

## Farm Bankruptcy Bill Signed

**T**HE new Chapter 12 of the Bankruptcy Code has been signed by President Reagan, after the IBAA urged the president to veto the farm bankruptcy bill.

In his veto recommendation to the president, IBAA President Chuck Doyle said that there are much better ways to handle the farm debt problem than "bankruptcy proceedings that purport to keep debt-burdened farmers in business while driving a wedge between farmers and their lenders that jeopardizes the future financing that is essential for those farmers to sustain their operations."

Mr. Doyle noted that the bill creates new bankruptcy judgeships that are needed, but said that the judgeships could be reauthorized next year without any delay in their work since no money was appropriated for their appointments this year.

The following summary has been provided by the IBAA outlining the major provisions of Chapter 12.

(1) **Who may file:** Any "family farmer with regular annual income" may file under Chapter 12. A "family farmer" is a person with a farming operation whose total debts do not exceed \$1.5 million, not less than 80 percent of which (excluding debt on principal residence) arises out of the farming operation, and

with more than 50 percent of the person's (including spouse's) gross income derived from the farming operation during the year immediately preceding the filing. A family farmer will be considered as having "regular annual income" if his annual income is found by the court to be sufficiently stable and regular to enable the farmer to make payments under a Chapter 12 reorganization plan.

(2) **Who may convert to Chapter 12:** Family farmers may be allowed to convert pending Chapter 11 or 13 cases to the new Chapter 12, but only where courts find such a conversion "equitable." The Congressional conference report on the bill states: "It is not intended that there be routine conversion of Chapter 11 and 13 cases, pending at the time of enactment, to Chapter 12. Instead, it is expected that courts will exercise their sound discretion in each case, in allowing conversions only where it is equitable to do so. Chief among the factors the court should consider is whether there is a substantial likelihood of successful reorganization under Chapter 12. Courts should also carefully scrutinize the actions already taken in pending cases in deciding whether, in their equitable discretion, to allow conversion...In cases where the parties have substantially relied on current

law, availability to convert to the new chapter should be limited."

(3) **Time allowed to file and confirm a plan:** Only the farm debtor may file a reorganization plan under Chapter 12, and the debtor has up to 90 days to file a plan following issuance of the stay order. The court may extend the 90-day period if "substantially justified." The hearing on confirmation of the plan must be concluded within 45 days, except where cause for an extension is shown.

(4) **Adequate protection of loan security:** Basically, under a Chapter 12 proceeding a secured creditor will be deemed to be adequately protected during the time that the reorganization proceeding is pending if (a) he receives cash payments to offset any decrease in the value of property securing a claim and (b) in the case of farmland, he is paid a "reasonable rent" based upon the earning capacity of the property. The Act does not allow the protection of "lost opportunity costs." This provision is designed to make it more difficult for creditors to succeed with a motion to lift the stay, on the grounds that adequate protection is not provided.

(5) **Sale or evaluation of loan security:** Prior to the confirmation of a plan, a farmer may be permitted to sell assets such as farmland or farm equipment that are part of a creditor's security, without the consent

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of the secured creditor. Such sales can only occur with court approval after notice and a hearing, and the proceeds from the sale must accrue to the secured creditor. This provision is intended to allow farmers to scale down their operations if that appears useful in order to develop a successful plan of reorganization. Of course creditors may bid at such sales, and those assets serving as loan security that are *not* sold (but continue in the possession of the farmer under a reorganization plan) are subject to current evaluation in determining amounts due to secured creditors under such a plan.

(6) **Duration of a plan:** This is no time limit on the length of a plan under Chapter 12, although the 3-5

year limit that applies under Chapter 13 is retained for *unsecured* debts under Chapter 12.

Under the new Chapter 12, many of the provisions applying to farm debt reorganization, other than those indicated above, will be the existing provisions of Chapter 11 and 13 of the Bankruptcy Code. For instance, the anti-fraud provisions of Chapter 11 will generally apply to Chapter 12 reorganizations.

The new Chapter 12 is authorized for a 7-year period.

Weldon Barton, agricultural representative for the IBAA, said the group will continue to look for ways to restructure debt for those farmers that fall short of the bankruptcy code. □

### Iowa News

**DUBUQUE:** Jerry H. Snuttjer has been appointed vice president of Dubuque Bank & Trust Co. He joined the bank a year ago. Mr. Snuttjer will be responsible for the operation and management of DB&T Insurance. Melvin E. Miller has been promoted to vice president, trust investments for the bank's trust department.

**MOUNT VERNON:** Jay A. For-dyce, president and trust officer of Mount Vernon Bank & Trust Company, passed away on Oct. 16. He had served at the bank from 1935 until the time of his death.

### Nebraska News

**HICKMAN:** Lawrence Williams, president of the First State Bank, has retired after 19 years of service. He is succeeded by Jay Martell, who has been serving as chief executive officer of Martell State Bank in Martell.

**SCOTTSBLUFF:** First State Bank of Scottsbluff was the successful bidder for the failed Bank of Gering, which was closed Oct. 23 by the Nebraska Department of Banking. The Gering bank reopened Oct. 31 and will be known as First State Bank—Gering. At the time it was closed, the bank had deposits of approximately \$25 million.

**SIDNEY:** Larry Rasmussen has resigned from his position of president at the First National Bank of Sidney. He has assumed a position with the National Bank of Commerce, Lincoln. His successor is Dean Kugler, formerly senior vice president of American Security Bank in North Platte.

**WILBER:** A.W. "Tony" Fridrich, 90, former president of Saline State Bank, passed away in August. Mr. Fridrich joined the bank in 1915 as a bookkeeper and stayed there for 62 years. He became president in 1970 and retired in 1976.

### Minnesota News

**MINNEAPOLIS:** M. Claire Canavan has been elected senior vice president of funds management for First Bank System, Inc. She has been associated with the First Banks since 1976. Ms. Canavan joined the metro treasury department of the capital markets group as vice president in 1984 and assumed responsibility for FBS's funds management activities this past March. Meanwhile, David R. Edstrom, Russell W. Swansen, and Joseph M. Ulrey, III have been named vice presidents. Mr. Edstrom, most recently



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manager of Bank of America's global U.S. dollar interest rate swap group, will be vice president of funding. Mr. Swansen, who previously served as vice president and portfolio manager of Washington Square Capital, Minneapolis, will be vice president of investment portfolios. Mr. Ulrey most recently was assistant vice president of funds management planning and analysis for FBS, and was promoted to vice president of asset/liability management.

**MINNEAPOLIS:** The American Institute of Banking will sponsor several seminars during November. All seminars will be conducted at the AIB Education Center in Minneapolis. Dates are as follows: Nov. 11—AIB Intermediate Lotus Seminar; Nov. 12—Account Ownership Seminar; Nov. 12—Know Your IBM PC Seminar; Nov. 18—AIB Compliance Management and Update Seminar; Nov. 19—AIB Dealing with Difficult People Seminar; Nov. 20—AIB Letters of Credit Seminar.

**REDWOOD FALLS:** Norwest Bank Redwood Falls, N.A. has announced that Dean Bloemke has joined the bank as vice president, commercial loans. He has 13 years of lending experience, the past 10 years at First National Bank of Waseca, Minnesota.

### South Dakota News

The Independent Community Bankers of South Dakota will sponsor a three-day seminar entitled "Analyzing Financial Statements" on Nov. 12-14. It will be held from 8:30 a.m. to 4:30 p.m. each day at the Howard Johnson Motor Lodge in Sioux Falls. Speaker is Dennis McCuistion, owner of McCuistion & Associates, a bank consulting firm. Registration is \$200 for ICB members and \$300 for non-members, and includes lunch and materials. Deadline for registration is Nov. 5. For



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more information or to register, contact ICB secretary Houston Haugo at Valley National Bank in Sioux Falls, (605) 336-0830.

### Wyoming News

**BAGGS:** The FDIC has approved paying off insured depositors in Valley State Bank, Baggs. The bank, with total assets of \$4.2 million, was closed Oct. 17 by Wyoming State Examiner Stanley R. Hunt, and the FDIC was named receiver. No bids were received for the failed bank. Mr. Hunt said, "The bank was closed after a resolution for voluntary closure was received from the shareholders. Depressed business conditions in the community led to the decision...to ask the state to take over the bank." Deposits in Valley State Bank amounted to about \$4.0 million in 1,900 accounts, including about \$2,300 in four accounts that exceeded the federal insurance limit.

### Colorado News

**DENVER:** First Interstate Bank of Denver has appointed Frank J.

Brainerd senior vice president and general counsel. His previous position was as senior vice president and legal counsel for Colorado National Bankshares, Inc. He replaces David Butler, who has returned to private practice with the law firm of Holland and Hart. In addition, nine officers of the bank have been promoted to vice presidents. They are: Frances E. Draper, planning and analysis; Donald L. Grant, commercial finance support; Cynthia L. Knutson, human resources—education and development; Mary D. Maguire, real estate; Darlene D. Romero, investment banking; Richard J. Sullivan, trust banking; Adilberto Torres, Jr., human resources; Anne D. Warhover, credit, and Gordon C. Willis, private bank and trust.

**DENVER:** William W. "Peter" Grant, chairman of Colorado National Bank of Denver, announced retirement plans on Oct. 22. Mr. Grant, 54, is taking early retirement after 28 years with the bank, but will retain the title of chairman even though he will cease full-time activity at the bank. The announcement comes five months after Mr. Grant was promoted to the chairmanship.

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