

CHAPTER 1560
DEPARTMENT OF AGRICULTURE
MISCELLANEOUS

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- 1560.0100 [Repealed, 26 SR 77]
- 1560.0200 [Repealed, 26 SR 77]
- 1560.0300 [Repealed, 26 SR 77]
- 1560.0400 [Repealed, 26 SR 77]
- 1560.0500 [Repealed, 26 SR 77]
- 1560.0600 [Repealed, 26 SR 77]
- 1560.0700 [Repealed, 26 SR 77]
- 1560.0800 [Repealed, 26 SR 77]
- 1560.0900 [Repealed, 26 SR 77]
- 1560.1000 [Repealed, 26 SR 77]
- 1560.1100 [Repealed, 26 SR 77]
- 1560.1200 [Repealed, 26 SR 77]
- 1560.1300 [Repealed, 26 SR 77]
- 1560.1400 [Repealed, 26 SR 77]
- 1560.1500 [Repealed, 26 SR 77]
- 1560.1600 [Repealed, 26 SR 77]

FAMILY FARM SECURITY PROGRAM

1560.1800 PURPOSE AND AUTHORITY.

Subpart 1. **Purpose.** It is the purpose of parts 1560.1800 to 1560.3200 to carry out and administer the family farm security program established by Minnesota Statutes, chapter 41.

Subp. 2. **Authority.** Parts 1560.1800 to 1560.3200 are adopted pursuant to Minnesota Statutes, section 41.53, subdivision 2.

Statutory Authority: *MS s 41.53 subd 2*

1560.1900 DEFINITIONS.

Subpart 1. **Applicability.** For the purposes of parts 1560.1800 to 1560.3200 the terms defined in this part have the meanings given them.

Subp. 2. **Amortization schedule.** "Amortization schedule" means the loan repayment schedule approved by the commissioner.

Subp. 3. **Applicant.** "Applicant" means a natural person applying for a family farm security loan.

Subp. 4. **Balloon payment.** "Balloon payment" means the final payment of an amortization schedule which is equal to or exceeds four times the amount of the immediately preceding payment.

Subp. 5. **Commissioner.** "Commissioner" means the commissioner of agriculture or the commissioner's authorized representative.

Subp. 6. **Cooperating agency.** "Cooperating agency" has the meaning given in Minnesota Statutes, section 41.52, subdivision 11.

Subp. 7. **Council.** "Council" means the family farm advisory council.

Subp. 8. **Even payment.** "Even payment" means the payment amount necessary at a given interest rate to fully amortize the loan over a given period of time.

Subp. 9. **Farm business management course.** "Farm business management course" means a course in farm recordkeeping, farm business management, or other related areas approved by the commissioner.

Subp. 10. **Farm land.** "Farm land" has the meaning given in Minnesota Statutes, section 41.52, subdivision 6.

Subp. 11. **Fully amortize.** "Fully amortize" means to insert terms or provisions in a loan which do not result in a balloon payment.

Subp. 12. **Guarantee.** "Guarantee" means the "family farm loan guarantee" defined in Minnesota Statutes, section 41.52, subdivision 9.

Subp. 13. **Lender.** "Lender" has the meaning given in Minnesota Statutes, section 41.52, subdivision 7.

Subp. 14. **Loan.** "Loan" means "family farm security loan" as defined in Minnesota Statutes, section 41.52, subdivision 5.

Subp. 15. **Memorandum of understanding.** "Memorandum of understanding" has the meaning given in Minnesota Statutes, section 41.52, subdivision 12.

Subp. 16. **Participant.** "Participant" means an applicant who has received final approval for a guarantee which has been fully executed by the state.

Subp. 17. **Payment adjustment.** "Payment adjustment" has the meaning given in Minnesota Statutes, section 41.52, subdivision 10.

Subp. 18. **Program.** "Program" means the family farm security program of the Department of Agriculture.

Subp. 19. **Seller-sponsored loan.** "Seller-sponsored loan" has the meaning given in Minnesota Statutes, section 41.52, subdivision 8.

Subp. 20. **State.** "State" means the state of Minnesota.

Subp. 21. **Subordination.** "Subordination" means that the commissioner agrees that the state's interest in a loan has a lower lien priority than the interest of another party.

Statutory Authority: *MS s 41.53 subd 2*

1560.2000 ELIGIBILITY.

Subpart 1. **Criteria.** To be eligible for a guarantee, an applicant must meet the criteria listed in Minnesota Statutes, sections 41.55 and 500.221, subdivision 2 and those in this part.

Subp. 2. **Net worth.** The current net worth of the applicant, dependents, and spouse, as determined by generally accepted accounting principles, must not exceed the level set in Minnesota Statutes, section 41.55, clause (c).

Subp. 3. **Farm land.** Applications will be accepted only for loans to acquire farm land.

Subp. 4. **Ownership.** The applicant must be purchasing a 100 percent interest in the farm land. The farm may be operated in partnership, but the applicant must own the farm land individually.

Subp. 5. **Use.** The farm land must be purchased for agricultural uses.

Statutory Authority: *MS s 41.53 subd 2*

1560.2100 PRELIMINARY APPROVAL; NOTIFICATION AND RECONSIDERATION.

Subpart 1. **Application.** An applicant must apply for a guarantee on forms provided by the commissioner. The application must include the following:

- A. a farm land appraisal;
- B. a purchase agreement;
- C. letters of commitment, if appropriate;
- D. the financial information required in subpart 5;
- E. copies of any partnership agreements;
- F. a farm business management course registration form; and
- G. other information reasonably necessary to determine the likelihood of success of the applicant's proposed farming operation.

Subp. 2. **Farm land appraisal.** An appraisal of the market value of the farm land to be guaranteed must be performed by a qualified appraiser and recorded on the form provided by the commissioner. The appraiser must sign the form. A letter stating the appraiser's qualifications and experience must be on file with the commissioner. The commissioner may require the applicant to obtain an additional appraisal from another appraiser when comparable sales do not reasonably reflect the value of the farm land stated in the original appraisal.

Subp. 3. **Purchase agreement.** A binding purchase agreement between the seller of the farm land and the applicant, containing all terms agreed upon by the two parties, must be completed. The terms must be in accordance with Minnesota Statutes, chapter 41 and parts 1560.1800 to 1560.3200. The agreement must include a statement that the sale of the farm land is contingent upon the applicant's obtaining a guarantee from the commissioner. The purchase price of the farm land cannot exceed the appraisal value.

Subp. 4. **Letters of commitment.** The following information must accompany the application:

- A. a letter of commitment for the financing, containing all the terms and provisions of the loan and signed by the lender, if any portion of the farm land purchase price is to be financed through a lender other than the seller;
- B. a letter of credit from a financial institution for required operating credit for the first year of operation;
- C. a written financing commitment, if financing is necessary for the purchase of livestock and equipment; and
- D. written equipment use agreements signed by both the applicant and the equipment owner, if equipment will be shared.

Subp. 5. **Financial information.** The application must include the following financial information:

- A. a statement of the applicant's current net worth;
- B. statements of the applicant's earnings for the two years immediately prior to the year of application, if available;

C. statements of projected income and expenses for the first two years of the proposed farm operation;

D. credit references; and

E. a statement of the applicant's parents' net worth and the applicant's spouse's parents' net worth or other documentation of the parents' ability or willingness to financially assist the applicant.

Subp. 6. **Review of applications.** The commissioner shall consider and act upon an application for a guarantee, taking into account the recommendations of the council. In the event of a request for reconsideration of the commissioner's decision pursuant to subpart 9, the matter shall be reviewed at a regularly scheduled meeting of the council.

Subp. 7. **Criteria for preliminary approval.** The following criteria shall be considered by the commissioner in granting the preliminary approval for a guarantee:

A. the eligibility criteria set forth in part 1560.2000;

B. submission of a complete application;

C. the degree to which farming will be the applicant's principal occupation;

D. the extent to which the applicant demonstrates financial need for the guarantee to acquire farm land;

E. the existence of or provisions for financing-related farm expenses other than real estate;

F. the economic feasibility of the loans as evidenced by the applicant's present, past, and projected financial situation;

G. the applicant's credit rating;

H. an analysis of the applicant's debt-to-worth ratio and other factors related to risk and profit potential; and

I. the likelihood of success of the applicant's proposed farming operation, based on the criteria in items A to H.

Subp. 8. **Notification.** After each review of an application for a guarantee, the commissioner shall provide written notification of the determination. If the application is approved, the commissioner shall notify the applicant and the lender. If the application is not approved, the commissioner shall notify the applicant and specify the reasons for disapproval.

Subp. 9. **Reconsideration of decision.** An applicant who wishes the commissioner to reconsider the decision may request, within 90 days of the notification of nonapproval, that the application be reconsidered. The applicant may present to the council, in writing or in person, any additional facts relevant to the reasons given for nonapproval of the application.

Statutory Authority: *MS s 41.53 subd 2*

1560.2200 FINAL APPROVAL.

Subpart 1. **Closing.** Upon receiving notice of preliminary approval for a guarantee, the applicant shall proceed in accordance with instructions provided by the commissioner for obtaining final approval for the guarantee.

All actions required of the applicant and lender to prepare for the state's execution of guarantee documents, including submission of a preliminary title opinion and execution of all relevant statements or declarations required for loan transactions by federal or state law, regulation, or rule, must be completed within 120 days of receipt of the notice unless an extension is granted. An extension for a reasonable period of time shall be granted under the following conditions related to either the farm land being guaranteed under the program or assets of the applicant essential to completing the farm land purchase:

A. where title defects cannot reasonably be cured within a time frame which permits compliance with the 120-day deadline;

B. where title encumbrances cannot be released or satisfied within a time frame which permits compliance with the 120-day deadline; or

C. where other matters beyond the control of the applicant reasonably unforeseen prevent compliance with the 120-day deadline.

The commissioner may request and examine copies of other security agreements or loan documents or other records which relate to the applicant's farm land purchase in order to determine all liens and encumbrances on the property.

Subp. 2. Closing documents; seller-sponsored loan. If the loan to be guaranteed is seller-sponsored, the applicant and seller must execute a contract for deed or purchase money real estate mortgage and all additional instruments required to protect the interests of the applicant, the seller, and the state in accordance with the terms and conditions upon which the preliminary approval for the guarantee was granted.

Subp. 3. Closing documents; lender-sponsored loan. If the loan to be guaranteed is lender-sponsored, the applicant and lender must execute a mortgage and note or an assignment of contract for deed and any additional instruments. The lender shall take other actions consistent with prudent lending practices required to protect the interests of the applicant, the lender, and the state.

Subp. 4. Closing documents; releases. The seller must obtain a release or satisfaction of any underlying mortgages, liens, or encumbrances that exceed 90 percent of the balance of the loan to be guaranteed.

Subp. 5. Guarantee. When the closing documents are properly executed, the commissioner shall enter into an agreement with the participant and the lender providing that in the event of default by the participant of any of the terms of the contract for deed, mortgage and note, or assignment of contract for deed, the state shall pay the lender 90 percent of the sums due and payable under those terms. Sums due and payable include the principal balance outstanding, accrued interest up to the date on which the state performs under the guarantee, real estate taxes paid by the lender, and any other expenses incurred by the lender for maintenance and protection of the property during the default period which are determined by the commissioner to be reasonable and prudent.

Subp. 6. Recording. After the loan is closed, the appropriate instruments shall be recorded. The applicant shall furnish the commissioner with copies of the recorded instruments.

Subp. 7. Final title opinion. After the appropriate instruments are recorded, the applicant shall furnish the commissioner with a final title opinion which recognizes the interests of all parties.

Statutory Authority: *MS s 41.53 subd 2*

1560.2300 PAYMENT ADJUSTMENT.

Subpart 1. Amount and eligibility requirement. The state shall pay to the lender, according to the amortization schedule, an amount of money equal to four percent of the principal balance of the loan, provided that the conditions in subparts 2 to 4 are met.

Subp. 2. Loan terms and payments. The loan must either have a term of 20 years or less and require payments so that the loan is amortized with equal annual payments, including consideration of variable interest rates used by some lenders, or the loan must have a reasonable reduction of the principal balance with a balloon payment in ten years or less.

A. Extra days of interest may be included in calculating total interest for the first payment, provided that the total number of days used does not exceed an additional 50 percent of the normal payment period and does not cause a balloon payment for those loans on a fully amortized schedule.

B. Certain 20-year loans which have a specified interest-only payment preceding the 20-year schedule of principal and interest payments will be accepted for the guarantee, but the state shall not participate in the interest-only payment.

C. A disaster clause may be included in provisions of a loan, provided that it does not cause repayment to extend beyond 20 years or cause a balloon payment for loans on a fully amortized schedule.

D. An extension must be granted to the length of a loan that would require a balloon payment in ten years or less and the stated interest rate may be adjusted by consent of all parties to the loan including the state, the participant, and the lender, if the following conditions are met:

- (1) the participant and lender both sign a written request for extension;
- (2) the repayment provisions of the loan are based on a fully amortized schedule of 20 years or less;
- (3) the extension is for the total remaining portion of the amortization schedule; and
- (4) the participant has complied with all terms of the loan guarantee and has submitted to the commissioner a net worth statement and a farm business management course registration form annually within the times set in this part.

Subp. 3. **Net worth.** The conditions in items A to C regarding net worth apply to all participants:

A. Before February 20 of each year, on forms provided by the commissioner, the participant must submit to the commissioner a statement of the participant's, dependents', and spouse's net worth as of December 31 of the year immediately preceding the filing date, except for the first year of participation. This statement is not required if the statement of net worth submitted with the original application is less than ten months old on the February 15 following the applicant's preliminary approval by the commissioner.

B. If the total net worth as determined by generally accepted accounting principles exceeds the limitation stated in Minnesota Statutes, section 41.57, subdivision 3, the participant shall not be eligible for a payment adjustment for the next 12 months commencing April 1. The commissioner shall notify the participant and the lender that the participant is responsible for all interest payments for that 12-month period of the loan.

C. The net worth statement used by the council to recommend preliminary approval shall prevail in matters of determining eligibility for the guarantee and the first year's payment adjustment.

Subp. 4. **Course registration.** Before February 20 of each year, the participant must submit a farm business management course registration form.

Subp. 5. **Extension of deadline.** The commissioner will grant an extension of up to 30 days on the deadlines stated in subparts 3 and 4 if the participant is not able to submit the net worth statement or the farm business management course registration form on time due to other circumstances beyond the control of the participant which were reasonably unforeseen and which prevent meeting the deadlines stated in subparts 3 and 4.

Statutory Authority: *MS s 41.53 subd 2*

1560.2400 RECIPIENT OF PAYMENT ADJUSTMENTS.

Payment adjustments are made by the state directly to the lender, who annually bills the commissioner for the amounts due for the current loan year. Under circumstances where the participant has paid a full installment, including the state's payment adjustment, to the lender, the participant may request that the payment adjustment be

made to the participant by submitting proof to the commissioner that the full installment was paid.

Statutory Authority: *MS s 41.53 subd 2*

History: *17 SR 1279*

1560.2500 REIMBURSEMENT OF PAYMENT ADJUSTMENTS.

Subpart 1. **Time; generally.** The participant shall reimburse the state within 12 months after the tenth anniversary of the date of the loan for all sums paid as payment adjustments by the state on the participant's behalf.

Subp. 2. **Reimbursement obligation as lien.** The reimbursement obligation shall be a lien against the property and be subordinate to the real estate mortgage or contract for deed.

Subp. 3. **Renewals and reimbursement.** The participant may petition the commissioner for up to a ten-year renewal of the payment adjustment which the commissioner shall grant if the participant has complied with all terms of the loan guarantee and has submitted to the commissioner a net worth statement and a farm business management course registration form annually within the time frames prescribed in part 1560.2300.

If the payment adjustment is renewed for an additional period of years, within 12 months after the final payment date of the mortgage or contract for deed, the participant shall reimburse the state for all payment adjustments paid on the participant's behalf.

If the participant has more than one loan approved under a single guarantee, disposition of the renewal request on the latest maturing loan governs when reimbursement of the payment adjustment will be made on all the loans included under that guarantee.

Subp. 4. **Reimbursement upon sale or conveyance.** Except as provided in part 1560.3100, subpart 3, a participant who sells or conveys the farm land for which a guarantee was approved shall immediately retire the entire debt owed the state for payment adjustments paid on the participant's behalf.

Subp. 5. **Interest; late payment.** If the participant does not reimburse the state within the required time period, the commissioner may charge the maximum interest provided by law on the outstanding debt for the period of delinquency.

Statutory Authority: *MS s 41.53 subd 2*

1560.2600 CONDITIONS FOR DEFAULT OF PARTICIPANT.

A participant is in default if one or more of the following conditions exist:

A. the participant does not pay the principal or interest payment on the date due;

B. the participant breaches a material obligation in the note, loan agreement, or any instrument securing the loan, and the lender determines that this breach constitutes an adverse change in the participant's ability to repay the guaranteed loan; or

C. the participant fails to personally maintain the farm land in active agricultural production for longer than one year.

Statutory Authority: *MS s 41.53 subd 2*

1560.2700 CONSEQUENCES OF DEFAULT.

Subpart 1. **In general.** If the participant is in default for reasons given in part 1560.2600, item A or B, the lender, the participant, and the commissioner may take any steps reasonable to assure fulfillment of the loan obligation. If the matter is not resolved, the lender or seller and the commissioner shall take action according to the procedures in subparts 2 to 5 dependent on who sponsored the loan.

Subp. 2. **Under contract for deed.** Under a contract for deed, the seller has two options which may be pursued:

A. the seller may proceed according to the contract law in Minnesota Statutes, section 559.21 to cancel the contract. In this event, the seller shall forward to the commissioner all sums owed the state and regain real estate interest in the property.

B. the seller may exercise the state's guarantee pursuant to Minnesota Statutes, section 41.56, subdivision 3.

Subp. 3. **Foreclosure.** A lender may use statutory foreclosure proceedings in lieu of exercising the guarantee provisions of Minnesota Statutes, chapter 41 provided that the following conditions are met:

A. the lender pledges to take all reasonable and prudent steps to protect and maintain the farm land and to obtain the highest possible net proceeds from the subsequent sale of the property; and

B. the lender agrees that any money from the foreclosure sale in excess of 90 percent of the balance of the loan, plus 90 percent of the accrued interest calculated to the end of the 180-day default period, plus 90 percent of reasonable costs incurred during the foreclosure period will first be applied toward the satisfaction of the outstanding balance of the state's lien for reimbursement of the payment adjustment prior to any other disbursements, settlements, or satisfactions.

Subp. 4. **Lender's failure to notify commissioner.** If the lender fails to notify the commissioner in writing within 180 days of the initial default of the participant, the state shall exercise its guarantee based on the principal balance of the loan at the time of notification of the default according to the amortization schedule of the loan. Maximum accrued interest to be paid by the state, calculated on the principal balance at the time of notification of default, may not exceed 180 days beyond the normal payment period.

Subp. 5. **More than one loan under one guarantee.** When there is more than one loan under a single guarantee, all loans are considered to be in default if one is in default. The lenders concerned must then exercise their options in concert with each other and with the commissioner.

Subp. 6. **Participant's failure to farm.** If a participant is in default under part 1560.2600, item C and has not received a waiver pursuant to part 1560.2900, the state shall cease its payment adjustments on the loan, all payment adjustments made on the participant's behalf will be due and payable to the state within 12 months of the default date, the participant will no longer be considered active in the program, and the guarantee will no longer be in force or effect.

Statutory Authority: *MS s 41.53 subd 2*

1560.2800 SALE OF DEFAULTED FARM LAND.

In the event of default, the commissioner shall sell the farmland involved pursuant to Minnesota Statutes, section 41.56, subdivision 4 and the following:

A. The commissioner has the right to reject any bid submitted on the farm land to be sold.

B. For the purposes of Minnesota Statutes, section 41.56, subdivision 4, the following definitions apply:

(1) "Date of sale" means the date on which the state fully executed the purchase agreement.

(2) "Proceeds" means the sale price less reasonable closing costs, including but not limited to payment of taxes due, expenses for abstracting, custom field work completed, and other reasonable costs associated with the sale.

Statutory Authority: *MS s 41.53 subd 2*

1560.2900 WAIVER OF DEFAULT.

Subpart 1. **Granting waiver.** The commissioner may waive the default resulting from a participant's failure to personally continue agricultural production pursuant to part 1560.2600, item C for the reasons and following the procedures in subparts 2 to 4.

If the waiver is granted, the participant shall continue to be eligible to receive the payment adjustment.

Subp. 2. Waiver for public service. The participant may be granted a waiver if the participant has accepted a position of public service through a government agency, church, charitable organization, or similar organization, with the intent to serve for a limited period of time and then return to full-time farming, provided that:

A. the participant submits a written notice of intent to the commissioner within 60 days after accepting the position;

B. the participant continues to submit annual financial statements to the commissioner; and

C. the participant agrees to make the full loan installments, including the state's payment adjustment, due during the waiver period.

Subp. 3. Waiver for financial difficulty. The participant may be granted a waiver and remain eligible for the payment adjustment if the participant demonstrates to the commissioner, as evidenced by financial statements and discussions with lenders, that the participant is in financial difficulty and has taken a job off the farm with the intent of providing the cash flow needed to return to full-time production, provided that:

A. the participant submits a written notice of intent to the commissioner within 60 days of taking an off-farm job;

B. the participant submits semiannual financial statements to the commissioner; and

C. the participant continues enrollment in a farm business management course.

Subp. 4. Waiver for physical disability or extenuating circumstances. The participant may be granted a waiver and remain eligible for the payment adjustment if the participant demonstrates to the commissioner that the farm land was not personally farmed by the participant because of the participant's physical disability or other extenuating circumstances beyond the control of the participant which were reasonably unforeseen and which prevent the participant from personally maintaining the farm land in agricultural production, provided that:

A. the participant submits supporting documentation as to the disability or other circumstances which prohibit continuation in full-time farming; and

B. the participant submits semiannual financial statements to the commissioner.

Subp. 5. Denial of waiver. If the commissioner determines that the default should not be waived, the participant is entitled to a contested case hearing pursuant to Minnesota Statutes, chapter 14 to review the commissioner's determination.

Subp. 6. Expiration. If the participant does not return to full-time farming at the end of a two-year waiver period and does not provide convincing evidence of doing so in the near future, the commissioner shall inform the participant that the participant is in default.

Statutory Authority: *MS s 41.53 subd 2*

History: *17 SR 1279*

1560.3000 TERMINATION OF GUARANTEE.

Subpart 1. Conditions. The guarantee will remain in force and effect until maturity of the loan unless default occurs under parts 1560.2600 to 1560.2800 and no waiver is granted pursuant to part 1560.2900 or any of the conditions in items A to C occur:

A. The lender consents to the change or alteration of any of the terms and provisions of the loan, or attempts to waive or waives any rights of the lender, the participant, the commissioner, or the state included in the loan, in a manner inconsistent with the terms of the loan as represented to and approved by the commissioner at the time of delivery of the guarantee, without the written consent and approval of the commissioner.

B. The lender fails to notify the commissioner in writing within 30 days of a transfer or assignment of the loan. The guarantee shall remain in force and effect if the commissioner is notified, provided that the purchaser of the loan assumes all duties and obligations of the original lender and agrees to comply with all the requirements of the laws and rules governing the program.

C. The lender violates any terms, provisions, covenants, or conditions of any document or agreement to which the lender is a party for purposes of the guarantee.

Subp. 2. **Consequences.** In the event that any of the conditions in subpart 1, items A to C occur, where there is substantial evidence that the lender's actions were calculated to defraud the state or misrepresent conditions of the loan, the state may terminate its guarantee and immediately and forever be released from all claims and demands based on the guarantee. If it can be clearly ascertained that the participant had no knowledge of and did not collaborate with the lender's actions, the state may make the payment adjustment directly to the participant.

Statutory Authority: *MS s 41.53 subd 2*

1560.3100 LOAN SERVICING.

Subpart 1. **Partial release.** The commissioner may approve the release of a portion of the property purchased under a loan from the state's lien for reimbursement of the payment adjustment under the following conditions:

A. the participant requests the release and pledges that it will not adversely affect the participant's ability to continue in the program; and

B. all lenders included in the guarantee agree to release their interest in the property and agree to the commissioner's conditions for release from the state's lien for reimbursement of the payment adjustment.

If the release is requested because the participant wishes to sell a portion of the property, the commissioner may stipulate to what use the proceeds from that sale may be put. Ordinarily a certain portion of these proceeds will be used as a special principal payment on the loans included under the guarantee.

Subp. 2. **Reamortization.** Reamortization of a loan will be permitted only in cases where the participant has made a sizable, special principal payment and where reamortization is jointly requested in writing by the participant and the lender. The reamortization shall not extend the maturity date of the loan, except for those loans originally calling for a balloon payment which have been approved for an extension according to part 1560.2300, subpart 5.

Subp. 3. **New owner guarantee.** If the participant sells the property for which a guarantee was issued, the purchaser may apply for a guarantee in the purchaser's own right, but under no circumstances may the original loan guarantee be directly assumed by the purchaser. The purchaser may assume the former participant's responsibility for reimbursing the state for payment adjustments made if the following conditions are met:

A. the purchaser has obtained preliminary approval for a guarantee;

B. the council determines that permitting this assumption will be in the best interests of the state; and

C. the assumed indebtedness is not included in the guarantee for which the purchaser may receive final approval.

Subp. 4. **Subordination.** The commissioner may approve a request for subordination of the state's lien for reimbursement of the payment adjustment on determining this action is in the best interests of the state and the participant, or provisions for subordination are included in the memorandum of understanding with a cooperating agency.

Statutory Authority: *MS s 41.53 subd 2*

History: *17 SR 1279*

1560.3200 COMMISSIONER'S RIGHT TO INFORMATION.

At any time during the existence of a loan, the commissioner may request information and documents from the lender or the participant to enable the commissioner to determine that all terms and conditions of any agreements made pursuant to Minnesota Statutes, chapter 41 or parts 1560.1800 to 1560.3200 are in compliance with the statutes and rules.

Statutory Authority: *MS s 41.53 subd 2*

- 1560.3300** MR 1997 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]
- 1560.3400** MR 1997 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]
- 1560.3500** MR 1997 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]
- 1560.3600** MR 1997 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]
- 1560.3700** MR 1997 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]
- 1560.3800** MR 1997 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]
- 1560.3900** MR 1997 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]
- 1560.4000** MR 1997 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]
- 1560.4100** MR 1997 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]
- 1560.4200** MR 1997 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]
- 1560.4300** MR 1997 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]
- 1560.4400** MR 1997 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]
- 1560.4500** MR 1997 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]
- 1560.4600** MR 1997 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]
- 1560.4700** MR 1997 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]
- 1560.4800** MR 1997 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]
- 1560.4900** MR 1997 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]
- 1560.5000** MR 1997 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]
- 1560.5100** MR 1997 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]
- 1560.5200** MR 1997 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]
- 1560.5300** MR 1997 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]
- 1560.5400** [Repealed, 12 SR 2392]
- 1560.5500** [Repealed, 12 SR 2392]
- 1560.5600** [Repealed, 12 SR 2392]
- 1560.5700** [Repealed, 12 SR 2392]
- 1560.5800** [Repealed, 12 SR 2392]
- 1560.5900** [Repealed, 12 SR 2392]
- 1560.6000** [Repealed, 12 SR 2392]

1560.6100 [Repealed, 12 SR 2392]

1560.6200 [Repealed, 12 SR 2392]

1560.6300 [Repealed, 12 SR 2392]

1560.6400 [Repealed, 12 SR 2392]

1560.6500 [Repealed, 12 SR 2392]

1560.6600 [Repealed, 12 SR 2392]

1560.6700 [Repealed, 12 SR 2392]

1560.6800 [Repealed, 12 SR 2392]

1560.6900 [Repealed, 12 SR 2392]

1560.7000 [Repealed, 12 SR 2392]

1560.7100 [Repealed, 12 SR 2392]

1560.7200 [Repealed, 12 SR 2392]

1560.7300 [Repealed, 12 SR 2392]

1560.7400 [Repealed, 12 SR 2392]

1560.7500 [Repealed, 12 SR 2392]

1560.7600 [Repealed, 12 SR 2392]

WAREHOUSES OTHER THAN GRAIN OR COLD STORAGE

1560.7700 APPLICABILITY.

Parts 1560.7700 to 1560.8800 shall apply to all warehouse operators, as hereafter defined, except part 1560.7900, which applies to operators engaged in the storage of household goods as hereafter defined.

Statutory Authority: *MS s 17B.28*

History: *17 SR 1279*

1560.7750 DEFINITIONS.

Subpart 1. **Department.** “Department” means the Department of Agriculture.

Subp. 2. **Household goods.** The term “household goods” means personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling; furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment or supply of such stores, offices, museums, institutions, hospitals or other establishments; and articles including objects of art, displays and exhibits, which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods.

Statutory Authority: *MS s 17B.28*

1560.7800 WAREHOUSE RECEIPTS.

Subpart 1. **Uniform Commercial Code.** Warehouse receipts shall be issued by all warehouse operators and must comply with the requirements of the Minnesota Uniform Commercial Code.

Subp. 2. **Copy to department.** A copy of the form of receipt used by the warehouse operator shall be furnished to the department with the application for license.

Subp. 3. **Insurance.** All receipts shall show in conspicuous type whether or not the property for which the receipt has been issued is insured, for the benefit of the depositor, against fire or any other casualty.

Subp. 4. **Lot number.** The property of each depositor shall be specifically designated under a lot number, which number must appear on the receipt for the purpose of identification.

Subp. 5. **Correctness of receipt.** Unless notice be given by the depositor to the warehouse operator in writing within 30 days after the date of mailing or delivery to the depositor of the warehouse receipt, stating that there are errors or omissions in the list of goods, and specifying the same, the operator shall be entitled to assume that the list of goods set forth in the warehouse receipt is a complete and correct list of goods tendered to the operator for storage, under the terms and conditions of the contract, and shall constitute acceptance by the depositor of all terms and conditions of the contract.

Subp. 6. **Storing additional goods.** If the depositor, subsequent to the original storing, places other goods with the warehouse operator for storage, such additional goods may come in under the same terms and conditions as if a part of the original lot.

Subp. 7. **Notices to depositor.** Notices by the warehouse operator to the depositor pertaining to the goods, wares, or merchandise shall be sent to the depositor at the address given at the time of depositing the goods, wares, or merchandise with the operator, unless written notice of change of address is received by the operator from the depositor. Notices mailed by the operator to the last address given by the depositor shall constitute effective notice for all purposes.

Statutory Authority: *MS s 17B.28*

History: *17 SR 1279*

1560.7850 LIABILITY LIMITATION; OTHER THAN HOUSEHOLD GOODS.

Unless otherwise specified by the depositor in writing, it shall be agreed and be prima facie proof that no one piece, package, or complete article with the contents thereof, enumerated in the list of goods in the warehouse receipt of contract exceeds the sum of \$50 in value. If the depositor declares in writing a higher valuation, the warehouse operator may charge a higher rate for storing such pieces, packages, or complete articles. Each operator shall, upon the day of storage, clearly inform the depositor, in writing, that the depositor may declare such higher valuation.

Statutory Authority: *MS s 17B.28*

History: *17 SR 1279*

1560.7900 LIABILITY LIMITATION; HOUSEHOLD GOODS.

Subpart 1. **Insurance.** From and after the date of storage, the warehouse operator storing household goods shall, on behalf of the depositor, cause the stored goods of the depositor to be insured at least in the amount of \$1.25 per pound per article against loss from any peril covered by standard fire and extended coverage policies. The depositor shall pay to the operator the cost of such insurance in addition to other warehousing charges.

Subp. 2. **Depositor's declaration of value.** Provided, however, that the depositor may declare in writing that the value of the stored goods does not exceed 60 cents per pound per article, and if the depositor shall so declare the value of the goods stored, the depositor shall be so limited in the recovery of any damages against the warehouse operator.

Subp. 3. **Weight of goods.** Warehouse operators whose charges for storage are not based upon actual weight, and who may not, therefore, have available an actual weight figure, may use a weight figure obtained by application of the constructive weight rule in effect in such operator's tariff.

Subp. 4. **Informing depositor of rights and obligations.** Each warehouse operator shall, upon the day of storage, clearly inform the depositor in writing of the substance of subparts 1 and 2. If the depositor's goods are delivered to the operator for storage by another person, the operator shall so inform that person of the depositor's rights and obligations under subparts 1 and 2.

Subp. 5. **Liability under Uniform Commercial Code.** Nothing in this rule shall be deemed to impose liability upon a warehouse operator for damages where such liability would not otherwise be imposed under the provisions of the Uniform Commercial Code, Minnesota Statutes, chapter 336, and in particular, Minnesota Statutes, 336.7-204.

Statutory Authority: *MS s 17B.28*

History: *17 SR 1279*

1560.8000 TENDER FOR STORAGE.

At the time of or prior to tender of goods for storage by a depositor, a storage order must be signed in writing by the depositor, or the depositor's duly authorized representative, which must show the name and address of the warehouse operator in whose custody the goods are to be deposited.

Statutory Authority: *MS s 17B.28*

History: *17 SR 1279*

1560.8100 GOODS; LABELING.

A warehouse operator who receives a lot of goods must identify each article or lot by tag or lot number, as recorded on the operator's books and on the warehouse receipt or contract.

Statutory Authority: *MS s 17B.28*

History: *17 SR 1279*

1560.8200 RATES, CHARGES, TARIFFS.

Every warehouse operator shall file with the department and keep open for public inspection a printed schedule of rates and charges, in conformity with Minnesota Statutes, section 231.11. All tariffs of rates and charges shall contain terms and conditions under which the rates and charges are assessed. A warehouse operator shall charge no more nor no less than the rates and charges so published and filed with the department, as provided by law.

Thirty days' written notice preceding effective date of any alteration in rates must be given depositor by warehouse operators.

Statutory Authority: *MS s 17B.28*

History: *17 SR 1279*

1560.8300 FIRE PROTECTION.

All warehouses must be protected against fire by an automatic device or fire extinguishers. Extinguishers must be recharged at least once a year and tagged, showing the date of such recharge. Where an automatic device is maintained, it must be kept in complete working condition at all times. Goods, wares, or merchandise must not be piled to a greater height than 1-1/2 feet from the outlets of the automatic device.

Statutory Authority: *MS s 17B.28*

1560.8400 FLOOR LOAD.

No warehouse floor or part of floor shall at any time be loaded or stored with a greater weight of goods or materials per square foot than the floor will sustain with safety, and if the department directs a warehouse operator to ascertain from a competent registered architect or engineer, or from the proper municipal authorities as to what may be the safe load capacity in pounds per square foot of each floor of the

operator's warehouse or warehouses, the operator shall do so without unnecessary delay, and must post signs in several conspicuous places on each floor, stating the safe live load such floor will sustain.

Statutory Authority: *MS s 17B.28*

History: *17 SR 1279*

1560.8500 OPENING AND ABANDONMENT OF WAREHOUSES.

No building or structure shall be used as a warehouse or branch warehouse until it has been inspected and approved for warehousing purposes by the department.

On ceasing to use a building or other structure, a warehouse operator shall promptly notify the department thereof.

Statutory Authority: *MS s 17B.28*

History: *17 SR 1279*

1560.8600 STORAGE CONDITIONS.

Subpart 1. **Aisles.** On each floor where there is open storage of goods, wares, or merchandise, there must be aisles wide enough to permit of the free and unimpeded passage of goods, wares, or merchandise. All aisles must be kept free from obstructions, dust, and litter.

Subp. 2. **Wrapping.** Pieces of overstuffed furniture, mattresses, rugs, carpets, and other goods not stored in containers must be protected by wrapping before being placed in permanent storage.

Subp. 3. **Packing room.** Warehouse operators storing household goods shall have available a packing or crating room partitioned off from the storage of goods on the same floor.

Statutory Authority: *MS s 17B.28*

History: *17 SR 1279*

1560.8700 LICENSE PERIOD.

All warehouse licenses expire on September 30 of each year.

Statutory Authority: *MS s 17B.28*

1560.8800 BONDS.

No surety bond required of a warehouse operator under Minnesota Statutes, section 231.17, will be acceptable to the department unless it is written by a surety company authorized to do business in Minnesota.

Warehouse operators shall file a surety bond and in an amount to be determined by the department as reasonable for warehouse operators in cities and villages subject to Minnesota Statutes, chapter 231, but not less than \$10,000.

A new surety bond must be filed with each application for a license to do business as a warehouse operator.

Statutory Authority: *MS s 17B.28*

History: *17 SR 1279*

1560.9000 Subpart 1. [Repealed, 23 SR 519]

Subp. 2. [Repealed, L 2001 1SP2 s 162]