Farmers

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where most of the bankruptcies have been filed.

Before Chapter 12 was enacted, most farmers were forced to sell their farms to pay off their debts, said Keith Welch, a Shreveport bankruptcy attorney. Most farmers had too much debt for a Chapter 13 filing which might have allowed them to retain their land and pay off their debts over time, he said. 

"In Chapter 11, they have what's called an absolute priority rule," he said. "You have to pay each creditor in full if you retain ownership. In many cases, that was impossible (for farmers).

One of Chapter 12's advantages is that it does not have that rule, he said.

In fact, Chapter 12 is the most advantageous bankruptcy available to any debtor, he said, though he added that any bankruptcy is always an action of last resort.

Farmers who qualify under Chapter 12 are allowed to lower the secured debt on their land and equipment to its actual value, thus allowing them to wipe out hundreds of thousands of dollars owed to creditors. For example, if a farmer had land mortgaged for $500,000 now worth $300,000, he would have to come up with a reorganization plan to repay the $300,000 over the long-term.

Unlike Chapter 11, the creditor has no say over the reorganization plan, though the trustee and the court must approve it.

"It lets farmers write down secured debt, structure it over the long term and force the creditor to accept it, and there's nothing he can do about it," Welch said.

The other $200,000 would be lumped with unsecured debts. The farmer is obligated to repay unsecured debts for three years only to the extent that he is reasonably able to with money left over after he pays his utility bills, medical bills, house notes and other living expenses.

After three years, any unsecured debt is wiped out.

"If in the fourth year the farm became extremely profitable, it's all to the farmer's benefit," Welch said.

Those advantages for debtors have prompted complaints from creditors.

"I have no doubt that the creditors are very displeased. Chapter 12 is the most aggressive debtor remedy available to anyone," Welch said.

Bowie said small banks take the losses on the chin.

"A lot of those small banks that have concentrated on agriculture loans are really in trouble," he said.

Two Louisiana banks have closed because of bad farm loans, said state Banking Commissioner Fred Dent. Federal lenders and credit organizations, not local banks, have the bulk of farm loans, he said.

An official with the Federal Land Bank in Jackson, Miss., said the agency has 334 current bankruptcies involving $100 million in loans in Louisiana.

Some creditors are seeking changes in the new law, and even state Commissioner of Agriculture Bob Odom said he doesn't know if Chapter 12 will help farmers overall.

"Chapter 12 may end up hurting agriculture long term because it's going to make financing harder to get," he said. "If lenders can't collect, they won't make loans.

Chapter 12 also appears to be giving leverage to debtor farmers who have not actually filed bankruptcy. Iowa State's Harl said lenders know that if they don't negotiate over bad debts, farmers can file for Chapter 12.

Bankruptcy law aiding farmers

SHREVEPORT (AP) - Louisiana farmers struggling with heavy debts are using a controversial new bankruptcy law revived from the Depression era to hold onto their family farms.

Record numbers of farmers in Louisiana and elsewhere have been foreclosed in the past few years, losing the land, their equipment and their homes.

To help family farmers stay in business, Congress created the Chapter 12 Family Farmer Bankruptcy Act late last year. Like the Frazier-Lemke Act of 1934, the bankruptcy code allows farmers to reduce farm land debt to its current value.

From December through March, 169 Louisiana farmers filed for Chapter 12, giving the state one of the highest bankruptcy filing rates in the nation.

Only Nebraska with 220, South Dakota with 208 and Iowa with 188 have more, according to a survey of 12 Midwestern states conducted by Dr. Neil Harl, an economist at Iowa State University. Louisiana was not included in the survey.

"These Louisiana filings may be just the first wave. Nearly half of the Louisiana farmers are in trouble," he said.

"Since 1984, . . . we've had at least 20 to 25 percent of our farmers in some kind of deep financial problems," said

Dr. Clyde St. Clergy with LSU's Cooperative Extension Service in Baton Rouge. "Another 20 percent are approaching trouble."

Others familiar with farm problems agree.

"Our farmers are in terrible trouble," said Scot Bowie, a court-appointed trustee for Chapter 12 bankruptcies in northern Louisiana.

"In fact, most of the farms I looked at, without government subsidy they couldn't justly grow a crop. Even with a subsidy they're marginal . . . . Agriculture economy is in worse shape than the oil business."

The seeds of farm problems were planted a decade ago, when speculators drove up the price of farmland.

"Land was selling for $1,300, $1,500, $2,000 an acre," Bowie said. "Now, the real value is under $500 an acre, and that farmer has it mortgaged at two to three times its value."

Farmers who bought high-priced land at high interest rates couldn't make loan payments when farm prices fell and crops failed the past few years.

"Quite frankly, we've had disastrous conditions for four years, both weatherwise and price-wise," said Al Boughton, a farm manager and Chapter 12 trustee for the Alexandria and Monroe area,