



Dealing with Farm Debt in the West: Practical Considerations in Ag Bankruptcy

Chapter 12 & Chapter 11 Issues for Debtors and
Creditors

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June 19-20, 2025

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Agenda

- Current Conditions Driving Farm Bankruptcies
- Bankruptcy Overview
- Understanding Chapter 12: Background, Eligibility and Advantages
- Select Chapter 11 Issues
- Article 9 Issues
- - Q&A



Current Economic Landscape

- Low commodity prices and extreme weather → Reduced income
- Surge in farm bankruptcies across the U.S.
- Current Statistics
- Bankruptcy as a recovery tool when alternatives are unavailable



Bankruptcy Law Basics

- Governed by Title 11 of the U.S. Code

Two major options:

- Chapter 7: Liquidation (assets sold, individual debts discharged)
- Chapters 11/12/13: Reorganization (retain assets, repay debts)
- Each chapter tailored to different debtor profiles and goals



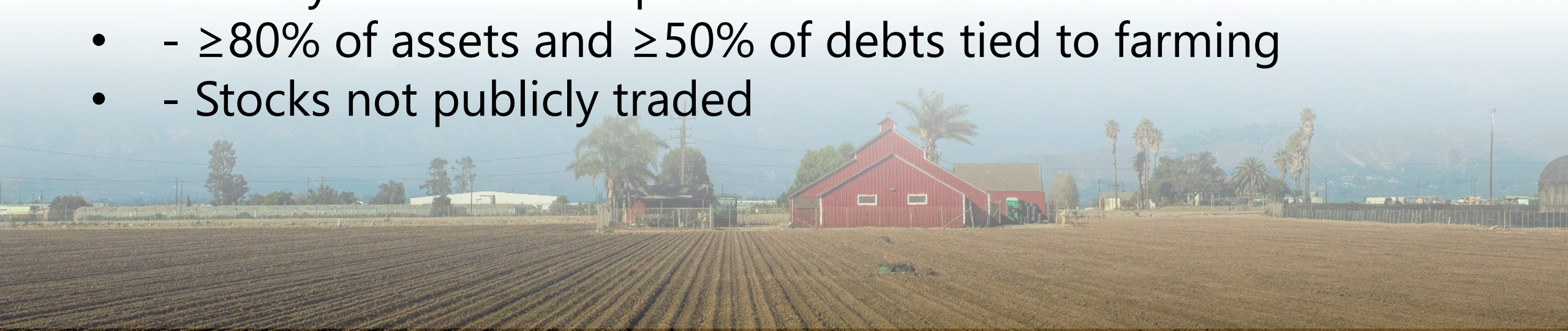
Introduction to Chapter 12

- Enacted in 1986 to support farmers during economic crisis
- Made permanent in 2005; debt cap raised in 2025 to \$12.5M
- Designed for “family farmers” with regular annual income
- Applies to individuals, families, partnerships, and corporations meeting criteria



Chapter 12 Eligibility Requirements

- **Individuals:**
 - - Farming operation
 - - Debts \leq \$12.5M
 - - \geq 50% of debts from farming
 - - \geq 50% of income from farming (recent tax years)
- **Entities:**
 - - Family-owned and operated
 - - \geq 80% of assets and \geq 50% of debts tied to farming
 - - Stocks not publicly traded



Key Advantages of Chapter 12

- Allows ongoing farm operations
- Seasonal repayment plans vs. monthly payments
- Greater control over reorganization process
- Ability to sell farmland/equipment without strict lien conditions
- Favorable tax treatment of capital gains from asset sales
- Broader use of cramdown, including on primary residences



Comparing Bankruptcy Chapters

Feature	Chapter 7	Chapter 11	Chapter 12	Chapter 13
Keep Farm Operating	No	Yes	Yes	Yes
Monthly Payments	N/A	Yes	Optional	Yes
Seasonal Flexibility	No	Limited	Yes	No
Asset Sale Restrictions	Yes	Yes	No	Yes
Cramdown on Residence	No	Limited	Yes	Limited



Select Chapter 11 Issues

- Use of Cash Collateral
- § 363 Sales
- Non-Debtor Operations
- Plan Confirmation:
 - Absolute Priority
 - Feasibility
 - Best Interest Test



Chapter 11 – Treatment of Secured Claims

- Adequate Protection
- Classification / Treatment
- § 1111 (b) Election



Article 9 – Commercial Code

- Personal Property Security Interests
 - Equipment
 - Water? What Type?
- Article 9 Foreclosures
 - Process



Issues for Lenders

- Inter-creditor Agreements
 - Crop vs. Land
- Ability to Protect and Maintain Collateral
- Receiverships



Farm Foreclosures

- Judicial
- Non-Judicial [California]
- Unified Sale [Crops, Water, Real Property]



Questions and Discussion

Thank You



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