S. DEP'T OF AGRIC.: ECON. RSCH. SERV.: AMBER WAVES (Mar. 14, 2018), https://www.ers.usda.gov/amber-waves/2018/march/examining-consolidation-in-u-s-agriculture.

146. *See* Eric Vaheb, The Financial Crisis of 2008: The Greatest Downturn in the U.S. Economy Since the Great Depression 2 (May 1, 2013) (Honors scholar thesis, University of Connecticut) (on file with the University of Connecticut Library).

147. *See id.*

quality, resulting in more conservative underwriting.[148] The crisis hit differently in the agricultural sector.[149] In the short-term, global demand for agricultural goods slackened, putting downward pressure on farm income and real estate value, but the overall impact on the sector was less severe because of already-conservative lending practices.[150] The return on equity for nonagricultural banks fell from 7.7% to -2.0%, but the return on equity for agricultural banks suffered only a slight decline from 10.6% to 7.0%.[151] Charge-offs—when a lender writes off a loan's value as a loss—were more common in loans not backed by collateralized farmland, since farmland values had increased steadily leading up to the crisis and bounced back quickly thereafter.[152]

148. *See* W. SCOTT FRAME ET AL., THE RESCUE OF FANNIE MAE AND FREDDIE MAC 24, 28 (2015), https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr719.pdf [https://perma.cc/U8T3-DWSS].

149. MATTHEW SHANE ET AL., ECON. RSCH. SERV., U.S. DEP'T OF AGRIC., THE 2008/2009 WORLD ECONOMIC CRISIS: WHAT IT MEANS FOR U.S. AGRICULTURE 1 (2009), https://ers.usda.gov/sites/default/files/_laserfiche/outlooks/40467/9650_wrs0902.pdf?v=82880 [https://perma.cc/LLJ3-BXHL].

150. *See id.*

151. PAUL SUNDELL & MATTHEW SHANE, ECON. RSCH. SERV., U.S. DEP'T OF AGRIC., THE 2008-09 RECESSION AND RECOVERY: IMPLICATIONS FOR THE GROWTH AND FINANCIAL HEALTH OF U.S. AGRICULTURE 17 (2012), https://ers.usda.gov/sites/default/files/_laserfiche/outlooks/40483/20511_wrs1201_1_.pdf?v=46806 [https://perma.cc/459L-TQ66]; *see* Jason Henderson & Maria Akers, *Financial Challenges Facing Farm Enterprises*, MAIN ST. ECONOMIST, Issue 1, 2010, at 1, 1–2 (2010).

152. *See* SUNDELL & SHANE, *supra* note 151, at 11.

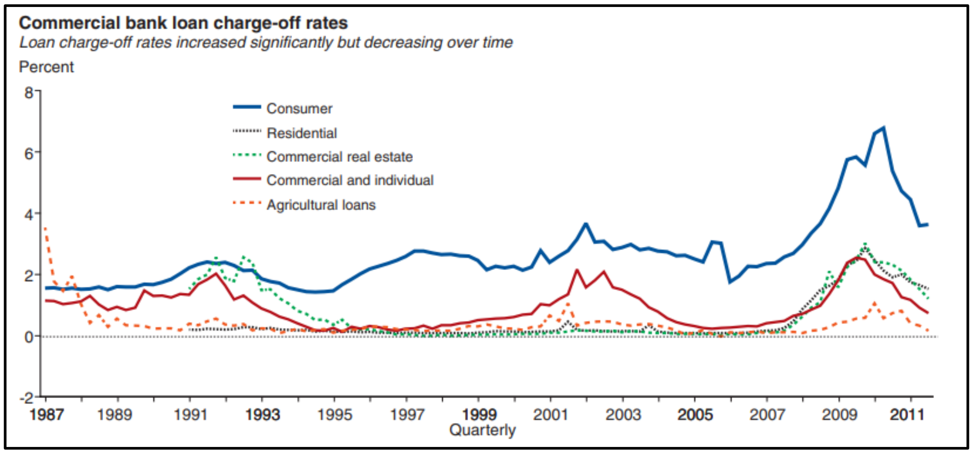

Figure 6 – Source: The 2008-09 Recession and Recovery: Implications for the Growth and Financial Health of U.S. Agriculture[153]

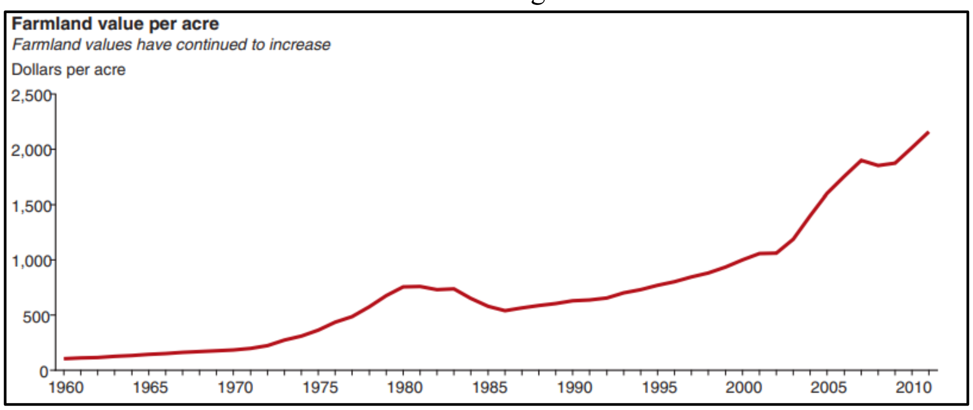

Figure 7 – Source: The 2008-09 Recession and Recovery: Implications for the Growth and Financial Health of U.S. Agriculture[154]

The primary effect of the crisis was a slew of new financial regulations which applied to a significant proportion of agricultural lenders, including major banks like Wells Fargo and Bank of America, as well as mid-market lenders and smaller community banks.[155] The Dodd-Frank Act raised the minimum reserve ratio of

153. *Id.*
154. *Id.*
155. *See* Randall D. Guynn, *The Financial Panic of 2008 and Financial Regulatory Reform*, HARV. L. SCH. F. ON CORP. GOVERNANCE (Nov. 20, 2010), https://corpgov.law.harvard.edu/2010/11/20/the-financial-panic-of-2008-and-financial-

the Federal Deposit Insurance Corporate's Deposit Insurance Fund (DIF) to 1.35%, forcing DIF to raise bank assessment rates as a de-risking measure.[156] Moreover, lending institutions are now subject to tighter minimum capital requirements which restrain growth and capital deployment,[157] although more recently, Congress has taken some action to address these concerns.[158] While the capital requirements are tiered, so large banks have to maintain higher capital bases than smaller banks, even mid-market and rural community banks face minimum capital requirements.[159] These limit their ability to grow lending portfolios unless they generate internal retained earnings because many rural community banks are family-owned and reluctant to issue new shares to increase equity.[160] Thus,

regulatory-reform/ [https://perma.cc/EAW8-7KX3] (describing the post-2008 wave of financial regulatory reforms that imposed new requirements across the banking sector, including large banks and many smaller depository institutions).

156. CONG. RSCH. SERV., R41350, THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT: BACKGROUND AND SUMMARY 13 (2017) [hereinafter CONG. RSCH. SERV., R41350]; *see also FDIC Assessment Rates Likely to Remain the Same*, PCBB (Nov. 26, 2024), https://www.pcbb.com/bid/2024-11-26-fdic-assessment-rates-likely-to-remain-the-same [https://perma.cc/82NM-2WW9] (explaining that the "Deposit Insurance Fund's reserve ratio is on track to reach the statutory minimum of 1.35% by 2026").

157. *See* DAVID W. PERKINS, CONG. RSCH. SERV., R45989, COMMUNITY BANK LEVERAGE RATIO (CBLR): BACKGROUND AND ANALYSIS OF BANK DATA 3–5 (2020).

158. As one source explained:

> In response to concerns that small banks faced unnecessarily burdensome capital requirements, Congress mandated further tailoring of capital rules in Section 201 of P.L. 115-174, the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 (EGRRCPA). Section 201 created the Community Bank Leverage Ratio (CBLR), a relatively simple ratio to calculate. Under this provision, a bank with less than $10 billion in assets that meets certain risk-profile criteria set by bank regulators will have the option to exceed a single CBLR threshold instead of being required to exceed several existing, more complex minimum ratios. The CBLR is set at a relatively high level compared to the existing minimum ratio requirements. Banks that exceed the CBLR are to be considered (1) in compliance with all risk-based capital ratios and (2) well capitalized for other regulatory considerations. Because small banks typically hold amounts of capital well above the required minimums, the CBLR option will allow many small banks to opt out of requirements to meet and report more complex ratios.

Id.

159. *See* CONG. RSCH. SERV., R41350, *supra* note 148, at 12.

160. *See generally* Martin Goetz, Luc Laeven & Ross Levine, *Do Bank Insiders Impede Equity Issuances?* (Nat'l Bureau of Econ. Rsch., Working Paper No. 27442, 2020), https://www.nber.org/system/files/working_papers/w27442/w27442.pdf [https://perma.cc/FUQ7-R6U2] (finding that greater insider ownership led U.S. banks to issue less common equity after the 2008 financial crisis, consistent with insiders' reluctance to dilute control even when additional capital could strengthen bank stability).

although larger corporate lending institutions caused the meltdown, smaller banks have borne the regulatory burden of those mistakes.[161]

The regulatory burden is especially onerous for agricultural lenders, which are often smaller in scale and scope than other lending institutions, and thus cannot achieve economies of scale as efficiently.[162] The growth in non-bank financing options, like sale-leasebacks[163] and hard money lending,[164] may lend credence to the hypothesis, since those lending options are less attractive compared to traditional banking services, unless traditional services are too difficult to access.

2. Impact of the COVID-19 Pandemic on Agriculture

Just as the Great Recession rippled through agriculture in unique ways, so did the effects of the COVID-19 pandemic. The late 2010s were already a difficult period for American farmers amid severe hurricanes, poor planting conditions, and the residual effects of the Trump Administration's tariffs.[165] Equipment investment

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161. MARC LABONTE, CONG. RSCH. SERV., R43999, AN ANALYSIS OF THE REGULATORY BURDEN ON SMALL BANKS 38 (2015) (stating that the "[r]egulatory burden has increased for small banks in absolute terms since the recent financial crisis," although there have been myriad attempts to exempt them from certain regulatory requirements).

162. *See id.* at 28–29 ("Some argue that rules must be more flexible or include exemptions for small banks to be able to extend adequate credit to rural and underserved areas. Examples of this principle can be found in existing regulation—for example, lenders in rural areas have additional compliance options for the Ability-to-Repay rule that are not available to some other banks. Similarly, it is argued that small banks are better situated to engage in types of transactions that depend on "relationship banking" (i.e., personalized knowledge of risks). For example, data indicate that small banks make relatively more agricultural loans than large banks. It is argued that rigid regulations with standardized criteria are not well suited for the relationship banking model. Alternatively, if the policy goal is to help rural or underserved communities, it could arguably be more efficient to target those populations directly, rather than providing regulatory relief to small banks regardless of how much credit they provide to those populations."); *see also* Tanya D. Marsh, *Reforming the Regulation of Community Banks After Dodd-Frank*, 90 IND. L.J. 179, 184, 197–98, 211–12 (2015) (explaining that the American regulatory system forces major burdens on community banks, without also offering benefits to consumers or the economy).

163. *See* Sara Schafer, *The Pros and Cons of Sale-Leasebacks*, FARM J. AGWEB (Sep. 19, 2022, at 21:43 CT), https://www.agweb.com/news/business/farmland/pros-and-cons-sale-leasebacks [https://perma.cc/BL9S-7VJ9].

164. *Is a Hard Money Agricultural Loan Right for You?*, AGAMERICA (Oct. 19, 2022), https://agamerica.com/blog/what-is-a-hard-money-loan/ [https://perma.cc/B3YJ-9P3Z] (explaining that hard-money agricultural loans are asset-based, short-term loans that can provide quick cash flow when conventional financing is unavailable).

165. *See* John Newton, *Farmers Need Disaster Assistance*, AM. FARM BUREAU FED'N: MKT. INTEL (Apr. 8, 2019), https://www.fb.org/market-intel/farmers-need-disaster-assistance [https://perma.cc/N8KP-ZEC6] (noting that in 2018 and 2019, U.S. farmers nationwide

had fallen, farm debt had increased to the extent that delinquency rates on farmland loans in 2019 were at a local high, and supply outstripped demand, leading to falling commodity prices.[166] Nonetheless, profits remained relatively high during that same year, largely due to federal payments to farmers.[167]

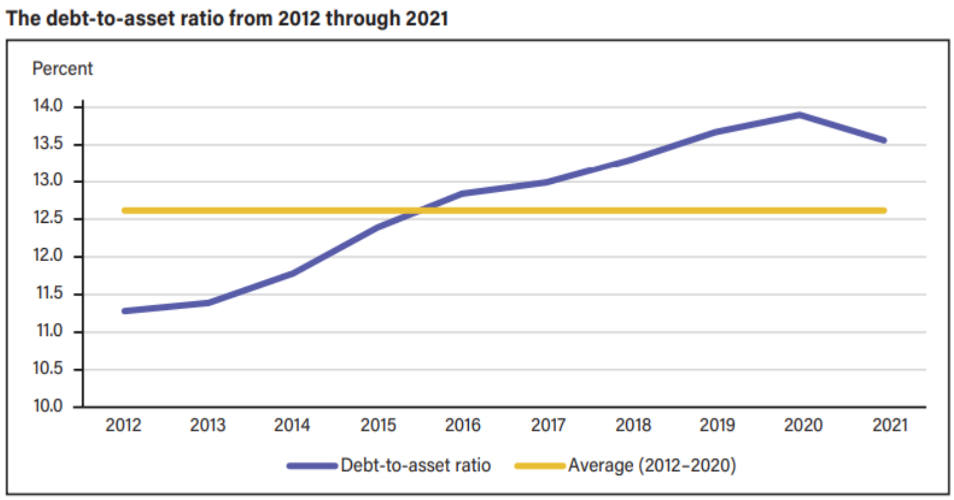

Figure 8 – Source: Debt Use by U.S. Farm Businesses[168]

When the pandemic hit, there was an immediate and severe reduction in commodity demand, as the need for biofuels and food for restaurants and hotels dried up.[169] Input supply chains, as well as labor availability, were severely

weathered several major disasters including two Category 4 hurricanes, tornadoes, and major flooding, representing $83.8 billion in at-risk agricultural economic contributions across disaster-impacted congressional districts); Press Release, Farm Serv. Agency, U.S. Dep't of Agric., Report: Farmers Prevented from Planting Crops on More than 19 Million Acres (Aug. 12, 2019), https://www.fsa.usda.gov/news-room/news-releases/2019/report-farmers-prevented-from-planting-crops-on-more-than-19-million-acres [https://perma.cc/4YEW-PJWK]; BENJAMIN TSUI, CONG. RSCH. SERV., R45903, RETALIATORY TARIFFS AND U.S. AGRICULTURE 1–2, 25–37 (2019).

166. Robert Johansson, *America's Farmers: Resilient Throughout the COVID Pandemic*, U.S. DEP'T OF AGRIC.: BLOG (Sep. 24, 2020, at 10:25 CT), https://www.usda.gov/about-usda/news/blog/americas-farmers-resilient-throughout-covid-pandemic [https://perma.cc/JX7V-KQ5K].

167. *Id.*

168. Dipak Subedi & Anil K. Giri, *Debt Use by U.S. Farm Businesses, 2012-2021*, U.S. DEP'T OF AGRIC.: ECON. RSCH. SERV. (June 2024), https://ers.usda.gov/sites/default/files/_laserfiche/publications/109412/EIB-273.pdf?v=47348 [https://perma.cc/4XZS-9CEJ].

169. *Id.*

disrupted.[170] In response to the economic chaos, Congress stepped in to support American farmers and inject liquidity into the agricultural economy.[171] The USDA Pandemic Assistance to Producers provided $6 billion in financial assistance to agricultural producers struggling amid the pandemic, while the Coronavirus Food Assistance Program provided $31.3 billion in direct payments to producers by August 2023.[172] In 2023, the Pandemic Assistance Revenue Program was announced to assist commodities producers who had experienced revenue declines earlier in the pandemic.[173] Farmers also had access to the Paycheck Protection Program,[174] and various stimulus provisions in the Inflation Reduction Act.[175]

This capital infusion combined with broader inflationary trends affecting inputs, such as gas, fertilizer, and seed, to push up farmland values and commodity prices across the board.[176] Corn reached a peak of $7.00 per bushel and soybeans approached $14.00, compared to 2019 prices of approximately $4.00 and $9.00,

170. Dan Kowalski, *Macro Economic Outlook: A Healthy Economy, Unhealthy Supply Chains*, THE Q., Oct. 2021, at 4, 4–5, https://www.cobank.com/documents/7714906/7715344/Quarterly-Oct2021.pdf/dce90c97-cb18-3be1-d52b-ad7d69b7d0bc?t=1633537468191 [https://perma.cc/CQR4-ALF8] ("But supply chains are arguably in the most dire condition since the start of the pandemic. Lead times for manufacturing inputs recently reached record highs, while retailers are spending millions to charter container vessels to ensure shipments reach stores in time for holiday shopping. And this scramble to keep supply chains intact is driving up costs."); *COVID-19 and Food Security: What You Need to Know*, CTR. FOR STRATEGIC & INT'L STUD. (Apr. 24, 2020), https://www.csis.org/programs/global-food-and-water-security-program/archives/covid-19-and-food-security/covid-19-and [https://perma.cc/XV93-JP97]; Jennifer Whitlock, *Agriculture Continues to Feel Impact of COVID-19 Pandemic*, TEX. FARM BUREAU: TEX. AGRIC. DAILY (Oct. 22, 2021), https://texasfarmbureau.org/agriculture-continues-to-feel-impact-of-covid-19-pandemic/ [https://perma.cc/9NAC-MN87].

171. *Farms and Farm Households*, U.S. DEP'T OF AGRIC.: ECON. RSCH. SERV. (Aug. 25, 2025), https://www.ers.usda.gov/covid-19/farms-and-farm-households [https://perma.cc/8927-AURH].

172. *Id.*

173. *Id.*

174. Anil K. Giri, Dipak Subedi & Tia M. McDonald, *U.S. Farm Producers Received Almost $6 Billion From the Paycheck Protection Program in 2020*, U.S. DEP'T OF AGRIC.: ECON. RSCH. SERV.: AMBER WAVES (Oct. 4, 2021), https://www.ers.usda.gov/amber-waves/2021/october/u-s-farm-producers-received-almost-6-billion-from-the-paycheck-protection-program-in-2020 [https://perma.cc/63JP-S2MR].

175. Shelby Myers, *What's in the Inflation Reduction Act for Agriculture?*, AM. FARM BUREAU FED'N (Aug. 22, 2022), https://www.fb.org/market-intel/whats-in-the-inflation-reduction-act-for-agriculture [https://perma.cc/2LCR-JB52].

176. Chuck Abbott, *Farmland Values Soar Despite Pandemic*, AGWEST LAND BROKERS (Aug. 16, 2021), https://agwestland.com/farmland-values-soar-despite-pandemic/ [https://perma.cc/ZVV8-LQZD].

respectively.[177] Indeed, crop farmers experienced a short boom as a result of these developments, and 2022 was actually a record profit year for American farmers.[178] But the crisis did not affect agricultural producers equally; when the spread of COVID led to meatpacking plant closures, supply chains buckled, resulting in the mass depopulation of millions of animals due to processing constraints.[179]

As if the pandemic was not disruptive enough, the Russia-Ukraine war created more disturbance in global markets.[180] At the time, Russia was the world's largest exporter of fertilizer, and the war drove up fertilizer and fuel prices.[181] This changed farmer behavior, since fertilizer accounts for approximately 45% of operating expenses for United States corn and wheat producers.[182] The conflict had major impacts on barley, wheat, and corn prices.[183]

C. Current Trends in Agriculture

Post-COVID, recent corn and soybean prices settled around $4.10 and $10.20, respectively.[184] Those numbers are historically healthy, but they represent a significant drop from the heights of COVID.[185] At the same time, input costs

177. *Crop Price History*, FARM CREDIT SERVS. OF AM. (Jan. 23, 2026, at 12:47 CT), https://www.fcsamerica.com/insurance/resources/crop-price-history [https://perma.cc/HYF9-82ET].

178. *Farm Sector Income & Finances - Farm Sector Income Forecast*, U.S. DEP'T OF AGRIC.: ECON. RSCH. SERV. (Feb. 5, 2026), https://www.ers.usda.gov/topics/farm-economy/farm-sector-income-finances/farm-sector-income-forecast [https://perma.cc/7VSD-AGJE].

179. Dylan Matthews, *The Closure of Meatpacking Plants Will Lead to the Overcrowding of Animals. The Implications Are Horrible*, VOX (May 4, 2020, at 07:10 CT), https://www.vox.com/2020/5/4/21243636/meat-packing-plant-supply-chain-animals-killed.

180. Jennifer Kee, Lila Cardell & Yacob Abrehe Zereyesus, *Global Fertilizer Market Challenged by Russia's Invasion of Ukraine*, U.S. DEP'T OF AGRIC.: ECON. RSCH. SERV.: AMBER WAVES (Sep. 18, 2023), https://www.ers.usda.gov/amber-waves/2023/september/global-fertilizer-market-challenged-by-russia-s-invasion-of-ukraine [https://perma.cc/7NR2-N99Z].

181. *Id.*

182. *Id.*

183. Maksym Chepeliev, *Impacts of the Russia-Ukraine War on Global Agriculture: Spillover Effects and Policy Responses*, PURDUE AGRIC. ECON. REP., Jan. 2024, at 12, 12–13, https://ag.purdue.edu/commercialag/home/wp-content/uploads/2024/01/PAER_202401.pdf [https://perma.cc/5EXU-ZZ7S].

184. OFF. OF THE CHIEF ECONOMIST, U.S. DEP'T OF AGRIC., WASDE-668, WORLD AGRICULTURAL SUPPLY AND DEMAND ESTIMATES (WASDE) (2026), https://www.usda.gov/oce/commodity/wasde/wasde0226.pdf [https://perma.cc/6HSH-QN8F].

185. *See Crop Price History*, *supra* note 169.

remain elevated.[186] Many key inputs, like fertilizer and fuel, are tied to oil and natural gas prices, which have moderated somewhat due to domestic liquified natural gas production.[187] Labor remains a significant constraint, especially in high minimum wage states like California.[188] Because input expenses have not come down at the same pace as commodity prices, many farmers are feeling squeezed by their margins.[189] Farmers are earning lower profits by harvesting the same yield on the same acres.[190] Nonetheless, USDA has forecasted that net farm income in 2025 will be up 40% from 2024, largely thanks to federal aid payments.[191]

Farmland values are beginning to soften due to the combination of low commodity prices and high interest rates.[192] The average interest rate on Midwestern agricultural operating loans hovered around 8.5% in 2023, an increase from the 5.5% average prevailing in 2022.[193] This has made it more expensive for farmers to service their lines of credit.[194]

More generally, federal workforce and immigration policies will likely have ramifications for farm finances. Layoffs in the federal government could cause employment shortages at local USDA offices, which provide information and assistance in accessing USDA programs as well as general industry counselling.[195]

186. Myers, *supra* note 78.

187. *See* Oranuch Wongpiyabovorn & Chad Hart, *Examining the Factors of Fertilizer Pricing*, 3 J. AGRIC. & APPLIED ECON. ASS'N 572, 572 (2024).

188. *California Minimum Wage and the Family Farm*, PRODUCE NEWS (Aug. 20, 2024), https://theproducenews.com/headlines/california-minimum-wage-and-family-farm/ [https://perma.cc/48NJ-R22P].

189. Tyne Morgan, *A Margin Squeeze is Setting in Across Row-Crop Farms, and 80% of Ag Economists Are Now Concerned It'll Accelerate Consolidation*, FARM J. AGWEB (Apr. 27, 2024, at 08:41 CT), https://www.agweb.com/news/business/taxes-and-finance/margin-squeeze-setting-across-row-crop-farms-and-80-ag-economists-are-now-concerned-itll-accelerate-consolidation [https://perma.cc/4WWZ-2H8P].

190. Myers, *supra* note 78.

191. Cross, *supra* note 68.

192. RABAIL CHANDIO, AG DECISION MAKER, 2025 IOWA STATE UNIVERSITY FARMLAND VALUE SURVEY 3, 5–6 (2025), https://www.extension.iastate.edu/agdm/wholefarm/pdf/c2-70.pdf [https://perma.cc/6RT5-VMZ8].

193. Tait Berg, *Agricultural Producers Paid Over $840 Million in Interest Expenses in 2023*, FED. RSRV. BANK OF MINNEAPOLIS (Apr. 19, 2024), https://www.minneapolisfed.org/article/2024/agricultural-producers-paid-over-840-million-in-interest-expenses-in-2023 [https://perma.cc/DK56-66MN].

194. *Id.*

195. Andrea Hsu, *Nearly 6,000 USDA Workers Fired by Trump Ordered Back to Work for Now,* NPR (Mar. 5, 2025, at 21:03 ET), https://www.npr.org/2025/03/05/nx-s1-5318687/usda-fired-federal-employees-probationary-osc-mspb [https://perma.cc/EAH2-5F9E]. Thousands of

On the immigration front, many farms (particularly dairy, fruit, and vegetable farms) rely heavily on H-2A or undocumented farm laborers.[196] Indeed:

> The share of hired crop farmworkers who were not legally authorized to work in the United States grew from roughly 14[%] in 1989–91 to almost 55[%] in 1999–2001; in recent years it has declined to about 40[%]. In 2020–22, 32[%] of crop farmworkers were [United States] born, 7[%] were immigrants who had obtained [United States] citizenship, 19[%] were other authorized immigrants (primarily permanent residents or green-card holders), and the remaining 42[%] held no work authorization.[197]

Producers are also worried about trends in commodity prices, especially corn and soybeans, which are now at breakeven level and declining.[198] Specialty crops, especially nuts, are in a particularly dire situation, as nut sector pricing has been well below profitability for the past several years.[199] The fruit and vegetable sectors likewise remain volatile, although beef and poultry producers are enjoying higher prices due to limited supply.[200]

USDA employees were fired and then ordered back to work within a few weeks. *Id.* The long-term impacts of this are unclear as of yet. *See id.*

196. Marcelo Castillo, *Legal Status of Hired Crop Farmworkers, Fiscal 1991-2022*, U.S. DEP'T OF AGRIC. ECON. RSCH. SERV. (Sept. 12, 2025), https://www.ers.usda.gov/data-products/chart-gallery/chart-detail?chartId=63466 [https://perma.cc/J7R5-7D8J]; Tyne Morgan, *The True Cost of What Farmers Argue is a Broken Immigration System in the U.S.*, FARM J. AGWEB (Feb. 11, 2025, at 11:38 CT), https://www.agweb.com/news/policy/politics/true-cost-what-farmers-argue-broken-immigration-system-u-s [https://perma.cc/Z38A-A7UU].

197. Castillo, *supra* note 188 (emphasis added).

198. Farm Management Program, *Watch: 2025 Ag Forum | Paul Mitchell on Farm Income Situation and Outlook*, UNIV. OF WIS.-MADISON EXTENSION (Jan. 24, 2026, at 14:38 CT), https://farms.extension.wisc.edu/articles/watch-2025-ag-forum-paul-mitchell-on-farm-income-situation-and-outlook/ [https://perma.cc/NYT2-AFLX].

199. *See* Ian James, *After Years of Rapid Growth, California's Almond Industry Struggles Amid Low Prices*, L.A. TIMES (Mar. 4, 2024, at 03:00 PT), https://www.latimes.com/environment/story/2024-03-04/bankruptcy-hits-california-almond-industry-amid-slump. Almond prices increased at the start of 2025, but it is unclear how tariffs might affect profitability. *See Almonds and Pistachios*, AGWEST FARM CREDIT (Feb. 11, 2026), https://agwestfc.com/education-and-resources/industry-and-economic-insights/industry-insights/almonds-and-pistachios [https://perma.cc/R9NX-AJ3W].

200. Sarah Zimmerman, *Farmers Are Getting Less for Their Crops. Here's the Full Breakdown.*, AGRIC. DIVE (Sep. 5, 2024), https://www.agriculturedive.com/news/farm-crop-prices-meat-dairy-food-decline/726188/ [https://perma.cc/EPZ5-TGQR].

Likewise, optimism around future farmland values is beginning to soften.[201] This is due in part to declining farm profitability; when the income that land can produce declines, so too does its value as an asset.[202] As equity shrinks, so does the borrowing base that farmers rely on to cover operating costs or restructure their debts.[203] This compression can lead to a practice sometimes called "acre chasing," where operations only maintain viability if they expand.[204] Institutional buyers, which were extremely aggressive during the most recent boom, now appear more restrained.[205] This cooling may slow land value appreciation, even if only temporarily.

Producers feel most uncertain about trade policy and foreign affairs.[206] The opening salvo of a new global trade war has been dramatic and difficult to predict.[207] Given that American farmers produce significantly more grains, fruits, nuts, and other crops than the United States consumes domestically, export markets are critical.[208] Tariffs during the first Trump Administration did not have as

201. MICHAEL LANGEMEIER & JOANA COLUSSI, PURDUE UNIV. CTR. FOR COM. AGRIC., FARMER SENTIMENT REBOUNDS, BUT FUTURE EXPECTATIONS CONTINUE TO SLIDE 4 (2026), https://ag.purdue.edu/commercialag/ageconomybarometer/wp-content/uploads/2026/03/February-2026-Ag-Economy-Barometer_report.pdf [https://perma.cc/53HW-KRVE].

202. *See id.*; *see also* Stephanie Fahrenbruch, *2024 Farmland Values Stable, Market Shows Signs of Downturn*, AGWEST LAND BROKERS (Jan. 7, 2025), https://agwestland.com/2024-farmland-values-stable-market-shows-signs-of-downturn/ [https://perma.cc/DY3P-AUKN] (discussing farmland value trends in 2024).

203. FED. DEPOSIT INS. CORP., 2019 RISK REVIEW 17 (2019), https://www.fdic.gov/analysis/risk-review/2019-risk-review/2019-risk-review-full.pdf [https://perma.cc/S4Q6-9Q6K] ("Strong farmland equity has enabled farmers to restructure loans to manage operating losses and replenish working capital, keeping reported credit problems low at insured institutions."). The opposite is also true: weak farmland equity makes it more difficult to restructure loans for loss management. *See id.*

204. J. Gordon Arbuckle, Jr. & Chris Kast, *Quality of Life on the Agricultural Treadmill: Individual and Community Determinants of Farm Family Well-Being*, 27 J. RURAL SOC. SCIS. 84, 84–86 (2012) (describing the economic pressure to "expanding their operations to spread costs over more acres" as a prerequisite for maintaining viability).

205. *See* Margy Eckelkamp, *Who Is the Driving Force Buying Farmland?*, FARM J. AGWEB (Apr. 25, 2025, at 14:21 CT), https://www.agweb.com/news/business/farmland/who-driving-force-buying-farmland [https://perma.cc/L56F-GJ8C].

206. Justin Kaufmann et al., *Trade War Escalation: Midwest Farmers Face Uncertain Future*, AXIOS CHI. (Mar. 4, 2025), https://www.axios.com/local/chicago/2025/03/04/tariffs-farmers-midwest-soy-corn-dairy [https://perma.cc/72YJ-M554].

207. *Id.*

208. *U.S. Agricultural Trade - U.S. Agricultural Trade at a Glance*, U.S. DEP'T OF AGRIC.: ECON. RSCH. SERV. (July 22, 2025), https://www.ers.usda.gov/topics/international-

devastating an impact as many feared due to federal financial support programs like the Market Facilitation Program, which largely offset losses.[209] If trade partners announce counter-tariffs in the most recent spat, it is unclear whether similar federal stimulus will be offered in response to disruptions. The already thin margins of producers could spell trouble without stimulus. Analysts are likewise raising alarms about the agricultural costs of the war with Iran, especially its effect on fertilizer and fuel supply chains, although crop prices rallied at the outset of the conflict.[210]

This also has effects on farm lending. Farmer Mac conducted a survey in 2024 to examine the agricultural lending market.[211] The survey found that lenders are increasingly concerned about credit quality and loan deterioration, and thus, expect tighter underwriting standards and loan terms in the coming year, indicating an unwillingness to extend credit to more troubled cases despite historically low charge-off rates in 2023.[212] Still, lenders expect to meet the credit needs of their clients, and most loan applications are successful.[213]

Finally, concerns about foreign farmland ownership are likely overblown given that, as of December 31, 2023, foreign investors held interest in only 3.5%

markets-us-trade/us-agricultural-trade/us-agricultural-trade-at-a-glance [https://perma.cc/TCZ7-SVLL].

209. U.S. GOV'T ACCOUNTABILITY OFF., GAO-22-104259, USDA MARKET FACILITATION PROGRAM: OVERSIGHT OF FUTURE SUPPLEMENTAL ASSISTANCE TO FARMERS COULD BE IMPROVED 1 (2022).

210. *See* Tom Polansek, *US Farmers Rush to Sell Crops as Iran War Fuels Rally*, REUTERS (Mar. 13, 2026, 17:03 CT), https://www.reuters.com/business/us-farmers-rush-sell-crops-iran-war-fuels-rally-2026-03-13/ (reporting that farmers sold stored corn, soybeans, and wheat and even pre-sold 2026 crops after the Iran war drove up grain prices through higher oil prices and fertilizer-shipment disruptions, though many still faced weak underlying farm profitability); Kevin Draper, *War with Iran Puts Further Strain on America's Pessimistic Farmers*, N.Y. TIMES (Mar. 12, 2026), https://www.nytimes.com/2026/03/12/business/war-iran-farmers-agriculture-costs.html; Michael Werz, *The Iran War's Hidden Front: Food, Water, and Fertilizer*, COUNCIL ON FOREIGN RELS. (Mar. 13, 2026, 07:00 CT), https://www.cfr.org/articles/the-iran-wars-hidden-front-food-water-and-fertilizer [https://perma.cc/4RGX-Z9Y3] (arguing that the Iran conflict threatens global food security by disrupting Gulf food and fertilizer flows, putting roughly one-third of fertilizer trade and key regional water infrastructure at risk, and potentially turning a regional war into a broader humanitarian crisis).

211. FARMER MAC, AM. BANKERS ASS'N, 2024 AGRICULTURAL LENDER SURVEY RESULTS 1 (2024), https://www.farmermac.com/wp-content/uploads/2024-Farmer-Mac-Ag-Lender-Survey-Results.pdf [https://perma.cc/3AJZ-6FHR].

212. *Id.* at 1, 18.

213. *See id.* at 1.

of all American agricultural land.[214] About half of these acres are forest land, while cropland makes up 29% of the holdings, and pasture makes up 21%.[215] Of all foreign states, Canada (32% of total foreign land ownership) holds the most United States agricultural land (mostly timberland), with the Netherlands (12%), Italy (6%), and the United Kingdom (6%) holding the next largest shares.[216] Russia holds less than 100 acres, and China is ranked 18th in ownership of United States agricultural land, with about 380,000 acres.[217]

D. Existing Scholarship on Agricultural Finance, Distress, and Restructuring

Recent scholarship and policy commentary demonstrate a growing recognition that legal and financial practices must evolve to meet the reality of modern American farming. A central theme across the literature is the need to modernize Chapter 12 bankruptcy (discussed in further detail in Part III) to better reflect today's farming operations, which are larger and more capital-intensive than ever before.[218]

Dalton Stanley calls for a redefinition of "farming operation" under Chapter 12, which he notes has been unchanged since 1978.[219] This definition has failed to keep pace with modern innovations like agritourism and hospitality services that many farmers now participate in to supplement income, but which block them from declaring Chapter 12.[220] Stanley proposes a new test that would widen the eligibility for Chapter 12 by assessing the source of a farmer's income (and a broader construction of "farming operation") and the congressional intent of Chapter 12.[221]

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214. ESTEP ET AL., *supra* note 117, at 1.

215. *Id.* at 6.

216. Charlie Ban, *Most Foreign-Owned Ag Land Remains in Friendly Hands,* NAT'L ASS'N OF COUNTIES (July 12, 2024), https://www.naco.org/news/most-foreign-owned-ag-land-remains-friendly-hands [https://perma.cc/885B-KSWQ].

217. Daniel Munch, *Foreign Investment in U.S. Ag Land – The Latest Numbers*, AM. FARM BUREAU FED'N (Nov. 2, 2023), https://www.fb.org/market-intel/foreign-investment-in-u-s-ag-land-the-latest-numbers [https://perma.cc/6NXV-6K5L].

218. *See infra* Part III.

219. Dalton Stanley, *Trumping Tradition: Redefining the Family Farmer*, 109 KY. L. J. 611, 612–13 (2025) (arguing for a modernized interpretation of Chapter 12 eligibility that includes farms engaged in agritourism and proposing the "Grassley Factors Test" to determine whether nontraditional operations face the same core risks as conventional farms).

220. *Id.*

221. *Id.* at 617–18.

Barnes Gunn Kelley takes up the same issue from another angle, arguing that Chapter 12's rigid criteria exclude deserving debtors.[222] He critiques the definition of "farm operation" and the judiciary's willingness to interpret the phrase broadly in relation to familial obligations and narrowly in relation to entrepreneurial activities undertaken to support the farm.[223] This has the result of punishing farmers that attempt to supplement their incomes with off-farm or farm-related side pursuits, such as generating electricity from wind.[224]

In the same vein, Alexandria Quinn traces the legislative history of Chapter 12 and urges statutory modernization to accommodate the capital structures and debt burdens of contemporary farmers.[225] She advocates for raising the maximum debt ceiling allowable by the statute and expanding the criteria for eligibility.[226] A recent Congressional Research Service report by Jim Monke shows that many mid-size and large farms exceed the maximum debt limit,[227] even though they face the very same financial pressures that Chapter 12 was created to address.[228] Moreover, Monke notes that "only a fraction of the [family farms] would . . . meet the [Chapter 12] filing requirements that farm debt be at least half of total debt and that farm income be at least half of gross income."[229]

There is also contestation about the term "disposable income" under Chapter 12.[230] Susan A. Schneider argues that courts have often departed from Congress's intent by requiring actual retrospective calculations, rather than prospective ones, thereby introducing unpredictability and undermining a farmer's ability to plan for

222. Barnes Gunn Kelley, *Chapter 12: Entrepreneur Punishment and Family Favorites*, 15 DRAKE J. AGRIC. L. 485, 489 (2010) (criticizing courts' inconsistent interpretations of Chapter 12 eligibility—broad for personal/familial obligations but narrow for entrepreneurial ventures—and proposing a statutory fix to better align relief with modern farm diversification).

223. *Id.*

224. *Id.* at 500–01.

225. Quinn, *supra* note 75, at 246–47 (reviewing Chapter 12's legislative history and advocating for raising debt caps and modernizing eligibility to ensure continued relevance for today's farmers).

226. *Id.* at 263–64.

227. *See* 11 U.S.C. §§ 101(18), 104 (limiting aggregate debts to $10 million to meet the definition of "family farmer," and adjusting the limit for inflation at three-year intervals starting in 1998).

228. JIM MONKE, CONG. RSCH. SERV., IN11073, FARM DEBT AND CHAPTER 12 BANKRUPTCY ELIGIBILITY 1 (2019).

229. *Id.* at 2.

230. *See* Susan A. Schneider, *Bankruptcy Reform and Family Farmers: Correcting the Disposable Income Problem*, 38 TEX. TECH. L. REV. 309–10, 309, 314–15 (2006).

repayment.[231] In earlier work, Schneider provided foundational overviews of Chapter 12's structure and limitations[232] and described succinct summaries of the process by which farms finance their operations.[233]

On a more practical level, Hannah Scott and Peggy Kirk Hall's guide to farm bankruptcy breaks down distinctions between Chapter 7, 11, 12, and 13 filings, as well as between secured and unsecured creditors.[234] Similarly, Peggy Kirk Hall's work with Evin Bachelor provides a primer on the legal arrangements for farm financing.[235] Similarly, Elizabeth Rumley reviews strict foreclosure under the UCC and clarifies the options available to creditors and borrowers when secured loans fall into default.[236] Meanwhile, Michael Fielding highlights the psychological biases that affect lender decision making in agricultural restructuring, introducing the concept of "lender hinge points" to guide financial

231. *Id.* at 311 (tracing how conflicting court interpretations of "disposable income" under Chapter 12 have undermined its effectiveness, and urging adoption of a forward-looking, Chapter 13-style approach).

232. *See generally* SUSAN A. SCHNEIDER, NAT'L AGRIC. L. CTR., AN INTRODUCTION TO CHAPTER 12 BANKRUPTCY: RESTRUCTURING THE FAMILY FARM 1 (2005), https://nationalaglawcenter.org/wp-content/uploads/assets/articles/schneider_restructuring.pdf [https://perma.cc/Z7Y4-JPZ4] (analyzing the structure, benefits, and limitations of Chapter 12 bankruptcy and offering practical guidance for farmers seeking to reorganize debt while continuing operations).

233. *See generally* Susan A. Schneider, *Financing the Agricultural Operation: Recent Developments and Current Trends*, 4 DRAKE J. AGRIC. L. 215, 216–17 (1999) (describing agriculture's "financial revolution" and examining how both traditional and emerging lenders, including trade finance lenders, are reshaping the capital landscape for increasingly business-oriented farms).

234. HANNAH SCOTT & PEGGY KIRK HALL, NAT'L AGRIC. L. CTR., AN OVERVIEW OF BANKRUPTCY LAW FOR FARMERS 2–3 (2020) https://nationalaglawcenter.org/wp-content/uploads/assets/articles/bankruptcy/bulletinscombined.pdf [https://perma.cc/W2S2-HG8P] (providing a plain-language introduction to farm bankruptcy law, including key roles, distinctions between secured and unsecured creditors, and the practical implications of different bankruptcy chapters).

235. *See generally* PEGGY KIRK HALL & EVIN BACHELOR, FINANCING THE FARM 2–3 (2021), https://nationalaglawcenter.org/wp-content/uploads//assets/articles/FinancingTheFarmSeriesApril2021.pdf [https://perma.cc/K3S9-SCBA] (explaining foundational legal tools in farm finance, including mortgages, liens, and secured transactions, and emphasizing their role in effective decision making for beginning farmers).

236. Elizabeth Rumley, *Lending for Livestock, Credit for Crops: Strict Foreclosure*, NAT'L AGRIC. L. CTR. (May 31, 2022), https://nationalaglawcenter.org/lending-for-livestock-credit-for-crops-strict-foreclosure/ [https://perma.cc/J4EH-P7KT] (explaining how creditors may use strict foreclosure under the UCC to retain collateral, and detailing the notice and objection process required to proceed lawfully).

institutions through the life cycle of distressed loans and offering a structured and relational approach that encourages early, trust-based interventions.[237]

Explicating the causes of financial stress in agriculture, Robert Dinterman, Ani L. Katchova, and J. Michael Harris performed a study utilizing Chapter 12 filings as a proxy for farm stress.[238] They found that macroeconomic factors, as well as land values, are strong predictors of bankruptcy compared to other factors like acreage per farm, government payments received, and share of household off-farm income to total income.[239] However, the sample size for Chapter 12 is small given its relative underutilization compared to other chapters of the United States Bankruptcy Code, which could bias these results in various ways.[240] That is, the types of farms that decide to declare Chapter 12 bankruptcy, versus utilizing another chapter of the code, may share similarities which set them apart from the broader universe of distressed agricultural credit.[241] Larger distressed agricultural borrowers almost always file under Chapter 7 or 11 due to their size and complexity.[242]

Researchers have also examined the consequences of industry consolidation and foreign entity ownership of American agricultural land.[243] Beyond agriculture,

237. Michael D. Fielding, *Combining the Academic with the Practical: A Meaningful Framework for More Effectively Resolving Distressed Agricultural Loans*, 26 DRAKE J. AGRIC. L. 1, 33 (2021) (proposing a practical framework for lenders to manage distressed agricultural loans, evaluating each stage of the loan lifecycle).

238. Robert Dinterman, Ani L. Katchova & J. Michael Harris, *Financial Stress and Farm Bankruptcies in U.S. Agriculture*, 78 AGRIC. FIN. REV. 441, 441–42 (2018).

239. *Id.* at 442.

240. *See id.* at 446.

241. *See id.* at 445.

242. *See*, *e.g.*, Tim Linden, *Prima Wawona to Shut Its Doors, Liquidate Assets*, PRODUCE NEWS (Jan. 15, 2024), https://theproducenews.com/headlines/prima-wawona-shut-its-doors-liquidate-assets [https://perma.cc/T7G3-9S7T]; Gabriel Dillard & Estela Anahi Jaramillo, *Another Private Equity Farming Giant Falls with Trinitas Bankruptcy; 7,856 Acres Hitting the Market*, BUS. J. (Feb. 21, 2024, at 14:01 CT), https://thebusinessjournal.com/another-private-equity-farming-giant-falls-with-trinitas-bankruptcy-7856-acres-hitting-the-market/ [https://perma.cc/JFN2-FL7G].

243. *See generally* Candice Wilson, *Too Big to Fail: How Consolidation in the Agricultural Industry Has Created Unintended Consequences that Threaten Farmers, Consumers, and Our National Security*, 28 DRAKE J. AGRIC. L. 171 (2023) (discussing the need for inter-agency antitrust enforcement, increased public sector investment in research and development, and stricter disclosure requirements); Jack E. Harper, *This Can Be Your Land, But This Land Is My Land: How the United States Federal Government Plans to Address Foreign Entity Ownership of American Agricultural Land*, 29 DRAKE J. AGRIC. L. 361 (2024) (citing concerns about supply chain shortages, poor resource conservation, and potential threats to national security).

Jacob Lofgren underscores the legal system's role in fostering resilient rural economies and calls for revitalization of rural downtowns.[244] Lofgren's work emphasizes the interconnectedness of rural finance, land use, and community development, highlighting USDA programs that support infrastructure and planning.[245] The connection between rural infrastructure and agriculture is critical because many of the lending institutions which service one sector also service the other.[246] Moreover, without access to reliable infrastructure, agribusinesses struggle to operate efficiently—or at all.[247]

Together, this work provides a general consensus that the current statutory tools to deal with agricultural distress are necessary but, in many ways, outdated. Each scholar provides valuable insight, though there is not a comprehensive overview of the current state of the field. Much of the current scholarship focuses on just one dimension of that system, while this Article provides a high-level overview of the sector as a whole.

III. FINANCING THE FARM ENTERPRISE

This part introduces the structural, legal, and financial features that set American agriculture apart from other industries. Section III.A examines the unique features which help to explain why farm finance operates in the ways that it does, and details how state and federal laws and regulations carve out special rules for agricultural producers.[248] Section III.B maps the agricultural credit ecosystem, most importantly the FCS and commercial banks.[249]

A. Unique Features of Agriculture and Agricultural Finance

All lending involves an actor providing capital to another with the expectation of repayment, likely with interest, sometimes backed by collateral.[250]

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244. Jacob R. Lofgren, *"I Miss Mayberry:" Revitalizing America's Rural Downtowns*, 13 DRAKE J. AGRIC. L. 419, 419–420, 426 (2008) (arguing for targeted rural development policies to reverse the decline of traditional downtowns and endorsing the National Main Street Center's Four Point Approach as a holistic framework for community revitalization).

245. *See id.* at 425–31.

246. *See id.*

247. *See* Ruth Simon & Coulter Jones, *Goodbye, George Bailey: Decline of Rural Lending Crimps Small-Town Business*, WALL ST. J. (Dec. 25, 2017, at 11:31 ET), https://www.wsj.com/articles/goodbye-george-bailey-decline-of-rural-lending-crimps-small-town-business-1514219515?mg=prod/accounts-wsj.

248. *See* discussion *infra* Section III.A.

249. *See* discussion *infra* Section III.B.

250. *See* DIPAK SUBEDI & ANIL K. GIRI, ECON. RSCH. SERV., U.S. DEP'T OF AGRIC., ECON. INFO. BULL. NO. 273, DEBT USE BY U.S. FARM BUSINESSES, 2012–2021, at 8 (2024)

The typical row crop farmer will rely on different types of debt capital.[251] Many will have a year-to-year line of credit to cover operational costs prior to bringing their goods to market, as well as longer-term fixed debt collateralized by their land, crops, or equipment.[252]

In farm lending, collateral is king.[253] But agricultural collateral is unique.[254] Sometimes the collateral is the underlying value of farmland or the value of farm equipment or government payments.[255] Other times, the collateral is alive; it is the crops being cultivated or the livestock being raised.[256] When your collateral moos, the negotiations between borrowers and lenders go beyond finances and enter the realm of stewardship and even ethics. Crops and livestock are also subject to disease and environmental hazards, and the soil health of one plot of land may be drastically different than the health of a neighboring plot.[257] This is not straightforwardly analogous to collateral in other commodity industries where widgets will not die on the shelves if improperly stewarded. Thus, in events of default, creditors cannot always simply ask for the collateral to be handed over and quickly sold.[258] The asset degradation risk is more acute and requires care and diligence on both sides.

Moreover, basic contract law has long been adjusted to account for the idiosyncrasies of agriculture.[259] For example, under UCC Article 9, buyers in the ordinary course of business generally take goods free of any prior liens or security interests.[260] However, the Food Security Act carves out an exception for farm

[hereinafter SUBEDI & GIRI, DEBT USE BY U.S. FARM BUSINESSES], https://ers.usda.gov/sites/default/files/_laserfiche/publications/109412/EIB-273.pdf?v=47348 [https://perma.cc/VAZ5-9LDH].

251. *Id.*

252. *Show Me the Money: A Primer on Agricultural Lending*, NAT'L AGRIC. L. CTR. (Sep. 15, 2020), https://nationalaglawcenter.org/show-me-the-money-a-primer-on-agricultural-lending/ [https://perma.cc/68RF-3H9X].

253. *See id.*

254. *See id.*

255. *What is the Role of Collateral in Farm Lending?*, AGVALUE (Feb. 03, 2026, at 13:26 CT), https://agvalueconsulting.com/roll-of-collateral-in-farm-lending/ [https://perma.cc/6PHY-XHRM]. The latter operate much like security interests in accounts receivable. *Id.*

256. *Id.*

257. *See* Kabindra Adhikari et al., *Mapping Within-Field Soil Health Variations Using Apparent Electrical Conductivity, Topography, and Machine Learning*, AGRONOMY, Apr. 23, 2022, at 1.

258. *Show Me the Money: A Primer on Agricultural Lending*, *supra* note 245.

259. *See*, *e.g.*, U.C.C. § 9-308 (A.L.I. & UNIF. COMM. L. COMM'N 2026).

260. *Id.* § 9-320.

products which is reflected in loan documents: if a buyer purchases farm products, that buyer will take those products subject to existing liens and must receive the requisite notice under the Food Security Act.[261] This requirement creates additional obligations for lenders, who are required to inform buyers of liens on those products and ensure that payment for their sale is made jointly to both the farmer and lender.[262] Thus, the underlying loan documents which provide for those liens will usually include covenants requiring the farmer-borrower to notify the lender of any intended buyers in time for the filings to be timely made by the lender.[263] UCC Article 9 also treats farm products differently in terms of priority and rules of perfection, although such details are beyond the scope of this Article.[264]

Other statutes similarly modify or exempt agricultural goods from generally accepted laws; for example, the Perishable Agricultural Commodities Act creates a statutory trust over certain perishable goods like fruits and vegetables, which can override traditional UCC lien priorities.[265] There are also state-specific agricultural liens that can similarly override or reorder creditor priority.[266] The Nebraska agister's lien statute, for instance, stipulates that a cattle feeding services provider may automatically skip ahead of a previously perfected lender's lien, demoting that lender from first to second position.[267] As a result, diligent lenders must monitor both the borrower and the feedlot operator for compliance and timely

261. Food Security Act of 1985, Pub. L. No. 99-198, § 1324, 99 Stat. 1354, 1535; *see* Anthony M. Hohn, *The Food Security Act and Liens on Farm Products: An Illustration for Bankers*, DAVENPORT EVANS (Nov. 20, 2024), https://dehs.com/the-food-security-act-and-liens-on-farm-products-an-illustration-for-bankers/ [https://perma.cc/GH4P-NN45].

262. *Protection for Buyers of Farm Products: A Primer on the Federal Farm Products Rule*, NAT'L AGRIC. L. CTR. (Mar. 22, 2022), https://nationalaglawcenter.org/protection-for-buyers-of-farm-products-a-primer-on-the-federal-farm-products-rule/ [https://perma.cc/6NHE-MH62].

263. Hohn, *supra* note 254.

264. *See*, *e.g.*, U.C.C. §§ 9-308, -310, -317, -320, -322, -338, -606.

265. 7 U.S.C. §§ 499a–499t.

266. Micah Brown, *Updated States' Agricultural Lien Charts*, NAT'L AGRIC. L. CTR. (2021), https://nationalaglawcenter.org/state-compilations/agricultural-liens/ [https://perma.cc/KG46-GLKA] ("All fifty states have enacted statutory liens on agricultural products, equipment and production inputs. States enact agricultural liens because some areas of the industry conduct business in a way that creates a risk of nonpayment. Thus, these liens ensure certain providers of agricultural goods, services, labor, and land are repaid debts owed to them. The liens arise by operation of law, without the consent of the debtor, when the specific requirements of the statutes creating the lien are met. These liens may be scattered throughout a state's code. Moreover, statutory provisions as to filing and priority of these liens may vary greatly among the states, and even within a single state.").

267. NEB. REV. STAT. ANN. § 54-201 (West 2026).

payment.[268] In the future, standardizing agricultural lien filing requirements across states through the development of a model statute would reduce interstate confusion over lien validity.

Purchase money security interests (PMSIs) further complicate lien priority.[269] Governed by UCC § 9-103, PMSIs allow suppliers which offer goods on credit to claim first priority in the goods that they finance, even ahead of a bank's blanket lien.[270] For example, some seed dealers loan money to producers and retain an interest in the seed ahead of other creditors.[271] Disputes about priority in relation to PMSIs are common, especially when there are multiple PMSIs or when the borrower failed to disclose the existence of these sorts of trade credit agreements.[272]

The merger of personal and business assets in farm enterprises is another relatively unique feature in agriculture.[273] Financial distress does not just threaten a farmer's professional prospects, but also their family home and often a longstanding family practice which binds rural communities together.[274] The tax implications are stark, since many farms are family enterprises with substantial legacy equity accumulated over decades.[275] Farmers are deeply committed to preserving these assets, which are both economically and personally valuable.[276] But the cost basis in these assets is often nominal.[277] Thus, if a farmer sells, the tax liabilities on such a sale can be comparatively enormous.[278] For instance, if a

268. *Id.*

269. *Lending for Livestock, Credit for Crops: Purchase-Money Security Interests*, NAT'L AGRIC. L. CTR. (Jan. 5, 2021), https://nationalaglawcenter.org/lending-for-livestock-credit-for-crops-purchase-money-security-interests/ [https://perma.cc/G3MG-FZ5S].

270. *Id.*; U.C.C. § 9-103 (A.L.I. & UNIF. COMM. L. COMM'N 2026).

271. *See* Keith G. Meyer, *A Potpourri of Article 9 Issues*, 8 DRAKE J. AGRIC. L 323, 372 (2003).

272. *Id.* at 365.

273. *See generally* REISINGER, *supra* note 133 (telling the story of a four-generation farm's fight for economic survival).

274. *See id.* at 19.

275. Kathleen DeLaney Thomas, *Tax and the Myth of the Family Farm*, 110 IOWA L. REV. 1811, 1822, 1824–25 (2025).

276. *Id.* at 1824–25.

277. *See id.* at 1828–30.

278. *But see id.* at 1815 ("The myth of the family farm has little to do with farmers. Rather, it reflects our collective unease with the idea of taxing 'paper gains' —that is, taxing the value of assets before they are sold, be it through a wealth tax, an estate tax, or a mark-to-market tax. Recent empirical work shows that individuals on both ends of the political spectrum are deeply uncomfortable with taxes on paper gains. Arguably, no one better represents the idea of taxing paper gains than a farmer holding valuable land that has been

farmer bought her farm at $6,000 per acre and sold it to a non-family member when it was worth $12,000 per acre, she would have to pay taxes on the full amount in capital gains; for a 500-acre farm, that amounts to a $3,000,000 taxable gain on a $6,000,000 sale. This can prove inconvenient during restructuring negotiations, since farmers have a lower incentive to liquidate via sale versus some other reorganization strategy which will not create a large tax liability.[279] Sale, however, might be the most socially efficient outcome.

In terms of structure, many farms—even family farms—employ corporate structures, like LLCs, corporations, or partnerships.[280] Farms may also have boards of directors, which play important fiduciary roles related to the management and strategy of the farmers.[281] These boards are often made up of family members who also manage the farm itself.[282]

Because the work runs with the land, farmers cannot easily pick up their operations and move to markets with better opportunities, even if they might hypothetically wish to do so.[283] Although farming is deeply dependent on weather and ecological factors in ways that most industries are not, farmers cannot always improve their enterprises by moving to more predictable environments.[284] While

appreciating for decades.”). While taxes might not risk the extinction of the family farmer, they are still a consideration in restructuring negotiations, *see id.*

279. *See id.* at 1814.

280. *See* Christopher J. Kamath, *Choosing a Business Structure for Your Family Farm*, GISLASON & HUNTER LLP (Feb. 13, 2022), https://www.gislason.com/choosing-a-business-structure-for-your-family-farm/ [https://perma.cc/6C28-2MEQ]; *see also* J. Michael Boomershine, Jr., *The Battle Over America's Farmlands: Corporate Farming Practices and Legislative Attempts at Preserving the Family Farm*, 21 DRAKE J. AGRIC. L. 361, 363 (2016) (“[T]he intended effects of anti-corporate farming legislation (legislation intended to protect family farmers) could actually have an adverse effect on those family farmers.”).

281. *See* John Foltz, Lance Woodbury & Jay Akridge, *The Case for an Outside Board of Directors for Closely Held Farm and Agricultural Businesses*, PURDUE UNIV. CTR. FOR FOOD & AGRIC. BUS. (May 22, 2024), https://agribusiness.purdue.edu/2024/05/22/the-case-for-an-outside-board-of-directors-for-closely-held-farm-and-agricultural-businesses/ [https://perma.cc/8RPV-GECN]; *see also The Role of a Family Business Board: Enhancing Governance and Guiding Growth*, FAM. BUS. USA (Feb. 10, 2026, at 14:03 CT), https://www.familybusinessusa.com/family-business-board-role/ [https://perma.cc/6Z8E-CZJH] (describing how the board of directors acts as the bridge between the family and the business).

282. *See* Foltz, Woodbury & Akridge, *supra* note 281.

283. *See What Drives Volatility in the Agricultural Markets?*, NASDAQ (Nov. 29, 2023, at 09:05 ET), https://www.nasdaq.com/articles/what-drives-volatility-in-the-agricultural-markets [https://perma.cc/AYU9-H3RH].

284. *See id.*

all industries face a degree of economic uncertainty and geopolitical risk, the ecological elements of farming make the business particularly volatile.[285]

For farmers, the nature of income flows also yields volatility.[286] While most manufacturers and service providers across the economy generate monthly cash flows through continuous production and sales, farmers typically receive the bulk of their on-farm income only once per year.[287] For this reason, lenders must be particularly diligent in protecting and monitoring their collateral because the long gap between income events increases the risk of default.[288]

The 1980s Crisis further haunts the lending landscape. Before the crisis, lenders underwrote loans with LTV ratios as high as 80–85%.[289] As economic pressures mounted and farmland values plummeted, loan amounts started exceeding underlying asset values, resulting in devastating financial consequences for both lenders and borrowers.[290] In response, lenders institutionalized lower LTV ratios as a safeguard.[291] These conservative standards have persisted.[292] Today, agricultural credit secured by farmland is typically originated with LTVs of only around 60%, much lower than other sectors of the commercial credit market.[293]

285. *See id.*

286. *See* OFF. OF THE COMPTROLLER OF THE CURRENCY, *supra* note 12, at 12.

287. *See id.*; PAUL MARTIN & WILLIAM EDWARDS, IOWA STATE UNIV. EXTENSION & OUTREACH AG DECISION MAKER, FILE C3-15, TWELVE STEPS TO CASH FLOW BUDGETING 1 (2025), https://www.extension.iastate.edu/agdm/wholefarm/pdf/c3-15.pdf [https://perma.cc/4L3L-VKEC].

288. *See* MARTIN & EDWARDS, *supra* note 287, at 1.

289. Wendong Zhang, *Four Reasons Why We Aren't Likely to See a Replay of the 1980's Farm Crisis*, AGRIC. POL'Y REV., Spring 2017, at 7, 8, https://agpolicyreview.card.iastate.edu/files/2023-09/spring-2017.pdf [https://perma.cc/7SV8-66VF] ("The most striking aspect of the 1970s land boom during this high-inflation era is that debt capital largely financed the massive investment in agricultural assets. One reason is that loan requirements by lenders like Farmers Home Association were fairly lenient—it was not uncommon for agricultural lenders to give out large-cap loans up to 80 or even 85 percent of the collateral value. What made it worse was the way collateral value was calculated—market value unadjusted for inflation, which means that the book value of collateral rose when inflation skyrocketed.").

290. *Id.* at 8–9.

291. *Id.* at 9.

292. *See* 2024 AGRICULTURAL LENDER SURVEY RESULTS, *supra* note 202, at 19.

293. *Id.* ("[LTV] ratios for agricultural loan applicants have remained steady despite the cloudy outlook for the ag economy. Lenders reported the average LTV ratio for loans secured by farmland and agricultural production loans in 2024 was 62% and 66%, respectively, largely unchanged from last year.").

This persistent conservatism in agricultural lending has resulted in remarkably low default and charge-off rates.[294] A charge off is an accounting action taken by a lender when a loan is significantly overdue and deemed unlikely to be collected.[295] In the fourth quarter of 2025 the Federal Reserve reported agricultural loans had a charge-off rate of less than 1%, indicating an exceptionally low risk for lenders.[296] But this dynamic disproportionately benefits defensive lenders who minimize their risk while limiting credit access for farmers, who are restricted from leveraging their assets for additional financing. This is especially acute for tenant farmers that do not own the underlying real estate. Nonetheless, lenders no doubt see themselves as prudently protecting themselves against crises like the 1980s and accurately pricing volatile farm enterprises.[297] Compared to commercial real estate, farmland changes ownership with less frequency, so there are fewer opportunities for appraisal during sales.[298]

Still, the very low incidence of defaults suggests an excess of caution, which may, in turn, reflect the post-2008 regulatory scheme which curtails risk-taking in the banking sector[299] or the residual post-1980s Farm Crisis hangover.[300]

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294. *See Charge-Off Rate on Loans to Finance Agricultural Production, All Commercial Banks*, FED. RSRV. BANK OF ST. LOUIS (Feb. 24, 2026, at 13:20 CT), https://fred.stlouisfed.org/series/CORLAGACBN [https://perma.cc/JC4C-NCJ4].

295. *See*, *e.g., What Is a Charge-Off?*, EQUIFAX (Mar. 31, 2026, at 20:23 CT), https://www.equifax.com/personal/education/credit/report/articles/-/learn/charge-offs-faq/ [https://perma.cc/KA6M-GPGP].

296. *See Charge-Off Rate on Loans to Finance Agricultural Production, All Commercial Banks*, *supra* note 294.

297. *See* Zhang, *supra* note 289, at 9.

298. Daniel Bigelow & Todd Hubbs, *Land Acquisition and Transfer in U.S. Agriculture*, U.S. DEP'T OF AGRIC.: ECON. RSCH. SERV.: AMBER WAVES (Aug. 25, 2016), https://www.ers.usda.gov/amber-waves/2016/august/land-acquisition-and-transfer-in-u-s-agriculture [https://perma.cc/6KET-LX55] ("The market for farmland is often described as being 'thin,' or having relatively few buyers and sellers, and, as a result, sales transactions take place infrequently. In 2014, less than 4[%] of all [United States] land in farms (34.3 million acres) was expected to be sold in the next 5 years. Furthermore, just over 2[%] of farmland (21.1 million acres) was expected to be sold to a nonrelative of the current owner, illustrating the potential challenges associated with acquiring land through an open-market purchase."). However, a 2011 study found that, because of the aging farmer population, "an estimated 70 % of [United States] farmland changing hands in the next 20 years." KATE DEAN, FARMLAND CHANGING HANDS: A STUDY OF INNOVATIVE LAND TRANSFER STRATEGIES, CASCADE HARVEST COALITION (2011), https://s3.wp.wsu.edu/uploads/sites/2206/2018/10/FarmWalk2018-Mariposa-Farm-Booklet-ENGLISH.pdf [https://perma.cc/SKQ6-UHCV] (referring to the 20 years between 2011-2031).

299. *See* discussion *supra* Section II.B.1.

300. *See* discussion *supra* Section II.A.

Nonetheless, access to capital is not uniform across the various subsectors within agriculture: a corn and soybean producer in the Midwest may operate under entirely different financial constraints than a cotton farmer in the Delta or a winegrape grower in California.

It also bears repeating that the industry is governed by a web of regulations which can seem surprising and out of place in other sectors.[301] The term "agricultural exceptionalism" was coined to explain the pervasive codification and use of legal exceptions to protect agricultural interests,[302] as well as the unique benefits farmers receive from the federal government.[303] This exceptionalism appears somewhat puzzling to the uninitiated. Most other industries do not have special carveouts or chapters in the Bankruptcy Code.[304] Why do farmers? Hypothesized reasons include "noble societal concerns," outdated notions about the American economy, the power of special interests, or the very real importance of a secure domestic food supply.[305] Whatever the cause, agricultural exceptionalism shapes the industry in obvious and nonobvious ways.

301. *See* Jessica Guarino, *The Injustices of Agricultural Exceptionalism: A History and Policy of Erasure*, 27 DRAKE J. AGRIC. L. 321, 323, 353 (2023).

302. *See id.*; Schneider, *A Reconsideration of Agricultural Law*, *supra* note 17, at 936 ("[T]he concept is evident throughout the law, with farmers protected from involuntary bankruptcy, exempted from many environmental regulations, and excepted from anti-trust restrictions."); Guadalupe T. Luna, *An Infinite Distance?: Agricultural Exceptionalism and Agricultural Labor*, 1 U. PA. J. LAB. & EMP. L. 487, 487 (1998) ("Promoting an agricultural agenda that disallows workers' collective action and forms of mutual aid perpetuates the impoverished working conditions of farm workers."); Grace Skogstad, *Ideas, Paradigms and Institutions: Agricultural Exceptionalism in the European Union and the United States*, 11 GOVERNANCE 463, 467–70 (1998) (explaining that both industry interests and national interests in food security drive agricultural exceptionalism).

303. *See* Schneider, *A Reconsideration of Agricultural Law*, *supra* note 17, at 936 (describing the various federal subsidies paid to farmers to produce certain crops, obtain cheap insurance, receive favorable estate planning treatment).

304. *But see* 11 U.S.C. §§ 901–946 (providing a separate chapter for municipal debt adjustment under Chapter 9), 1161–1174 (setting out special Chapter 11 provisions for railroad reorganizations); 109(d), 741–753, 761–767 (excluding stockbrokers and commodity brokers from ordinary Chapter 11 eligibility and providing special liquidation provisions for those debtor classes).

305. *Id.* at 937; *see* Skogstad, *supra* note 295, at 468; Jim Chen, *Of Agriculture's First Disobedience and Its Fruit,* 48 VAND. L. REV. 1261, 1274 (1995); Letter from Thomas Jefferson to John Jay (Aug. 23, 1785) (on file with the Yale Law School Library) (Farmers "are the most vigorous, the most independant [sic], the most virtuous, & they are tied to their country & wedded to it's [sic] liberty & interests by the most lasting bonds."); WILLIAM B. BROWNE ET AL., SACRED COWS AND HOT POTATOES: AGRARIAN MYTHS IN AGRICULTURAL POLICY 7 (1992).

B. The Landscape of Agricultural Credit

Agricultural finance operates within a specialized credit ecosystem composed of diverse lender types.[306] Two groups of lenders dominate the system: FCS (45% of total debt) and commercial banks (35% of total debt).[307] Commercial banks extend more non-real estate loans than FCS lenders, as well as more real estate debt for all but the largest farms, although FCS outpaces commercial banks in terms of overall value of real-estate debt extended.[308] The rest of the agricultural debt market is serviced by life insurance companies, private credit funds, hard

306. SUBEDI & GIRI, DEBT USE BY U.S. FARM BUSINESSES, *supra* note 250, at 2.

307. *Id.* at i.

308. *Id.* at 8. FCS and commercial banks are in competition. JIM MONKE, CONG. RSCH. SERV., R46768, AGRICULTURAL CREDIT: INSTITUTIONS AND ISSUES 15 (2022) [Hereinafter MONKE, AGRICULTURAL CREDIT: INSTITUTIONS AND ISSUES]. Recent proposals to authorize FCS lending for non-agricultural rural projects like hospitals and infrastructure development have worried commercial bankers, who fear increased market competition. *See Farm Credit Drops Proposal for Non-Ag Lending*, NAT'L AGRIC. L. CTR. (Nov. 26, 2013), https://nationalaglawcenter.org/farm-credit-drops-proposal-for-non-ag-lending/ [https://perma.cc/U83T-7EY6]. Meanwhile, the ACRE Act, which would grant community banks favorable tax treatment for loans to farmers and is supported by commercial bank industry groups, *see Lawmakers Reintroduce ABA-backed ACRE Act to Boost Rural Economies*, AM. BANKERS ASS'N BANKING J. (Mar. 4, 2025), https://bankingjournal.aba.com/2025/03/lawmakers-reintroduce-aba-backed-acre-act-to-boost-rural-economies/ [https://perma.cc/FP78-ECWW]. In many cases, FCS and community banks are mutually reinforcing, as both try to serve rural communities by providing much-needed capital. *See* Gerald Mashange, *The Lending Activity and Performance of the Farm Credit System and Community Banks Participating in Agricultural Lending*, FARMDOC DAILY, June 23, 2025, at 1, https://farmdocdaily.illinois.edu/wp-content/uploads/2025/06/fdd062325.pdf [https://perma.cc/6EAS-9AVM].

money lenders, trade credit providers, and government-sponsored lenders like USDA.[309]

Share of farm real estate debt by type of lender, 2012–2021

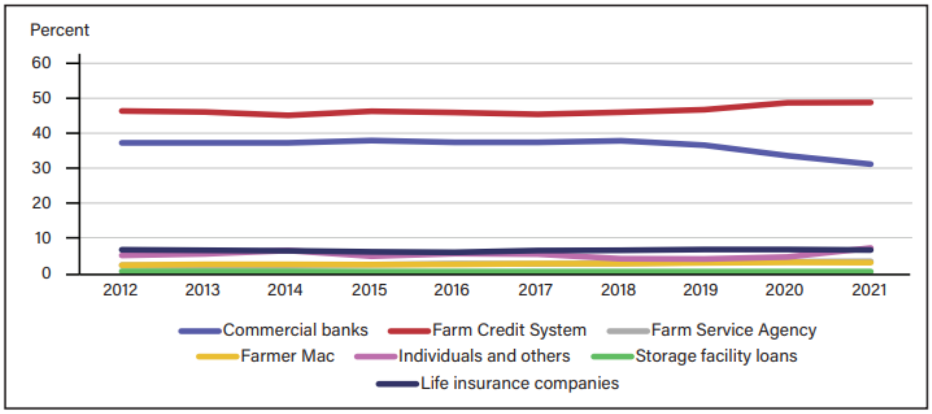

Figure 9 – Source: Debt Use by U.S. Farm Businesses[310]

309. SUBEDI & GIRI, DEBT USE BY U.S. FARM BUSINESSES, *supra* note 250, at 8–9.
310. *Id.*

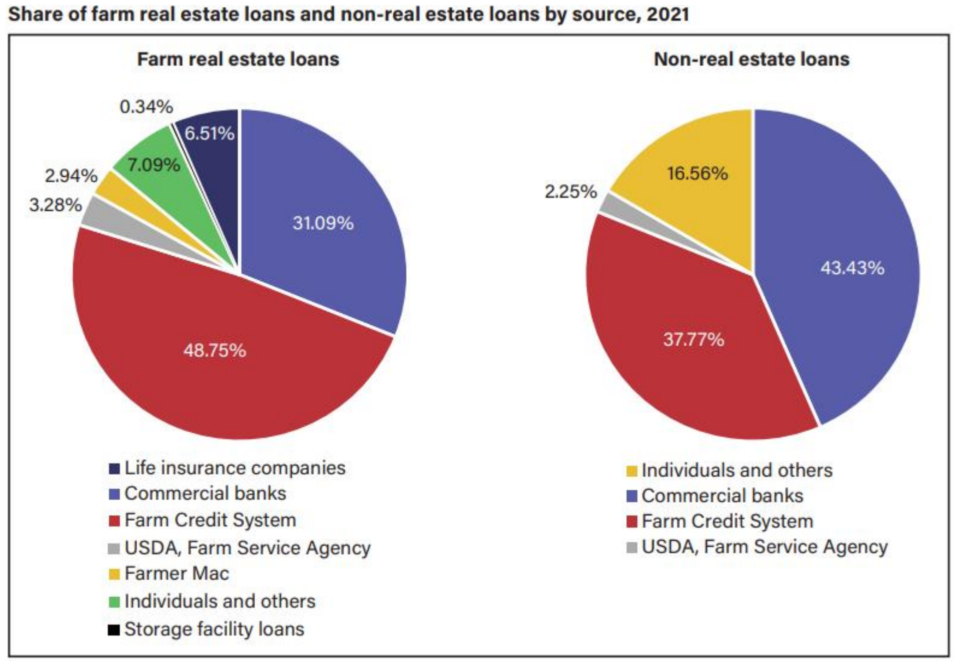

Figure 10 – Source: Debt Use by U.S. Farm Businesses[311]

FCS is dedicated to serving agricultural producers and has been a key player in the sector for decades.[312] Unlike traditional banks, FCS does not hold

311. *Id.* ("Due to rounding, totals might not add up to 100.").

312. *See* Federal Farm Loan Act, Pub. L. No. 64-158, 39 Stat. 360 (1916) (repealed 1971). There have been a variety of amendments, such that the modern history of FCS really begins in 1971. *See* Farm Credit Act of 1971, Pub. L. No. 92-181, 85 Stat. 583 (codified as amended at 12 U.S.C. §§ 2001–2279cc); Farm Credit Amendments Act of 1985, Pub. L. No. 99-205, 99 Stat. 1678 (codified as amended at 12 U.S.C §§ 2001–2279cc); Richard L. Manner, *Historical Introduction to the Farm Credit System: Structure and Authorities, 1971 to Present*, 19 DRAKE J. AGRIC. L. 279, 280 (2014).

deposits.[313] Instead, it raises capital through the bond market.[314] As a government-sponsored enterprise, FCS is administered by the Farm Credit Administration and governed by the Farm Credit Act of 1971.[315] FCS has a cooperative structure, meaning that its member lending institutions are owned by its customers, which include farmers, ranchers, and fishers.[316] Thus, producers who borrow from FCS are also its members and benefit from patronage payments.[317] The patronage payments are paid out to FCS members as distributions in the form of cash or stock.[318] As of 2025, FCS has returned $3.1 billion to farmers through its patronage and extended over $456 billion in total loan value[319] through its four large constituent banks and 59 regional credit associations.[320] Various sub-entities provide FCS capital: agricultural credit associations and their subsidiaries (production credit associations), agricultural credit banks, banks for cooperatives, and farm credit banks.[321]

313. *See Frequently Asked Questions*, FED. FARM CREDIT BANKS FUNDING CORP. (Jan. 23, 2026, at 13:30 CT), https://www.farmcreditfunding.com/ffcb_live/faq.html [https://perma.cc/LT58-HEK3]. The American Banking Association—which lobbies against FCS—argues that FCS does in fact hold uninsured deposits which "represent that portion of an FCS loan that has been drawn down by a borrower but not yet spent." Bert Ely, *Farm Credit Watch: FCS Uninsured Deposits, FCA Board's 'Innovation Philosophy' and Predictions for the FCS if There's Another Ag Crisis*, AM. BANKERS ASS'N BANKING J. (Mar. 21, 2024), https://bankingjournal.aba.com/2024/03/farm-credit-watch-fcs-uninsured-deposits-fca-boards-innovation-philosophy-and-predictions-for-the-fcs-if-theres-another-ag-crisis/ [https://perma.cc/9MQE-GBDC].

314. *About Banks & Associations*, FARM CREDIT ADMIN. (July 24, 2025), https://www.fca.gov/bank-oversight/about-banks-and-associations [https://perma.cc/NZ29-AQKP].

315. Farm Credit Act of 1971, Pub. L. No. 92-181, 85 Stat. 583 (codified as amended at 12 U.S.C. §§ 2001–2279cc).

316. *See About Banks & Associations*, *supra* note 314.

317. *See* Heather Gladney & Kevin Kim, *Understanding Patronage Distribution of Farm Credit System Association*, S. AG TODAY (Mar. 17, 2025), https://southernagtoday.org/2025/03/17/understanding-patronage-distribution-of-farm-credit-system-association/ [https://perma.cc/7K7K-VCXW]. The treatment of patronage payments as a type of farm asset during bankruptcy is a not entirely settled and should be considered in future research, *see id.*

318. *See id.*

319. *About Farm Credit*, FARM CREDIT (Jan. 21, 2026, at 08:22 CT), https://farmcredit.com/about-us/ [https://perma.cc/C7BJ-7HTM].

320. *FCS Directory & Map*, FARM CREDIT ADMIN. (Mar. 13, 2026), https://www.fca.gov/bank-oversight/fcs-directory-map [https://perma.cc/M862-LTFD]; MONKE, AGRICULTURAL CREDIT: INSTITUTIONS AND ISSUES, *supra* note 308, at 2–3.

321. *Description of FCS Institution Types*, FARM CREDIT ADMIN. (Apr. 28, 2018), https://www.fca.gov/bank-oversight/description-of-fcs-institution-types [https://perma.cc/MK45-BUAV].

After FCS, commercial banks provide the most debt financing.[322] Commercial banking is a broad term which includes major banks (e.g., Wells Fargo, Bank of America), middle market banks, and small community banks.[323] A bank's approach to agricultural lending (and its behavior during periods of distress) will often vary with its size.[324] Smaller banks, for example, tend to be "agricultural banks" defined as a bank whose agricultural-related loans make up at least 25% of its net loans.[325] Smaller community banks are often family-owned, regionally held and operated, and tend to have a relational lending style.[326]

USDA plays an important role for farmers who cannot otherwise obtain commercial financing.[327] The USDA's FSA extends its own loans and provides guarantees on some loans extended by other institutions.[328] Although FSA is comparatively small, making about 3% of total loans and guaranteeing another 4% in the market, FSA's portfolio still includes $14.8 billion in direct loans to almost 90,000 borrowers.[329]

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322. MONKE, AGRICULTURAL CREDIT: INSTITUTIONS AND ISSUES, *supra* note 308, at 3–4.

323. *See*, *e.g.*, Gerald Mashange, *U.S. Commercial Banks Participating in Agricultural Lending Report: 2024 Q4*, FARMDOC DAILY, Mar. 20, 2025, at 2–4, https://farmdocdaily.illinois.edu/wp-content/uploads/2025/03/fdd032025.pdf [https://perma.cc/UTN9-EG5G]; AM. BANKERS ASS'N, TOP 100 FARM LENDERS RANKED BY DOLLAR VOLUME (2026), https://www.aba.com/-/media/documents/reference-and-guides/top100agbanksbydollarvolume.pdf?rev=79b36d2bb6f54bde915a0d3903115338 [https://perma.cc/5DTX-RY6Z].

324. *See* Mashange, *supra* note 323, at 3.

325. *Id.* at 1.

326. As one source explains,

> Community banks are often known as "relationship bankers." Community banks serve businesses and consumers throughout the country, in both rural and urban areas, and are leading providers of credit to small businesses, often with strong relationships in their communities. At the core, community banks primarily rely on relationship lending, funding local loans with local deposits. Conversely, regional and large banks tend to have more reach, or a larger geographic footprint, than community banks. Benefits of scale typically allow these institutions to offer a broader array and greater complexity of products and services than community banks.

The Critical Role of Community Banks, FED. RSRV. BANK OF KAN. CITY (Aug. 20, 2024), https://www.kansascityfed.org/banking/community-banking-bulletins/the-critical-role-of-community-banks/ [https://perma.cc/7U7R-B6FS].

327. MONKE, AGRICULTURAL CREDIT: INSTITUTIONS AND ISSUES, *supra* note 308, at 1–2.

328. *Id.*

329. *Id.* at 1–3.

Smaller players service the rest of the market.[330] Hard money lenders extend the commercial equivalent of payday loans and, perhaps unfairly, are thought to target distressed farmers through "loan-to-own" strategies.[331] Hard money lenders have carved out lucrative niches in the space, but may find it difficult to scale.[332] Life insurance companies make up about 4% of the market[333] through agricultural finance origination platforms operating within commercial real estate funds.[334] Private credit funds are increasingly entering the space with the appetite to provide loans with higher LTV ratios, thus providing capital to borrowers with slightly poorer credit who traditional lenders are less likely to service.[335] Private credit, however, is viewed with increasing skepticism by regulators who are suspicious of nonbank lenders.[336] Nonetheless, allowing financial actors to provide farmers with liquidity across a broad range of credit qualities is likely more efficient than forcibly restricting access to only the highest credits. At this point, regulators should take a hands-off approach while the agricultural private credit industry is maturing.

Finally, there is a growing trade finance market.[337] Equipment manufacturers and input suppliers often extend credit to producers on attractive terms.[338] The growth in trade and original equipment manufacturer (OEM) finance has generated some consternation among farmers concerned about repair restrictions and the

330. *Id.* at 4.

331. *See Is a Hard Money Agricultural Loan Right for You?*, *supra* note 164.

332. *See id.*

333. MONKE, AGRICULTURAL CREDIT: INSTITUTIONS AND ISSUES, *supra* note 308, at 3–4.

334. *See*, *e.g.*, PGIM REAL EST., INVESTMENT OPPORTUNITIES IN AGRICULTURE FINANCE, REF: 012371, at 3 (2024), https://www.pgim.com/content/dam/pgim/us/en/pgim-real-estate/active/documents/insights/Insights-EDU-R16-4-11-24.pdf [https://perma.cc/P4F3-GSLN].

335. *See*, *e.g.*, *Investment Platform*, HOMESTEAD CAP. (Jan. 23, 2026, at 13:57 CT), https://www.homesteadcapital.com/investment-platform#lender [https://perma.cc/7E5C-TBRH]; *Private Credit Agriculture Investments with Harvest Returns*, HARVEST RETURNS (Jan. 20, 2026), https://www.harvestreturns.com/blog/2023/3/6/private-credit-agriculture-investments-with-harvest-returns [https://perma.cc/PS4B-7GKQ].

336. *See generally* Jared A. Ellias & Elisabeth de Fontenay, *The Credit Markets Go Dark*, 134 YALE L. J. 779, 788 (2025) (discussing regulators' lack of control and visibility of private debt).

337. *See* Press Release, Agricultural Equipment Finance Market to Grow by USD 182.8 Billion from 2024-2028, Driven by Quick Credit Access and AI-Driven Market Transformation – Technavio (Nov. 6, 2024, at 17:40 ET) (on file with PR Newswire), https://www.prnewswire.com/news-releases/agricultural-equipment-finance-market-to-grow-by-usd-182-8-billion-from-2024-2028—driven-by-quick-credit-access-and-ai-driven-market-transformation—-technavio-302296508.html [https://perma.cc/86JJ-W7M8].

338. *See id.*

control that equipment manufacturers already hold over farmers.[339] As farm equipment has grown more advanced and tethered to software as well as hardware, equipment manufacturers have been accused of limiting the ability for equipment owners to repair their own property.[340] In response to these concerns, some states have passed right-to-repair statutes, such as Colorado's Consumer Right to Repair Agricultural Equipment Act (HB23-1011).[341] Equipment manufacturers have also come under antitrust scrutiny.[342] In January 2025, for instance, the Federal Trade Commission under Chair Lina Khan sued John Deere over repair restrictions.[343] The complaint alleges:

> For decades, Defendant Deere & Company, a manufacturer of large agricultural equipment including tractors and combines, has throttled the ability of farmers and independent repair providers ("IRPs") to repair Deere equipment, leaving farmers wholly reliant upon Deere's network of authorized dealers ("Deere dealers") for many key repairs. Deere's increasingly sophisticated agricultural equipment requires a software tool to diagnose and repair problems that relate to electronic functions, and only Deere has the information and knowledge to create this essential tool. By making this tool available only to Deere dealers, Deere forces farmers to turn to Deere dealers for critical repairs rather than complete the repairs themselves or choose an IRP that may be cheaper, closer, faster, or more trusted. Deere's unlawful business practices have inflated farmers' repair costs and degraded farmers' ability to obtain timely repairs, which is especially critical in times of planting and harvesting.[344]

As this litigation works its way through the legal system, farmers should remain aware of the rights they have under existing OEM contracts, and creditors should be advised of those rights if their loans are collateralized by such equipment.

In summary, the agricultural credit market is dominated by FCS and commercial banks but serviced by a multiplicity of entities which fulfill different

339. *See* Jennifer Bamberg, *Farmers Want the Right to Fix Their Tractors*, ILL. TIMES (Apr. 25, 2024), https://www.illinoistimes.com/news-opinion/farmers-want-the-right-to-fix-their-tractors-18401130/ [https://perma.cc/CKR9-4MH7].

340. *Id.*

341. *See, e.g.*, H.B. 23-1101, 2023 Gen. Assemb., Reg. Sess. (Colo. 2023).

342. Complaint at 2, 31–32, Fed. Trade Comm'n v. Deere & Co., No. 3:25-cv-50017, (N.D. Ill. Jan. 15, 2025), 2025 WL 1866817.

343. *Id.* at 1.

344. *Id.*

borrower needs.[345] Each institution approaches distressed credit in unique ways that reflect their overall posture toward borrowers.[346] We turn next to such distress.

IV. DEALING WITH DISTRESS IN AGRICULTURE

This part explores how financial distress unfolds in American agriculture. Section IV.A deals with the causes of distress, including both external factors (macroeconomic policy, natural disasters, etc.) and internal factors (poor financial decision making, faulty risk management, etc.) and emphasizes that mismanagement is often the decisive factor in distress.[347] Section IV.B examines financial workouts as the preferred alternative to bankruptcy or liquidation and highlights various state and federal laws relevant to agricultural workouts.[348] Section IV.C gives a brief overview of agricultural bankruptcy law.[349]

In general, loan defaults are not common in agriculture.[350] Recently, less than 1% of agricultural loans default, partially due to conservative lending standards in the industry.[351] Nonetheless, even infrequent defaults can prove disruptive to lenders and costly or life-changing for borrowers.[352] In the event of default, borrowers and lenders can either proceed with a workout—an out-of-court renegotiation of the terms of debt—or a foreclosure and liquidation through bankruptcy court or private negotiation.[353] Current trends have worried lenders and borrowers alike about the potential for increasing distress as farm-specific Chapter 12 bankruptcies are on the rise.[354]

345. MONKE, AGRICULTURAL CREDIT: INSTITUTIONS AND ISSUES, *supra* note 308, at 1.

346. *See id.*

347. *See* discussion *infra* Section IV.A.

348. *See* discussion *infra* Section IV.B.

349. *See* discussion *infra* Section IV.C.

350. Nate Kauffman & Ty Kreitman, *Farm Debt Climbs but Financial Stress Remains Limited*, FED. RSRV. BANK OF KAN. CITY (Dec. 2, 2022), https://www.kansascityfed.org/agriculture/agfinance-updates/farm-debt-climbs-but-financial-stress-remains-limited/ [https://perma.cc/SSE6-5NR7].

351. *Id.*

352. Donna L. Malter, *Avoiding Farm Foreclosure Through Mediation of Agricultural Loan Disputes: An Overview of State and Federal Legislation*, 1991 J. DISP. RESOL. 336, 336 (1991).

353. *Id.* at 336, 346.

354. *See* Ryan Hanrahan, *Farm Bankruptcies Increased 55% in 2024*, UNIV. OF ILL.: FARM POL'Y NEWS (Feb. 24, 2025), https://farmpolicynews.illinois.edu/2025/02/farm-bankruptcies-increased-55-in-2024/ [https://perma.cc/UZ6P-SLFK]. Nonetheless, given the small number of Chapter 12 bankruptcies declared at all, this may not be an appropriate metric for measuring overall distress. Perhaps more interestingly, lenders in the sector are expecting turmoil. *See id.*

A. Causes of Distress in Agriculture

A single bad harvest can create financial stress in agriculture; but negotiated workouts or bankruptcy declarations are rarely caused by one bad year, and most agricultural lenders recognize the inherent macro volatility in the industry.[355]

Working capital may be constrained in one year but plentiful the next, and there is an expectation that these year-to-year changes will level out over time as supply shifts to accommodate imbalances between production and sales.[356]

There are three primary causes of distress in agricultural finance: (1) external economic factors, (2) biological forces and natural disasters, and (3) poor management decision-making.[357] Often, the cause of bankruptcy is a confluence of these factors.[358] First, external economic factors include fluctuations in interest rates, input costs, commodity prices, economic policy decisions, and supply or demand.[359] These factors, while not entirely predictable, run with the terrain. Futures markets provide insight into trends, but there are no crystal balls. This is especially true when it comes to policy decisions, which can be sudden, dramatic,

355. *See* Press Release, Am. Bankers Ass'n, Ag Lender Survey: Farm Profitability Expected to Decline in 2024 (Nov. 14, 2024), https://www.aba.com/about-us/press-room/press-releases/ag-lender-survey-2024 [https://perma.cc/DQE9-3H72] ("The agricultural economy is inherently cyclical, and ag lenders are navigating the changing conditions across the sectors they serve . . . ."). However, multiple down years in a row can spell trouble for farmers. *See* John Hintze, *Farmers Face Cliff as Working Capital Disappears*, AM. BANKERS ASS'N BANKING J. (Oct. 27, 2024), https://bankingjournal.aba.com/2024/10/farmers-face-cliff-as-working-capital-disappears/ [https://perma.cc/CTE5-RMJJ] ("Inflation had ramped up costs across the board for farmers by the start of 2023, whether for equipment, seeds, fertilizer, crop insurance premiums or other key inputs. But in November 2023 when an economist asked Caleb Hopkins, loan production officer at First Dakota National Bank, about the burn rate of farmers' working capital, he responded that his customers had accumulated sufficient working capital to weather the storm for a couple of years, even with commodity prices already starting to dip somewhat. 'When the same economist asked that question in January of this year about farmers' capital, my response was,
"It's gone,"' Hopkins said.").

356. *Cf.* Nigel Key, *Larger Farms and Younger Farmers Are More Vulnerable to Financial Stress*, U.S. DEP'T OF AGRIC.: ECON. RSCH. SERV.: AMBER WAVES (Oct. 22, 2019), https://www.ers.usda.gov/amber-waves/2019/october/larger-farms-and-younger-farmers-are-more-vulnerable-to-financial-stress [https://perma.cc/NN9N-6Q7B] ("In low-income years, farmers may draw down their working capital to pay their normal business expenses. In high-income years, working capital may be accumulated.").

357. *See Risk Management - Risk in Agriculture*, U.S. DEP'T OF AGRIC.: ECON. RSCH. SERV. (Sep. 23, 2025), https://www.ers.usda.gov/topics/farm-practices-management/risk-management/risk-in-agriculture [https://perma.cc/FMF4-M778].

358. *See id.*

359. *Id.*

and difficult to predict.[360] Second, natural "Acts of God" include unforeseen events such as natural disasters or unpredictable contamination issues which can create substantial strain.[361]

Third, there is poor management or imprudent decision making.[362] This is often the most important factor distinguishing distressed credits from non-distressed credits and relates to how operators respond to both economic forces and unforeseen natural events.[363] Farm-level decision making includes all operational and financial decisions made by the producer to run a stable business.[364] Overexpansion via increased debt loads[365] and poor cost tracking[366] tend to accompany worsening credit. Other factors include underinsurance, which is more common among smaller farms,[367] and the lack of basic risk management policies like financial hedging.[368]

Furthermore, "farm size, debt-to-asset ratio, the value of assets, age and the experience of the operator, and institutional relationship," as well as "working capital, lower repayment capacity, and lower equity" are associated with default, while "risk-averse operators had lower loan amounts and fewer loans" are not.[369] In most industries, poor management teams will often be replaced if a company

360. *Id.*

361. *See id.*

362. *Id.*

363. *See* Margaret Lippsmeyer & Michael Langemeier, *Why is Managing Strategic Risk So Important in Production Agriculture?*, FARMDOC DAILY, May 12, 2023, at 1–3, https://farmdocdaily.illinois.edu/wp-content/uploads/2023/05/fdd051223.pdf [https://perma.cc/RLJ3-NAX9]; Jared A. Ellias & Elisabeth de Fontenay, *Law and Courts in an Age of Debt*, 171 U. PA. L. REV. 2025, 2051–52 (2025).

364. Ellias & de Fontenay, supra note 363, at 2051–52.

365. *See id.*

366. *See* EVAN WARE & RYAN LOY, UNIV. OF ARK. SYS. DIV. OF AGRIC. RSCH. & EXTENSION, FROM SHOEBOXES TO SPREADSHEETS: AN OVERVIEW OF FARM FINANCIAL AND PRODUCTION RECORD KEEPING (2025), https://www.uaex.uada.edu/publications/pdf/FSA100.pdf [https://perma.cc/B96L-MLFZ].

367. *See Uninsured: Federal Crop Insurance Program Leaves Most Farms Unprotected*, NAT'L SUSTAINABLE AGRIC. COAL. (Mar. 21, 2025), https://sustainableagriculture.net/blog/uninsured-federal-crop-insurance-program-leaves-most-farms-unprotected/ [https://perma.cc/VH9W-NWZ5].

368. Howard Marella, *Why Farmers Should Have a Hedging Strategy*, AGFUNDERNEWS (Aug. 7, 2017), https://agfundernews.com/why-farmers-should-have-a-hedging-strategy [https://perma.cc/M9AN-9428].

369. SUBEDI & GIRI, *supra* note 250, at 2.

faces financial distress.[370] This is not the norm in agriculture, which increases the probability of eventual failure.[371]

Because poor management decisions are so often the cause of distress, lenders must actively monitor borrowers for violations of loan covenants, reduced communication, reporting delays, or failure to pay taxes.[372]

B. Workouts in Agricultural Finance

Once farmers fall into deep financial trouble, recovery becomes difficult unless they have sufficient assets in the form of equipment, livestock, or unburdened land to pledge as new collateral.[373] Unlike many commercial businesses, lenders tend not to view the liquidation of machinery as a primary source of repayment, since that machinery is often necessary for continued operations.[374] But many distressed farmers are not so advanced in their financial struggles that they cannot emerge from a workout with a viable operation. It is generally the agricultural producer's responsibility to submit a plan that is both realistic and acceptable to the lender, who may approve or disapprove of the proposed course of action.[375] Such plans may involve alternative revenue streams, like land leasing for renewable energy projects, engaging in carbon credit markets, or diversifying farm operations.[376] Many financial restructurings are therefore accompanied by operational reorganization as well.[377] This is sometimes because

370. *Cf.* Fielding, *supra* note 237, at 12.

371. *Id.* ("This lack of turnover typically hurts lenders as management continues its poor business practices. Significantly, one study found that if a borrower's pre-petition management continued as part of the restructuring process, there was an increased probability of failure following bankruptcy. Therefore, when lenders seek to resolve distressed loans it would seem incumbent that, as part of whatever restructuring occurs, management be required to adopt new and better practices designed to insure [sic] the long-term success of the company.").

372. *See id.* at 10–11, 48.

373. *See id.* at 49–50.

374. *See* OFF. OF THE COMPTROLLER OF THE CURRENCY, *supra* note 12, at 14 ("The primary source of repayment normally is cash flow from operations, with liquidation of collateral viewed only as a contingent, secondary source.").

375. *See* Fielding, *supra* note 237, at 58.

376. *See* Wyn Morris & Robert Bowen, *Renewable Energy Diversification: Considerations for Farm Business Resilience*, 80 J. RURAL STUD. 380, 388 (2020).

377. *See* CTR. FOR AGRIC. & FOOD SYS., VT. L. SCH., REORGANIZING A FARM BUSINESS WITH CHAPTER 12 OF THE BANKRUPTCY CODE: A BRIEF GUIDE 8 (2021), https://www.vermontlaw.edu/wp-content/uploads/2024/07/Chapter-12-Bankruptcy-Brief.pdf [https://perma.cc/L7MB-B249] ("[Reorganization] can help keep a farm operating by

the farm has undergone rightsizing—selling off property or underperforming operations to improve overall financial sustainability—or merged with another operation to enhance efficiency.[378]

Skilled attorneys can often negotiate settlements that help farmers avoid foreclosure and rehabilitate their loans.[379] Lenders generally seek to avoid foreclosure unless absolutely necessary, but they will foreclose on collateral to preserve their principal.[380] If a lender decides to forbear, it generally requires concessions from the borrower such as a release of lender liability claims to reduce the potential for future litigation.[381] Parties tend to prefer workouts to liquidations—especially liquidation during bankruptcy proceedings[382]—since recovery can be more challenging in liquidation if there is no active market to sell the assets.[383] It is a widely-shared belief that the bankruptcy process can be time-consuming, expensive, and complex.[384]

Upon foreclosure, creditors generally seek to liquidate as smoothly and quickly as possible.[385] The unique nature of living agricultural collateral can present risks because they require active management and often demand court-appointed receivers.[386] A receivership is a mechanism in which a court or secured

restructuring debt, facilitating the *transition of farm size or business model* . . . .") (emphasis added).

378. However, debtors may also be tempted to sell off the best performing assets which can garner a higher price, leaving the remaining operation less productive. *See* Vojislav Maksimovic & Gordon Phillips, *Asset Efficiency and Reallocation Decisions of Bankrupt Firms*, 53 J. FIN. 1495, 1495–96 (1998).

379. *See* Fielding, *supra* note 237, at 19.

380. *See id.* at 10–11.

381. M. Chadwick Stackhouse, *Forbearance Agreements: Bringing the Deal Parties Together*, NAT'L L. REV. (Apr. 7, 2023), https://natlawreview.com/article/forbearance-agreements-bringing-deal-parties-together [https://perma.cc/F34C-RLMJ].

382. However, once in bankruptcy court, banks tend to prefer liquidation. Fielding, *supra* note 237, at 11, 17, 53.

383. Mariela Merino, *Why Lenders Prefer Liquid Collateral*, CRESTMONT CAP. (Nov. 26, 2025), https://www.crestmontcapital.com/blog/why-lenders-prefer-liquid-collateral [https://perma.cc/L8EJ-YA3Q].

384. *See* H.R. REP. NO. 99–958, at 48 (1986) (calling Chapter 11 "needlessly complicated, unduly time-consuming, inordinately expensive and, in too many cases, unworkable."); Mark J. Roe & Michael Simkovic, *Bankruptcy's Turn to Market Value*, 92 U. CHI. L. REV. 285, 285 (2025).

385. *See* David H. Downs & Pisun (Tracy) Xu, *Commercial Real Estate, Distress and Financial Resolution: Portfolio Lending Versus Securitization*, 51 J. REAL EST. FIN. & ECON. 254, 255 (2014).

386. Michael D. Fielding, *Resolving Distressed Agricultural Loans in Missouri*, J. MO. BAR, May–June 2022, at 123–24, https://news.mobar.org/resolving-distressed-agricultural-

creditor appoints an independent, neutral receiver to take control of a distressed company's assets and operations in order to protect collateral, preserve value, and facilitate recovery; unlike bankruptcy, a receivership focuses on safeguarding creditor interests and may help restructure the business (or else lead to liquidation of assets).[387] Receiverships can be expensive, however.[388] Lenders will only pursue this option if there is a strong financial justification.[389] Lenders are also concerned about fraudulent conveyance, which is a recurring problem in financial distress and agriculture.[390] The same can be said when the secured asset is equipment and the remedy is replevin instead of foreclosure. Replevin is a court order which allows lenders to reclaim secured assets, but it can be operationally difficult to accomplish because equipment is more easily hidden than land.[391]

loans-in-missouri/ [https://perma.cc/5ALJ-TAGM]. [Hereinafter, Fielding, Resolving Distressed Agricultural Loans in Missouri] ("Receiverships have both benefits and expenses. Benefits include taking away control of the borrower's assets and putting them into the hands of a third-party fiduciary, the prevention of wasting or mismanagement of the borrower's assets, and creating a structure for an orderly liquidation of a borrower's assets. Receiverships can be costly, though. A receiver's bond must be posted, creating an additional cost to the loan. Receivers frequently engage their own counsel to represent them, resulting in administrative costs of both the receiver and his or her lawyer. Borrowers or other creditors may actively oppose the receiver's efforts, thereby prolonging the matter and creating substantial costs for the receivership estate which, in turn, adversely impacts the amount of funds that can be distributed to creditors.").

387. Carla Tardi, *Receivership vs Bankruptcy: Key Differences and Benefits for Recovery*, INVESTOPEDIA (Aug. 22, 2025), https://www.investopedia.com/terms/r/receivership.asp [https://perma.cc/MG8Q-MCNE].

388. Fielding, Resolving Distressed Agricultural Loans in Missouri, *supra* note 378, at 124.

389. *See id.*; *see also* Fielding, *supra* note 237, at 44–47 (describing when forbearance is a prudent option for lenders).

390. *See* Chad Marzen, *Agriculture and Family Farms: Intestate Succession and Allegations of Fraud in Transfers*, 19 FLA. A&M U. L. REV. 1, 18 (2025).

391. M.T. Van Hecke, *Equitable Replevin*, 33 N.C. L. REV. 57, 57 (1954). ("Difficulties arise, however, when the sheriff cannot find the article or when the defendant conceals it and refuses to surrender it to the sheriff, even after the defendant has retained possession pending trial by giving bond. Then the action or proceeding is likely to turn into one for damages in the amount of the chattel's value. Rather than run the risk that these common-law and statutory remedies may thus fail to be effective to obtain the chattel itself, a plaintiff who needs the article in specie and who fears that the defendant will frustrate the sheriff's efforts may regard equity as likely to be more successful through its in personam order that the defendant deliver the chattel to the plaintiff, under pain of punishment for contempt of court if he disobeys.").

Along with a multitude of federal laws which privilege borrowers,[392] state laws provide varying degrees of protection for farmers in distress, which they may leverage during workout negotiations.[393] For example, some states prescribe extended redemption periods after farm foreclosures.[394] Others require a right of first refusal for farmers to repurchase their land before it is sold to another buyer.[395] Still more require mandatory mediation prior to collection actions, which serve to delay collection.[396] States with mandatory mediation requirements include South Dakota, Iowa, and Minnesota; some states, like Nebraska, make mediation optional.[397] Mandatory mediation regimes are much-criticized, especially by lenders, who may find the process slow and unsophisticated.[398] Unfortunately, it is unlikely that mandatory mediation regimes will be repealed by law.

Community banks and the FCS, which is borrower-owned, operate within a relational environment where reputation can feel as important as financial considerations.[399] For FCS, this is not merely a cultural tendency, since the United States Code stipulates specific borrower rights in addition to what borrowers enjoy more generally under common law contracts.[400] For example, FCS lenders are required to notify borrowers that their loans may be suitable for restructuring and are required to consider any restructuring before foreclosing on a property,[401] and they are prohibited from asking a borrower to waive any mediation rights they may have.[402]

392. *See supra* notes 295–96 and accompanying text. *See generally* Jason Binford & John Kane, *Farmer Favoritism: Statutory Protections for Creditors in Agricultural Bankruptcy Cases*, 46 TEX. TECH. L. REV. 377 (2014) (covering various federal statutory protections for agricultural creditors).

393. Binford & Kane, *supra* note 392, at 384.

394. *See*, *e.g.*, WYO. STAT. ANN. § 1-18-103 (West 2026); IOWA CODE ANN. §§ 626.95, 628.3 (West 2026); MINN. STAT. ANN. § 580.23 subdiv. 2(6) (West 2026).

395. *See*, *e.g.*, IOWA CODE ANN. §§ 626.95, 628.3.

396. Malter, *supra* note 352, at 339.

397. *Id.* at 339–344; S.D. CODIFIED LAWS § 54-13-10 (2026); NEB. REV. STAT. ANN. § 2-4807 (West 2026).

398. *See* Cheryl L. Cooper, *The Role of Mediation in Farm Credit Disputes*, 29 TULSA L. REV. 159, 161–163, 165 (1993). *But see* Neil D. Hamilton, *Harvesting the Law: Personal Reflections on Thirty Years of Change in Agricultural Legislation*, 46 CREIGHTON L. REV. 563, 575, 581 (2013); Niel D. Willardson, *Alternative Dispute Resolution in Farmer-Lender Disputes: Mandatory Mediation in Minnesota*, 5 L. & INEQ. 487, 498–499 (1987).

399. *See The Critical Role of Community Banks*, *supra* note 305.

400. 12 U.S.C. § 2202a.

401. *Id.* § 2202a(b).

402. *Id.* § 2202e.

Likewise, farmers borrowing from USDA face a different debt restructuring process, involving mandatory notice requirements and tools like interest rate reductions, loan maturity extensions, and even principal write-downs.[403] However, this statute only applies to USDA loan borrowers, and most farm debt is issued by the FCS or commercial agricultural banks.[404]

C. Bankruptcy in Agriculture

In some cases, bankruptcy becomes the best or only option in distress, and the timing of filing is critical: filing too late merely delays an inevitable collapse while filing too early may preclude more efficient alternatives.[405] In general, bankruptcy law has always favored farmers more than other debtors,[406] but more recent bankruptcy innovations have accelerated this favoritism.[407]

In general, the bankruptcy option that is most tailored to agriculture is Chapter 12 of the Bankruptcy Code. Chapter 12 was designed in a response to the 1980s Farm Crisis and was made permanent by the Bankruptcy Abuse Prevention and Protection Act of 2005.[408] Unlike other chapters of the Bankruptcy Code, Chapter 12 allows farmers to present a reorganization plan which may be confirmed over the objections of creditors, provided the plan meets certain statutory criteria.[409] If a debtor adheres to these criteria, the court is required to confirm the plan.[410] As a result, farmers do not have to negotiate with creditors as they would under a typical bankruptcy proceeding.[411] This provision was particularly powerful in the post-1980s Farm Crisis era because it enabled farmers to write down the value of secured claims to match the actual value of the underlying security, which was crucial when farmland values plummeted.[412] The

403. 7 U.S.C. § 2001.

404. *See id.* § 2001(a).

405. *See* Fielding, *supra* note 237, at 48 (explaining the importance of timing at various points in distressed debt negotiations).

406. Charles W. Hess & William R. Wood II, *Bankruptcy Law and the Farmer: Are Farmers Really Exempt from Forced Liquidation Under Chapter 11*, 25 WASHBURN L.J. 264, 265 n.18 (1986) ("[Farmers] were the only individuals having enough friends in Congress to press successfully for special and additional bankruptcy relief.").

407. Sarah Kathryn Mayson, *Grapes of Impact: The Family Farmer Relief Act of 2019 and Chapter 12*, 10 WAKE FOREST L. REV. ONLINE 55, 55–56 (2020).

408. Quinn, *supra* note 75, at 246, 251.

409. 11 U.S.C. §§ 1225.

410. *Id.* § 1225; *see* Schneider, *Bankruptcy Reform and Family Farmers: Correcting the Disposable Income Problem, supra* note 230, at 313.

411. *See* Schneider, *Bankruptcy Reform and Family Farmers: Correcting the Disposable Income Problem, supra* note 230, at 313.

412. *Id.* at 325–26 n.132.

restructured, lower-value claim could then be modified with a new interest rate, offering farmers an escape hatch during the crisis.[413] Some have even questioned the constitutionality of this provision due to its highly debtor-friendly nature.[414]

Despite these advantages, few farmers opt for a declaration of Chapter 12 bankruptcy today.[415] One reason for this is that the rules around who can declare Chapter 12 are fairly stringent.[416] Other reasons may be the lack of specialized legal expertise among attorneys, as Chapter 12 is a niche area of bankruptcy law which is not widely taught or studied, and the fact that farm operators who are small enough to qualify for Chapter 12 are unlikely to be able to afford sophisticated legal counsel in bankruptcy proceedings.[417] Perhaps most

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413. *See id.* at 325.

414. James J. White, *Taking from Farm Lenders and Farm Debtors: Chapter 12 of the Bankruptcy Code*, 13 J. CORP. L. 1, 1 n.2 (1987).

415. *Bankruptcy Statistics Data Visualizations*, U.S. COURTS (Jan. 21, 2026, 10:43 CT), https://www.uscourts.gov/data-news/reports/statistical-reports/bankruptcy-filing-statistics/bankruptcy-statistics-data-visualizations [https://perma.cc/VZ9K-NEV6] (click tab for "Cases Filed by Chapter" to view chart showing the number of bankruptcy cases filed by type). In the decade between 2014 and 2024, only 4,187 Chapter 12 declarations were made. *Id.* In 2024 alone, more than twice that number of Chapter 11 declarations were made (8,884). *Id.*

416. *See, e.g.*, 11 U.S.C. § 101(18)(A); *see also Chapter 12 – Bankruptcy Basics*, *supra* note 139 ("The Bankruptcy Code provides that only a family farmer or family fisherman with 'regular annual income' may file a petition for relief under chapter 12. 11 U.S.C. §§ 101(18), 101(19A), 109(f)."); *Bankruptcy on the Farm: A Look at the Chapter 12 Option*, NAT'L AGRIC. L. CTR. (Sep. 29, 2020), https://nationalaglawcenter.org/bankruptcy-on-the-farm-a-look-at-the-chapter-12-option/ [https://perma.cc/6HJY-E4RJ] (describing the requirements for farms under Chapter 12 bankruptcy).

417. Why is Chapter 12 not widely utilized?

> The limited use of Chapter 12 is subject to multiple interpretations. Perhaps Chapter 12 itself contains barriers that screen farmers from filing. The expanded definition of family farmer responds to a concern of this type. By adjusting the debt and income levels to correspond with inflation, the new Chapter 12 should be accessible to the same population of farmers as the original legislation. Direct costs may also inhibit farmers from filing Chapter 12 bankruptcy. Chapter 12 is specialized and complex. As discussed supra, the majority of farms are very small. These farmers may be unable to afford the substantial retainer that an attorney would require for Chapter 12 representation. Farms of this very, very small size may not file Chapter 12 because such specialized relief usually entails substantial legal fees that could easily exceed the farm's sales—much less the farmer's income—for the year. Potential Chapter 12 debtors also may have difficulty locating an attorney who is familiar with Chapter 12. Research has shown that consumer bankrupts are steered into particular chapters by their attorneys; a similar effect may influence farmers to avoid Chapter 12 in favor of more commonly used bankruptcy chapters . . . That is, while farmers may be

importantly, however, Chapter 12 provides farmers with a powerful negotiating tool. Because it is so friendly to debtors, farmers can leverage the threat of a Chapter 12 filing to negotiate favorable debt restructurings without actually going through the bankruptcy process.[418] Creditors and debtors alike often prefer to avoid the time and expense of court proceedings, including administrative costs and payments to trustees.[419] Thus, even in the years directly following the 1980s crisis, Chapter 12 did not see the volume of cases initially anticipated but still played a critical role in out-of-court settlements.[420]

> in financial distress, secured farm debt may not be the cause of their financial problems and its restructuring may not solve the problems. Instead, farmers may be pushed into financial trouble by the same factors (medical problems, divorce, etc.) that are present in most consumer bankruptcies. This possibility seems especially likely for farmers who earn up to half of their income from off-farm work.

See Katherine M. Porter, *Phantom Farmers: Chapter 12 of the Bankruptcy Code*, 79 AM. BANKR. L.J. 727, 742–43 (2005).

418. Chapter 12 is undoubtedly most utilized in "the shadow of bankruptcy":

> The mere existence of Chapter 12 influences a creditor's willingness to engage in loan workouts because the creditor must evaluate its recovery if the debtor filed bankruptcy. By defining the boundaries of what each party's rights will be in bankruptcy, Chapter 12 provides a firm structure against which debtors and creditors can negotiate in restructuring loans. All of bankruptcy law has this potential, but Chapter 12 offers a particularly powerful incentive for creditors to reach a non-bankruptcy resolution. Compared to Chapter 11, a creditor in a Chapter 12 case has relatively few tools at its disposal to derail a debtor's effort to reorganize. A survey of attorneys who represented distressed farmers or agricultural creditors found that between one-third and half of disputes were negotiated successfully. Attorneys cited the existence of Chapter 12 as an "influencing factor in 58.06 percent of these successful negotiations." The "shadow" effect of Chapter 12 is difficult to measure exactly but Chapter 12 appears to provide substantial assistance to farmers in obtaining a forbearance or write down of their debt even if no bankruptcy case is ever filed.").

Id. at 743; *see also* J. David Aiken, *Chapter 12 Family Farmer Bankruptcy*, 66 NEB. L. REV. 632, 693 (1987) ("Most insolvent farmers will be able to have a chapter 12 plan confirmed by writing debt down to asset values, unless the farmer has a poor production history. This may make lenders more willing to negotiate workouts, including accepting debt writedowns, to avoid having to participate in bankruptcy proceedings. Most financially troubled farmers would probably be willing to accept workout terms less generous than they could obtain in chapter 12 simply to avoid the stigma of bankruptcy.").

419. *See id.*

420. *See id.*

In today's environment, few farmers utilize Chapter 12.[421] Unlike the 1980s, farm values have risen dramatically in the past few years, reducing the need for the statute's key claim-reducing provisions; although, it is likely used as leverage in lending negotiations.[422] Indeed, farmers that qualify for Chapter 12 take on additional debt but do not pay a higher cost for this debt, suggesting that Chapter 12 protections allow qualifying farmers to make more profitable investments.[423] Many farms are also statutorily prohibited from declaring Chapter 12 bankruptcy because they exceed the total debt cap of $12,562,250.[424] In an era of growing consolidation and scale in agriculture,[425] this precludes many farms. In terms of outcomes, less than half of Chapter 12 cases result in successful reorganization, and many cases require liquidation, where lenders may or may not successfully recover their money.[426]

As previously discussed, operator mismanagement is often the decisive factor leading to farm distress.[427] Facts from actual cases can help illustrate the tension between flexibility and debtor-friendliness in Chapter 12 and the need for accountability and structure in the bankruptcy process when faced with such mismanagement. *In re Bradshaw* describes a debtor who, representing himself pro se, "submitted operating reports and bank statements to the Chapter 12 Trustee showing withdrawals at a casino, and gambling during a pending bankruptcy represents gross mismanagement of a bankruptcy estate, loss and diminution of the estate, and a lack of good faith."[428] Moreover, the debtor failed to comply with required document requests and presented an infeasible plan.[429] Six months later, the debtor obtained counsel and filed a new Chapter 12 case, but continually failed to file an amended plan, provide documentation, and pay his taxes.[430] The court,

421. Indeed, only a few hundred such declarations are made a year. *See Bankruptcy Statistics Data Visualizations*, *supra* note 415.

422. CHANDIO, *supra* note 192, at 1, 4–5.

423. Jacelly Cespedes, Richard T. Thakor & Keer Yang, *The Ex Ante Effect of Bankruptcy Law: Evidence from Chapter 12*, at 2 (Oct. 3, 2022) (unpublished paper) (on file with SSRN), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4236600 [https://perma.cc/Q84T-UWBG].

424. *Chapter 12 – Bankruptcy Basics*, *supra* note 139.

425. *See* SCOTT AND HALL, *supra* note 234 and accompanying text.

426. Kristine A. Tidgren, *A Review of Farm Bankruptcy*, IOWA STATE UNIV.: CTR. FOR AGRIC. L. & TAX'N (Oct. 1, 2020), https://www.calt.iastate.edu/article/review-farm-bankruptcy [https://perma.cc/G5C9-T884].

427. *See* discussion *supra* Section IV.A.

428. In re Bradshaw, No. 20-40984-12, 2022 WL 1589157, at *1 (Bankr. D. Kan. May 19, 2022).

429. *Id.*

430. *Id.* at *2.

clearly frustrated by the debtor's lack of compliance, eventually granted the Chapter 12 Trustee's motion to dismiss.[431] Of course, this is but one case, and many Chapter 12 debtors are far more diligent in their efforts to navigate the bankruptcy process and successfully reorganize.

For larger producers that do not qualify for Chapter 12, Chapter 11 is the only viable option for reorganization.[432] However, farms in Chapter 11 face several challenges, including that farm businesses are often owned as closely-held family operations, while Chapter 11 was developed to address capital structures with many secured creditors all vying for their slice of the pie.[433] The average farmer-debtor using Chapter 11 has one large secured lender, as well as debt owed to various unsecured creditors, trade creditors, or family members.[434] Critics have argued:

> For closely held firms, it is a good first approximation to say that a Chapter 11 bankruptcy is a procedure in which assets are sold off and the firm ceases as a going concern. Under existing law, the only person that receives anything at the end of the day is the institutional lender, and the amount that this institutional lender receives is less than what the lender would have received if there had been an immediate liquidation.[435]

Of course, Chapter 7 liquidation is available as a backstop. It is the view of this author that Chapter 12 has been overstudied compared to Chapter 11 and 7 in the agricultural context because—although Chapter 12 is tailored to farmers—it is

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431. *Id.* at *4.

432. *See Chapter 12 – Bankruptcy Basics*, *supra* note 139.

433. *See* Douglas G. Baird, *The Reorganization of Closely Held Firms and the "Opt Out" Problem*, 72 WASH. U. L.Q. 913, 930 (1994). Historically, this refers to the railroad industry:

> The value of these enterprises as going concerns was manifest in a way that the value of many closely held firms now in Chapter 11 is not . . . The railroads in Chapter 11 came into being when the large, limited liability corporation was in its infancy and the mechanics of running a railroad were largely unknown. Moreover, the railroads that needed to be reorganized were themselves typically the products of many mergers and consolidations. The capital structure of the firm often had not adjusted to the merger. A different creditor held a security interest in each branch line, each terminal, and each main line. Very little debt was unsecured. The committee structure and the bargaining that typified the old equity receivership (and that continues in modem Chapter 11) responded to these capital structures in which there were multiple secured creditors, each of whom had rights to different assets.

Id.

434. *See id.* at 913, 919–20.

435. *Id.* at 925–26.

likely not declared as frequently as the other chapters for agricultural bankruptcies. Recent data could not be found, but this was the case in 1987–1989, soon after Chapter 12's adoption.[436] Indeed, if farmers are declaring Chapter 11 and Chapter 7 more frequently than Chapter 12, then the scholarly focus on Chapter 12 is misplaced, and may give a false impression about the likelihood and mechanics of agricultural bankruptcy.

The bankruptcy of California-based Prima Wawona, one of the largest producers of stone fruit in the U.S., is a recent example of a Chapter 11 agricultural bankruptcy.[437] Backed by private equity firm Paine Schwartz Partners, Prima Wawona owned 18,000 acres of orchards and employed thousands of workers.[438] Blaming unseasonable weather conditions, a Salmonella outbreak, and the California Creek Fire, which burned hundreds of thousands of acres, the initial Chapter 11 disclosure statement describes significant losses to the business between 2020 and 2023.[439] Lenders, however, blamed Paine Schwartz for poor management:

> "A 70-year-old-company and an 80-year-old company that had been profitable for decades … that got bolted together, got loaded with debt and 3½ years later ended up in bankruptcy," Behlmann summed up during a Dec. 27 bankruptcy court hearing. "With that kind of value destruction, our view is that where there's smoke, there's fire."[440]

Ultimately, lawmakers should display more curiosity with respect to why so few Chapter 12 bankruptcies are declared today. Perhaps the reason is simply because Chapter 12 provides so much negotiating leverage during workouts that farmers do not need to resort to its actual use. More likely, the reason is because Chapter 12 is ill-tailored to modern farm enterprises which often do not qualify under its terms. Policymakers should consider whether Chapter 12 has outlived its usefulness, compared to Chapter 11 and Chapter 7.

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436. *See* JEROME M. STAM & BRUCE L. DIXON, UNITED STATES DEP'T AGRIC., FARMER BANKRUPTCIES AND FARM EXITS IN THE UNITED STATES, 1899-2002 6 (2004) https://www.ers.usda.gov/sites/default/files/_laserfiche/publications/42532/17750_aib788_1_.pdf?v=44972# [https://perma.cc/W28E-MU3E].

437. Rod James, *Prima Wawona Collapse Shines Harsh Light on Private-Equity Owner*, WALL ST. J.: WSJ PRO (Apr. 12, 2024, at 06:00 ET), https://www.wsj.com/articles/prima-wawona-collapse-shines-harsh-light-on-private-equity-owner-ba06fa3d?msockid=0f7e6b5682f5666810c87dbe83cd67c8.

438. *Id.*

439. Disclosure Statement for the Joint Chapter 11 Plan of MVK Farmco LLC and Its Debtor Affiliates at 11–12, In re MVK Farmco LLC, No. 23-11721 (LSS) (Bankr. D. Del. Nov. 21, 2023).

440. James, *supra* note 437.

V. CONCLUSION

This Article has merely scratched the surface of agricultural finance and distress by providing a high-level overview of the landscape. Other researchers have detailed elsewhere the unique laws, regulations, mechanisms, players, and characteristics of agriculture. A few final points bear underscoring, and further research should be undertaken to evaluate these debates and developments. First, there exists a debate about whether there is a genuine credit crunch in agriculture and how severe it may be if it exists.[441] Future scholars should consider if and how nonbank forms of credit are filling the credit gap, if there is one. Second, much of the scholarship relating to agricultural bankruptcies focuses on Chapter 12, despite the relatively low incidence of Chapter 12 declarations.[442] A more rigorous study of non-Chapter 12 agricultural bankruptcies is overdue to better understand agricultural bankruptcy in the United States. Third, 2026 is a year of uncertainty for farmers: confusion about tariff and immigration policies, apprehension about environmental conditions, and the changing ecosystem of agricultural producers, including the ongoing trends toward consolidation and necessity to scale.[443] Each of these factors weighs on a farmer's decision making. As trade wars and tariffs rack American agriculture, researchers and historians will have plenty of fodder for new insights.

441. *See* discussion *supra* Section II.B.1.

442. *Bankruptcy Statistics Data Visualizations*, *supra* note 415.

443. *See* Tyne Morgan, *Economists Forecast Farm Economy to Stabilize, But High Costs and Policy Uncertainty Block a 2026 Rebound*, AG WEB (Jan. 7, 2026, at 10:48 CT), https://www.agweb.com/news/policy/ag-economy/economists-forecast-farm-economy-stabilize-high-costs-and-policy-uncertain [https://perma.cc/6BG4-H568].