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BEGINNING FARMER LOAN PARTICIPATION 1650.0020

CHAPTER 1650

RURAL FINANCE AUTHORITY

BEGINNING FARMER LOAN PARTICIPATION PROGRAM

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1650.0010 APPLICABILITY AND PURPOSE.

Subpart 1. **Applicability.** Parts 1650.0010 to 1650.0070 establish the criteria and procedures to be used by the Rural Finance Authority in the administration of the beginning farmer loan participation program authorized by Minnesota Statutes, sections 41B.01 to 41B.23.

Subp. 2. **Purpose.** The purpose of the Rural Finance Authority beginning farmer loan participation program and the bonds issued to finance or provide security for the program is to preserve and develop the state's agricultural resources by extending credit on real estate security through the purchase of participation interests in first mortgage loans made to persons entering farming.

Statutory Authority: *MS s 41B.01 to 41B.23*

History: *14 SR 906; 15 SR 1520*

1650.0020 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 1650.0010 to 1650.0070.

Subp. 2. **Agricultural purposes.** "Agricultural purposes" means the production of livestock, dairy animals, dairy products, poultry or poultry products, fur-bearing animals, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, or bees and apiary products. Agricultural purposes also includes the use of the following types of real property: wetlands, pasture, forest land, wildlife, and homestead and other real property adjacent to or associated with the agricultural use of land.

Subp. 3. **Applicant.** "Applicant" means a person who submits an application to the RFA through an eligible lender.

Subp. 4. **Application.** "Application" means an application for the beginning farmer loan participation prescribed by the RFA.

Subp. 5. **Assets.** "Assets" means property, real or personal, tangible or intangible, and all contract rights of value that constitute assets, including cash crops or feed on hand, livestock held for sale, breeding stock, marketable bonds and securities, securities not readily marketable, accounts receivable, notes receivable, cash invested in growing crops, cash value of life insurance, machinery and equipment, cars and trucks, farm and other real estate including life estates and personal residence, and the value of a beneficial interest in trusts.

Subp. 6. **Beginning farmer loan.** "Beginning farmer loan" means a first mortgage loan made by an eligible lender to an eligible borrower, offered to the RFA for participation, and in which the RFA has purchased a participation.

Subp. 7. **Borrower.** "Borrower" means the person or persons liable on a beginning farmer loan. A borrower may not be a corporation.

Subp. 8. **Debt to asset ratio.** "Debt to asset ratio" means the total outstanding liabilities of an applicant divided by the total outstanding assets of the applicant expressed as a percentage.

Subp. 9. **Liabilities.** "Liabilities" means the debts or other obligations for which an applicant is responsible including: accounts payable, notes or other indebtedness owed to any source, taxes, rent, amount owed on real estate contracts or mortgages, judgments, and accrued interest payable.

Subp. 10. **Net worth.** "Net worth" means the total value of an applicant's assets and the assets of the applicant's spouse and dependents, less the liabilities of the same parties.

Subp. 11. **Participation certificate.** "Participation certificate" means a document in a form prescribed by the RFA, that is signed by an authorized representative of a participating lender and evidences the RFA's participation in a beginning farmer loan.

Subp. 12. **RFA.** "RFA" means the Rural Finance Authority established by Minnesota Statutes, sections 41B.01 to 41B.23.

Subp. 13. **RFA beginning farmer program.** "RFA beginning farmer program" means the RFA program for the purchase of participation interests in first mortgage real estate loans made to eligible borrowers so that the borrowers may use the real estate for agricultural purposes.

Subp. 14. **RFA participation.** "RFA participation" means the Rural Finance Authority's undivided interest in the principal of a beginning farmer loan, all rights and interests in the loan documents, and all proceeds arising from that undivided interest in the principal of the beginning farmer loan. The RFA's participation may not exceed 35 percent of the total principal of the loan or \$50,000, whichever is less.

Statutory Authority: *MS s 41B.07*

History: *14 SR 906*

1650.0030 BORROWER ELIGIBILITY.

Subpart 1. **Criteria.** To be eligible for RFA loan participation, an applicant must meet the criteria in Minnesota Statutes, section 41B.03, subdivisions 1 and 3, and those in this part.

Subp. 2. **Current farm ownership.** An applicant is considered to be a beginning farmer if:

A. the applicant has held a minority interest of less than 35 percent in a family farm corporation as defined in Minnesota Statutes, section 500.24, and does not as an individual own any other farm real estate except as provided in item B; or

B. the applicant does not own farm real estate of more than 160 acres.

Subp. 3. **Net worth.** An applicant's net worth must be calculated at the time of the application and must not include the value of the farm to be purchased or the liability of the prospective loan.

Subp. 4. **Eligibility.** An applicant must certify to the RFA in the application that the applicant understands the eligibility criteria stated in the application and is eligible for the program.

Statutory Authority: *MS s 41B.01 to 41B.23*

History: *14 SR 906; 15 SR 1520*

1650.0040 LENDER ELIGIBILITY.

Subpart 1. **Statutory eligibility.** A lending institution covered by Minnesota Statutes, section 41B.02, subdivision 4, may apply to the RFA for certification as an eligible lender.

Subp. 2. **Approval.** Upon the lender's demonstration of its ability to adequately originate and service beginning farmer loans, the RFA shall designate the lender as an approved lender for purposes of the beginning farmer program.

Subp. 3. **Participation agreement.** Before submission of applications to the

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RFA, an approved lender shall enter into a participation agreement with the RFA specifying the terms and conditions of the loans to be made to a beginning farmer and then offered to the RFA for participation, and the contractual relationship between the lender and the RFA.

Statutory Authority: *MS s 41B.07*

History: *14 SR 906*

1650.0050 APPLICATION PROCEDURES; NOTICES.

Subpart 1. Application. An applicant and an approved lender who wish to request RFA participation in a first mortgage real estate loan must jointly complete and sign an application and prepare all supporting documents identified in the application.

The lender shall present these documents to the RFA. Presentation of the documents constitutes an offer to participate in the loan.

Subp. 2. Authority review. Within a reasonable time after receipt of an application and supporting documents, the RFA shall review the information provided and accept or reject the lender's offer to participate. If the information provided is not sufficient to make a determination, the authority shall request additional information from the lender and applicant.

Subp. 3. RFA notice. The RFA shall promptly notify the lender in writing whether the application has been approved or not. If the application is not approved, the notice must state the reasons for disapproval.

Subp. 4. Administrative reconsideration. If a proposed application is not approved by the RFA, the borrower or the lender may petition the RFA program director for an administrative reconsideration. The petition must be in writing and must be sent within 15 business days of the date of the disapproval. The petition must state the petitioner's reasons for disagreeing with the disapproval and may include additional information relevant to the request for reconsideration. Within 15 business days of receiving the petition, the RFA program director shall send a written response to the petitioner upholding or reversing the original decision and giving the reasons for the decision.

Subp. 5. Appeal. A petitioner may appeal the program director's reconsideration directly to the RFA board, by written notice to the director within 15 business days of receiving the director's reconsideration decision. The decision of the board is final.

Subp. 6. Closing; payment. If an application is approved for RFA participation, the lender shall close the loan and notify the RFA. Within five business days of being notified that the loan is closed, the RFA shall pay the lender by state warrant for the RFA's participation interest in the beginning farmer loan. Upon the lender's receipt of finally collected funds under the warrant, the lender shall issue and deliver a participation certificate to the RFA witnessing that the RFA is the absolute owner of a pro rata interest in the beginning farmer loan and in the collateral securing the loan in the amount of its participation interest.

Statutory Authority: *MS s 41B.07*

History: *14 SR 906*

1650.0060 LOAN ADMINISTRATION.

A. The lender shall perform all tasks and functions customarily performed in the administering of first mortgage loans with the degree of care and diligence usually maintained by agricultural real estate lenders. The lender shall also have custody and control of all loan documents.

B. The lender shall monitor the borrower's loan payment performance and financial condition.

C. The lender shall manage, administer, and enforce the loan documents

in its own name but on behalf of itself and the RFA, including, without limitation, the right to accelerate a beginning farmer loan on default and to foreclose or otherwise enforce remedies against the borrower.

D. The lender shall promptly notify the RFA of occurrences that substantially affect the security, collection, or enforcement of a beginning farmer loan.

E. The lender shall obtain the prior written consent of the borrower and the RFA or a person or entity designated by the RFA before:

(1) making or consenting to a release, substitution, or exchange of collateral that reduces the aggregate value of the collateral;

(2) waiving a claim against the borrower or a guarantor, surety, or obligor in connection with the indebtedness; or

(3) modifying or waiving a term of the notes or related instruments evidencing or securing the beginning farmer loan.

Statutory Authority: *MS s 41B.07*

History: *14 SR 906*

1650.0070 REVIEW OF LOAN AND COLLATERAL.

Subpart 1. **Inspection.** At any time during the term of a beginning farmer loan, the RFA or the state legislative auditor may inspect the books, records, documents, and accounting procedures and practices of the lender and the borrower relative to a beginning farmer loan to enable the authority to determine if the lender and the borrower are complying with the terms and conditions of the loan agreement, Minnesota Statutes, sections 41B.01 to 41B.211, the participation agreement between the lender and the RFA, and parts 1650.0010 to 1650.0070. The lender shall allow the RFA to review and copy documents relating to the beginning farmer loan at no cost to the RFA. The RFA shall conduct inspections and review documents during the lender's normal business hours.

Subp. 2. **Collateral.** The lender and the RFA may physically inspect the collateral securing the beginning farmer loan upon notice to the borrower. An inspection under this subpart must be conducted at a reasonable time.

Statutory Authority: *MS s 41B.07*

History: *14 SR 906*