

CHAPTER 41

FAMILY FARM SECURITY PROGRAM

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41.51 PURPOSE.

In order to aid farmers in obtaining credit for the acquisition of farm real estate, there is established a family farm security program which shall provide state money in guarantee of loans made according to the provisions of Laws 1976, Chapter 210.

History: 1976 c 210 s 1

41.52 DEFINITIONS.

Subdivision 1. For the purposes of Laws 1976, Chapter 210 the following terms shall have the meanings given.

Subd. 2. "Applicant" means a natural person applying for a family farm security loan.

Subd. 3. "Council" means the family farm advisory council.

Subd. 4. "Commissioner" means the commissioner of agriculture.

Subd. 5. "Family farm security loan", except in the case of a seller-sponsored loan, means a loan secured by a first real estate mortgage. In the case of a seller-sponsored loan, it means a loan secured either by a real estate mortgage evidenced by one or more notes or secured by a contract for deed. It shall be used for acquisition of farm land and shall be approved by the commissioner. This loan shall be guaranteed and may qualify for a payment adjustment as defined in subdivision 10 and may be a seller-sponsored loan as defined in subdivision 8.

Subd. 6. "Farm land" means land in Minnesota that is capable of supporting the commercial production of agricultural crops, livestock or livestock products, poultry products, milk or dairy products, or fruit or other horticultural products.

Subd. 7. "Lender" means any bank, savings bank, mutual savings bank, building and loan association, savings and loan association, organized under the laws of this state or the United States, trust companies, trust companies acting as fiduciaries, and other financial institutions subject to the supervision of the commissioner of commerce; and any foreign or domestic corporation engaged in the business of insurance which is subject to the supervision of the commissioner of commerce as defined in section 60A.02, subdivision 3; and any financial institution operating under the supervision of the farm credit administration. In case of seller-sponsored loans as authorized in section 41.58, "lender" also means the seller of the property.

Subd. 8. "Seller-sponsored loan" means a loan in which part or all of the purchase price of the farm is financed by a loan from the seller of the property who is a natural person, a partnership or a family farm corporation as defined in section 500.24, and the remainder of the loan, if any, is supplied by a lender as defined in subdivision 7 or other person. This loan shall be secured by a real estate mortgage evidenced by one or more notes that may carry different interest rates, or by a contract for deed.

Subd. 9. "Family farm loan guarantee" means an agreement that in the event of default the state of Minnesota shall pay the lender 90 percent of the sums due and payable under the first real estate mortgage, or, in the case of a seller-sponsored loan, 90 percent of the sums due and payable under the note and mortgage or contract for deed.

Subd. 10. "Payment adjustment" means an amount of money equal to four percent interest on the principal balance of the family farm security loan.

Subd. 11. "Cooperating agency" means any individual, financial institution, state or federal agency, or any other legal entity which executes a memorandum of understanding with the family farm security program.

Subd. 12. "Memorandum of understanding" means an agreement outlining conditions under which a cooperating agency will provide farm real estate loan funds not to be included under a family farm loan guarantee to applicants.

Subd. 13. **Participant.** "Participant" means an applicant who has received final approval for a guarantee which has been fully executed by the state.

History: 1976 c 210 s 2; 1977 c 170 s 1,2; 1981 c 261 s 4-8; 1983 c 289 s 114 subd 1; 1983 c 332 s 2; 1984 c 655 art 1 s 92

41.53 ADMINISTRATION AND RULES.

Subdivision 1. The family farm security program shall be administered by the commissioner.

Subd. 2. The commissioner may adopt emergency or permanent rules necessary for the efficient administration of sections 41.51 to 41.57; 41.58, subdivisions 1 and 2; 41.59, subdivision 1; and 41.61.

Subd. 3. On or before January 1 of each year the commissioner shall submit a report to the legislature, as provided in section 3.195, concerning the actions of the commissioner and the status of loans granted.

History: 1976 c 210 s 3; 1978 c 674 s 9; 1983 c 332 s 3; 1984 c 640 s 32

41.54 ADVISORY COUNCIL.

Subdivision 1. **Membership.** There is established a family farm advisory council composed of seven members appointed by the commissioner of agriculture as follows:

- (a) Two officers from a commercial lending institution;
- (b) One dairy farmer;
- (c) One livestock farmer;
- (d) One cash grain farmer;
- (e) One officer from a farm credit association;
- (f) One agricultural economist.

Subd. 2. **Terms and compensation.** The compensation, removal of members and expiration of the council shall be governed by section 15.059. The council shall meet monthly or as needed.

The terms of the members serving on January 15, 1981, shall end on the first Monday in April in the year indicated as follows:

- (a) the dairy farmer and one officer from a commercial lending institution, 1982;
- (b) the cash grain farmer and the officer from a farm credit association, 1983;
- (c) the livestock farmer and one officer from a commercial lending institution, 1984; and
- (d) the agricultural economist, 1985.

After a term expires as provided in clauses (a) to (d), all successors shall be appointed for four year terms. The terms of the present officers from a commercial lending institution shall be decided by lot subject to clauses (a) and (c).

Subd. 3. Chairman. The members of the council shall annually elect a chairman and other officers they deem necessary.

Subd. 4. Duties. The duties of the council shall be as follows:

- (a) To review and appraise the family farm security program;
- (b) To give advice and counsel to the commissioner regarding the family farm security program;
- (c) To review all applications for family farm security loans and make recommendations to the commissioner as to their disposition;
- (d) To make recommendations to the commissioner of agriculture, legislature and the public on or before December 31 of each year regarding any needed state policy or program changes to foster and promote the economic health and viability of the family farm.

Subd. 5. Staff services. commissioner of agriculture shall provide the council with necessary staff, office space and administrative services.

History: 1976 c 210 s 4; 1977 c 170 s 3; 1981 c 261 s 9; 1983 c 260 s 13; 1983 c 332 s 4

41.55 ELIGIBILITY.

A family farm security loan approval may be granted if the following criteria are satisfied:

- (a) That the applicant is a resident of the state of Minnesota;
- (b) That the applicant has sufficient education, training, or experience in the type of farming for which he wishes the loan and continued participation in a farm management program, approved by the commissioner, for at least the first ten years of the family farm security loan;
- (c) That the applicant, his dependents and spouse have total net worth valued at less than \$75,000 and has demonstrated a need for the loan;
- (d) That the applicant intends to purchase farm land to be used by the applicant for agricultural purposes;
- (e) That the applicant is credit worthy according to standards prescribed by the commissioner;
- (f) That the seller has not acquired the farm land for purposes of obtaining the income tax exemption allowed by sections 41.58 and Laws 1976, chapter 210, section 12.

History: 1976 c 210 s 5; 1979 c 236 s 1; 1983 c 332 s 5

41.56 PROCEDURE.

Subdivision 1. Loan application; denial. Any person desiring to acquire farm land may make application with a lender for a family farm security loan. Upon

completion of the appropriate forms by the applicant and the lender, the applicant shall forward the application to the commissioner for approval. The commissioner shall prescribe a screening process to determine eligibility and he may arrange for local lenders to perform this function for the state. The commissioner may approve the application if the criteria of sections 41.55 and 41.57 are satisfied, and shall notify the applicant and the lender of his decision.

If the application is denied, the commissioner shall provide the applicant with a written statement of the reasons for the denial. If the circumstances of the applicant change such that he becomes eligible, he may reapply.

Subd. 2. Approved loans. If the commissioner approves the loan application, he shall notify the applicant and lender of his decision. The applicant and the lender may then complete the transaction for the loan.

Subd. 3. Default, filing claim. Within 90 days of a default on a guaranteed family farm security loan, the lender shall send notice to the applicant stating that the commissioner must be notified if the default continues for 180 days, and the consequences of that default. The lender and the applicant may agree to take any steps reasonable to assure the fulfillment of the loan obligation.

After 180 days from the initial default, if the applicant has not made arrangements to meet his obligation, the lender shall file a claim with the commissioner, identifying the loan and the nature of the default, and assigning to the state all of the lender's security and interest in the loan in exchange for payment according to the terms of the family farm security loan guarantee. In the case of a seller-sponsored loan, the seller may elect to pay the commissioner all sums owed the commissioner by the applicant and retain title to the property in lieu of payment by the commissioner under the terms of the loan guarantee. If the commissioner determines that the terms of the family farm security loan guarantee have been met, he shall authorize payment of state funds to the lender, and shall notify the defaulting party. The state of Minnesota shall then succeed to the interest of the mortgagee or the vendor of the contract for deed. Taxes shall be levied and paid on the land as though the owner were a natural person and not a political subdivision of the state. The commissioner may, on behalf of the state, commence foreclosure or termination proceedings in the manner provided by law.

Subd. 4. Sale of defaulted property. In the event that title to any property is acquired by the state, upon conveyance of title to the state and expiration of the period of redemption, the commissioner shall, within 15 days of the expiration of the period of redemption, undertake to sell the property by publishing a notice of the impending sale at least once each week for four successive weeks in a legal newspaper and also in a newspaper of general distribution in the county in which the property to be sold is situated. The notice must describe the lots or tracts to be offered and the terms of sale. Except as further provided, the terms and method of sale shall be determined by the commissioner.

The commissioner shall first attempt to sell the property to a person who is eligible for a family farm security loan. If the commissioner is unable to effect a sale to an eligible person, the commissioner shall attempt to sell the property for cash as provided in subdivision 4a. If the commissioner is unable to effect a sale to an eligible person or for cash, or if the commissioner finds that sale to an eligible person or for cash would not best protect the interests of the state, the commissioner may sell the property on terms which the commissioner finds will best protect the interests of the state. The commissioner may lease any real property which he is unable to sell with reasonable promptness. In any event, any acquired farm property must be sold within two years after the conveyance of title to the state or after the expiration of the period of redemption. The commissioner may contract for the services of a licensed real estate agent or broker to assist in selling any

property acquired under this section and may pay for the services from the proceeds of the sale before proceeds are distributed under subdivision 4b.

Subd. 4a. Sale for cash. When the commissioner sells any farm property for cash, he shall follow the procedures provided in this subdivision. If the sale will be completed more than 15 days after the last published notice of sale as provided in subdivision 4, the commissioner shall publish another notice as provided in that subdivision. The commissioner shall sell the property to the highest bidder by taking sealed bids or by bids at public auction. The commissioner may refuse to accept any or all bids. If a bid is accepted, the successful bidder shall be selected within 15 days of the date of the last published notice of sale. The successful bidder shall submit bid security in the form of a certified check or bid bond in the amount of two percent of the bid price on the day of selection and shall remit the balance of the purchase price within 90 days of the date of sale. Upon remittance by the purchaser of the balance within 90 days of the date of sale, the commissioner shall transfer title to the property, including any acquired mineral rights, to the purchaser by quitclaim deed. In the event that the purchaser fails to remit all of the balance within 90 days of the date of sale, the purchaser forfeits all rights to the property and any money paid for the property and the commissioner shall recommence the sale process specified in this subdivision.

Subd. 4b. Proceeds of sale. Proceeds from the sale of a parcel of property obtained by the state pursuant to this section shall be paid into the general fund to the extent that funds were disbursed as payment adjustments by the commissioner and into the special account authorized in section 41.61, subdivision 1, to the extent that funds from the special account were disbursed according to the terms of the family farm security loan guarantee and for any insurance premiums or taxes paid on the property. Proceeds in excess of these amounts shall be paid to the lender to the extent that payment to the lender pursuant to the loan guarantee was less than the money due and payable to the lender under the family farm security loan. Proceeds in excess of these amounts shall be paid to cooperating agencies according to the terms of the family farm memorandum of understanding. Additional proceeds, if any, shall be paid into the special account authorized in section 41.61, subdivision 1.

Subd. 5. Guarantee void. The loan guarantee is void only if the guaranteed loan was obtained or retained by fraud or material misrepresentation of which the original lender or subsequent holder had actual knowledge.

Subd. 6. Secondary market guarantees without recourse. In the case of all family farm loan guarantees, except seller-sponsored loan guarantees, the commissioner is authorized to extend said guarantees to a bona fide purchaser of the guaranteed portion of the note and mortgage executed by an original lender and borrower without recourse by the state of Minnesota against said bona fide purchaser of said guaranteed portion, provided the state of Minnesota is made the named beneficiary of a title insurance policy insuring marketable title to the farm land in question and the state of Minnesota is given the written opinion of original lender's counsel that the original loan transaction was fully closed, that disbursements were made correctly, that lender's security was properly perfected and constitutes a valid first lien upon the property, that original borrower's note is a valid and binding obligation, and that all conditions deemed desirable to assure the validity and legal enforceability of the note and mortgage and all agreements delivered to the original lender in connection with the original loan have been complied with satisfactorily. In the event title insurance is, as a practical matter, unavailable or an undue hardship, the commissioner is authorized to provide said guarantee without recourse by the state of Minnesota against said bona fide purchaser provided the state of Minnesota is given the written opinion of competent

local counsel concerning marketable title and the written opinion of original lender's counsel that the original loan transaction was fully closed, that disbursements were made correctly, that lender's security was properly perfected and constitutes a valid first lien upon the property, that original borrower's note is a valid and binding obligation, and that all conditions deemed desirable to assure the validity and legal enforceability of the note and mortgage and all agreements delivered to the original lender in connection with the original loan have been complied with satisfactorily. The making of such a guarantee without recourse shall not affect the rights the state of Minnesota may have with respect to the original lender, mortgagor, or any other party.

Subd. 7. Insurance. The commissioner may insure the state against loss to farm properties acquired under this section by fire, lightning, windstorm, tornado, flood, or hail, using any insurance company licensed to do business in Minnesota. The insurance may be in an amount the commissioner determines and the commissioner may pay the premiums from the special account created in section 41.61, subdivision 1.

History: 1976 c 210 s 6; 1977 c 170 s 4,5; 1979 c 236 s 2; 1981 c 261 s 10-13; 1983 c 332 s 6-10

41.57 TERMS OF THE LOAN.

Subdivision 1. Forms; appraisal procedure; limitations. A family farm security loan shall be transacted on forms approved by the commissioner with the advice of the attorney general. The commissioner shall establish by rule an appraisal procedure. He shall thereby determine the value and income potential of the property before guaranteeing a family farm security loan. No guarantee shall be made if the purchase price of the farm land exceeds the appraisal value as determined under the provisions of this subdivision.

Subd. 2. Payment adjustment. To be eligible for payment adjustment a family farm security loan shall have a maximum term of 20 years and shall provide for payments at least annually so that the loan shall be amortized over its term with equal annual payments of principal and interest, adjusted for variable interest rates, except that a loan to be amortized over a term of ten years or less need not provide for equal annual payments of principal and interest. During the first ten years of a family farm security loan, the commissioner shall annually pay to the lender four percent of the outstanding balance due at the beginning of that year and the applicant shall pay the remainder of the payment due. After the tenth year, the applicant shall make payments according to the stated interest rate. The applicant may petition the commissioner for one ten year renewal of the payment adjustment. If a renewal is granted, in the 21st year the applicant shall reimburse the commissioner for the sums paid on the applicant's behalf under this subdivision. If no renewal is granted, the applicant shall reimburse the commissioner in the 11th year for the sums paid on the applicant's behalf under this subdivision. The obligation to repay the payment adjustment is a lien against the property. If the applicant does not reimburse the state within the required time period, the commissioner may charge interest at the rate of two percent above the prevailing rate charged by the Federal Land Bank of St. Paul on the net amount owed for the period of delinquency. To recover the adjustment payment due in delinquency cases, the commissioner may proceed to foreclose by advertisement on the lien as if it were a real estate mortgage following the procedures in chapter 580.

Subd. 3. Annual review of net worth. The applicant, his dependents and spouse shall annually submit to the commissioner a statement of their net worth. If

their net worth in any year exceeds the sum of \$135,000, the applicant shall be ineligible for a payment adjustment in that year.

History: 1976 c 210 s 7; 1977 c 170 s 6; 1977 c 347 s 11; 1979 c 236 s 3; 1983 c 332 s 11

41.58 SELLER-SPONSORED LOANS.

Subdivision 1. **Authorization.** The commissioner may provide a guarantee to the lenders on seller-sponsored loans when the buyer satisfies the eligibility criteria in section 41.55. The commissioner may also provide a payment adjustment on behalf of the participant in the case of seller-sponsored loans.

Subd. 2. **Negotiability and marketability.** A seller-sponsored loan shall be secured by a purchase money real estate mortgage evidenced by negotiable note or notes as defined in section 336.3-104 or by a contract for deed. The commissioner must be notified in writing within 30 days after a family farm security loan note is sold or exchanged or vendor's interest in a contract for deed is sold, exchanged, assigned or transferred.

Subd. 3. **Taxability.** The interest earned by the seller of the property on a seller-sponsored loan that is guaranteed by the commissioner shall be excludable from gross income for purposes of chapter 290 for the year in which it is received.

History: 1976 c 210 s 8; 1977 c 170 s 7; 1978 c 763 s 1; 1981 c 261 s 14; 1983 c 332 s 12

41.59 SALE OR CONVEYANCE.

Subdivision 1. **Immediate repayment of loan.** Any applicant who sells or conveys the property for which a family farm security loan was issued shall immediately retire the entire indebtedness still owed to the lender and the commissioner. The new owner may negotiate a family farm security loan in his own right, but under no circumstances may the original loan be assumed by the new owner. If the new owner is granted a family farm security loan, the new owner may agree to assume the original applicant's responsibility to reimburse the commissioner for a payment adjustment received, as a portion of the total purchase price. That portion of the purchase price may not be included under the guarantee or considered when calculating the payment adjustment for the new owner. This subdivision is not intended to prohibit the applicant from granting a security interest in the property for the purposes of securing an additional loan.

Any applicant who fails to personally maintain the land covered by a family farm security loan in active agricultural production for a period of time longer than one year is in default. The default may be waived by the commissioner in the event of a physical disability or other extenuating circumstances.

Subd. 2. **Tax penalty on capital gain.** Chapter 290 shall apply to determine the amount of the gain realized on the sale of property for which a family farm security loan has been issued. The tax imposed by chapter 290 shall be imposed on the following percentages of any gain realized on the sale of the property:

| | Time lapsed from issuance of loan | | |
|-----|-----------------------------------|---------------|---------|
| | At least | but less than | Percent |
| (a) | | 1 year | 100 |
| (b) | 1 year | 3 years | 90 |
| (c) | 3 years | 5 years | 80 |
| (d) | 5 years | 7 years | 70 |
| (e) | 7 years | 9 years | 60 |
| (f) | 9 years | 10 years | 50 |

This tax shall no longer be applicable and the tax imposed by chapter 290 shall apply when the property for which a family farm security loan was issued has been held by the participant for more than ten years after the issuance of the loan. Chapter 290 shall apply when the participant has realized a loss on the sale of the property.

Subd. 3. **Waiver of tax penalty.** The commissioner of revenue shall waive the additional tax imposed in subdivision 2 if the participant has died or suffered a total disability, and the tax imposed in chapter 290 shall apply.

For the purposes of this section, "total disability" means the total and permanent loss of sight of both eyes, the loss of both arms at the shoulder, the loss of both legs so close to the hips that no effective artificial members can be used, complete and permanent paralysis, total and permanent loss of mental faculties, or any other injury which totally incapacitates the participant from working his farm.

History: 1976 c 210 s 9; 1983 c 332 s 13-15

41.60 DISCRIMINATION PROHIBITED.

In carrying out their respective duties under Laws 1976, Chapter 210, the council and the commissioner shall not discriminate between applicants because of race, color, creed, religion, national origin, sex, marital status, disability, political or ideological persuasion.

History: 1976 c 210 s 10

41.61 APPROPRIATIONS.

Subdivision 1. **Special account; standing appropriation.** There is created a special account in the state treasury for the purposes of financing the family farm security program.

The amount needed from time to time to pay lenders for defaulted loans and make other payments authorized by this chapter including insurance premiums and taxes on defaulted farms is appropriated from the special account to the commissioner. Money is also appropriated to the commissioner from the special account so that the commissioner may purchase the rights of first lienholders at mortgage foreclosure sales. The sum of all outstanding family farm security loans guaranteed by the commissioner at any time may not exceed \$100,000,000.

Subd. 2. [Repealed, 1983 c 343 s 6]

Subd. 3. [Repealed, 1983 c 343 s 6]

History: 1976 c 210 s 13; 1983 c 293 s 60; 1983 c 332 s 16; 1983 c 343 s 3; 1984 c 655 art 1 s 7