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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. **80**

01/14/2021 Authored by Lippert; Hanson, J.; Sundin; Vang; Bahner and others
The bill was read for the first time and referred to the Committee on Agriculture Finance and Policy
02/25/2021 Adoption of Report: Amended and re-referred to the Committee on Commerce Finance and Policy
03/08/2021 Adoption of Report: Re-referred to the Committee on Agriculture Finance and Policy

1.1 A bill for an act
1.2 relating to agriculture; extending the Farmer-Lender Mediation Act; increasing
1.3 the period of time that creditors cannot enforce eligible debts; increasing the
1.4 mediation period; amending Minnesota Statutes 2020, sections 583.215; 583.26,
1.5 subdivisions 4, 5, 8; 583.27, subdivision 3.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2020, section 583.215, is amended to read:

1.8 **583.215 EXPIRATION.**

1.9 Sections 336.9-601, subsections (h) and (i); 550.365; 559.209; 582.039; and 583.20 to
1.10 583.32, expire June 30, ~~2022~~ 2027.

1.11 Sec. 2. Minnesota Statutes 2020, section 583.26, subdivision 4, is amended to read:

1.12 Subd. 4. **Mediation proceeding notice.** (a) By ten days after receiving a mediation
1.13 request, the director shall send: (1) a mediation proceeding notice to the debtor; (2) a
1.14 mediation proceeding notice to all creditors listed by the debtor in the mediation request
1.15 and any additional secured creditors identified by the director from the credit report obtained
1.16 with the debtor's permission under subdivision 2; and (3) a claim form to all secured creditors
1.17 stated by the debtor or identified by the director.

1.18 (b) The mediation proceeding notice must state:

1.19 (1) the name and address of the debtor;

1.20 (2) that the debtor has requested mediation under the Farmer-Lender Mediation Act;

1.21 (3) the time and place for the orientation session;

2.1 (4) the time and place for the initial mediation meeting;

2.2 (5) a list of the names of three mediators that may be assigned to the proceeding, along
2.3 with background information on those mediators including biographical information, a
2.4 summary of previous mediation experience, and the number of agreements signed by parties
2.5 to previous mediation;

2.6 (6) that the debtor and the initiating creditor may each request the director to exclude
2.7 one mediator by notifying the director within three days after receiving the notice;

2.8 (7) that in lieu of having a mediator assigned by the director, the debtor and any one or
2.9 more of the creditors may agree to select and pay for a professional mediator that is approved
2.10 by the director;

2.11 (8) that the Farmer-Lender Mediation Act prohibits the creditor from beginning or
2.12 continuing a proceeding to enforce the debt against agricultural property for ~~90~~ 120 days
2.13 after the debtor files a mediation request with the director unless otherwise allowed; and

2.14 (9) that the creditor must provide the debtor by the initial mediation meeting with copies
2.15 of notes and contracts for debts subject to the Farmer-Lender Mediation Act and provide a
2.16 statement of interest rates on the debts, delinquent payments, unpaid principal and interest
2.17 balances, the creditor's value of the collateral, and debt restructuring programs available by
2.18 the creditor.

2.19 (c) An initial mediation meeting must be held within 20 days of the notice.

2.20 (d) The initiating creditor and the debtor may each request the director to exclude one
2.21 mediator from the list by sending the director a notice to exclude the mediator within three
2.22 days after receiving the mediation proceeding notice.

2.23 (e) In lieu of the director assigning a mediator, the debtor and any one or more of the
2.24 creditors may agree to select and pay for a professional mediator for the mediation
2.25 proceeding. The director must approve the professional mediator before the professional
2.26 mediator may be assigned to the mediation proceeding. The professional mediator may not
2.27 be approved unless the professional mediator prepares and signs an affidavit:

2.28 (1) disclosing any biases, relationships, or previous associations with the debtor or
2.29 creditors subject to the mediation proceedings;

2.30 (2) stating certifications, training, or qualifications as a professional mediator;

2.31 (3) disclosing fees to be charged or a rate schedule of fees for the mediation proceeding;
2.32 and

(4) affirming to uphold the Farmer-Lender Mediation Act and faithfully discharge the duties of a mediator.

(f) After receiving a mediation proceeding notice, a secured creditor must return a claim form if the debt is not subject to the Farmer-Lender Mediation Act and specify why the debt is not subject to sections 583.20 to 583.32.

Sec. 3. Minnesota Statutes 2020, section 583.26, subdivision 5, is amended to read:

Subd. 5. Effect of mediation proceeding notice. (a) Except as provided in paragraphs (b), (c), and (d), if a creditor receives a mediation proceeding notice under subdivision 4 the creditor and the creditor's successors in interest may not begin or continue proceedings to enforce a debt subject to the Farmer-Lender Mediation Act against agricultural property of the debtor under chapter 580 or 581 or sections 336.9-501 to 336.9-508, to terminate a contract for deed to purchase agricultural property under section 559.21, or to garnish, levy on, execute on, seize, or attach agricultural property until ~~90~~ 120 days after the date the debtor files a mediation request with the director.

(b) Except as provided in paragraph (c), if a creditor is an agency of the United States and receives a mediation proceeding notice under subdivision 4, the creditor and the creditor's successors in interest may not begin or continue proceedings to enforce a debt against agricultural property of the debtor under chapter 580 or 581 or sections 336.9-501 to 336.9-508, to terminate a contract for deed to purchase agricultural property under section 559.21, or to garnish, levy on, execute on, seize, or attach agricultural property until ~~90~~ 120 days after the date the debtor files a mediation request with the director.

(c) Notwithstanding paragraphs (a) and (b) or subdivision 1, a creditor receiving a mediation proceeding notice may begin proceedings to enforce a debt against agricultural property of the debtor:

(1) at the time the creditor receives a mediator's affidavit of the debtor's lack of good faith under section 583.27; or

(2) five days after the date the debtor and creditor sign an agreement allowing the creditor to proceed to enforce the debt against agricultural property if the debtor has not rescinded the agreement within the five days.

(d) A creditor receiving a mediation proceeding notice must provide the debtor by the initial mediation meeting with copies of notes and contracts for debts subject to the Farmer-Lender Mediation Act and provide a statement of interest rates on the debts, delinquent payments, unpaid principal balance, a list of all collateral securing debts, a

4.1 creditor's estimate of the value of the collateral, and debt restructuring programs available
4.2 by the creditor.

4.3 (e) The provisions of this subdivision are subject to section 583.27, relating to extension
4.4 or reduction in the period before a creditor may begin to enforce a debt and court-supervised
4.5 mediation.

4.6 Sec. 4. Minnesota Statutes 2020, section 583.26, subdivision 8, is amended to read:

4.7 Subd. 8. **Mediation period.** The mediator may call mediation meetings during the
4.8 mediation period, which is up to ~~60~~ 90 days after the initial mediation meeting.

4.9 Sec. 5. Minnesota Statutes 2020, section 583.27, subdivision 3, is amended to read:

4.10 Subd. 3. **Creditor's bad faith; court supervision.** If the mediator finds the creditor has
4.11 not participated in mediation in good faith, the debtor may require court supervised mandatory
4.12 mediation by filing the affidavit with the district court of the county of the debtor's residence
4.13 with a request for court supervision of mediation and serving a copy of the request on the
4.14 creditor. Upon request the court shall require both parties to mediate under the supervision
4.15 of the court in good faith for a period of not more than ~~60~~ 90 days. All creditor remedies
4.16 must be suspended during this period. The court may issue orders necessary to effect good
4.17 faith mediation. Following the mediation period, if the court finds the creditor has not
4.18 participated in mediation in good faith, the court shall by order suspend the creditor's
4.19 remedies for an additional period of 180 days. A creditor found by the mediator not to have
4.20 participated in good faith shall pay attorneys' fees and costs of the debtor requesting
4.21 court-supervision of mediation or additional suspension of creditor's remedies.

4.22 Sec. 6. **EFFECTIVE DATE.**

4.23 This act is effective the day following final enactment and applies to mediation
4.24 proceedings in progress on that date and mediation proceedings beginning after that date.