

CHAPTER 1655
RURAL FINANCE AUTHORITY
LIVESTOCK EXPANSION LOAN PROGRAM

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1655.0010 [Repealed, 19 SR 340; 20 SR 2427]

LIVESTOCK EXPANSION LOAN PROGRAM

1655.0011 APPLICABILITY AND PURPOSE.

Subpart 1. **Applicability.** This chapter establishes the criteria and procedures to be used by the RFA in administering the Livestock Expansion Loan Program authorized by Minnesota Statutes, section 41B.045.

Subp. 2. **Purpose.** The purpose of the RFA Livestock Expansion Loan Program and for the issuance of bonds to finance the program is to promote livestock in the state and encourage the adoption of efficient, state of the art production facilities and practices. This is accomplished by participating in loans made to applicants who meet the eligibility requirements in this chapter. The repayment of the loans must be secured by mortgage liens on real property.

Statutory Authority: *MS s 41B.07*

History: *20 SR 2427*

1655.0020 [Repealed, 19 SR 340; 20 SR 2427]

1655.0021 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to this chapter.

Subp. 2. **Applicant.** "Applicant" means a potential borrower who submits an application to the RFA through an eligible lender.

Subp. 3. **Application.** "Application" means the application for a loan participation under the Livestock Expansion Loan Program in the form provided by the RFA.

Subp. 4. **Assets.** "Assets" means property, real or personal, tangible or intangible, and all valuable contract rights, 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, trucks, farm and other real estate including life estates and personal residence, and the value of a beneficial interest in trusts.

Subp. 5. **Borrower.** "Borrower" means the person or persons liable on a mortgage loan made under the program. "Borrower" includes a domestic family farm corporation as defined in Minnesota Statutes, section 500.24.

Subp. 6. **Collateral.** "Collateral" means all assets pledged as security for a borrower's obligation under a mortgage loan made under the program, including assets, guarantees, money, letters of credit, assignment of collateral, or pledge for a loan on which the lender has a security interest or lien.

Subp. 7. **Executive director.** "Executive director" means the executive director of the RFA or another officer authorized to act on behalf of the RFA board or its executive director.

Subp. 8. **Fixture.** "Fixture" means an article in the nature of personal property that has been affixed or annexed to real estate so that it is regarded as a part of the real estate. A thing is "affixed or annexed to real estate" when it is attached to it by roots, embedded in it, permanently resting upon it, or permanently attached to it, as by means of cement, plaster, nails, bolts, or screws.

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

Subp. 10. **Livestock expansion.** "Livestock expansion" has the meaning given in Minnesota Statutes, section 41B.02, subdivision 10a.

Subp. 11. **Livestock Expansion Loan Program or program.** "Livestock Expansion Loan Program" or "program" means the program authorized and created by Minnesota Statutes, section 41B.045.

Subp. 12. **Livestock operation.** "Livestock operation" means the use of land or land improvements and personal property for the production of livestock as defined in Minnesota Statutes, section 17A.03, subdivision 5, dairy products, and poultry or poultry products. "Livestock operation" also includes:

A. the use of wetlands, pasture, forest land, wildlife, and homestead and other real property associated with the agricultural use of land; and

B. the practices and facilities needed to conserve soil and water, protect human and animal health, have a safe and efficient operation, and meet local, state, and federal laws and regulations relating to the operation.

Subp. 13. **Mortgage loan or loan.** "Mortgage loan" or "loan" means a loan participation under the program that is secured by a first mortgage on real property.

Subp. 14. **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. 15. **Real estate or real property.** "Real estate" or "real property" means land and anything permanently affixed to the land, such as buildings, fences, and those things attached to the buildings, such as light fixtures, plumbing and heating fixtures, and other items that would be personal property if not attached.

Subp. 16. **RFA.** "RFA" means the Rural Finance Authority established by Minnesota Statutes, section 41B.025.

Statutory Authority: *MS s 41B.07*

History: *20 SR 2427*

1655.0030 [Repealed, 19 SR 340; 20 SR 2427]

1655.0031 BORROWER ELIGIBILITY.

To be eligible for assistance under the Livestock Expansion Loan Program, an applicant must meet the criteria in items A to F.

A. All of the applicants must be residents of the state of Minnesota or a domestic family farm corporation as defined in Minnesota Statutes, section 500.24.

B. At least one of the applicants must be the principal operator of the livestock operation upon which the livestock expansion will be located.

C. At least one of the applicants must be actively engaged in a livestock operation.

D. The applicants must have the ability to repay the loan.

E. The applicants' net worth may not exceed \$400,000.

F. The applicants must not be current or previous participants in the RFA Restructure II Program.

Statutory Authority: *MS s 41B.07*

History: *20 SR 2427*

1655.0040 [Repealed, 19 SR 340; 20 SR 2427]

1655.0041 DEMONSTRATION PROGRAM; RESTRICTIONS.

For fiscal years 1996 and 1997, all loans must comply with the restrictions in items A and B.

A. To the extent that herd health will not be jeopardized, livestock operations receiving assistance from the RFA must be available for tours within the first two years after completion of the expansion.

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B. All livestock expansion loans must be for expansions that include up-to-date and efficient systems. Projects must be reviewed by a University of Minnesota extension livestock specialist prior to approval by the RFA.

Statutory Authority: *MS s 41B.07*

History: 20 SR 2427

1655.0050 [Repealed, 19 SR 340; 20 SR 2427]

1655.0051 LENDER ELIGIBILITY.

Subpart 1. **Statutory eligibility.** Any bank, credit union, or savings association chartered by the state or federal government, a subdivision of the farm credit system (Agri Bank), the Federal Deposit Insurance Corporation, or any insurance company, fund, or other financial institution doing business as an agricultural lender within the state may apply to the RFA for certification as an approved lender.

Subp. 2. **Approval.** If a lender demonstrates its ability to originate and service agricultural real estate loans, the RFA shall designate the lender as an approved lender for purposes of RFA programs.

Subp. 3. **Participation agreement.** Before offering mortgage loans to the RFA for participation, each approved lender must enter into an RFA master participation agreement specifying the relationship between the parties and the terms and conditions of mortgage loans to be made by the lender under the Livestock Expansion Loan Program and offered to the RFA for participation.

Statutory Authority: *MS s 41B.07*

History: 20 SR 2427

1655.0060 [Repealed, 19 SR 340; 20 SR 2427]

1655.0061 APPLICATION PROCESS AND OFFER OF PARTICIPATION.

Subpart 1. **Request for livestock expansion loan participation.** A lender and an applicant must jointly complete and sign an application and prepare all supporting documents identified in the application.

Subp. 2. **Acquisition or construction.** The applicant shall not begin acquisition or construction of any part of the livestock expansion before RFA approval of the application. Once the application has been approved, upon notice to the lender of RFA approval, the applicant may move forward with acquisition or construction of the livestock expansion collateral requirements.

Subp. 3. **Collateral requirements.** The RFA may participate only in loans that do not exceed 80 percent of the appraised value of the real estate offered for collateral. Additional collateral may be required based on the depreciability and saleability of the collateral and creditworthiness of the applicant.

Subp. 4. **Lender determination.** The lender shall complete the initial review of the proposal and determine the creditworthiness of the applicant and the value of the collateral to be used to secure the loan. If the lender agrees to make a mortgage loan to the applicant, the lender and the applicant shall jointly prepare the application and the required loan documents.

Subp. 5. **Offer.** The lender, as the originator of the mortgage loan, shall present a completed application and loan documents to the RFA. Presentation of the documents constitutes an offer to sell a participation interest in the loan.

Subp. 6. **Fees.** A nonrefundable application fee as established by Minnesota Statutes, section 41B.045, subdivision 4, must be submitted with each application. The loan origination fee established by Minnesota Statutes, section 41B.045, subdivision 4, must be submitted by the applicant at the closing of the loan. The loan origination fee and other loan closing expenses may be financed with proceeds of the loan.

Subp. 7. **Terms and conditions of loan.** The maximum term of a loan participation is ten years. The maximum participation is 45 percent of the loan principal or \$250,000, whichever is less. The loan may have a balloon payment.

Subp. 8. **Misrepresentation in application.** If a change occurs in the information provided by the lender to the RFA prior to the closing of a loan, the lender shall immediately

update and correct that information. Misrepresentation in the application or failure to update any required information is grounds to reject an application, revoke a notice of approval, or refuse to close the loan.

Statutory Authority: *MS s 41B.07*

History: *20 SR 2427*

1655.0070 [Repealed, 19 SR 340; 20 SR 2427]

1655.0071 RFA REVIEW, NOTICE, APPEAL.

Subpart 1. **RFA review.** The RFA shall accept or reject all applications within 60 days after their receipt. If the documentation is not sufficient to make a determination, the RFA may request additional information to establish the creditworthiness and eligibility of an applicant.

Subp. 2. **RFA acceptance.** The RFA shall accept applications based upon whether:

- A. the applicant meets all eligibility criteria;
- B. the applicant demonstrates an ability to repay the the mortgage loan and other obligations;
- C. the proposed livestock expansion meets specifications set by statute and rule;
- D. none of the loan proceeds are being used to refinance existing debt; and
- E. the RFA has sufficient funds available to purchase a participation in the loan.

Subp. 3. **RFA notice.** The RFA shall notify the lender in writing whether or not an application is accepted. If the application is not accepted, the notice must state the reasons.

Subp. 4. **Administrative appeal.** If an application is rejected, either the lender or the applicant may petition for administration reconsideration by the RFA. The petition must be in writing and must be sent within 30 days of the date of the RFA notice. The petition must state the grounds for the appeal, and may include additional relevant information. Within 15 working days of receiving the petition, the executive director shall send a written response to the petitioner upholding or reversing the original decision and giving the reasons for the decision.

Subp. 5. **Formal appeal.** After administrative appeal, a petitioner may appeal the executive director's decision directly to the RFA board by written notice to the director within 15 days of receiving the director's reconsideration decision. The decision of the board is final.

Statutory Authority: *MS s 41B.07*

History: *20 SR 2427*

1655.0080 [Repealed, 19 SR 340; 20 SR 2427]

1655.0081 LOAN CLOSING, PURCHASE OF PARTICIPATION, AND LOAN MANAGEMENT.

Subpart 1. **Closing.** Upon receiving notification of RFA acceptance, the lender shall close the mortgage loan. The lender must record and cross-reference all documents relating to the loan, including the RFA note and loan agreement. The lender must notify the RFA that the loan is closed and recorded by signing part 9 and submitting the original RFA application, and include copies of the recorded documents and final title opinion to the RFA.

Subp. 2. **Payment.** Within ten business days of receipt of written notice under subpart 1 that the mortgage loan is closed and recorded and receipt of all required documents, the RFA shall initiate payment to the lender for the RFA's participation interest in the loan.

Subp. 3. **Participation certificate.** Within five working days after the receipt of finally collected funds, the lender shall complete and return a participation certificate as provided by the RFA witnessing the RFA's undivided pro rata interest in the livestock expansion mortgage loan.

Subp. 4. **Loan management.** The lender shall manage the loan, including the RFA participation interest, with the degree of care and diligence usually maintained by agricultural real estate lenders. The lender shall have custody and control of all loan documents except the original application, which must be kept by the RFA. The lender shall manage, adminis-

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

Subp. 5. **Lender notification.** The lender shall promptly notify the RFA of occurrences that substantially affect the security, collection, or enforcement of any mortgage loan.

Subp. 6. **Prior written consent.** The lender shall obtain the prior written consent of the borrower and the RFA before:

A. making or consenting to a release, substitution, or exchange of collateral that reduces the aggregate value of the collateral;

B. waiving a claim against the borrower or a guarantor, surety, or obligor in connection with the indebtedness; or

C. modifying or waiving a term of the notes or related instruments evidencing or securing the first mortgage loan.

Statutory Authority: *MS s 41B.07*

History: *20 SR 2427*

1655.0090 [Repealed, 19 SR 340; 20 SR 2427]

1655.0091 PARTICIPATION REPURCHASE.

A lender is under no obligation to repurchase an RFA participation interest in a livestock expansion mortgage loan except as provided in this part. A lender may, at its option and upon written approval by the RFA, repurchase an RFA participation interest at any time. A lender must repurchase the RFA participation interest whenever the first mortgage loan is paid in full or refinanced. A lender must repurchase the RFA participation interest if the lender:

A. has made misrepresentations or is aware that the applicant has made them or fails to perform its obligations under the participation agreement;

B. has received written notice from the RFA; and

C. has not corrected the representation or performance under the notice.

A repurchase under this part must be for the outstanding and unpaid principal balance of the RFA participation plus accrued interest and any penalties or costs incurred by the RFA to secure repurchase.

Statutory Authority: *MS s 41B.07*

History: *20 SR 2427*

1655.0100 [Repealed, 19 SR 340; 20 SR 2427]

1655.0101 REVIEW OF LOAN AND COLLATERAL.

Subpart 1. **Inspection.** At any time during the term of a livestock expansion mortgage loan, the RFA or the state legislative auditor may inspect the books, records, documents, and accounting practices of the lender relative to the loan to determine compliance with the terms and conditions of the loan and the participation agreement. Inspections must be during the lender's normal business hours. The lender must allow the RFA to copy any documents relating to the mortgage loan and the RFA participation.

Subp. 2. **Collateral.** The lender and the RFA may physically inspect the collateral securing the mortgage loan upon notice to the borrower. Inspections must be conducted at reasonable times.

Statutory Authority: *MS s 41B.07*

History: *20 SR 2427*