

1.1 A bill for an act

1.2 relating to agriculture; extending the sunset of the farmer-lender mediation
1.3 act; removing an income limitation on legal assistance eligibility for family
1.4 farmers; increasing the dollar amount for actions that require a mediation notice;
1.5 amending Minnesota Statutes 2008, sections 336.9-601; 480.242, subdivision 2;
1.6 550.365, subdivision 1; 559.209, subdivision 1; 582.039, subdivision 1; 583.215.

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

1.8 Section 1. Minnesota Statutes 2008, section 336.9-601, is amended to read:

1.9 **336.9-601 RIGHTS AFTER DEFAULT; JUDICIAL ENFORCEMENT;**
1.10 **CONSIGNOR OR BUYER OF ACCOUNTS, CHATTEL PAPER, PAYMENT**
1.11 **INTANGIBLES, OR PROMISSORY NOTES.**

1.12 (a) **Rights of secured party after default.** After default, a secured party has the
1.13 rights provided in this part and, except as otherwise provided in section 336.9-602, those
1.14 provided by agreement of the parties. A secured party:

1.15 (1) may reduce a claim to judgment, foreclose, or otherwise enforce the claim,
1.16 security interest, or agricultural lien by any available judicial procedure; and

1.17 (2) if the collateral is documents, may proceed either as to the documents or as
1.18 to the goods they cover.

1.19 (b) **Rights and duties of secured party in possession or control.** A secured party
1.20 in possession of collateral or control of collateral under section 336.7-106, 336.9-104,
1.21 336.9-105, 336.9-106, or 336.9-107 has the rights and duties provided in section
1.22 336.9-207.

1.23 (c) **Rights cumulative; simultaneous exercise.** The rights under subsections (a)
1.24 and (b) are cumulative and may be exercised simultaneously.

2.1 (d) **Rights of debtor and obligor.** Except as otherwise provided in subsection (g)
2.2 and section 336.9-605, after default, a debtor and an obligor have the rights provided in
2.3 this part and by agreement of the parties.

2.4 (e) **Lien of levy after judgment.** If a secured party has reduced its claim to
2.5 judgment, the lien of any levy that may be made upon the collateral by virtue of an
2.6 execution based upon the judgment relates back to the earliest of:

2.7 (1) the date of perfection of the security interest or agricultural lien in the collateral;

2.8 (2) the date of filing a financing statement covering the collateral; or

2.9 (3) any date specified in a statute under which the agricultural lien was created.

2.10 (f) **Execution sale.** A sale pursuant to an execution is a foreclosure of the security
2.11 interest or agricultural lien by judicial procedure within the meaning of this section. A
2.12 secured party may purchase at the sale and thereafter hold the collateral free of any other
2.13 requirements of this article.

2.14 (g) **Consignor or buyer of certain rights to payment.** Except as otherwise
2.15 provided in section 336.9-607(c), this part imposes no duties upon a secured party that is
2.16 a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory
2.17 notes.

2.18 (h) **Security interest in collateral that is agricultural property; enforcement.** A
2.19 person may not begin to enforce a security interest in collateral that is agricultural property
2.20 subject to sections 583.20 to 583.32 that has secured a debt of more than ~~\$5,000~~ \$10,000
2.21 unless: a mediation notice under subsection (i) is served on the debtor after a condition of
2.22 default has occurred in the security agreement and a copy served on the director of the
2.23 agricultural extension service; and the debtor and creditor have completed mediation
2.24 under sections 583.20 to 583.32; or as otherwise allowed under sections 583.20 to 583.32.

2.25 (i) **Mediation notice.** A mediation notice under subsection (h) must contain the
2.26 following notice with the blanks properly filled in.

2.27 "TO: ...(Name of Debtor)...

2.28 YOU HAVE DEFAULTED ON THE ...(Debt in Default)... SECURED BY
2.29 AGRICULTURAL PROPERTY DESCRIBED AS ...(Reasonable Description of
2.30 Agricultural Property Collateral)...

2.31 AS A SECURED PARTY, ...(Name of Secured Party)... INTENDS TO ENFORCE
2.32 THE SECURITY AGREEMENT AGAINST THE AGRICULTURAL PROPERTY
2.33 DESCRIBED ABOVE BY REPOSSESSING, FORECLOSING ON, OR OBTAINING
2.34 A COURT JUDGMENT AGAINST THE PROPERTY.

2.35 YOU HAVE THE RIGHT TO HAVE THE DEBT REVIEWED FOR MEDIATION.
2.36 IF YOU REQUEST MEDIATION, A DEBT THAT IS IN DEFAULT WILL BE

3.1 MEDIATED ONLY ONCE. IF YOU DO NOT REQUEST MEDIATION, THIS DEBT
3.2 WILL NOT BE SUBJECT TO FUTURE MEDIATION IF THE SECURED PARTY
3.3 ENFORCES THE DEBT.

3.4 IF YOU PARTICIPATE IN MEDIATION, THE DIRECTOR OF THE
3.5 AGRICULTURAL EXTENSION SERVICE WILL PROVIDE AN ORIENTATION
3.6 MEETING AND A FINANCIAL ANALYST TO HELP YOU TO PREPARE
3.7 FINANCIAL INFORMATION. IF YOU DECIDE TO PARTICIPATE IN MEDIATION,
3.8 IT WILL BE TO YOUR ADVANTAGE TO ASSEMBLE YOUR FARM FINANCE
3.9 AND OPERATION RECORDS AND TO CONTACT A COUNTY EXTENSION
3.10 OFFICE AS SOON AS POSSIBLE. MEDIATION WILL ATTEMPT TO ARRIVE AT
3.11 AN AGREEMENT FOR HANDLING FUTURE FINANCIAL RELATIONS.

3.12 TO HAVE THE DEBT REVIEWED FOR MEDIATION YOU MUST FILE A
3.13 MEDIATION REQUEST WITH THE DIRECTOR WITHIN 14 DAYS AFTER YOU
3.14 RECEIVE THIS NOTICE. THE MEDIATION REQUEST FORM IS AVAILABLE AT
3.15 ANY COUNTY RECORDER'S OR COUNTY EXTENSION OFFICE.

3.16 FROM: ...(Name and Address of Secured Party)..."

3.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.18 Sec. 2. Minnesota Statutes 2008, section 480.242, subdivision 2, is amended to read:

3.19 Subd. 2. **Review of applications; selection of recipients.** At times and in
3.20 accordance with any procedures as the Supreme Court adopts in the form of court rules,
3.21 applications for the expenditure of civil legal services funds shall be accepted from
3.22 qualified legal services programs or from local government agencies and nonprofit
3.23 organizations seeking to establish qualified alternative dispute resolution programs. The
3.24 applications shall be reviewed by the advisory committee, and the advisory committee,
3.25 subject to review by the Supreme Court, shall distribute the funds available for this
3.26 expenditure to qualified legal services programs or to qualified alternative dispute
3.27 resolution programs submitting applications. The funds shall be distributed in accordance
3.28 with the following formula:

3.29 (a) Eighty-five percent of the funds distributed shall be distributed to qualified legal
3.30 services programs that have demonstrated an ability as of July 1, 1982, to provide legal
3.31 services to persons unable to afford private counsel with funds provided by the federal
3.32 Legal Services Corporation. The allocation of funds among the programs selected shall
3.33 be based upon the number of persons with incomes below the poverty level established
3.34 by the United States Census Bureau who reside in the geographical area served by each
3.35 program, as determined by the Supreme Court on the basis of the most recent national

S.F. No. 289, 2nd Engrossment - 86th Legislative Session (2009-2010) [s0289-2]

4.1 census. All funds distributed pursuant to this clause shall be used for the provision of legal
4.2 services in civil and farm legal assistance matters as prioritized by program boards of
4.3 directors to eligible clients.

4.4 (b) Fifteen percent of the funds distributed may be distributed (1) to other qualified
4.5 legal services programs for the provision of legal services in civil matters to eligible
4.6 clients, including programs which organize members of the private bar to perform services
4.7 and programs for qualified alternative dispute resolution, (2) to programs for training
4.8 mediators operated by nonprofit alternative dispute resolution corporations, or (3) to
4.9 qualified legal services programs to provide family farm legal assistance for financially
4.10 distressed state farmers. The family farm legal assistance must be directed at farm financial
4.11 problems including, but not limited to, liquidation of farm property including bankruptcy,
4.12 farm foreclosure, repossession of farm assets, restructuring or discharge of farm debt, farm
4.13 credit and general debtor-creditor relations, and tax considerations. If all the funds to be
4.14 distributed pursuant to this clause cannot be distributed because of insufficient acceptable
4.15 applications, the remaining funds shall be distributed pursuant to clause (a).

4.16 A person is eligible for legal assistance under this section if the person is an eligible
4.17 client as defined in section 480.24, subdivision 2, or:

4.18 (1) is a state resident;

4.19 (2) is or has been a farmer or a family shareholder of a family farm corporation
4.20 within the preceding 24 months;

4.21 (3) has a debt-to-asset ratio greater than 50 percent; and

4.22 (4) ~~has a reportable federal adjusted gross income of \$15,000 or less in the previous~~
4.23 ~~year; and~~

4.24 ~~(5)~~ is financially unable to retain legal representation.

4.25 Qualifying farmers and small business operators whose bank loans are held by the
4.26 Federal Deposit Insurance Corporation are eligible for legal assistance under this section.

4.27 Sec. 3. Minnesota Statutes 2008, section 550.365, subdivision 1, is amended to read:

4.28 Subdivision 1. **Requirement.** A person may not attach, execute on, levy on, or seize
4.29 agricultural property subject to sections 583.20 to 583.32 that has secured a debt of more
4.30 than ~~\$5,000~~ \$10,000 unless: (1) a mediation notice is served on the judgment debtor and a
4.31 copy served on the director and the debtor and creditor have completed mediation under
4.32 sections 583.20 to 583.32; or (2) as otherwise allowed under sections 583.20 to 583.32.

4.33 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.34 Sec. 4. Minnesota Statutes 2008, section 559.209, subdivision 1, is amended to read:

5.1 Subdivision 1. **Requirement.** A person may not begin to terminate a contract for
5.2 deed under section 559.21 to purchase agricultural property subject to sections 583.20 to
5.3 583.32 for a remaining balance on the contract of more than ~~\$5,000~~ \$10,000 unless: (1) a
5.4 mediation notice is served on the contract for deed purchaser after a default has occurred
5.5 under the contract and a copy served on the director and the contract for deed vendor and
5.6 purchaser have completed mediation under sections 583.20 to 583.32; or (2) as otherwise
5.7 allowed under sections 583.20 to 583.32.

5.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.9 Sec. 5. Minnesota Statutes 2008, section 582.039, subdivision 1, is amended to read:

5.10 Subdivision 1. **Requirement.** A person may not begin a proceeding under this
5.11 chapter or chapter 580 to foreclose a mortgage on agricultural property subject to sections
5.12 583.20 to 583.32 that has a secured debt of more than ~~\$5,000~~ \$10,000 unless: (1) a
5.13 mediation notice is served on the mortgagor after a default has occurred in the mortgage
5.14 and a copy is served on the director and the mortgagor and mortgagee have completed
5.15 mediation under sections 583.20 to 583.32; or (2) as otherwise allowed under sections
5.16 583.20 to 583.32.

5.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.18 Sec. 6. Minnesota Statutes 2008, section 583.215, is amended to read:

5.19 **583.215 EXPIRATION.**

5.20 ~~(a)~~ Sections 336.9-601, subsections (h) and (i); 550.365; 559.209; 582.039; and
5.21 583.20 to 583.32, expire June 30, ~~2009~~ 2013.

5.22 ~~(b) Laws 1986, chapter 398, article 1, section 18, as amended, is repealed.~~

5.23 **EFFECTIVE DATE.** This section is effective the day following final enactment.