

Pigford Remedy Claims Act FAQ's

Q: How was the Pigford Claims Remedy Act enacted into law ?

A: The earlier bills that were designed to address the plight of late filing claimants in the *Pigford v. Glickman* settlement were referred to both the House Committee on the Judiciary and the House Committee on Agriculture.¹ Because both Committees were crucial to the passage of legislation, the Committee Chairmen and other interested members adopted a cooperative and more streamlined approach of moving *Pigford* relief through the larger agricultural programs legislation. The Pigford Claims Remedy Act was enacted as Section 14012 of H.R. 2419, the "Food, Conservation, and Energy Act of 2008," Public Law No: 110-234, on May 22, 2008, following an initial veto by President Bush.

Q: What does the Pigford Claims Remedy Act do for African-American farmers ?

A: The Pigford Claims Act, Section 14012, provides a mechanism for a determination on the merits for late filing *Pigford* claimants, for both credit and non-credit claims, who met the prior defined class criteria. Simply put, if you were an eligible *Pigford* claimant, who filed a claim during the prior late claims period that expired on September 15, 2000, and your claim was dismissed as untimely, you will be permitted to re-file your claim for review under new procedures that will be set by the trial court.

Q: Who has the right to file a claim under the Pigford Claims Remedy Act ?

A: The intent of the Pigford Claims Act is to provide an opportunity for late filers to have their claims heard on the merits, following their earlier dismissal on a statute of limitations technicality. To be eligible for this relief, an individual must have previously submitted a late-filing request under section 5(g) of the consent decree. New claims, those not filed under the earlier deadline, are not covered by the Act. In addition, claims that failed after an earlier review on the merits are also ineligible for relief.

Q: What is the deadline for filing my claim ?

A: As in the process established by the District Court under the *Pigford v. Glickman* Consent Decree, the Court will set all filing deadlines and establish the procedures for adjudicating claims under Section 14012. In general, the Act establishes a two year statute of limitations for filing claims that runs from the date of enactment (May 22, 2008).

On May 28, 2008, a new class-action lawsuit was filed pursuant to Section 14012 in the Federal District Court for the District of Columbia on behalf of the five farmers and all other

¹ *Pigford, et al. v. Glickman* (Civil Action No. 97-1978 (D.D.C.)(PLF) and *Brewington, et al. v. Glickman*; Civil Action No. 98-1693 (D.D.C.) (PLF).

Pigford late filers. The action, *Kimbrough, et al., v. Schafer*, seeks damages from USDA for decades of USDA racial discrimination in the operation of the agency's farm loan and support programs, and is intended to provide relief for the thousands of African-American farmers who were shut out of the 1999 settlement in the original discrimination lawsuit against USDA, *Pigford v. Glickman*.

Q: What is the scope of relief under the Pigford Claims Remedy Act ?

A: Foreclosure – Prior to adjudication of a claim, an individual filing pursuant to Section 14012 is protected from loan acceleration or foreclosure. This foreclosure protection, however, only applies to loans related to the Pigford claim and not the claimant's entire loan portfolio.

Damages – Claimants who allege discrimination related to a farm loan are permitted to seek liquidated damages of \$50,000, or a discharge of the debt that was incurred as a result of the alleged discrimination that is the subject of the complaint, and a tax payment in the amount equal to 25 percent of the liquidated damages and loan principal discharged.

Noncredit Claims – Claimants who prevail on a claim of discrimination involving a noncredit benefit program of the USDA are entitled to a payment of \$3,000, without regard to the number of such claims on which the claimant prevails.

Q: Is the USDA required to supply claimants with data to supports claims of discrimination ?

A: Yes – Not later than 120 days after the USDA receives notice of a complaint filed by a claimant under Section 14012, the Department is required to provide the claimant with a report on farm credit loans and noncredit benefits, as appropriate, made within the claimant's county (or if no documents are found, within an adjacent county as determined by the claimant), by the Department during the period beginning on January 1 of the year preceding the period covered by the complaint and ending on December 31 of the year following the period.

Such report is required to contain information on all persons, whose application for a loan was accepted, including:

- the race of the applicant;
- the date of application;
- the date of the loan decision;
- the location of the office making the loan decision; and
- all data relevant to the process of deciding on the loan.

The reports are not permitted to contain any information that would identify any specific person who applied for a loan from the USDA to protect borrower privacy. This early document disclosure should streamline the claims process by quickly allowing the claimants to determine whether there was a “similarly situated” farmer who received a loan for the purposes of making a prima facie case of discrimination under the terms of the consent decree.

Q: As a claimant, am I permitted to pursue a claim for my actual damages ?

A: Yes – A claimant who files a claim under Section 14012 for discrimination under subsection (b) (Determination on Merits) but not under subsection (f) (Expedited Resolutions) and who prevails on the claim shall be entitled to actual damages sustained by the claimant.