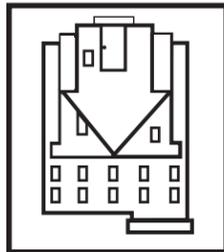


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Notable Quotables

**Motivation is what gets you started.
Habit is what keeps you going.**
-Jim Rohn

Man often becomes what he believes himself to be. If I keep on saying to myself that I cannot do a certain thing, it is possible that I may end by really becoming incapable of doing it. On the contrary, if I have the belief that I can do it, I shall surely acquire the capacity to do it even if I may not have it at the beginning.
-Mahatma Gandhi

To conquer frustration, one must remain intensely focused on the outcome, not the obstacles.
-T. F. Hodge

The greatest fear in the world is of the opinions of others. And the moment you are unafraid of the crowd you are no longer a sheep, you become a lion. A great roar arises in your heart, the roar of freedom.
-Osho

Employ your time in improving yourself by other men's writings, so that you shall gain easily what others have labored hard for.
-Socrates

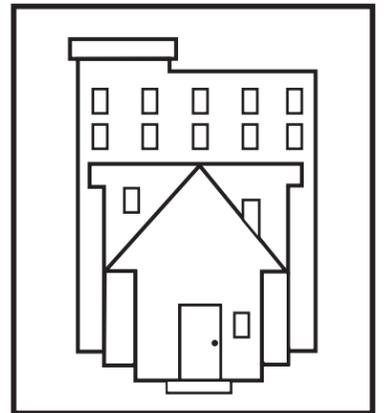
Nothing in the world is worth having or worth doing unless it means effort, pain, difficulty... I have never in my life envied a human being who led an easy life. I have envied a great many people who led difficult lives and led them well.
-Theodore Roosevelt

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Report: Chapter 12 on the Rise by Todd Neeley, DTN Staff Reporter

OMAHA (DTN) -- More farmers likely will be filing Chapter 12 bankruptcy in 2018, as they continue to struggle with costs of production exceeding commodity prices, ag lender CoBank said in a new report.

The CoBank report, "Forces that will shape the U.S. rural economy in 2018," said commodity price depression from surpluses around the world will make for another belt-tightening year for farmers who will continue to see working capital diminish.

As a result, CoBank said, more producers are likely to turn to Chapter 12.

"Farmer solvency is an increasing concern in some regions," the report said.

"Wheat and dairy producers are among the hardest hit in this down cycle, as evidenced by an increase in Chapter 12 bankruptcy filings in Kansas and Wisconsin. Chapter 12 bankruptcies, which last year reached the highest level since 2012, are expected to accelerate in 2018 in the absence of a major upward correction in farm gate prices."

The number of Chapter 12 filings has been on the rise since 2014, according to CoBank. There were about 380 filings in 2014. That number spiked to just more than 500 in 2017, according to the report.

Joseph A. Peiffer, an agriculture bankruptcy attorney based in Cedar Rapids, Iowa, told DTN he too expects to see more farmers filing for Chapter 12.

Chapter 12 is designed specifically for farmers with regular annual income and allows them to stop debt collection and establish repayment plans of three to five years with creditors. The law also allows farmers to restructure debt without forming creditors' committees.

"I agree that there will be numerous Chapter 12 filed this year," he said. "Chapter 12 can be

an effective tool for farmers to use. Unfortunately, now, if the proceeds from crops are not sufficient to pay the cost of production in full, the farmer loses money. If the farmer loses money, the farmer does not have sufficient money to service debt."

Peiffer said the current farm crisis is different than in the 1980s. Back then, the price of land and rent dropped, so farmers could cover production costs, feed their families and maintain a cash flow.

"Today, the price of land has not dropped nearly far enough that the farmer can pay for it," he said. "Remember, the costs of production are not being covered."

Peiffer said Chapter 12 is helpful for farmers needing to sell land, machinery and breeding stock and incurring taxes. Provisions signed into law on Oct. 26, 2017, allow farmers to de-prioritize taxes.

As a result, tax creditors will receive the same amount that unsecured creditors receive on the de-prioritized taxes.

One of the issues producers still face when it comes to Chapter 12, Peiffer said, is the cap for total debt on the farm is \$4,153,150. This means many farmers are ineligible for Chapter 12 because their debts often are higher than the cap.

"Many exceed it either because their individual borrowing is too high, or they have co-signed debt to help a son or daughter start farming," he said.

"The debt limit is too low in Iowa. However, in many other states, it covers most farmers. Some of my clients sell assets so they qualify for Chapter 12," Peiffer said.

The CoBank report said agriculture's balance sheet is "well positioned for a multi-year adjustment process." Farm asset values that in-

clude primarily farm land, have "remained firm despite persistently weak underlying crop prices."

"Many producers still have strong equity positions that enable them to bid aggressively for the limited land that becomes available at relatively low interest rates," the report said.

"The historically low interest rates have also kept institutional investors in the game. Until enough producers lose the financial capacity to expand or investors shy away from low capitalization rates, land prices will remain stubbornly elevated relative to farm income."

CoBank said if commodity prices deteriorate further and the Federal Reserve tightens its monetary policy, those actions would "add a new level of risk to land values and farmer solvency in 2018."

"The continuous rise hints that more financial stress looms in the year ahead," the report said.

Though farm income improved in 2017 as a result of a good year for the livestock sector, CoBank said "farm financial stress will remain a common theme across the countryside."

The report said debt loads continue to climb for farmers as they continue to struggle to cover production costs with lower commodity prices.

"Ag retailers and cooperatives are also feeling the strain, keeping the topic of mergers and acquisitions on the table in co-op board rooms," CoBank said.

"Still, there is room for optimism. While inventories for most commodities are abundant and global competition remains intense, the level of grain and oilseed inventories would be substantively impacted by one poor U.S. harvest. Animal protein and dairy prices could also improve modestly if the forecasted production increases come up short or global demand growth outperforms. Producers will

continued

Report: Chapter 12 on the Rise *continued*

be aggressively seeking cost control options to maintain profitability and will be putting increased pressure on their input suppliers.”

CoBank said larger product movement will benefit farmer cooperatives as producers look to improve cash flow.

As a result, the report said, cooperatives “will be under increasing pressure to provide inputs, productivity enhancements, speed and space and risk management options at lower costs while assuming greater inventory risk.”

Though many comparisons to the 1980s farm crisis often are made, CoBank said the current state of affairs is different in a few key areas.

“The industry’s balance sheet is still much stronger than during the prior correction,” the report said. “During that period, producers were more highly leveraged, interest rates were in the double digits, and commodity prices suffered a faster and deeper correction as foreign demand for U.S. grains cratered. In comparison, producers and lenders in recent years have been more disciplined. The debt-to-asset ratio is currently just over 12% compared to the 20% level that prevailed in the 1980s.”

However, CoBank said farm debt relative to income is “creeping closer to the concerning levels of the 1980s.

“This cautious optimism must be tempered by the harsh reality that market conditions could change rapidly and many structural adjustments will be underway in 2018,” the report said.

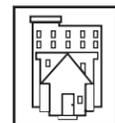
“The sector will experience increasing pressure in terms of cash flow and asset valuations. Market conditions have resulted in a sharp, unsustainable divergence between farm income and farm asset values. The timing and extent of the market’s correction will be determined by much more than commodity prices and cash flow, however. The prevailing economic environment, interest rate levels, investor appetite, trade, changes to the tax code, the 2018 farm bill, and the changing regulatory environment will all play a role.”

10 Fastest Growing Construction Industry Careers

According to ConstructConnect, the construction and extraction industries are projected to experience 11% growth between 2016 and 2026 - better than the 7% average forecast for all occupations. For construction and extraction, 758,4000 new jobs are projected by 2026.

The 10 fastest growing careers in the construction industry are:

1. Solar Photovoltaic Installers – 105% growth through 2026
2. Plumbers – 16% Growth through 2026
3. Ironworkers – 13% growth through 2026
4. Construction Laborers – 13% growth through 2026
5. Construction Equipment Operators – 12% Growth through 2026
6. Masons – 12% growth through 2026
7. Elevator Installers and Repairers – 12% growth through 2026
8. Civil Engineers – 11% growth through 2026
9. Glaziers – 11% growth through 2026
10. Construction or Project Manager – 11% Growth through 2026



Construction Costs Rise Again in January Continued expansion in materials and equipment pricing driving construction costs, according to IHS Markit

Construction costs rose again in January, according to IHS Markit and the Procurement Executives Group (PEG). The current headline IHS Markit PEG Engineering and Construction Cost Index registered 56.3, up 1.4 points compared to December. Both material/equipment and labor sub-indexes registered rising prices.

The materials/equipment price index posted a strong 58.9 in January, moving up from the December figure of 54.6. Once again, price increases were broad. Turbines and heat exchangers had lower prices but the remaining 10 categories in the current materials and equipment sub-index continued to show increasing prices. The diffusion index for most categories came in higher compared to last month. Ocean freight indexes, both Asia to the United States and Europe to the United States, had large increases compared to December, indicating a sharp improvement in conditions.

“Global water transportation remains in massive oversupply, aided somewhat by the actions of the shipping alliances,” said Paul Robinson, associate director - pricing and purchasing, IHS Markit. “Rates have risen, but mostly in line with costs. Worryingly, the alliances have been unable to stem the tide of ship orders, risking continued oversupply. In

the short term, they have been more successful in pushing cost increases on to customers than the individual companies were in the past.”

Current subcontractor labor prices came in almost flat in January at 50.3, down from 55.6 last month, a surprising change given the health of the U.S. labor market. Regionally in the United States, labor costs remained unchanged in the Northeast and Midwest. They rose once again in the South and West. In Canada, the results were mixed; labor costs were flat in Eastern Canada and fell in Western Canada.

The six-month headline expectations index recorded another month of increasing prices. The index figure moved down from 68.2 in December to 67.5 this month. The materials/equipment index stayed positive at 69.9, a slight uptick from December’s 69.8. Expectations for future price increases were widespread, with index figures for every component coming in strongly above neutral. Price expectations for sub-contractor labor came in at 61.7 in January. Labor costs are expected to rise in all regions of the United States and Eastern Canada. They are expected to be flat in Western Canada.

In the survey comments, respondents indicated some optimism for 2018. In general, there were no shortages for materials.

Top 10 States with Highest Construction Employment

1. California - 824,800
2. Texas - 715,400
3. Florida - 493,400
4. New York - 370,900
5. Pennsylvania - 246,300
6. Ohio - 212,800
7. Illinois - 212,200
8. North Carolina - 200,300
9. Washington - 197,900
10. Virginia - 191,600

Data Provided by US Bureau of Labor Statistics

Judge Awards Graffiti Artists \$6.7M in Suit Against Building Owner Who Whitewashed Their Art

by Debra Cassens Weiss, *ABA Journal*

A federal judge in Brooklyn, New York, awarded statutory damages of \$6.7 million to 21 graffiti artists in a suit that contended a building owner violated federal law when he painted over their artwork.

U.S. District Judge Frederic Block ruled Monday that 45 works of graffiti art on the 5Pointz warehouses in the borough of Queens were protected under the Visual Artists Rights Act because of their “recognized stature,” report the Washington Post and the New York Times.

Dean Nicyper, a Withers Bergman partner who specializes in art law, told the New York Times that the decision is the first to find that graffiti and graffiti artists were protected by VARA.

The Visual Artists Rights Act amends copyright law to give artists the right to attribution and integrity of their visual work. VARA says the right to integrity includes a right “to prevent any destruction of a work of recognized stature, and any intentional or grossly negligent destruction of that work is a violation of that right.” The law also allows damages for distortion or mutilation of art work to the prejudice of the artist’s honor or reputation.

One exception provides that unremovable works of art incorporated on a building are not protected if the artist waives his or her rights in writing signed both by the artist and the building owner. In this case, there was no signed writing, Block said.

When works of art are removable, the artists are entitled to 90 days’ notice. Block did not provide such notice, though some art work was on doors, windows, plywood and siding, which could have easily been removed. Other art works could have been preserved by contractors and a conservator.

Statutory damages are capped at \$150,000 for each art work for a willful violation of the law, though plaintiffs had the option of seeking actual damages instead.

The suit against the owner of the buildings, Gerald Wolkoff, had sought to stop him from tearing down the warehouses to build high-rise luxury condos. The artists had been allowed to paint the murals in a curated system overseen by a building tenant and artist, Jonathan Cohen. Short-term walls were for beginner artists and their work would be painted over from time to time, while long-term wall space was awarded based on competition among artists. Cohen had final say over the duration of all the art work.

Though Wolkoff didn’t sell the art, he indirectly profited when the value of his site increased from \$40 million to \$200 million, Block said. He also made hundreds of thousands of dollars by charging licensing fees to film at the site.

Pictures of the art work before its destruction are in an appendix that begins on page 52 of Block’s opinion.

In November 2013, the judge denied a request for a preliminary injunction and promised to issue an opinion eight days later. “Rather than wait for the court’s opinion,” Block said, “Wolkoff destroyed almost all of the plaintiffs’ paintings by whitewashing them during that eight-day interim.”

The white wash was “sloppy” and “half-hearted,” leaving the works “easily visible under thin layers of cheap, white paint,” Block said.

The case went before a jury, but the 21 artists waived their jury rights just before the summations. Block allowed jurors to rule in an advisory capacity. Jurors found the plaintiffs were entitled to damages for 36 out of 49 works of art and that Wolkoff acted willfully. Block went further and found liability for a total of 45 paintings.

Block said Wolkoff, has been “singularly unrepentant.” His “precipitous conduct . . . was an act of pure pique and revenge for the nerve of the plaintiffs to sue to attempt to prevent the destruction of their art,” Block said. “This was the epitome of willfulness.”

Wolkoff had testified the graffiti artists knew that the buildings showcasing their art would one day be torn down. Block said he believes Wolkoff “in the main testified truthfully,” but he was a difficult witness. “He was argumentative and prone to tangents and non-responsive answers,” Block said. “Eliciting coherent testimony was a chore and was only achieved after the court threatened to hold him in contempt.”

“Wolkoff’s recalcitrant behavior was consistent with the manner by which he testified in court,” Block said. “He was bent on doing it his way, and just as he ignored the artists’ rights he also ignored the many efforts the court painstakingly made to try to have him responsibly answer the questions posed to him.”

