

Farmers make FSA or farm loan payments twice per year or once per year. IF the farmer falls behind, they are in a deficit and they need loan servicing. When loan servicing is not offered the debt is accelerated and foreclosure proceedings commence. Under the Equal Credit Opportunity Act (ECOA), debtors cannot be denied loan servicing based on race.

Additionally, under the 2008 Farm Bill, Congress passed legislation placing a moratorium on foreclosures under the Obama Administration. Unfortunately, President Obama appointed Thomas Vilsack as the USDA Secretary just like Biden and Vilsack has illegally removed Black farmers off their land under both administrations. Vilsack has been diabolical in how he has done so.

In the 2008 Farm bill a moratorium was set in place to prevent foreclosures until a farmer's pending civil rights complaints were resolved to prevent any collection actions. In the process, USDA has continued to deny Black farmers administrative hearings. In retaliation, while under USDA in 2016, Vilsack passed a 10-year rule prohibiting farmers that had pending complaints and received any debt forgiveness from applying to any loan nor receiving any assistance from USDA like disaster relief.

Any farmer that received debt relief under ARPA was supposed to get 100% of their debt written off and 20% was to go to cover the debt but when Vilsack was appointed to the Secretary again by Biden and the ARPA was passed in March of 2021, 12 federal suits brought by White farmers were allowed to move forward. The Courts provided discovery, a temporary and preliminary injunction to stop the debt relief which was solely supposed to go to Black farmers under ARPA and certified class under Sid Miller case in Texas all within three months after filing their suit as a violation of equal protection under the Fifth Amendment. EP protections prohibit the federal government from denying any person equal treatment based on race. Comparatively, I am moving into my third year of litigation and have been denied discovery, injunctions, and hearing requests. All my plaintiffs are Black, our suit was filed based on a violation of equal protection and ECOA.

Here are the following criteria USDA (FSA) evaluate when approving a loan application:

- Must have a credit score of at least 640. 7CFR 764 101(d)
- USDA via FSA will examine and decide if the applicants honored their debt with other creditors and federal agencies namely IRS and USDA. 7CFR 764 101(d)(1)
- Applicant caused the agency a loss in receiving debt forgiveness. Applicant may be ineligible even if they came back and paid off the debt. The Agency can consider debt forgiveness when determining credit eligibility. 7CFR 764 101(d)(2)
- A history of failure to repay debts as they came due. 7CFR 764 101(d)(3)

- No applicant can be delinquent on any federal debt at the time of applying for the loan. 7CFR 764 101(f)

Black farmers were supposed to get debt relief as a part of the *Pigford* consent decree, this was a part of the settlement agreement to resolve the class action racial discrimination suit Black farmers filed against USDA in 1999. However, after 25 years farmers have not received debt relief.

The American Rescue Plan Act (ARPA) is different, this focused on pandemic relief money ONLY. But what Vilsack did was take the 10-year rule he passed in retaliation regarding the pending civil rights complaints and enforced it under the debt forgiveness provision under this law. Only Black farmers write off was titled “debt forgiveness” to match the provisions above to deny future lending and program assistance. Compared to White farmers in their application for pandemic money, their application was 3 pages and was given as a grant and not titled “debt relief or debt forgiveness.” Allowing the White farmers to apply for future assistance and not be denied money by USDA.

The few Black farmers that did receive debt forgiveness are in my pending case and still owe USDA between \$20,0000 to \$40,0000. Recently, one of them tried to apply for an ownership and operating loan and was denied within 30 minutes of applying. USDA did not write off the total amount on purpose. USDA knows that if a remaining balance is left and tax debt is owed on the debt written off and the write off was titled “debt forgiveness” they would be unable to apply for future lending.