



# The Farm Bill Opens Doors for Black Farmers

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In May of this year, Congress approved new legislation opening the doors for black farmers across the country. The Food, Conservation and Energy Act of 2008,<sup>1</sup> appropriately labeled the “Farm Bill,”<sup>2</sup> provides black farmers with an opportunity to seek legal compensation for illegal discrimination by the United States Government.

Black farmers are eligible to seek relief under the Farm Bill if they previously filed a claim under *Pigford v. Glickman*.<sup>3</sup> In *Pigford*, class members asserted claims for discrimination by the U. S. Department of Agriculture

(“USDA”). The lawsuit was brought on behalf of black farmers across the country who were denied loans, disaster relief and other aid frequently given to white farmers. The discriminatory practices of the USDA put many black farmers out of business. Due to inadequate notification provisions of the settlement, an estimated 73,000 farmers were denied relief despite filing suit because they missed the six-month window to have their cases heard on the merits.

Adding insult to injury, claimants who would have been entitled to relief as part of the *Pigford* settlement were denied

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recovery because they were never notified of their option to participate in the settlement and submit their claim.

The Environmental Working Group, a Washington research group, identified gaps in the USDA's payments to farmers. In 1995, the USDA reportedly paid \$1,841 in federal farm aid to black farmers and \$4,066 to other farmers; in 2005, black farmers received \$4,291 and others \$13,846.<sup>4</sup>

The Farm Bill does not open the door for new claims, but allows "late-filers" a chance to have their claims heard. The original deadline to file a claim was September 15, 2000. *Pigford* claimants who originally filed suit but missed the settlement and never had their claim reviewed will now have that opportunity. Each claim will be resolved individually based on the merits and heard by an approved adjuster.

According to the Farm Bill and the non-profit community organization, The National Black Farmers Association, three eligible groups of farmers who previously submitted claims can seek relief under the bill's provisions. Eligible claimants include farmers who:

- Farmed or attempted to farm between January 1, 1981 and December 31, 1996;
- Applied to the USDA during that time period for participating in a federal farm credit or benefit program and believe that they were discriminated against on the basis of race in the USDA's response to that application; or
- Filed a discrimination complaint on or before July 1, 1997 regarding the USDA's treatment of such farm credit or benefit application.

Once a farmer's eligibility has been decided, the farmer's claim can be filed under Track A or Track B relief. Claimants filing for Track A relief must prove they were racially discriminated against by the USDA by substantial evidence. Relief provided under Track A includes:

1. \$50,000 cash payment;
2. Forgiveness of all debt owed to the USDA incurred under the program;
3. Tax to IRS 25 percent debt forgiveness of cash payment;
4. Immediate termination of foreclosure; or

#### 5. Time priority loan consideration.

Claimants filing for Track B relief must prove racial discrimination by a higher standard—preponderance of the evidence. This track provides uncapped damages.

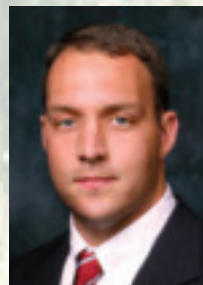
Congress has budgeted \$100 million but estimated damages will be greater than that amount. If their suits are successful, the Environmental Working Group believes the cases could cost several billion dollars along with the \$980 million previously paid to claimants in the original settlement. Already taking advantage of the Farm Bill's provisions, over 900 black Alabama farmers filed new lawsuits against the USDA and more filings are expected. ▲▼▲

### Endnotes

1. Food, Conservation and Energy Act of 2008, § 14012(b).
2. *Id.*
3. 185 F.R.D. 82 (D.D.C. 1999), *aff'd* 206 F.3d 1212 (D.C. Cir. 2000).
4. Evans, Ben. "800 Black Farmers File New Lawsuit." *The Jackson Clarion Ledger*.



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