American Bankers Association
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The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

Dear Speaker Pelosi and Minority Leader McCarthy:

On behalf of the members of the American Bankers Association (ABA), I write to express our **opposition to H.R. 2336, the Family Farmer Relief Act**, which is scheduled to be considered on the House floor today under Suspension of the Rules. As written, this legislation amends Chapter 12 of the Bankruptcy Code by dramatically raising the current debt limit for Chapter 12 filings from approximately $4.3 million to $10 million[1].

Chapter 12 bankruptcy is a very complex issue that requires many different parties to work together. Bankers are very supportive of our farm and ranch customers and as their partners we want them to be as successful as possible. When it comes to increasing the debt limit on Chapter 12 bankruptcy by more than double – from approximately $4.3 million to $10 million – bankers are concerned that such a large increase will be detrimental to the costs of credit for farmers in the long run.

Our nation's farmers and ranchers are critical resources to our economy. Ensuring that they continue to have access to adequate credit to thrive is essential for the well-being of our whole nation. America's banks remain well equipped to serve the borrowing needs of farmers of all sizes. An important step in ensuring continued credit availability for farmers is to proceed with great caution before moving forward with the changes to Chapter 12 farm bankruptcies proposed in H.R. 2336.

If H.R. 2336 were to become law, credit terms would tighten considerably for many family farms, with a disproportionate impact on the most distressed farms most in need of credit. Chapter 12 of the Bankruptcy Code was enacted in the 1980s in response to financial problems affecting family-owned farming operations. Chapter 12 was designed to allow farmers to keep their farms but reorganize their debts and avoid foreclosure or liquidation. However, the Chapter 12 law includes unique and expansive rights for debtors that do not exist in other Chapters of the Bankruptcy Code.

[1] The ABA is the voice of the nation's $18 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2 million people, safeguard $14 trillion in deposits and extend over $10 trillion in loans. ABA is uniquely qualified to comment on agricultural credit issues as banks have provided credit to the agriculture industry since the founding of our country. Nearly 5,000 banks — 83 percent of all banks nationwide — reported agricultural loans on their books at year-end 2018 with a total outstanding portfolio of more than $186 billion.

For example, unlike Chapter 11, which covers typical business reorganizations, Chapter 12 allows debtors to significantly reduce the amount they owe - a “mortgage cramdown” on a principal residence (often the farm) - resulting in increased losses for secured lenders. It also prevents creditors from voting on a reorganization, which makes them unable to adequately protect their interests, and permits debtors to own the farming business without creditor consent or full payment of debts, which again, severely limits the ability of creditors to protect their interests.

Raising the debt limit on Chapter 12 bankruptcies from $4.3 to $10 million in one fell swoop will make the cost of borrowing higher for farmers and reduce the availability of credit. In particular, to offset the additional risk imposed on creditors, interest rates for farm borrowers are likely to rise and much higher costs will be borne by financially weaker farm borrowers, either in the form of increased interest or in their inability to obtain loans at any price.

In the past, this increase in the cost of credit attributable to Chapter 12 has been documented by the U.S. Department of Agriculture (USDA). In particular, in 1997 USDA studied the impact of Chapter 12 on farm lending and found that not only did it result in higher interest rates for farm loans to cover the additional risk, but that it also increased “direct bankruptcy costs by encouraging bankruptcy filings by some farmers who would not otherwise have done so.” USDA also noted that “this impact could be mitigated by allowing lenders the option of recapturing write downs in secured debt if asset values recover. Such an option exists under Chapter 11.[1]

Importantly, the debt limit to qualify for Chapter 12 is indexed to inflation and since 2005 increases every 3 years. Despite this automatic increase, H.R. 2336 would further increase the limit to $10 million. Given that the debt limit is already adjusted for inflation, there is little survey or statistical evidence that would justify an arbitrary increase of nearly $6 million in the current limit.

For instance, there are over two million farms in the United States, according to the U.S. Department of Agriculture, with an average debt of just over $202,000. However, according to statistics compiled by the United States Courts on bankruptcy filings there were only 498 Chapter 12 bankruptcies in 2018 – and this was down from 501 bankruptcies in 2017.[2]

Looking at some individual states, according to a 2017 report from Iowa State University, average total liabilities for large farms in Iowa averaged $1.6 million.[3] In another example, according to one recent report, in Nebraska, average farm debt is only $1.3 million.[4]

[2] https://www.uscourts.gov/statistics-reports/caseload-statistics-data-tables

[3] https://www.extension.iastate.edu/agdm/wholefarm/html/c1-10.html

[4] https://www.nebraskafarmer.com/management/report-average-farm-debt-rises-over-13-million

The current $4.3 million debt limit (indexed for inflation) already covers most farmers and there is no need for a dramatic increase to $10 million. If H.R. 2336 were to become law, credit terms would tighten considerably for many family farms, with a disproportionate impact on the most distressed farms most in need of credit. Therefore, the proposed increase in the Chapter 12 debt limit is not needed. **We urge members to oppose H.R. 2336**.

Sincerely,

James C. Ballentine

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cc: Members of the U.S. House of Representatives