AN ANALYSIS OF FARMS FILING CHAPTER 12 BANKRUPTCY IN THE WESTERN DISTRICT OF OKLAHOMA

By

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AN ANALYSIS OF FARMS FILING CHAPTER 12

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DISTRICT OF OKLAHOMA

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CHAPTER I

INTRODUCTION

Financial Situation

In the early 1980's, U.S. agriculture encountered the most severe financial crisis since the great depression of the 1930's. Increasing debt loads in the late 1970s, coupled with higher and more volatile interest rates, declining asset values, and declining commodity prices, all contributed to the farm financial difficulties in the 1980's. Higher interest and principal payments and decreased cash inflows caused farmers trouble in making their scheduled loan payments. In order to protect their positions, especially in light of declining farm asset values, creditors often responded by accelerating loan payments or threatening foreclosure. The result was that an increasing number of farmers began to default on loan payments and were required to sell assets, renegotiate debt payments, or cease to operate the farm business altogether (Barnes and Brake).

By 1984 and 1985, it was generally acknowledged that the problem was reaching "crisis" proportions. In response to this crisis, there were calls from farm interest groups and congressmen for action to alleviate the pressure from creditors and to stave off farm foreclosures. One way suggested to accomplish this was to give farmers more options in dealing with their creditors (Flaccus).

In most states, distressed farmers and their creditors have only three main choices for dealing with excess farm debt: informal negotiations and workouts, normal liquidation and/or foreclosure under state laws, and federal bankruptcy. In some states, mediation provides another very useful approach. Mediation may be either mandatory or voluntary.

Unfortunately, in many states, farm debt collection procedures are antiquated and not systematic. These states provide few options to farm debtors and make no attempt to assure an orderly and equitable liquidation or to consider the feasibility of allowing the farm family to scale back, buy or lease back a foothold and position themselves for rebuilding. In some cases, these laws result in arbitrary liquidation and dispersion of farming assets, and piecemeal rather than comprehensive collection and produce competition rather than cooperation among creditors. Such laws can result in irrational and inefficient termination of farming operations (Barnes and Brake).

In states without mandatory mediation or debt collection laws that allow rebuilding, bankruptcy--particularly Chapter 12--may be the best way to keep a foothold in farming and rebuild. As controversial as bankruptcy is, it sometimes provides a good mechanism to avoid the inefficiencies of state debt collection laws and enhance farmers' chances of survival. Federal bankruptcy attempts to protect creditors' legal interests, but in the case of Chapter 12, it provides procedures to help ensure that the exercise of creditors' legal interests does not prevent farmers from rebuilding the operation, even if in a scaled down version (Barnes and Brake).

Types of Bankruptcy

For a farmer there are now four kinds of bankruptcy available. The best choice depends on the debtors' individual financial circumstances and the future intentions of the farm family.

In Chapter 7 bankruptcy, the assets are liquidated (sold at a sale or "abandoned" to the creditor) and the farm debtor is typically only allowed to keep certain exempted property. It is sometimes possible to use Chapter 7 for rebuilding a farm operation by a careful use of exemption laws so as to exclude key farming assets from liquidation. Even though bankruptcy is a federal proceeding, in most states, the exemptions used by the bankruptcy court are determined by state exemption laws. As a result, the ability to use Chapter 7 as a tool for rebuilding will depend on how extensive state law is in this area. Frequently, mortgaged property may not be claimed as exempt except to the extent of debtor equity. However, for financially distressed farmers leaving or retiring from agriculture, Chapter 7 might be the best bankruptcy option (Tilley, 1987).

Chapter 13 bankruptcy was originally designed for individual wage earners or businesses with fairly low debts. In a Chapter 13 case, total secured debts cannot exceed $350,000 and total unsecured debts cannot exceed $100,000. It cannot be used by corporations. Chapter 13 proceedings permit individuals with regular income to make adjustments to their debts and develop a plan for paying them. The Chapter 13 plan is sometimes referred to as a wage earner's plan, although farmers and other individuals operating businesses may also use Chapter 13 if the qualification requirements are satisfied (Tilley, 1987).

Chapter 11 bankruptcy, on the other hand, is designed for very large businesses. It is designed to handle a large number of different classes of creditors. There is no limit on the amount of debt that may be handled in a chapter 11 case. Creditors are given considerable control over the debtor's future plan of operation so that it is difficult to obtain confirmation of a Chapter 11 reorganization plan which impairs the interests of creditors. Both Chapters 11 and 13 are designed for rebuilding a business, but neither was specifically designed for use by farm operations.

Chapter 12, which currently is scheduled to expire in 1993, was designed specifically for family farms and the farm debt crisis. It is open to partnerships and corporations but is limited to farms with total debt under 1.5 million dollars. Importantly, the bankruptcy judge has the authority to accept the farm-debtor's plan over the objection of creditors.

Purpose of Chapter 12 Enactment

The Family Farmer Bankruptcy Act or "Chapter 12" as most people refer to it significantly improved a farmer's chance to remain on the farm and rebuild. Chapter 12 is the newest reorganization option, coming into existence in November 1986. It is much like Chapter 11 except that it is generally simpler and less costly, and is restricted for use only by "family farmers" who fit certain debt and income criteria (Harman).

Although all the types of bankruptcy are accessible to farmers, Chapter 12 may be the most useful mechanism (Barnes). For this reason, I will be discussing this type of bankruptcy in great detail. Although the Chapter 12 legislation is currently scheduled to expire in 1993, legislation to extend its existence is currently being proposed.

Chapter 12 was modeled after Chapter 13 of the code and allows eligible farm debtors to adjust their debts in a manner similar to that available under Chapter 13 to individuals with a regular annual income. The chapter was enacted by congress as emergency legislation in response to the agricultural debt crisis of the mid-1980's. Congress believed that such emergency legislation was necessary because the existing provisions of the bankruptcy code were not effective in providing debt relief to family farmers. Because Congress considered Chapter 12 to constitute an emergency remedy, Congress provided that it was to be in effect for only a limited period of time. The provisions of the 1986 act provide that Chapter 12 will expire on October 1, 1993, unless extended by congress prior to its expiration (Harl).

According to the conference report accompanying the act, congress intended that Chapter 12 bankruptcy would give family farmers facing bankruptcy a better chance to reorganize debt and keep their land than they would have had under previous bankruptcy legislation. Congress found that existing forms of bankruptcy (1) precluded most family farmers from filing because their debt levels were too high or (2) were too expensive, time-consuming, complicated, and unworkable. Accordingly, the new legislation stipulated a higher debt limit, which would enable more family farmers to file for Chapter 12, and added certain protection from creditors that would make it easier for family farmers to obtain confirmed bankruptcy reorganization plans (Harl).

Chapter 12 Requirements and Procedures

Generally, the act (Title 11, § 101) defines family farmers as individuals, individuals and spouses, and family partnerships and corporations engaged in farming with (1) total debts of not more than $1.5 million of which at least 80 percent arose out of a farming operation owned or operated by the debtor, (2) over 50 percent of gross income derived from farming for the taxable year preceding the year of the Chapter 12 petition, (3) for partnerships or corporations, more than 50 percent of the stock or equity must be held by one family member, and more than 70 percent of assets must be related to farming and (4) the farmer (whether an individual, corporation, or partnership) must have a sufficiently stable and regular annual income to make the payments required after the reorganization and debt restructuring outlined in the bankruptcy plan.

In most cases a family farmer who files a Chapter 12 bankruptcy petition will remain in possession of the farm and continue to operate it. However, the bankruptcy court may remove the farmer from control if a creditor can show the farmer has committed fraud, gross mismanagement, or is dishonest or incompetent. Before a farm debtor can be removed, he or she must first be given an opportunity for a hearing. The debtor may also later request a hearing to determine whether he or she can regain possession of the farm. In practice, however, judges often simply dismiss the bankruptcy if the debtor has been shown to have committed any of the above acts (Title 11, § 1204).

If a farmer is removed from possession and the case is not dismissed, the operation of the farm will be placed in the hands of the Chapter 12 trustee, who will probably hire a professional farm manager to operate the farm (Title 11 § 1204).

Once a bankruptcy petition is filed most attempts by a creditor to begin or continue a suit against the debtor to collect a debt, enforce a money judgment, repossess property, or offset bank accounts against debts are automatically stopped. This is called "automatic stay".

The only way a creditor can try to collect on a debt during the stay is if the creditor requests "relief from the stay" from the bankruptcy court. To get relief, a creditor must prove (1) that its security is not "adequately protected" (see below) from a decline in value or (2) that the debtor has no equity in the property and the property is not an asset necessary for an "effective reorganization." A farmer must therefore be realistic when preparing the plan and be able to show that he or she has a sufficiently positive cash flow after reorganization and debt restructuring to make the planned payments to creditors.

The debtor is also required to show "adequate protection." This requirement is found in both Chapter 11 and 13 bankruptcies but it has been changed under Chapter 12 to make it easier for farmers to meet the requirement. The purpose of the adequate protection requirement is to protect a creditor from a drop in the value of its security property before the reorganization plan is ultimately confirmed. Under Chapter 11 and 13 some courts have ruled that adequate protection requires compensating creditors for their "lost opportunity costs." In other words, creditors were able to receive payments equal to the liquidation value of their collateral and the income that might have been generated had the proceeds been reinvested. This requirement significantly hindered the ability of a farmer to achieve reorganization under Chapter 11 and 13 (Title 11 § 1205).

The new Chapter 12 specifically rejects the belief that a creditor should be compensated for any "lost opportunity costs." The house and senate conference report states that the new law "makes it clear that what needs to be protected is the value of property, not the value of the creditor's interest in property." Under Chapter 12 adequate protection for farmland can be provided by paying the creditor the reasonable rent customary for the community based on the rental value, net income, and the earning capacity of the property. For property other than farmland the farmer can provide adequate protection by making periodic cash payments for any decline in the property's value or by giving an additional or replacement lien on other property (Flaccus).

These new adequate protection requirements improve farmers' chances for approval of the reorganization plans they present. However, adequate protection payments usually only come into play during the time period between filing of the petition and a confirmation hearing (approximately 45 days). It does not mean that throughout the plan a farmer will only have to pay the rental value on farmland.

Chapter 12 Plan

Once the bankruptcy petition is filed the farmer has 90 days to present the plan of reorganization to the court. No one but the farmer can propose such a plan. After the plan has been filed the court has 45 days to confirm it. While both these time restrictions can be extended, the farmer is required to have a very good reason to request such an extension. Congress intended Chapter 12 bankruptcies to proceed quickly and most judges will probably not permit extensions. A plan can cover a three to five year period. This does not mean that all debts must be repaid within this period. A secured debt may be repaid over a much longer period of time. However, priority claims must be paid in full during the plan and unsecured creditors must be paid, at least the liquidation value of the assets during this time (U.S.G.A.O.).

Creditors under bankruptcy receive priority for repayment based on legal guidelines and collateral as follows (Barnes and Brake):

1. Priority: these claims are given special priority above all unsecured claims under the law. They include court expenses, legal fees, and taxes owed, and are required to be paid in full in a Chapter 12 plan.

2. Secured: these creditors have liens, mortgages, security or other interest in the debtor's assets that are "unavoidable" or not removable. They are secured to the extent of their claim, or in other words, up to the value of their claim but not more than the value of their collateral.

3. Unsecured: these creditors may have a legal claim against the debtor, but the claim is not satisfied by the value of the collateral, or there is no specific collateral, and the claim does not have priority. For example, a creditor may have a lien on the assets of a debtor, but the claim may

be for more than the court - determined value of the collateral. The portion of the claim that exceeds the value of the collateral will become unsecured debt; therefore a single creditor could have both a secured and unsecured portion of a single loan.

In addition, two or more creditors may have security in the same asset(s) of a debtor. The creditor who has the priority security or interest (i.e., A first mortgage versus a second mortgage, or a purchase money lien versus a blanket lien) will have first priority to payment from collateral proceeds. If the creditor with the priority interest has a claim which is equal to the full amount of the collateral value of the asset(s), all other subordinate claims on the asset(s) would become unsecured claims and would be paid as such (Barnes and Brake).

In some cases, state statutes or federal statutes create liens but some of these can be erased or set aside in bankruptcy. Creditors whose liens are avoided will be treated as unsecured creditors. Judicial liens (based on a court judgment) and nonpossessory, nonpurchase money security interests in the following types of exempt property may be set aside:

(1) Household goods, furnishings, clothing, jewelry, books, appliances, animals or crops held for personal, family or household use;

(2) Implements, professional books or tools of the debtor's trade; and

(3) Professionally prescribed health aids of the debtor or a dependent.

In agriculture, the primary impact of this rule concerns operating notes or other loans that list previously owned machinery and equipment as collateral. If the equipment is exempt property and the debtor is able to set aside the lien, the debtor will be able to keep the equipment free and clear of prior liens (Tilley, 1987).

Creditors under bankruptcy are paid in the order of classification. Secured creditors are paid within their class based upon collateral. For example, a creditor with a first mortgage on a debtor's property will receive priority over a debtor with a second mortgage on the same property. Unsecured creditors are paid as a group after priority and secured creditors. Secured creditors must receive the value of their collateral. Priority claims must be paid in full. Unsecured creditors must receive at least the share they would receive in a total liquidation of the debtor's assets. In some instances, where a debtor's liabilities far outweigh assets, unsecured creditors may receive little or no repayment (Flaccus).

Before confirming a plan the bankruptcy court must determine whether, over the course of the plan, all of the creditors will receive what they are entitled to under the law.

If any unsecured creditor objects to confirmation, the court can confirm the plan anyway after the debtor proves the unsecured creditors will either be paid the liquidation value of assets not pledged as collateral, or that the debtor is going to submit all of his or her "disposable income" (see below) for a three to five year period (depending on the life of plan) to a trustee who will then distribute it among the unsecured creditors.

"Disposable income" is defined as the income which is not needed to pay living expenses and expenses necessary for the continuation and operation of the farm.

When preparing the bankruptcy plan a farmer may decide that some property could be sold to reduce debt without jeopardizing the success of the reorganization. Under Chapter 12, a farmer can sell secured property with court approval.

Farmers will also be able to scale back while maintaining a viable operation by using those state laws which allow for a partial redemption of property, such as the homestead, because such state laws are binding on the bankruptcy court.

Obtaining Operating Money During Bankruptcy

One of the questions raised most frequently by farmers contemplating bankruptcy is how they will obtain operating money during the bankruptcy.

1. Cash collateral

In order to use the proceeds from the sale of collateral for operating expenses the farmer must request permission from either the creditor or the court. If the creditor does not agree to the use of the proceeds, the court may authorize their use as long as the creditor's interest in the collateral is protected. Interest in the collateral can be protected by giving the creditor a replacement lien in other property or by having the debtor provide payments to the creditor compensating for the use of the collateral (Flaccus).

2. New operating credit

During bankruptcy, loans for operating expenses or capital purchases may be available from conventional lenders if the farmer is able to show adequate security and repayment ability. However, the requirements lenders set for security and repayment ability may be tougher for farmers in bankruptcy than for others (Flaccus).

Role of Trustee

A bankruptcy trustee is involved in every Chapter 12 bankruptcy. The role of the trustee is to oversee the property and operation of the farm and to investigate any claims of fraud or mismanagement. While the powers of the trustees are broad, their main purpose is to collect the payments which must be distributed to creditors under the plan. The trustee must also file a state tax return for every Chapter 12 filed and must review quarterly reports sent by the farmer during the bankruptcy showing all income and expenses for that quarter (Title 11 § 1202).

To cover the trustee's administrative costs, the debtor must pay a trustee fee (generally 10 percent of the first $450,000 of plan payments and three percent of any payments made above that amount). In reality, some trustees will receive less than this because they have stated that they will not take more than what is necessary to cover their costs. It is also possible that a debtor's payments to secured creditors will be made "outside the plan" (paid directly to the creditor rather than through the trustee) to avoid paying the added trustee's fees on those payments. While the debtor may structure the payments to creditors in various ways to make payments both inside and outside of the plan, it is necessary that all plans provide for payments to the trustee which will compensate him or her for the costs incurred (Title 11 § 1202).

Plan Modification

The proposed plan can be modified before confirmation as long as the changes meet all of the same requirements of a plan mentioned above. A plan can be modified at the request of the farmer, the trustee, or a creditor after confirmation. The proposed modification can (1) increase or reduce the required payments, (2) extend or reduce the time for making the payments, or (3) alter the amount of the payment to be made to a creditor if that creditor's claim has been reduced through a payment from another source (ex. a co-debtor) (Title 11 § 1223).

This rule will be important for farmers who face future problems beyond their control like natural disasters or falling commodity prices, and which are beyond their ability to predict or plan, as by purchasing hail insurance. The rule may also help creditors where a farmer's assets increase during the years of the reorganization plan. Although in some cases, the plan does not have to be modified because the plan is flexible.

After the debtor has completed making payments under the plan, any remaining debts will be discharged -- except those payments to secured creditors which extend beyond the life of the plan and any debts which are not dischargeable. In addition, a debtor can receive a "hardship discharge" if he or she is unable to finish making the plan's payments because of circumstances beyond his or her control. This is available only if the unsecured creditors will receive no less than they would have received if a Chapter 7 liquidation had been filed and only if modification of the plan would be impractical (Title 11 § 1228).

Dismissal of Bankruptcy Cases

A creditor or the trustee can request that the court dismiss the bankruptcy for any of the following reasons:

(1) unreasonable delay or gross mismanagement of the farm by the debtor

(2) nonpayment of required bankruptcy fees and charges

(3) failure to file a plan within 90 days of the petition filing

(4) failure to make required payments

(5) denial of confirmation of a plan and denial of a request for additional time to refile or modify a plan

(6) default by the debtor on some term of the plan

(7) revocation of the order of confirmation and denial of confirmation of a modified plan

(8) termination of a continued plan because of the occurrence of some specified plan condition

(9) continuing loss to or depreciation of the bankruptcy estate and absence of any reasonable likelihood of rehabilitation (Title 11 § 1208).

CHAPTER II

LITERATURE REVIEW

There have only been four studies completed analyzing farm bankruptcy using actual data collected from the bankruptcy schedules filed by the debtor. The first study by Marcia Tilley (1991), analyzed 127 Oklahoma farm bankruptcy cases filed between 1982 and 1985. The cases included 79 Chapter 7 liquidation cases, 44 cases filed as Chapter 11 business reorganizations, and four Chapter 13 personal reorganization cases. She performed analyses to determine the financial situation and size of debtor farm operations, the types of creditors affected, and the relative financial position of each type of creditor involved in the farm bankruptcies. The financial situation of debtors was evaluated to determine if some financial variable might provide a key to the causes or likelihood of bankruptcy. Tilley also compared the bankrupt farms to Oklahoma and U.S. farms not in bankruptcy. One of the significant differences in the farms was in the debt level. The farms in bankruptcy had a higher debt level than the farms not in bankruptcy. Another difference was that the farms in the study reported 54 percent higher asset values than Oklahoma and Texas farms not in bankruptcy.

A second study by Janssen and Schmiesing (1987) contains an analysis of 219 Chapter 11 bankruptcy filings in South Dakota from 1980-1985 and documents the financial characteristics of producers and creditors. The primary data sources were the initial filing schedules for Chapter 11 reorganization bankruptcy. The schedules used were filed at the Federal Bankruptcy Court in Sioux Falls and represent filings for the entire state of South Dakota.

A discriminant function analysis was used to determine whether information contained on the initial bankruptcy filing could be used to forecast whether a reorganization plan would be eventually confirmed. Producers with large total debt levels, higher debt to asset ratios, higher grain, livestock and machinery inventory to total asset ratios, and higher farm real estate to total asset ratios were found to be more likely to eventually have confirmed plans. Although the discriminant model was statistically significant and was able to identify those filers that eventually had a confirmed plan, the model lacked an ability to determine which filings did not result in a reorganization plan.

These first two studies did not include any Chapter 12 filings, although, the cases in their studies were bankrupt farms filing under the different filing options. These studies were completed before the Chapter 12 filing option was enacted.

A third study by Barnes and Brake (1989) was a study of 56 Chapter 12 farm bankruptcy cases filed in upstate New York by late 1988. They used four of the six bankruptcy court locations for their study. The data were collected by examination of the bankruptcy court files. All Chapter 12 filings were examined, but information was not gathered from any case withdrawn or dismissed at the time of data collection. Data collection took place from July to November of 1988. A total of 56 cases were analyzed.

Also, Barnes and Brake chose six of the cases to provide additional in-depth information on when they had started farming, causes of problems, sources of information and help on bankruptcy, and how the bankruptcy plan was progressing. At the time of the study, it appeared two of the cases would be successful, two would not be successful and for two it was too early to predict.

A fourth study by Harl and Faiferlick (1988) surveyed the Chapter 12 bankruptcy experience in Iowa. Their results were based on a review of 165 Chapter 12 cases from the Northern and Southern Districts of Iowa filed from November 26, 1986, through April 30, 1987. In addition, a survey of the filing attorneys was conducted. Their survey results were compared with the results reported in the 1987 Iowa Farm Finance Survey and with recent research by Economic Research Service of the USDA. The authors concluded that Chapter 12 is having a significant effect not only on debtors' filing under the provision, but also on the negotiating process between lenders and borrowers not in bankruptcy. They found that Chapter 12 is reshaping the rules by which losses associated with loans in excess of diminished collateral values are borne.

Harl and Faiferlick's study concluded that the major reason debtors filed Chapter 12 bankruptcy was that the debtors had unmanageable real property debt and wished to take advantage of the write-down provisions of Chapter 12. The authors claimed that one of the arguments concerning Chapter 12 in general is whether creditors are taking a greater loss under Chapter 12 than under liquidation under Chapter 7 or liquidation out of bankruptcy. The bankruptcy code requires that creditors be paid at least as much as they would receive in liquidation.

CHAPTER III

PURPOSE AND PROCEDURES

Purpose of the Study

The purpose of this study is to provide factual information obtained from the farms in the Western District of Oklahoma which filed Chapter 12 bankruptcy during the time period from 1987 to 1989. This study will compare Chapter 12 bankruptcy to other existing bankruptcy options. Also, this study will examine the major characteristics of the farm applicants filing Chapter 12 bankruptcy.

This study may provide indications of possible causes or warning signs related to bankruptcy. Additionally, it may be useful in analyzing the impacts of bankruptcy as well as in evaluation of possible contributing factors to the bankruptcy.

Objectives

(1) To describe the financial situation and experience of Oklahoma farm debtors in Chapter 12 bankruptcy, including types of assets, asset values, number and type of creditors, types and amount of debt, and amount of secured and unsecured debt;

(2) Compare farms in the Western District of Oklahoma in bankruptcy to bankrupt farms in Iowa, New York and South Dakota; to see what key differences exist;

(3) Compare farms in the Western District of Oklahoma in bankruptcy to Oklahoma and U.S. farms not in bankruptcy to see what key differences exist;

(4) To describe the financial situation of various types of creditors, including frequency of claims, average amount of debt, and degree to which debts are unsecured; and

(5) To determine the percentage of the allowed secured and unsecured claims actually paid during the plan.

Data Collection Procedures

There are three bankruptcy courts in Oklahoma. The Western District Court is located in Oklahoma City. The Northern District Court is located in Tulsa. The Eastern District Court is located in Okmulgee. This study is based on the Chapter 12 cases filed at the Western District bankruptcy court in Oklahoma City. This court was chosen because the majority of the Chapter 12 cases filed in Oklahoma are filed in the Western District. Some of the farms in the study were actually located outside of the Western District. These cases were included because they were filed in the Western District.

Data from 229 Chapter 12 farm bankruptcies filed in the Western District of Oklahoma between 1987 and 1989 were analyzed. This included 86 closed cases and 143 cases in the plan process. All of the cases were Chapter 12 farm bankruptcies. Collection of the data involved examination of the bankruptcy court files through on-site visits. The data collection took place from July, 1990 through July, 1991.

The data from the closed cases were obtained by using the docket sheets found in the bankruptcy clerks office. Once a case in the Western District is closed, the actual court records are sent to the Federal Records Center in Fort Worth, Texas for storage. The only record of the case is the docket sheet. There is only limited information on the docket sheet. There is no financial information listed. The docket sheet only lists the name and address of the debtor, the date of filing, the bankruptcy Chapter filed, the debtor's attorney's name and address, and a brief description of each of the pleadings in the court proceedings. There is a twenty-five dollar charge to have the case file returned to Oklahoma City or one can go to Fort Worth to the Federal Records Center and examine the files. One trip was made to Fort Worth to examine ten of the closed cases that had completed their plan and the debtors had been discharged.

Data from the open cases were obtained from the actual bankruptcy schedules filed by the debtor which listed secured and unsecured debt amounts and the creditors to whom these debts were owed, the types and value of collateral, the types and value of real and personal assets owned, as well as other information. Although this information is supplied by the debtor, its reliability is improved by the fact that the debtor signs an oath that it is correct to the best of his/her knowledge. Intentional failure to accurately disclose debts and assets may be grounds for dismissal of the bankruptcy case or refusal of a discharge of debt at the end of the bankruptcy.

The schedules were contained in a file that included the original legal documents obtained from the bankruptcy court proceedings. Many cases had more than one file. Some cases had as many as four files. Each case was examined individually. The data were transferred to a form that was developed with the help of Marcia Tilley. A copy of the form is located in the appendix. Since each case was examined in great detail, the data collection was time consuming. It took approximately one to two hours per case to examine all of its' files. Some cases involved multiple files for one operation. It was difficult to classify or split the debts and assets to the appropriate file.

Analyses were performed to determine the financial situation and size of debtor farm operations, the types of creditors affected, and the relative financial position of each type of creditor involved in the farm bankruptcies.

CHAPTER IV

RESULTS

Summary of Filing and Case Status

Information from bankruptcy clerk records show that 406 Chapter 12 cases were filed in Oklahoma from 1987 through 1990. The counties included in each of the bankruptcy court districts are shown in figure 1. The distribution of cases filed by year and by bankruptcy court district is illustrated in table I. Approximately three-fourths of the cases were filed in the Western District which is located in Oklahoma City. It should be noted, that the number of Chapter 12 bankruptcy cases filed in Oklahoma declined from 207 in 1987 to 55 in 1990.

This study focuses on the Western District of Oklahoma since the majority of the cases were filed in that district. The status of cases filed from 1987 to 1989 is summarized in table II. A total of 259 cases were filed during that time period. Of the 259 cases filed, only 188 plans were filed. A total of 148 plans were confirmed. As of July 15, 1991, only 30 cases had been successfully completed while 84 cases had been dismissed.

At the time of this study, six of the bankruptcy cases filed had been converted to another type of bankruptcy.

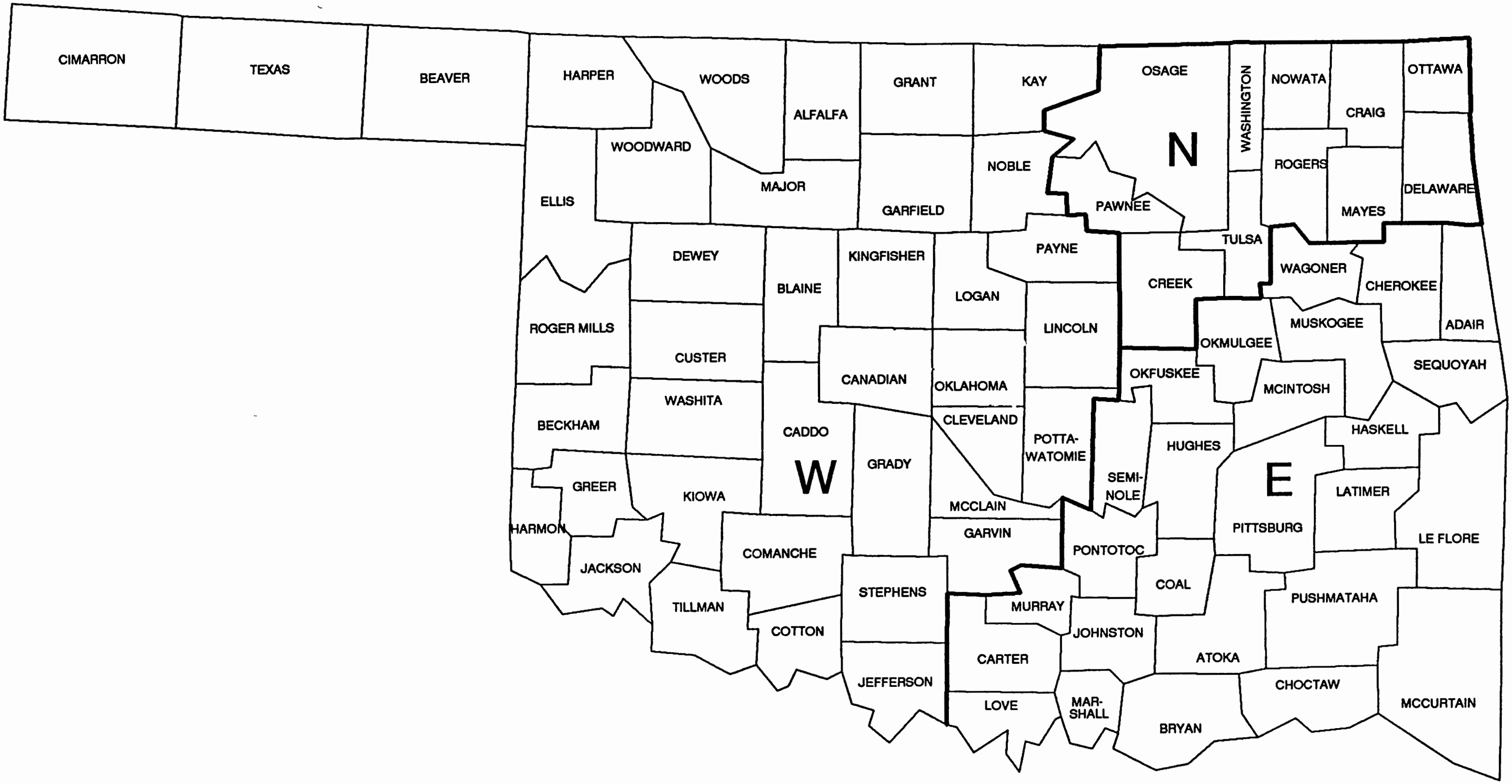

Figure 1. United States District Bankruptcy Courts

TABLE I

OKLAHOMA CHAPTER 12 FILINGS BY YEAR

Location	Number of Cases Filed Each Year 1987	1988	1989	1990	Total
Oklahoma City	153	52	54	36	295
Tulsa	14	6	5	2	27
Okmulgee	40	18	9	17	84
TOTAL	207	76	68	55	406

TABLE II

SUMMARY OF CASES IN WESTERN
DISTRICT OF OKLAHOMA

	1987	1988	1989	Total
Number Cases Filed	153	52	54	259
Number Plans Filed	108	42	38	188
Number Plans Confirmed	83	33	32	148
Number Plans Completed[a]	30	0	0	30
Number Cases Converted	4	2	0	6
Number Cases Dismissed	54	17	13	84
Reasons for Dismissal				
Failure to Qualify as Family Farmer	5	0	0	5
Failure to File Plan	2	0	1	3
Failure to Confirm Plan	15	1	0	16
Failure to Make Payments	6	2	1	9
Motion Made by Debtor	14	12	8	34
Other	12	2	3	17

[a]As of July 15, 1991.

Conversions and dismissal of cases can occur at any stage of the bankruptcy process.

Table II also contains the reasons for case dismissal. These reasons included failure to qualify as a family farmer, failure to file a plan, failure to confirm a plan, failure to make timely payments, motion for case to be dismissed filed by debtor, and other reasons (motions by creditors, etc.). The most frequently cited reason was dismissal by the debtor (34 cases). Sixteen cases were dismissed because of failure to confirm a plan.

Summary of the Assets and Exemptions

The data set used in this study included 143 cases. Of the 143 cases, 113 were in the plan process and 30 cases had fulfilled the plan requirements as of July 15, 1991, and were discharged.

The components of the assets claimed by the debtors in their initial schedules are summarized in table III. Real estate was listed by 141 of the 143 cases. The average value of real estate was $199,573. Real estate, the major component of total asset value, constituted 65 percent of the value of the assets listed. Livestock was listed in 131 of the 143 cases. It comprised 10 percent of the total asset value. Farm machinery and equipment accounted for an additional 13 percent of total asset value. The total amount of assets for the cases was $43,402,645. The average total assets in the cases was $302,980.

TABLE III

COMPONENTS OF ASSETS AND EXEMPTIONS

	Components of Assets			
	Total	# Cases Reported	% Total Assets	Average
Real Estate	28,139,768	141	65	199,573
Livestock	4,370,738	131	10	46,497
Machinery	5,828,907	134	13	43,499
Household Goods	414,477	136	1	3,048
Autos	1,400,854	135	3	10,377
Crops/Feed	945,568	60	2	15,759
Insurance	76,023	12	.2	6,335
Clothes/Jewelry	154,585	132	.4	1,171
Books/Pictures	22,325	20	.1	116
Farm Supplies	80,354	16	.2	10,045
Office Equip.	4,735	18	0	263
Other Machinery	269,960	12	.6	22,497
Other	85,392	16	.2	5,337
Cash	68,061	85	.2	801
Deposits	625,574	81	1	7,723
Liquidated Debt	321,543	16	.7	20,096
Annuities	52,803	5	.1	10,561
FLB Stock	172,676	14	.4	12,334
Coop. Stock	148,925	17	.3	8,760
Other Stock	31,650	9	.1	3,517
Boats	11,900	14	.3	850
Bonds	10,358	2	.2	5,179
Cont. Debt	58,640	2	.1	29,320
Partnership Int.	31,000	2	.1	15,500
Future Int.	75,529	1	.2	75,529
Total	43,402,645	143	100	302,980

	Components of Exemptions			
	Total	# Cases Reported	% Claimed Exempt	Average
Real Estate	6,526,389	89	23	73,330
Livestock	319,352	49	7	6,517
Machinery	1,639,305	119	28	13,776
Household Goods	376,027	130	91	2,893
Autos	470,797	121	34	3,891
Crops/Feed	110,549	21	12	5,264
Insurance	49,472	6	65	8,245
Clothes/Jewelry	136,615	123	88	1,111
Books/Pictures	2,900	7	13	414
Farm Supplies	52,647	7	66	7,521
Office Equip.	200	2	4	100
Other Machinery	266,645	23	99	11,593
Other[a]	207,226	42	12	4,934
Total	10,158,124	139	23	73,624

[a]Includes: cash, deposits, liq. debt, annuities, stock, boats, bonds, cont. debt, partnership int., future int.

A word of caution should be mentioned concerning the asset listings since some assets may have been liquidated or transferred to creditors prior to filing bankruptcy. In particular, the livestock number may be lower than would normally be found in these operations because livestock are fairly easily converted into liquid assets to pay creditors. Also, in cases where no land is owned, it is not always possible to tell whether the farmer was renting all of his/her land or whether the land was lost through foreclosure or deed in lieu of foreclosure prior to the bankruptcy. Despite these weaknesses, the data can still tell us something about the type and size of operations.

Table III also contains the components of the exemptions claimed in the filing schedules. In Oklahoma, exempt assets include: 1) equity in the homestead (a home and up to 160 acres of rural land), 2) up to $3000 equity in a motor vehicle, 3) household and kitchen furniture, books, pictures, jewelry, clothing, one gun, a burial plot, 4) certain livestock held primarily for personal, family or household use and provisions on hand or growing for home consumption and for use by exempt stock for one year, 5) tools and books used in any trade or profession and implements of husbandry necessary to operate the homestead (maximum value $5000), 6) prescribed health aids, 7) debtor's right to receive alimony and child support, 8) 75 percent of current wages and earnings from services during the last 90 days, and 9) claims for personal bodily injury, death or worker's compensation up to $50,000 but excluding punitive damages (Title 31 §§ 1 et seq.).

In 1987, the Oklahoma legislature modified exemption statutes to limit the machinery and equipment exemption to a maximum of $10,000 if the equipment was pledged as collateral. Before that time, bankruptcy laws allowed debtors to claim all machinery and equipment used upon the homestead as exempt and to set aside non-purchase money liens on exempt equipment. In some cases, property was listed as exempt eventhough liens were attached which could not be set aside. Clothes and jewelry and household goods were not claimed exempt in all cases, eventhough such exemptions are allowed. In other cases exemptions beyond those allowed by law were claimed.

Twenty-three percent of total real estate value was claimed to be exempt. Machinery represented the second largest exempt value. Although 34 percent of the cases claimed some exempt livestock this exemption represented only seven percent of total livestock value.

Although most property is generally retained in Chapter 12 cases whether or not exempt, exemptions are important because they determine the amount of assets available to unsecured or undersecured creditors. There was very little documentation in the bankruptcy files of challenges to claimed exemptions.

Summary of Income and Expenses

As part of the plan process, debtors estimate farm and non-farm income and expenses and family living for the plan period. The income sources and expense items estimated by the debtor are outlined in table IV. Crop sales were listed in 80 percent of the cases. These crop sales accounted for 41 percent of gross farm income. The average crop sales value was $51,403. Livestock sales and cattle fed were other major components of farm income. Sixty-five percent of the farms had income from livestock sales or cattle fed. Livestock sales and cattle fed accounted for 41 percent of gross farm income. Of the 143 farms, 69 percent claimed that they received government payments. The average government payment was $19,944. These government payments constituted 14 percent of the gross farm income. Only about five percent of the farms had mohair or dairy sales and their sales accounted for 8 percent of gross farm income. The average total farm gross income was $112,854.

Non-farm income included off-farm wages, social security, and custom work. Seventy-nine percent of the farms listed non farm income. Forty-five percent of the cases had off-farm wage income. The average wage was $15,010 per farm. Approximately 33 percent of the debtors claimed custom work as a non-farm income source. Wages and custom work each accounted for 28 percent of non-farm income. Other components of non-farm income were self-employment (12 percent), rent (11

TABLE IV

SUMMARY OF INCOME AND EXPENSES

	Income # Cases	Income Average		Expenses # Cases	Expenses Average
Crop Sales	114	51,403	Labor	83	8,016
Wheat Pasture	11	18,914	Repairs	118	6,452
Lvstk Sales	86	48,263	Seed	101	3,055
Mohair/Wool	10	7,724	Fert.	118	8,889
Milk/Dairy	7	167,119	Chem.	37	2,392
Gov. Pymts.	98	19,944	Mach. Hire	79	7,971
Cattle Fed	21	41,767	Fuel/Lube	114	6,655
Breed Stock	6	6,026	Taxes	114	2,118
CRP Amt.	2	3,350	Insurance	108	2,729
Total Farm	128	112,854	Rent	85	9,410
			Gin/Storage	15	3,199
Wages	65	15,010	Irrigation	6	8,104
Rental Inc.	29	13,635	Feed	81	8,739
Int./Div.	15	2,173	Vet	54	1,955
Royalties	33	8,858	Equip Pymt.	22	12,255
Social Sec.	13	5,667	Supplies	75	2,335
Pension	1	4,500	Utilities	96	2,879
Self-employ	4	103,523	Services	30	1,087
Custom work	47	21,038	Custom Work	14	3,146
Other	19	9,060	Spraying	7	3,012
Total Nonfarm	113	31,360	Maintenance	5	6,359
			Other	51	3,317
Total Income	131	143,862	Lvstk. Exp.	35	51,377
			Farm Vehicles	22	6,419
			Income Tax	22	2,720
			NonFarm Bus.	3	110,375
			Total Exp.	129	82,591
			Family Living	140	21,419

percent), and royalties (8 percent). The average non-farm income per farm was $31,360. Non-farm income was 20 percent of the total income. The average total income per farm was $143,862.

Table IV also contains the breakdown of production expenses. The average total expense per farm was $82,591. Major expenses included fertilizer and chemicals (11 percent), livestock and feeder animals (26 percent), feed (7 percent), rent (8 percent), fuel (7 percent), and repairs (7 percent). Labor and machine hire expenses each accounted for 6 percent of total expenses.

The average family living expense was $21,419. Family living expenses included food, clothing, education, transportation, insurance, etc. Primary components of family living expenses were food (17 percent), insurance (14 percent), utilities (11 percent), and transportation (18 percent). In many cases, transportation appear to include car payments.

Summary of Data from All Plans Confirmed

The data from the cases which includes the creditors that filed claims, the number claims each creditor filed, and the amount of secured and unsecured debt listed by the debtor in their schedules is shown in table V. This table refers to the 143 cases used in the data set. Generally, a debt is listed as secured in the schedules, if it was originally secured even though it may be partially unsecured. Average term and

TABLE V

SUMMARY OF DATA FROM THE 143 PLANS CONFIRMED IN THE DATA SET

	N	Num. Claims	Amount Claimed in Schedules: Secured	Unsecured	Total	Amount Allowed in Plan: Secured	Unsecured	Total	Total Abandoned to Creditor in Plan	Total New Note Amount	Average Term of Repayment in Plan (Years)	Average Interest Paid in Plan	Average Annual Payment Made in Plan
FLB	78	78	17,197,502	419,178	17,616,680	11,687,743	4,208,344	15,896,087	686,918	11,000,825	25.9	.099	16,471
PCA	7	7	2,226,434	26,889	2,253,323	1,812,597	195,646	2,008,243	175,211	1,637,386	13.7	.095	41,417
FmHA	89	89	21,436,638	2,079,310	23,515,948	6,063,448	7,528,986	13,592,434	164,319	5,899,129	21.8	.068	8,450
Comm. Banks	113	146	25,262,688	2,174,540	27,437,228	9,355,090	8,623,876	17,978,966	1,238,273	8,116,817	13.8	.092	13,352
FDIC	27	27	4,750,824	791,573	5,542,397	895,433	2,696,831	3,592,264	87,655	807,778	10.8	.088	7,393
SBA	24	24	1,786,811	59,140	1,845,951	391,557	1,134,923	1,526,480	4,000	387,557	20.9	.056	3,686
Insur.	33	38	3,209,056	949,693	4,158,749	3,440,010	513,294	3,953,304	632,735	2,807,275	19.0	.092	21,513
S & L	15	15	1,399,325	25,900	1,425,225	420,431	62,456	482,887	134,500	285,931	11.3	.098	5,688
Individual	77	97	2,912,582	1,200,215	4,112,797	1,897,439	358,184	2,255,623	200,051	1,697,388	19.9	.083	7,076
Auto Fin.	45	50	421,953	57,035	478,988	365,316	48,106	413,422	120,578	244,738	6.4	.088	2,692
Car Dealer	7	8	32,615	8,557	41,172	12,010	---	12,010	---	12,010	2.7	.10	3,391
Nat'l Equip.	52	61	629,081	525,785	1,154,866	482,167	62,961	545,128	100,627	381,540	5.3	.094	4,565
Equip. Dealer	40	63	111,771	165,014	276,785	124,599	40,733	165,332	36,500	88,099	7.2	.083	2,438
Land Comm.	34	34	1,983,051	---	1,983,051	2,152,661	97,688	2,250,349	163,777	1,988,884	23.2	.079	5,708
NonFarm	13	28	5,568	114,466	120,034	22,316	937	23,253	458	21,858	20	.09	2,966
Other	48	56	1,270,084	311,897	1,581,981	1,035,568	126,034	1,161,602	168,198	867,370	9	.08	9,232
Coop.	52	77	17,644	853,934	871,578	66,232	63,815	130,047	45,651	20,581	3	.085	1,057
Prof.	30	43	---	140,147	140,147	162,765	600	163,365	0	162,765	2.6	.075	2,018
Supplier	71	222	---	892,630	892,630	23,900	203,578	227,478	22,550	1,350	.5	.075	1,400
Utility	15	24	---	32,441	32,441	---	4,500	4,500	---	---	---	---	---
Dept. Chain	21	34	---	21,063	21,063	---	9,681	9,681	---	---	---	---	---
Credit Card Co.	30	65	---	132,416	132,416	---	2,904	2,904	---	---	---	---	---
Medical	33	81	---	96,703	96,703	---	5,883	5,883	---	---	---	---	---
Mtg/Fin.	14	14	306,152	132,213	438,365	---	---	---	---	---	---	---	---
Priority[a]	82	82	342,931	---	342,931	425,965	---	425,965	---	425,965	---	---	---
TOTAL	143	1,463	85,302,710	11,210,739	96,513,449	40,837,247	25,989,960	60,827,207	3,982,001	36,855,246	19.6	.088	34,564

[a]Priority claims are not secured, but are paid in full in the plan.

interest rate are weighted by the amount of debt. Federal Land Bank filed claims in 55 percent of the 143 cases, FmHA filed claims in 62 percent of the cases, and commercial banks filed claims in 79 percent of the cases. Note that during the time of this study, FLB and PCA were combined under the Farm Credit Administration (FCA). In the later cases of the study, the FCA study claims were classified as FLB claims if they involved land. The total debt the debtors' claimed in their schedules was $96,778,380.

The amount of secured and unsecured debt allowed in the plan is also shown in table V. FLB, FmHA, and commercial banks still have the largest allowed secured claims. Unsecured debt allowed in the plan will only be paid if there is sufficient disposable income or if there are some assets not pledged to creditors. The unsecured debt allowed in the plan includes undersecured debt. Some unsecured claims were not allowed because creditors did not file a claim. This may have occurred because they did not anticipate payment.

Federal Land Bank had $17,616,680 total debt claimed in the schedules, but only $15,896,087 total debt allowed in the plan. Only 66 percent of the total Federal Land Bank debt listed in the schedules was allowed as secured in the plan. FmHA had $23,515,948 total debt claimed in the schedules, but only $13,592,434 total debt allowed in the plan. Only 26 percent of the total FmHA debt listed in the schedules was allowed as secured debt in the plan. Thirty-four percent of the commercial bank debt listed by the debtors was allowed secured in the plan. School Land Commission on the other hand, had a larger total debt allowed in the plan than the total debt claimed in the schedules. They had only $1,983,051 claimed in the schedules, but $2,152,661 allowed in the plan. The total debt claimed in the schedules for all of the 143 cases was $96,513,449. The total debt allowed in the plan for all of the cases was $60,827,207. Forty-two percent of the total debt claimed in all of the case schedules was allowed as secured debt in the plan. Also, 67 percent of the total debt allowed in the plan was secured.

Payment plans include abandoning assets to creditors and/or modifying term, interest rate and principal on the existing debt. The total abandoned to creditors and, the modified term, interest rate, and principal that the debtors plan to repay to the creditors is illustrated in table V. Table V also contains the average annual payment made to each type of creditor. Of the $40,837,247 total secured debt allowed in the plan, $3,982,001 was abandoned to creditors and $36,855,246 was paid in installments, generally under new loan terms. Only nine percent of the debtors' total assets were abandoned to their creditors. The average term of repayment varied depending on the type of loan. For example, real estate loans tended to be for a longer term than equipment loans. The overall weighted average term of repayment for the loans was 19.6 years. The overall average interest rate paid in the plan was nine percent.

Figure 2 illustrates the share of the total debt held by each type of creditor. Commercial banks held 28.4 percent of the total debt, followed by Farmers Home Administration (24.3 percent), Federal Land Bank (18.2 percent), and FDIC (5.7 percent).

Figure 3 illustrates the creditor's share of the secured debt actually allowed in the plan. Since unsecured creditors received nothing in many cases, this graph approximates the share of total payments awarded to creditors. Federal Land Bank held 28.6 percent of the secured debt followed by commercial banks (22.9 percent), Farmers Home Administration (14.8 percent) and Insurance (8.4 percent). Federal Land Bank, insurance companies and the School Land Commission, held a larger proportion of the allowed secured debt than they held of the total debt because they were more nearly fully secured than other creditors.

Figure 4 illustrates the difference between the debt claimed by the debtor and the allowed secured debt for the various types of creditors. The School Land Commission and priority were allowed more secured debt in the plan than was claimed by the debtor. This could be caused by the debtor not knowing the correct amount of the debt (perhaps because of uncertainty of the amount of interest accrued). Controversies sometimes also arise between the debtor and creditors as to the actual amount of the debts owed. These controversies are resolved in the bankruptcy proceedings. FmHA, Commercial Banks, FDIC, and suppliers held the most unsecured positions.

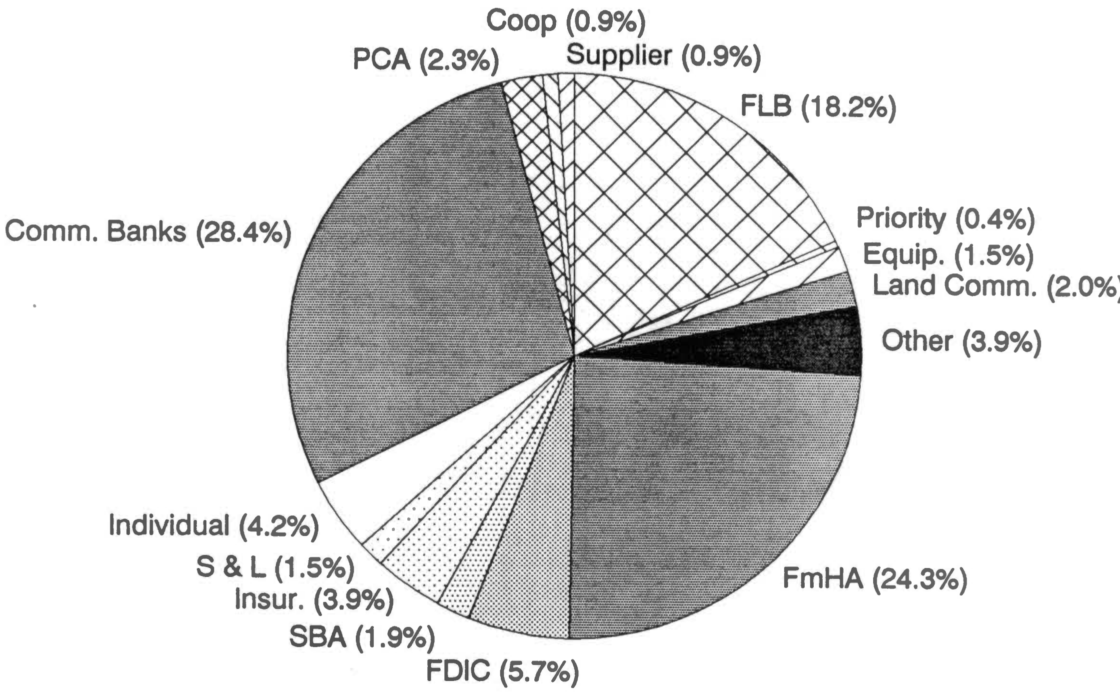

Figure 2. Creditor's Share of Total Debt for All Cases

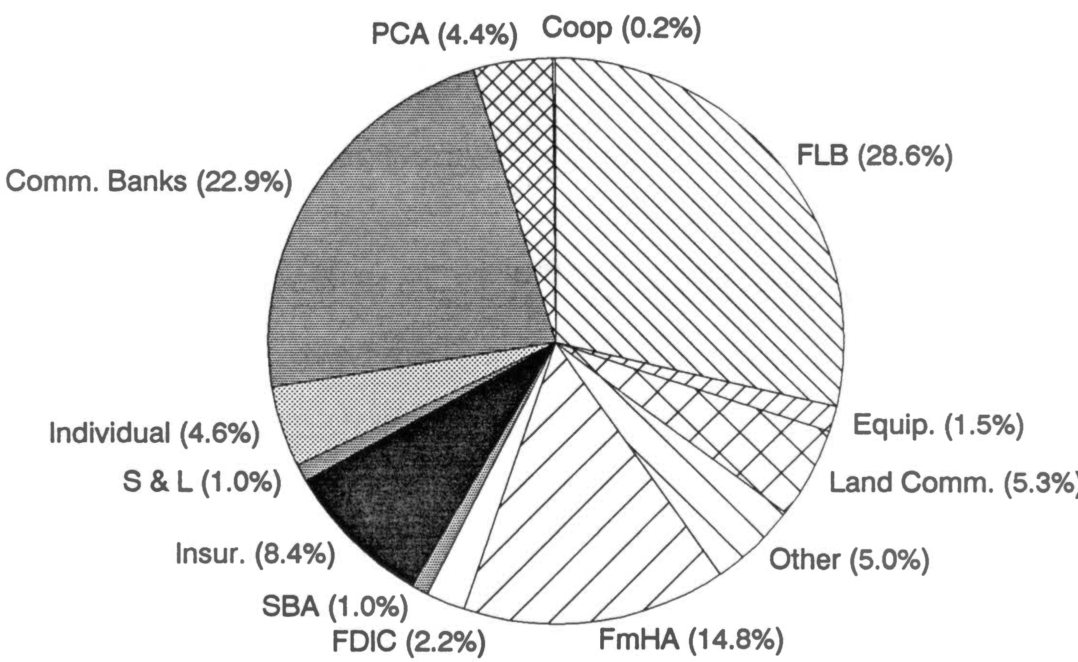

Figure 3. Creditor's Share of Allowed Secured Debt for All Cases

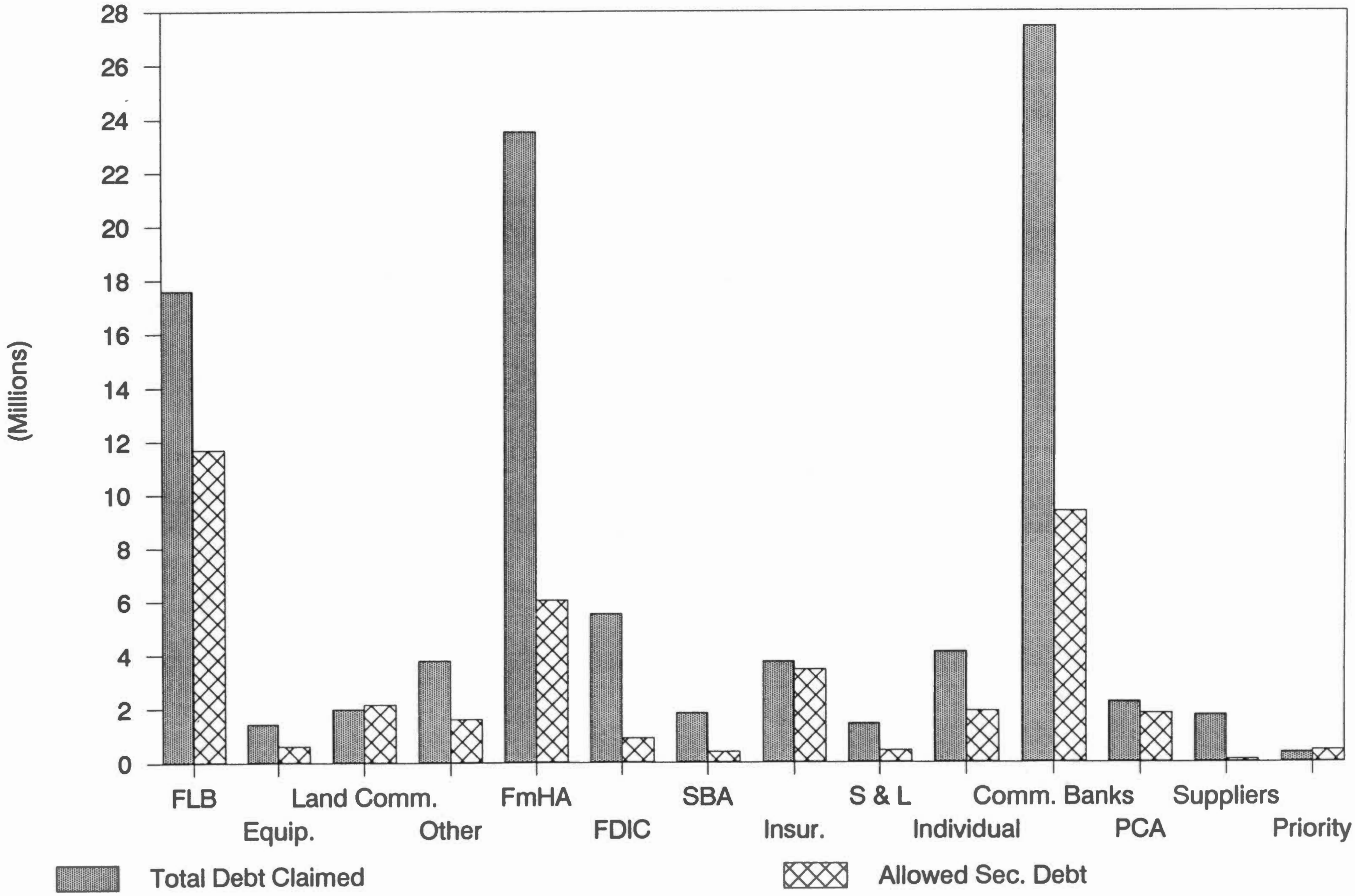

Figure 4. Claimed Debt Versus Allowed Secured Debt by Type of Creditor for All Cases

Summary by Crop Reporting Districts

The counties that are located in the nine crop reporting districts in Oklahoma are shown in figure 5. The data from the 143 cases in the data set by crop reporting districts is summarized in table VI. Crop reporting district four had the largest number of cases filed. The number of cases filed ranged from one in district eight to 63 in district four. The number of plans filed ranged from one in district eight to 48 in district four. District four also had the largest number of plans completed.

The average total debt claimed by the debtors ranged from $415,241 in district one to $950,640 in district seven. The average allowed secured debt in the plans ranged from $127,543 in district one to $647,143 in district nine. The actual unsecured debt is the difference between total debt claimed and the secured debt allowed in the plan. The average actual unsecured debt ranged from $197,850 in district nine to $475,939 in district five.

The average farm income ranged from $12,000 in district nine to $183,012 in district seven. The average non-farm income ranged from $14,428 in district five to $35,218 in district two. Districts six and nine had the highest average livestock values while district seven had the lowest average livestock value.

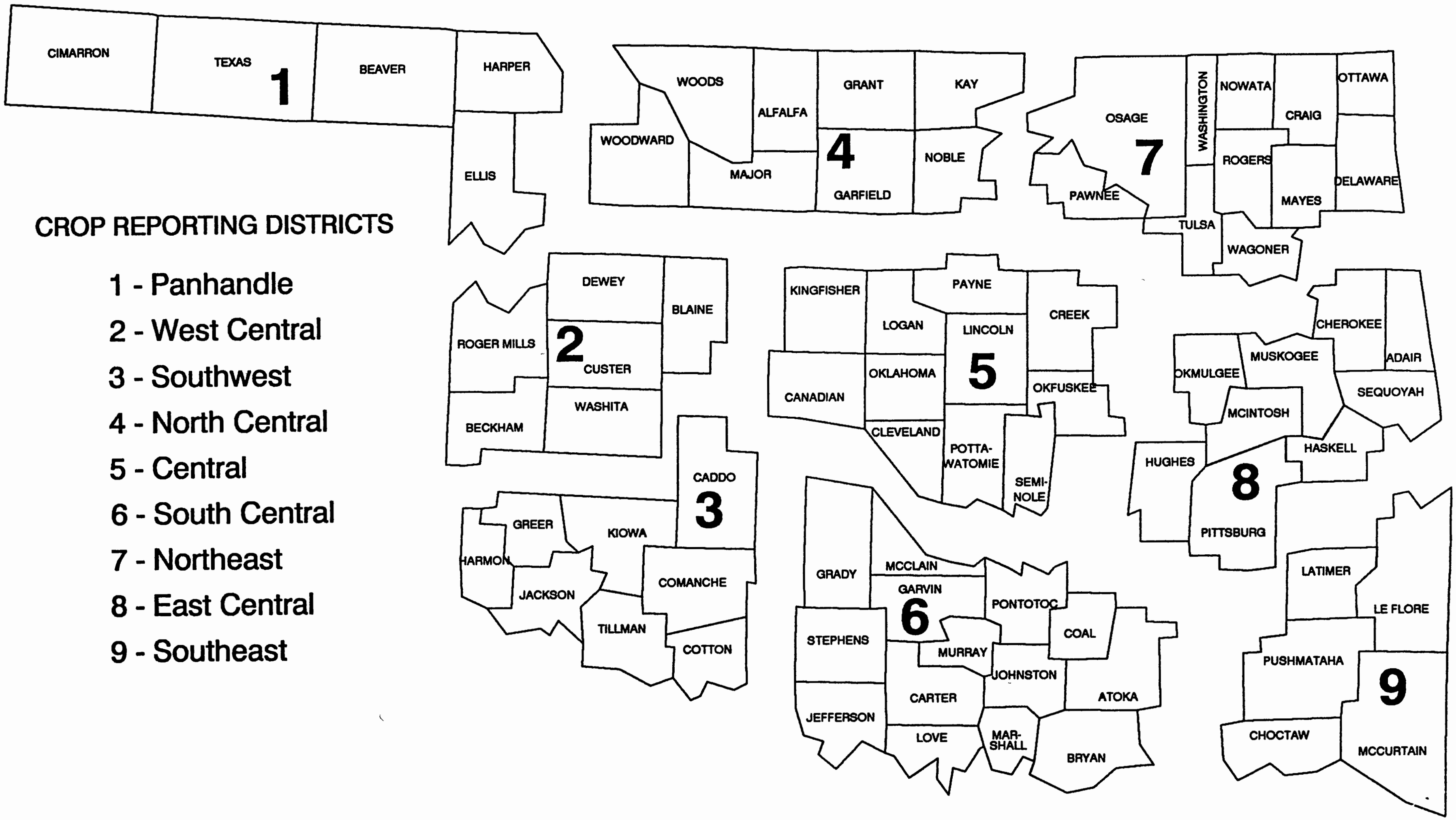

Figure 5. Crop Reporting Districts

TABLE VI

SUMMARY BY CROP REPORTING DISTRICTS

	1	2	3	4	5	6	7	8	9
Number Cases Filed	13	36	47	63	29	37	2	1	4
Number Plans Filed	11	36	37	48	21	30	2	1	3
Number Cases Completed	1	5	8	11	1	3	---	---	1
Cases in Data Set	8	31	28	37	12	21	2	1	3
Avg. Year Began Business	1960	1959	1959	1960	1958	1965	1953	---[a]	1981
Avg. Acres Owned	553	529	483	479	331	531	2,202	---[a]	908
Avg. Acres Operated	1,003	913	803	780	544	594	3,117	---[a]	908
Avg. Total Assets	174,360	363,199	282,599	283,137	221,788	268,627	644,062	---[a]	744,293
Avg. Value Livestock	12,528	32,082	19,834	22,907	25,176	50,004	125	---[a]	173,333
Avg. Sec. Debt Claimed by Debtor	381,406	745,452	525,656	541,155	540,874	559,752	914,009	---[a]	842,259
Avg. Unsec. Debt Claimed by Debtor	31,906	67,257	99,349	85,556	103,653	75,723	36,632	---[a]	2,733
Avg. Total Debt Claimed	415,241	814,742	625,926	630,961	645,600	635,940	950,640	---[a]	844,993
Avg. Sec. Debt Allowed in Plan	127,543	359,079	267,335	268,772	169,660	225,987	511,362	---[a]	647,143
Avg. Unsec. Debt Allowed in Plan	144,600	227,509	124,895	228,654	60,122	139,665	376,985	---[a]	201,006
Avg. Actual Unsecured Debt	287,698	455,662	358,590	362,190	475,939	409,952	439,279	---[a]	197,850
Avg. Total Allowed Debt in Plan	272,143	586,588	392,230	497,426	229,782	365,652	888,347	---[a]	848,149
Avg. Farm Income	54,770	134,412	109,302	121,525	109,435	102,133	183,012	---[a]	12,000

TABLE VI (Continued)

	1	2	3	4	5	6	7	8	9
Avg. Non-Farm Income	24,228	32,218	29,919	25,090	14,428	23,487	23,300	---[a]	19,200
Avg. Farm Expenses	33,022	102,596	69,234	82,756	74,998	75,463	91,432	---[a]	4,000
Avg. Family Living Expenses	15,617	28,400	23,508	22,120	15,731	20,523	23,658	---[a]	13,380

[a]Insufficient data to report average.

Summary of Data from Completed Plans

The summary of data from the plans successfully completed as of July 15, 1991, is shown in table VII. At that time, 30 plans had been completed and the debtors had been discharged. The table lists the amounts of the secured and unsecured claims listed in the debtors' schedules at the time of filing for bankruptcy. It also lists the amount of secured and unsecured debt allowed in the debtors' plans. The table also lists the amount of collateral that was abandoned to each creditor and the total of the new mortgages made by each creditor.

FLB had a total of $3,915,173 debt claimed in the schedules, but their allowed secured claims in the plan totaled only $2,622,631. About 67 percent of their claimed debt was allowed in the plan. Only 25 percent of FmHA's claimed debt was allowed secured debt in the plans. Commercial banks had a larger total debt allowed in the plans than the total debt amount listed for them in the debtors' schedules.

The total debt claimed in the schedules for the 143 cases in the data set was $96,513,449. The total debt claimed in the schedules for the 30 completed cases was $16,141,277. Therefore, 17 percent of the total debt claimed in the schedules belonged to the 30 completed cases. Also, 19 percent of the secured debt allowed in all plans belonged to the 30 completed plans. Thus, the creditors in these cases

TABLE VII

SUMMARY OF DATA FROM THE
30 COMPLETED PLANS

	Amount Claimed in Schedules			Amount Allowed in Plan			Total Abandoned to creditor	Total New Note Amount
	Secured	Unsecured	Total	Secured	Unsecured	Total		
FLB	3,915,173	---	3,915,173	2,622,631	925,955	3,548,586	188,690	2,433,941
PCA	102,750	---	102,750	56,159	---	56,159	---	56,159
FmHA	4,477,576	---	4,477,576	1,097,151	2,756,384	3,853,535	55,763	1,041,388
Comm. Banks	2,226,956	92,511	2,319,467	1,572,407	2,786,119	4,358,526	295,681	1,276,726
FDIC	994,619	---	994,619	192,805	1,954,878	2,147,683	24,100	168,705
SBA	83,379	---	83,379	---	50,000	50,000	---	---
Insurance	1,090,862	248,454	1,339,316	813,613	166,483	980,096	137,807	675,806
S & L	53,428	---	53,428	---	---	---	---	---
Individual	329,922	435,199	765,121	135,563	25,029	160,592	6,000	129,563
Auto Fin.	81,876	6,012	87,888	69,163	24,108	93,271	41,288	27,875
Car Dealer	---	267	267	---	---	---	---	---
Nat. Equip.	126,297	132,493	258,790	101,644	929	102,573	15,541	86,103
Equip. Dealer	77,945	21,474	99,419	86,861	7,545	94,406	36,500	50,361
Land Comm.	530,914	---	530,914	687,948	97,688	785,636	100,475	587,473
Nonfarm	---	9,097	9,097	---	937	937	---	---
Other	598,879	5,000	603,879	429,100	95,894	524,994	130,210	298,890
COOP	---	255,375	255,375	15,480	---	65,744	15,480	---
Prof.	---	2,873	2,873	42,909	50,264	42,909	---	42,909
Supplier	---	184,943	184,943	23,900	---	23,900	22,550	1,350
Utility	---	378	378	---	---	---	---	---
Dept. Chain	---	14,689	14,689	---	9,681	9,681	---	---
Credit Card Company	---	29,531	29,531	---	1,814	1,814	---	---
Medical	---	6,631	6,631	---	1,279	1,279	---	---
Mtg/Finance	---	5,774	5,774	---	---	---	---	---
Priority[a]	---	---	---	12,334	---	12,334	---	---
TOTAL	14,690,576	1,450,701	16,141,277	7,959,668	8,954,987	16,914,655	1,070,085	6,877,249

[a]Priority claims are not secured, but are paid in full in the plan.

were slightly more secured than creditors in all Chapter 12 cases.

The average total debt claimed per case for the 30 completed cases was $538,043. The average total debt claimed per case for the 143 cases was $676,772. Therefore, the average total debt claimed for the 30 completed cases was less than the average total debt claimed for the 143 cases. Also, 41 percent of the total debt claimed by the 30 completed cases was actually allowed secured in the plan. Of the $7,959,688 allowed secured debt in the plans, $1,070,085 was abandoned to creditors and $16,914,655 was paid to the creditors in the form of a mortgage. Twelve percent of the debtors' total assets were abandoned to the creditors.

Figure 6 illustrates the share of the total debt for the completed cases by each type of creditor. FmHA held 27.7 percent of the total debt, followed by Federal Land Bank (24.3 percent), and commercial banks (14.4 percent).

Figure 7 illustrates the creditor's share of the secured debt actually allowed in the plans for the completed cases. Federal Land Bank held 31.3 percent followed by commercial banks (18.8 percent), and FmHA (13.1 percent).

Figure 8 illustrates the difference between the claimed debt and the allowed secured debt for the completed cases for the various types of creditors. School Land Commission was allowed more secured debt in the plan than was claimed by the debtor. Small Business Administration and Savings and Loans were not allowed any secured debt in the plan.

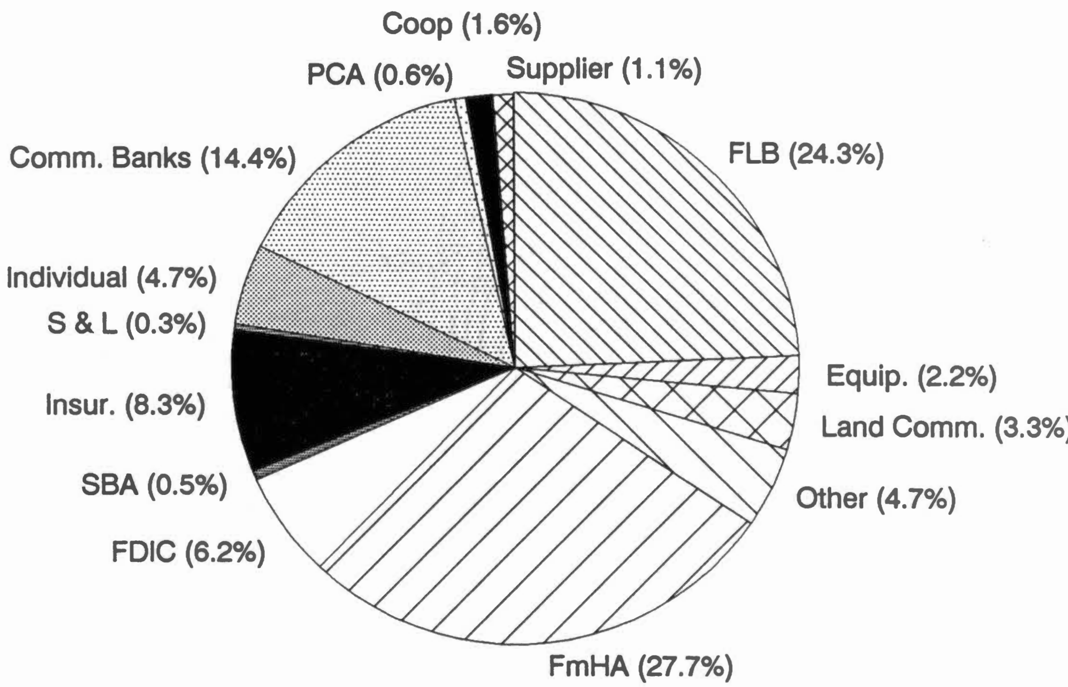

Figure 6. Creditor's Share of Total Debt for Completed Cases

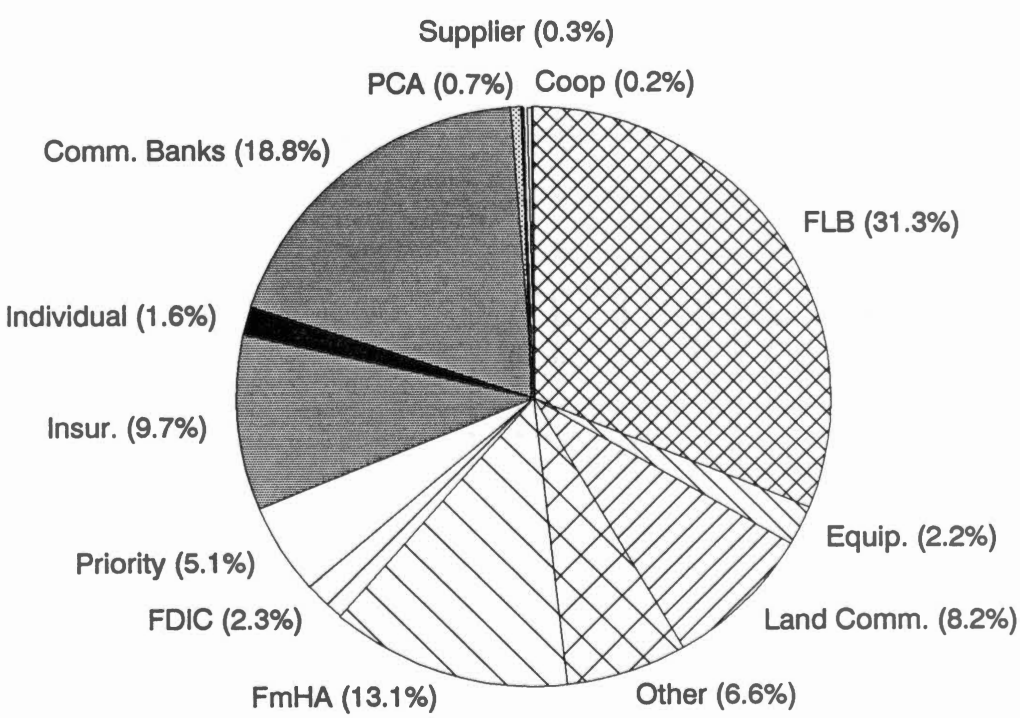

Figure 7. Creditor's Share of Allowed Secured Debt for Completed Cases

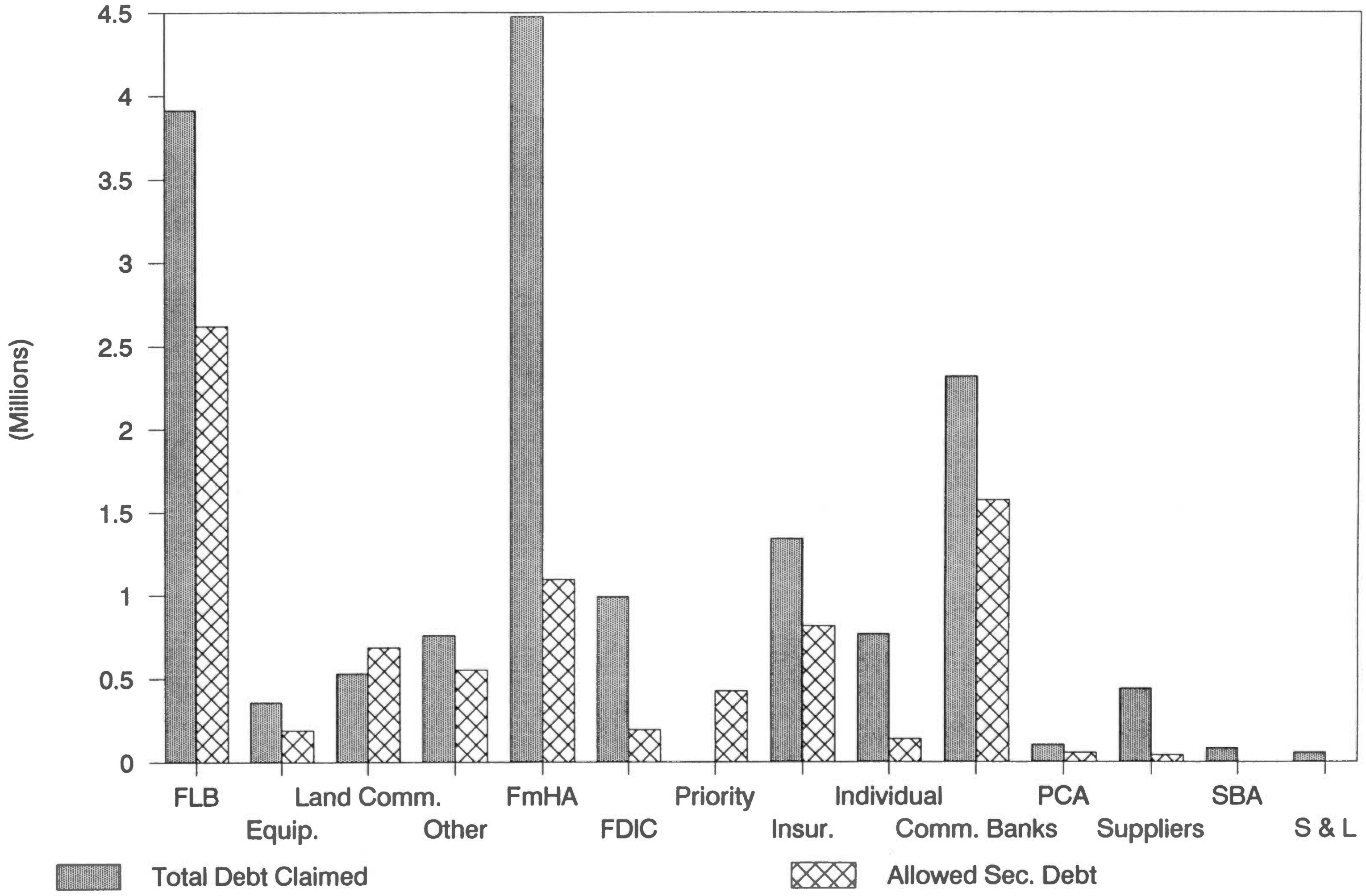

Figure 8. Claimed Debt Versus Allowed Secured Debt by Type of Creditor for Completed Cases

Completed Cases Versus Cases in Progress

The comparison of the 30 completed cases to the 143 cases in the data set is shown in table VIII. The average year farmers commenced farming is earlier for the 30 completed cases than the 143 cases in the data set. The average livestock value for the 143 cases is greater than the average value for the 30 completed cases. However, the average crop value for the completed cases is greater than the average value for the 143 cases. The average total asset value for the 143 cases in the data set is greater than the average total asset value for the 30 cases. The average total debt claimed by the debtors is larger for the 143 cases than for the 30 completed cases.

The average debt/asset ratio for the 30 cases is 2.34. The average debt/asset ratio for the 143 cases is 2.23.

The average unsecured debt allowed in the plan for the 30 completed cases is greater than the average unsecured debt allowed in the plan for the 143 cases. The 143 cases have a larger average non-farm income than the 30 completed cases. Farm income and expense items are similar for both the cases in process and the completed cases.

There are many similarities between the 30 completed cases and the 143 cases in process. This may indicate that the cases in process are likely to succeed or that there are other factors that influence the outcome of the plan.

TABLE VIII

COMPARISON OF 30 COMPLETED CASES TO 143 CASES IN DATA SET

	30 Completed Cases	143 Cases in Data Set
Year Commenced Farming	1957	1962
Acres Owned	596	542
Real Estate Value	188,284	196,782
Livestock Value	19,064	46,497
Farm Machinery Value	39,312	40,762
Crop Value	17,359	6,612
Car/Truck Value	10,970	9,796
Other Assets	7,549	2,531
Total Assets	282,538	302,980
Secured Debt Claimed by Debtor	589,686	588,370
Unsecured Debt Claimed by Debtor	75,521	87,239
Total Debt Claimed by Debtor	660,552	674,581
Debt/Asset Ratio	2.34	2.23
Secured Debt Allowed in Plan	261,546	280,326
Unsecured Debt Allowed in Plan	302,782	182,237
Farm Receipts	114,526	113,801
Non-farm Income	14,891	28,303
Farm Expenses	76,146	78,163
Family Living Expense	21,439	21,419

Comparison of Oklahoma Data to Data from Other States

The comparison of data from the Chapter 12 farms in the Western District of Oklahoma to bankrupt farms in other areas and to non-bankrupt farms in the U.S. and Oklahoma is illustrated in table IX. The average debt/asset ratio for Oklahoma, based on the Oklahoma Farm Financial Survey 1987 (Plaxico et.al.) was 0.22. The average debt/asset ratio for the Chapter 12 farms in this study was 2.23. An earlier study (Tilley, 1991) concluded that the average debt/asset ratio for Oklahoma farms filing Chapter 7 or 11 was 1.18. A possible reason for the difference in the ratio for Chapter 7 or 11 farms and the ratio for Chapter 12 farms may be because the Chapter 11 creditors will not approve the plan if they are not substantially secured. The low debt/asset ratio in the South Dakota Chapter 11 farms indicate a similar situation.

The Chapter 12 farmers commenced farming slightly later than the average Oklahoma farmer. The difference was not as large as might have been anticipated. On average, farmers in all of the bankruptcy studies commenced farming in the 1960's. The farmers in the New York study commenced farming later than the rest of the farmers.

The average real estate value was slightly lower for the Chapter 12 cases in the Western District of Oklahoma than the average real estate value for Oklahoma. The average livestock values and machinery values were greater than the values for the average Oklahoma farm. Also, the average total asset

TABLE IX

COMPARISON OF CHAPTER 12 FARMS IN DATA SET TO BANKRUPT FARMS IN OTHER AREAS AND TO NONBANKRUPT FARMS IN U.S. AND OKLAHOMA

	Western District Chap. 12 Bankrupt Farms	1987 Census Oklahoma	1987 Census U.S.	Oklahoma Bankrupt Farms Filing Chap. 7 or 11 1982 - 1985	Chap. 12 Bankrupt Farms in New York	Bankrupt Farms Filing Chap. 11 in South Dakota 1980 - 1985	Chap. 12 Bankrupt Farms In Iowa
Number of Farms	143	70,228	2,087,759	127	56	219	---
Debt/Asset Ratio	2.23	---	.13	1.18	1.49	1.17	2.73
Year Commenced Farming[a]	1962	1956	1958	1964	1969	1961	1961
Acres Owned	542	449	462	409	296	---	395
Real Estate Value	196,782	215,024	289,387	399,173	183,987	371,400	193,737
Livestock Value	46,497	20,705	23,687	30,852	31,246	182,800[b]	84,419[c]
Farm Machinery Value	40,762	29,465	30,556	46,338	52,842		
Car/Truck Value	9,796	5,080	7,193	10,036	---		5,421
Crop Value	6,612	---	8,728	2,193	9,648		---
Other Assets	2,531	---	11,787	148,463	22,389	63,500	---
Total Assets	302,980	261,490	384,970	547,636	300,011	617,700	309,666
Total Debt	674,581	---	59,970	646,873	445,798	720,700	626,369
Avg $/acre	390	480	627	784	621	---	490

[a]Where actual year commenced farming was not identified in previous studies, the year was calculated assuming the average age of operator when farming commenced was 23.

[b]Includes livestock machinery, car/truck and crop inventory.

[c]Includes livestock, machinery, and crop inventory.

value in Chapter 12 cases was greater than the value for the average Oklahoma farm.

The average asset value for the Chapter 12 bankrupt farms in the Western District of Oklahoma ($302,980) was lower than the average asset value for the Chapter 7 or 11 cases filed in Oklahoma ($547,636). Part of this difference may be because real estate values have been declining in the recent years. Some of the difference may also be because of the difference in the locations within the state.

Although the information is not available in the census, the average debt for Oklahoma farms was calculated by Plaxico and others (1987). The average debt for Oklahoma farms was $92,651. The average total debt for a non-bankrupt farm in Oklahoma in the highest debt/asset ratio category was $337,116. The average debt for the Chapter 12 bankrupt farms in Oklahoma was $674,581.

CHAPTER V

SUMMARY AND CONCLUSIONS

This study was designed to increase knowledge of the financial situation of debtors and creditors of the Chapter 12 farm bankruptcies in the Western District of Oklahoma. Data from 229 Chapter 12 farm bankruptcies filed in the Western District of Oklahoma between 1987 and 1989 were analyzed. This included 86 closed cases and 143 cases in the plan process. The 143 cases in the plan process make up the data set used in this study.

Data were obtained from the bankruptcy schedules which listed secured and unsecured debt amounts and the creditors to whom these debts were owed, the types and value of collateral, the types and value of real and personal assets owned, as well as other information. The data from the 143 cases were compiled into a data set used for further analysis.

The components of the debtors' assets and exemptions are listed in table III. Real estate constituted 65 percent of the value of assets listed. The average value of assets in the 143 cases was $302,980. Real estate and machinery represented the two largest exempt values.

The number and type of creditors, the amount of secured and unsecured debt listed in the schedules, and the amount of secured and unsecured debt allowed in the plans are summarized in table V. The farms in the study represented a total of $96.5 million in debt. A total of $85.3 were listed as secured debt, but less than 47.8 percent of the listed secured was actually secured.

FmHA and commercial banks were apparently the creditors most impacted by the bankruptcies in terms of total losses sustained. However, many unsecured creditors received no payments at all.

The average debt/asset ratio for the 143 farm in the data set was 2.23. The average debt/asset ratio for the 30 completed cases was 2.33.

The 30 completed plans' total listed debt was $16,141,277. Only $7,959,688 was allowed as secured debt in the plans. The completed plans had a total of $8,954,987 allowed unsecured debt in the plans. From information received from the final reports, provided by the trustee, only $205,556 was actually paid to the unsecured creditors. This represents only two percent of the allowed unsecured debt. If allowed secured debt and unsecured payments are combined, it appears that a total of 50.6 percent of the total listed debt will actually be paid to the creditors.

The 30 completed cases are compared to the entire data set in table VIII. The completed cases actually had about the same level of farm income but only half the non-farm income of the entire data set. This may be due to the fact that farms with higher off-farm income have less time to devote to management of the farm operation or it may simply indicate that they had less incentive to continue the farm operation. The farms that completed their plans also had a higher debt/asset ratio. Although this is contrary to what might be anticipated, it may be a result of more conservative appraisals of asset values which means less debt is required to be paid.

The Chapter 12 bankrupt farms in the Western District of Oklahoma were compared to bankrupt farms in Iowa, New York and South Dakota to see what key differences exist. The Chapter 12 bankrupt farms were also compared to Oklahoma and U.S. farms not in bankruptcy to see if any differences exist. This analysis is shown in table IX.

Average total asset values were quite similar for Chapter 12 cases in Iowa, New York, and the Western District of Oklahoma. However, total debt in the Oklahoma cases was somewhat higher than in the Iowa cases and significantly higher than in the New York cases. Oklahoma farms in the Western District in Chapter 12 tended to be larger than Oklahoma farms not in bankruptcy in terms of acres owned and asset values. The land for these Chapter 12 farms was valued at about 19 percent less on a per acre basis than land of farms not in Chapter 12. The average debt/asset ratio for Oklahoma was 0.22. The average debt/asset ratio for the Chapter 12 farms in this study was 2.23.

From a policy perspective, Chapter 12 bankruptcy is currently scheduled to expire in 1993. Discussion is already occurring as to whether it should be extended. Creditors initially predicted that it would lead to large numbers of farm bankruptcy filings and that sources of agricultural credit would disappear. Although the numbers of bankruptcy filings was initially fairly high, the numbers of filings declined significantly in later years and the number of completed cases is still fairly small. Because it did provide more leverage over creditors it may have encouraged non-bankruptcy settlements. However, the requirements of Chapter 12 say creditors must be at least as well off as in liquidation. To the extent that there is net disposable income, creditors may actually receive greater payments than they would receive in a liquidation.

Because Chapter 12 valuations are based on appraisals, while Chapter 7 valuations are based on actual sales, there may be some concern among creditors that Chapter 12 valuations are low. If in fact the property valuations are low, the creditors may be better off through liquidation. Creditors are also concerned that debtors will not complete their plans. If the plans are not completed, the delay and depreciation of asset values may cause creditors to receive less than in liquidation. Chapter 12 protects against this by requiring adequate protection.

In general, creditors in the completed cases were paid 50.6 percent of their total listed debt. However, only two percent of the allowed unsecured debt in the plan was actually paid to the creditors. The results of this study did not indicate that any of the measured characteristics were related to bankruptcy filing or success. It should be noted that the farms in Chapter 12 bankruptcy were diversified. Many of the cases had multiple enterprises.

A possible area for further research is to continue to monitor the cases in the data set used in this study that have not completed the plan process. Once additional cases have been completed, a model may be built to predict characteristics of successful cases. The model may predict whether certain cases will be successful in the bankruptcy process. It may also predict the percentage of debt repayment that will be paid in the plan.

Another area of further research would be to interview debtors, creditors, and attorneys to learn their views concerning the advantages and disadvantages of Chapter 12. Also, researchers could interview debtors whose cases were prematurely dismissed to see whether other arrangements were negotiated or foreclosure action was taken.

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APPENDIX

Statement of Financial Affairs

Case No ______________________ Filing Date ______________________
Name ______________________ Town/Co. ______________________
Court ______________________ (N,E,W) Occupation ______________________
Bus Inc 1 ______________________ Bus Org ______________________
______________________ Filing Status 1=Joint 2=Indiv 3=Corp 4=Partnership_____
Bus Inc 2 ______________________ Year Begun Bus ______________________
Nonbus Source______________________ Income______________________
Source______________________ Income______________________
Source______________________ Income______________________

Who keeps books? debtor accountant none kept
Prior bankruptcy? ______________
Any property in receiverships? ______________
Any assignment to creditors? ______________

	Creditor	Judgment Amount
Law suits pending/terminated		

	Creditor	Property
Garnishments/seizures		

	Creditor	Amount
Loans repaid		

	Creditor/Grantee	Property
Transfers of Property w/i 1 year		

	Creditor	Property
Repossessions/Returns		

	Type	Amount
Losses not covered by insurance		

	Name	Total Amount	Hourly
Payments to Attys			

Did debtor file plan? (Y/N) ____ Date Plan was filed ____________

Was plan confirmed? (Y/N) ____ Date Confirmed ____________

Was case converted? (Y/N) ____ To Ch _______ Date ____________

Was case dismissed? (Y/N) ____ Stage ________ Date ____________

Type of operation? ____
(wheat, cattle, hogs, alfalfa etc.)

Debt from Farming ________________

Total Debt ________________

Gross Inc Last Yr. ________________

Gross Farm Inc. ________________

Est Farm Inc. Next Yr. ________________

Est. Total Inc. Next Yr. ________________

Schedule A

Priority Claims	Amount	# of Claims
Wages etc.		
U S. Taxes		
State Taxes		
Local Taxes		

Unsecured Creditors

ScheduleB

Name	Town	Classif (Bank)	Yr Incurred	Amount

Secured Creditors

Name	Town	Classif. (Bank)	Collateral (Legal Descrip.)	Yr. Incurred	Mkt. Value	Amt. of Claim

Real Property - Schedule B1

640 Acres = 1 section

30-10-19 NE $\frac{1}{4} = \frac{1}{4} \times 640 = 160$

Farm Acres	Value

Urban Acres	Value

Mineral Acres	Value

Crop Ac. Own	
Pasture Ac Own	
Total Ac Own	
Crop Ac Leased	
Past. Ac. Leased	
Total Ac. Leased	

Personal Property - Schedule B2.

	Amount	# Head
Cash		
Bank Deposits		
H H Goods		
Books, Pictures		
Clothes, Jewelry		
Cars, Trucks		
Boats		
Cattle (Beef)		
Cattle (Dairy)		
Horses		
Sheep		
Poultry		
Hogs		
Farm Supplies/Seed		
Farm Mach.		

Crops/Grain/Hay	
Office EQ	
Other Mach	
Inventory	
Other PP	
Patents etc	
Govt /Corp Bonds	
Liquidated Debts	
Conting /Unliq. Debt	
Insurance	
Annuities	
Stock (FLB)	
Stock (Coop)	
Stock - Other	
Partnership Int.	
Future Interests	

Exempt Prop Schedule B4

	Value	Acres
Land & Bldgs.		
H H Goods		
Books, Pictures, Art		
Clothes, Jewelry etc.		
Cars, Trucks		
Farm Implements		
Tools of Trade		
Livestock		
Farm Supplies		
Office Eq.		
Other		
Life Ins/Pension		
Feed/Hay		

Projected Cash Flow During Plan   Length of Plan ________   (Monthly or Annual)

Income[1]		Farm Expenses[2]		Household Expenses[3]	
Crop Sales	____	Labor	____	Mortgage	____
Wheat Pasture	____	Repairs	____	Rent	____
Livestock Sales	____	Seed	____	Livestock Sales	____
Mohair/Wool Sales	____	Fert.	____	RE	____
Govt Payments	____	Chem.	____	Maint/Repairs	____
Cattle Fed	____	Mach. Hire/Hauling	____	HH Util	____
CRP ( )	____	Fuel/Oil/Lube	____	Taxes (Property)	____
Total Farm	____	Taxes	____	Entertainment	____
Wages	____	Insur.	____	Support	____
Rental Inc.	____	Rent	____	Educ.	____
Int/Div	____	Ginning/Storage	____	Food	____
Royalties	____	Irrig.	____	Clothes	____
Soc -Sec.	____	Feed	____	Med.	____
Pension	____	Vet	____	Laundry	____
Alimony	____	Trustee	____	Books/Period	____
Self-Employ	____	Equip Payment	____	Charity	____
Custom Work	____	Processing		Bus Insur	____
Breed Sk	____	Supplies		Life Insurance	____
Other	____	Utilities		Health Insurance	____
Total Nonfarm	____	Service/Bookkeeping	____	Car Insurance	____
	____	Custom Harvest	____	Homeowner Ins.	____
	____	Spraying	____	Total Ins.	____
Annual Op Reserve	____	Maintenance	____	Transportation	____
		Debt Service	____	Misc	____
		Current Loans/Int.	____	Family Living	____
		Livestk Expense	____	Income Tax	____
		Feeder Lvstk	____	Net Op Inc	____
		Income Tax/Soc Sec	____	Net Disp Inc 1st	____
		Farm Vehicles	____		
		Family Living	____		

	Husband	Wife	Joint
Occupation	____	____	____
Gross wages	____	____	____
Take home	____	____	____
Self employ	____	____	____
Int/Div.	____	____	____
Royalty	____	____	____
Rent	____	____	____
Soc. Sec.	____	____	____
Pension	____	____	____
Alimony	____	____	____
Total Nonfarm	____	____	____

Classification	Total Claimed	Market Value	Total Amt. Paid	Term	Int. Rate	Annual Payment	Abandoned Property	Unsecured Amt.
Nonfarm								
Merchants								
Dept. store chain								
Coop								
Local equip. dealer								
National equip. dealer								
Church								
Utility								
Input supplier								
Credit card								
Vet								
Legal/acct/prof								
Medical								
Insurance								
PCA								
FLB								
FmHA								
Bank								
S&L								
FDIC								
Indiv.								
School Land Comm.								
GMAC								

VITA

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