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Overview

This bill would modify the Farmer-Lender Mediation Act. It would increase the minimum debt amount that qualifies for farmer-lender mediation and modify the monthly living expenses that creditors must release to a farmer in mediation. It would also exempt from the Farmer-Lender Mediation Act for two years any new debt issued by a creditor to a farmer as the result of mediation. Other modifications are also proposed, pertaining primarily to a farmer's duty to be fully prepared for the first mediation meeting with the creditor(s). Finally, the bill will extend the Farmer-Lender Mediation Act by four years to June 30, 2022.

In 2016, the legislature created a Farmer-Lender Mediation Task Force to review the Act and issue recommendations by February 1, 2017 (Laws 2016, ch. 184, § 12). This bill is derived from those recommendations. At the time of publication, the report was available at www.house.leg.state.mn.us/comm/docs/906ab777-9214-46d6-9d24-8553d0905d65.pdf

First enacted in 1986 in response to a severe farm credit crisis, the Farmer-Lender Mediation Act requires a bank or other creditor to offer mediation to a farmer before enforcing a debt against agricultural property such as land, livestock, or crops. Specifically, the law applies to foreclosure, repossession, cancellation of a contract for deed, and execution of a court order or judgment.

To qualify for mediation under current law, the farmer's debt must exceed $5,000. This $5,000 threshold dates to the law's enactment in 1986. If the farmer owns or

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leases less than 60 acres, the farmer must have sold at least $20,000 of agricultural products in the previous year.

1 **Rights after default; judicial enforcement; consignor or buyer of accounts; chattel paper, payment intangibles, or promissory notes.** Increases the threshold for Uniform Commercial Code foreclosures, repossessions, and court judgments subject to the Farmer-Lender Mediation Act from at least $5,000 to the new, higher amount set in section 6 below (i.e., $15,000, adjusted every five years for inflation).

2 **Requirement.** Increases the threshold for court judgments subject to the Farmer-Lender Mediation Act from at least $5,000 to the new, higher amount set in section 7 below.

3 **Requirement.** Increases the threshold for contracts for deed subject to the Farmer-Lender Mediation Act from at least $5,000 to the new, higher amount set in section 7 below.

4 **Requirement.** Increases the threshold for foreclosures subject to the Farmer-Lender Mediation Act from at least $5,000 to the new, higher amount set in section 7 below.

5 **Expiration.** Pushes the expiration date for the Farmer-Lender Mediation Act out by four years to June 30, 2022.

6 **Debts.** Exempts from Farmer-Lender Mediation Act requirements for two years any new debt issued by a creditor to a farmer as the result of a farmer-lender mediation. In other words, for the first two years a creditor would not be required to offer mediation to the farmer before foreclosing, cancelling, or collecting on this new debt.

7 **Minimum eligible debt amount.** Provides that a debt of less than $15,000 is not subject to Farmer-Lender Mediation Act requirements. Requires University of Minnesota Extension (“Extension”) to adjust this threshold for inflation every five years using a federal cost-of-production index.

8 **Mediation request.** Requires a farmer participating in mediation to authorize Extension to pull the farmer’s credit report. Requires the mediation request form completed by a farmer seeking mediation to notify the farmer that the farmer’s failure to list all significant unsecured creditors could result in a determination that the farmer is participating in mediation in bad faith. Under current law, mediation may terminate and the creditor may proceed to collect on the debt if a mediator finds that a farmer is participating in bad faith.

9 **Financial analyst and farm advocate.** Requires the financial analyst assigned to prepare a farmer for mediation to assure that all relevant financial information is prepared prior to the first mediation meeting with the creditor(s).

10 **Orientation session.** Requires the mediator to inform the farmer prior to the first mediation meeting that participating in good faith requires addressing any inadequacies in the farmer’s records that were identified by the financial analyst.

11 **Mediation proceeding notice.** Requires Extension to send a mediation proceeding notice and claim form to any secured creditors that the farmer did not reveal but that were discovered by Extension by examining the farmer’s credit report.

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12 **End of mediation.** Requires the mediation termination statement prepared by the mediator to include the date on which the mediation ended and to identify any new debt issued by a creditor to the farmer as a result of the mediation (for purposes of section 6 above).

13 **Obligation of good faith.** Requires Extension to notify all parties, prior to the initial mediation meeting, of their obligation to participate in good faith and the consequences of failing to participate in good faith. Specifies that bad-faith participation includes a farmer's failure to provide complete financial information no later than the initial mediation meeting with the creditor(s).

Adjusts the amount that a creditor is required to release to the farmer each month for living expenses (net of any off-farm income) from the lesser of $1,600 or 150% of the amount the farmer's family would receive under the Minnesota Family Investment Program (MFIP), to the lesser of $3,800 or 150% of the MFIP amount. According to the Minnesota Department of Human Services, under MFIP a family of four is eligible to receive up to $1,207/month in cash and food benefits. (See Minnesota Department of Human Services. October 1, 2016. *DHS Reissues* "*Work Will Always Pay…With MFIP"*. Bulletin 16-11-01.) For reference, $1,207 x 150% = $1,811.

14 **Repealer.** Technical – repeals the definition of "living expenses", which would now be incorporated in the prior section.

15 **Effective date.** Makes this act applicable only to new debt issued on or after August 1, 2017.