

## CHAPTER 700—S.F.No. 1742

*An act relating to agriculture; changing the continuing effect of certain farmer-lender mediation rules; regulating certain land transactions and agricultural liens; repealing certain conflicting language relating to food handler license fees; amending Minnesota Statutes 1986, section 583.27, by adding a subdivision; Minnesota Statutes 1987 Supplement, sections 500.24, subdivisions 6 and 7; 583.24, subdivision 4; Laws 1987, chapter 292, section 35; proposing coding for new law as Minnesota Statutes, chapter 223A; repealing Laws 1987, chapter 358, section 85.*

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

Section 1. Minnesota Statutes 1987 Supplement, section 500.24, subdivision 6, is amended to read:

Subd. 6. **DISPOSAL OF LAND.** (a) A state or federal agency or a corporation, other than a family farm corporation or an authorized farm corporation, may not lease or sell agricultural land or a farm homestead that was acquired by enforcing a debt against the agricultural land or farm homestead, including foreclosure of a mortgage, accepting a deed in lieu of foreclosure, terminating a contract for deed, or accepting a deed in lieu of terminating a contract for deed, before offering or making a good faith effort to offer the land for sale or lease to the immediately preceding former owner at a price no higher than the highest price offered by a third party that is acceptable to the seller or lessor. The offer must be made on the notice to offer form under subdivision 7. Selling or leasing property to a third party at a price is prima facie evidence that the price is acceptable to the seller or lessor. The seller must provide written notice to the immediately preceding former owner that the agricultural land or farm homestead will be offered for sale at least 14 days before the agricultural land or farm homestead is offered for sale.

(b) An immediately preceding former owner is the entity with record legal title to the agricultural land or farm homestead before acquisition by the state or federal agency or corporation except: if the immediately preceding former owner is a bankruptcy estate, the debtor in bankruptcy is the immediately preceding former owner; and if the agricultural land or farm homestead was acquired by termination of a contract for deed or deed in lieu of termination of a contract for deed, the immediately preceding former owner is the purchaser under the contract for deed.

(c) An immediately preceding former owner may elect to purchase or lease the entire property or an agreed to portion of the property. If the immediately preceding former owner elects to purchase or lease a portion of the property, the election must be reported in writing to the seller or lessor prior to the time the property is first offered for sale or lease. If election is made to purchase or lease a portion of the property, the portion must be contiguous and compact so that it does not unreasonably reduce access to or the value of the remaining property.

~~(b)~~ (d) For purposes of this subdivision, the term "a price no higher than the

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highest price offered by a third party" means the acceptable cash price offered by a third party or the acceptable time-price offer made by a third party. A cash price offer is one that involves simultaneous transfer of title for payment of the entire amount of the offer. If the acceptable offer made by a third party is a time-price offer, the seller or lessor must make the same time-price offer or an equivalent cash offer to the immediately preceding former owner. An equivalent cash offer is equal to the total of the payments made over a period of the time-price offer discounted by yield curve of the United States treasury notes and bonds on the first business day of the month in which the offer is personally delivered or mailed for time periods similar to the time period covered by the time-price offer, plus 2.0 percent. A time-price offer is an offer that ~~defers payment of a portion of the price and does not involve a transfer of fee title until payment of the entire amount of the offer is made~~ is financed entirely or partially by the seller and includes an offer to purchase under a contract for deed or mortgage. An equivalent cash offer is not required to be made if the state participates in an offer to a third party through the rural finance authority.

(e) (e) This subdivision applies to a seller when the property is sold and to a lessor each time the property is leased, for five years after the agricultural land is acquired except:

(1) an offer to lease to the immediately preceding former owner is required only until the immediately preceding owner fails to accept an offer to lease the property or the property is sold; ~~and~~

(2) an offer to sell to the immediately preceding former owner is required until the property is sold; and

(3) if the immediately preceding former owner elects to lease or purchase a portion of the property, this subdivision does not apply to the seller with regard to the balance of the property after the election is made under paragraph (c).

(d) (f) The notice of an offer under subdivision 7 that is personally delivered with a signed receipt or sent by certified mail with a receipt of mailing to the immediately preceding former owner's last known address is a good faith offer.

(e) (g) This subdivision does not apply to a sale or lease that occurs after the seller or lessor has held the property for five years or longer.

(f) (h) For purposes of this subdivision, if the immediately preceding former owner is a bankruptcy estate the debtor in the bankruptcy is the immediately preceding owner.

(g) (i) The immediately preceding former owner must exercise the right to lease all or a portion of the agricultural land or a homestead located on agricultural land in writing within 15 days after an offer to lease under this subdivision is mailed with a receipt of mailing or personally delivered. If election is made to lease only the homestead or a portion of the agricultural land, the portion to be leased must be clearly identified in writing. The immediately preceding former owner must exercise the right to buy the agricultural land, a portion of the

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agricultural land, or a farm homestead located on agricultural land, in writing, within 65 days after an offer to buy under this subdivision is mailed with a receipt of mailing or is personally delivered. Within ten days after exercising the right to lease or buy by accepting the offer, the immediately preceding owner must fully perform according to the terms of the offer including paying the amounts due. A seller may sell and a lessor may lease the agricultural land or farm homestead subject to this subdivision to the third party in accordance with their lease or purchase agreement if:

(1) the immediately preceding former owner does not accept an offer to lease or buy before the offer terminates; or

(2) the immediately preceding former owner does not perform the obligations of the offer, including paying the amounts due, within ten days after accepting the offer.

~~(h)~~ (j) A certificate indicating whether or not the property contains agricultural land or a farm homestead that is signed by the county assessor where the property is located and recorded in the office of the county recorder or the registrar of titles where the property is located is prima facie evidence of whether the property is agricultural land or a farm homestead.

~~(i)~~ (k) As prima facie evidence that an offer to sell or lease agricultural land or a farm homestead has terminated, a receipt of mailing the notice under subdivision 7 and an affidavit, signed by a person authorized to act on behalf of a state, federal agency, or corporation selling or leasing the agricultural land or a farm homestead may be filed in the office of the county recorder or registrar of titles of the county where the agricultural land or farm homestead is located. The affidavit must state that:

(1) notice of an offer to buy or lease the agricultural land or farm homestead was provided to the immediately preceding former owner at a price not higher than the highest price offered by a third party that is acceptable;

(2) the time during which the immediately preceding former owner is required to exercise the right to buy or lease the agricultural land or farm homestead has expired;

(3) the immediately preceding former owner has not exercised the right to buy or lease the agricultural land or farm homestead as provided in this subdivision or has accepted an offer and has not fully performed according to the terms of the offer; and

(4) the offer to the immediately preceding former owner has terminated.

~~(h)~~ (l) The right of an immediately preceding former owner to receive an offer to lease or purchase agricultural land under this subdivision or to lease or purchase at a price no higher than the highest price offered by a third party that is acceptable to the seller or lessor may be extinguished or limited by an express

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statement signed by the immediately preceding owner that complies with the plain language requirements of section 325G.31. The right may not be extinguished or limited except by ~~the~~:

(1) an express statement in a deed in lieu of foreclosure of the agricultural land;

(2) an express statement in a deed in lieu of a termination of a contract for deed for the agricultural land;

(3) an express statement conveying the right to the state or federal agency or corporation owning the agricultural land that is required to make an offer under this subdivision, however, the preceding former owner may rescind the conveyance by notifying the state or federal agency or corporation in writing within 20 calendar days after signing the express statement;

(4) to cure a title defect, an express statement conveying the right may be made to a person to whom the agricultural land has been transferred by the state or federal agency or corporation; or

(5) an express statement conveying the right to a contract for deed vendee to whom the agricultural land or farm homestead was sold under a contract for deed by the immediately preceding former owner if the express statement and the contract for deed are recorded.

(~~k~~) (m) The right of an immediately preceding former owner to receive an offer to lease or purchase agricultural land under this subdivision may not be assigned or transferred except as provided in paragraph (l), but may be inherited.

(n) An immediately preceding former owner, except a former owner who is actively engaged in farming as defined in section 500.24, subdivision 2, paragraph (a), and who agrees to remain actively engaged in farming on a portion of the agricultural land or farm homestead for at least one year after accepting an offer under this subdivision, may not sell agricultural land acquired by accepting an offer under this subdivision if the arrangement of the sale was negotiated or agreed to prior to the former owner accepting the offer under this subdivision. A person who sells property in violation of this paragraph is liable for damages plus reasonable attorney fees to a person who is damaged by a sale in violation of this paragraph. There is a rebuttable presumption that a sale by an immediately preceding former owner is in violation of this paragraph if the sale takes place within 180 days of the former owner accepting the offer under this subdivision. This paragraph does not apply to a sale by an immediately preceding former owner to the owner's spouse, the owner's parents, the owner's sisters and brothers, the owner's spouse's sisters and brothers, or the owner's children.

Sec. 2. Minnesota Statutes 1987 Supplement, section 500.24, subdivision 7, is amended to read:

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Subd. 7. **NOTICE OF OFFER.** (a) The state, a federal agency, or a corporation subject to subdivision 6 must provide a notice of an offer to sell or lease agricultural land substantially as follows, after inserting the appropriate terms within the parentheses:

**"NOTICE OF OFFER TO (LEASE, BUY) AGRICULTURAL LAND**

**TO:** (...Immediately preceding former owner...)  
**FROM:** (...The state, federal agency, or corporation  
 subject to subdivision 6...)  
**DATE:** (...date notice is mailed or personally delivered...)

(...The state, federal agency, or corporation...) HAS ACQUIRED THE AGRICULTURAL LAND DESCRIBED BELOW AND HAS RECEIVED AN ACCEPTABLE OFFER TO (LEASE, SELL) THE AGRICULTURAL LAND FROM ANOTHER PARTY. UNDER MINNESOTA STATUTES, SECTION 500.24, SUBDIVISION 6, AN OFFER FROM (...the state, federal agency, or corporation...) MUST BE MADE TO YOU AT A PRICE NO HIGHER THAN THE HIGHEST OFFER MADE BY ANOTHER PARTY.

THE AGRICULTURAL LAND BEING OFFERED CONTAINS APPROXIMATELY (...approximate number of acres...) ACRES AND IS INFORMALLY DESCRIBED AS FOLLOWS:

(Informal description of the agricultural land being offered that reasonably describes the land. This description does not need to be a legal description.)

(...The state, federal agency, or corporation...) OFFERS TO (SELL, LEASE) THE AGRICULTURAL LAND DESCRIBED ABOVE FOR A CASH PRICE OF \$(...cash price or equivalent cash price for lease and lease period, or cash price or equivalent cash price for sale of land...), WHICH IS NOT HIGHER THAN THE PRICE OFFERED BY ANOTHER PARTY. THE PRICE IS OFFERED ON THE FOLLOWING TERMS:

(Terms, if any, of acceptable offer)

IF YOU WANT TO ACCEPT THIS OFFER YOU MUST NOTIFY (...the state, federal agency, or corporation...) IN WRITING THAT YOU ACCEPT THE OFFER OR SIGN UNDERNEATH THE FOLLOWING PARAGRAPH AND RETURN A COPY OF THIS NOTICE BY (15 for a lease, 65 for a sale) DAYS AFTER THIS NOTICE IS PERSONALLY DELIVERED OR MAILED TO YOU. THE OFFER IN THIS NOTICE TERMINATES ON (...date of termination - 15 days for lease and 65 days for sale after date of mailing or personal delivery...).

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ACCEPTANCE OF OFFER

I ACCEPT THE OFFER TO (BUY, LEASE) THE AGRICULTURAL LAND DESCRIBED ABOVE AT THE PRICE OFFERED TO ME IN THIS NOTICE. AS PART OF ACCEPTING THIS OFFER I WILL PERFORM ACCORDING TO THE TERMS OF THE OFFER, INCLUDING MAKING PAYMENTS DUE UNDER THE OFFER, WITHIN TEN DAYS AFTER THE DATE I ACCEPT THIS OFFER. I UNDERSTAND THAT NEGOTIATING OR AGREEING TO AN ARRANGEMENT TO SELL THE AGRICULTURAL LAND TO ANOTHER PERSON PRIOR TO ACCEPTING THIS OFFER MAY BE A VIOLATION OF LAW AND I MAY BE LIABLE TO A PERSON DAMAGED BY THE SALE.

.....  
Signature of Former Owner Accepting Offer

.....  
Date"

(b) For an offer to sell, a copy of the purchase agreement containing the price and terms of the highest offer made by a third party that is acceptable to the seller and a signed affidavit by the seller affirming that the purchase agreement is true, accurate, and made in good faith must be included with the notice under this subdivision. At the seller's discretion, reference to the third party's identity may be deleted from the copy of the purchase agreement.

(c) For an offer to lease, a copy of the lease containing the price and terms of the highest offer made by a third party that is acceptable to the lessor and a signed affidavit by the lessor affirming that the lease is true, accurate, and made in good faith must be included with the notice under this subdivision. At the lessor's discretion, reference to the third party's identity may be deleted from the copy of the lease agreement.

(d) The affidavit under paragraphs (b) and (c) is subject to section 609.48.

Sec. 3. Minnesota Statutes 1987 Supplement, section 583.24, subdivision 4, is amended to read:

Subd. 4. **DEBTS.** (a) The farmer-lender mediation act does not apply to a debt:

(1) for which a proof of claim form has been filed in bankruptcy by a creditor or that was listed as a scheduled debt, of a debtor who has filed a petition in bankruptcy after ~~the effective date of Laws 1987, chapter 292~~ July 1, 1987, under United States Code, title 11, chapter 7, 11, 12, or 13;

(2) if the debt was in default when the creditor received a mediation pro-

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ceeding notice under the farmer-lender mediation act and the creditor filed a claim form, the debt was mediated during the mediation period under section 583.26, subdivision 8, and (i) the mediation was unresolved; or (ii) a mediation agreement with respect to that debt was signed;

(3) for which the creditor has served a mediation notice, the debtor has failed to make a timely request for mediation, and within 30 days after the debtor failed to make a timely request the creditor began a proceeding to enforce the debt against the agricultural property of the debtor;

(4) for which a creditor has received a mediation proceeding notice and the creditor and debtor have restructured the debt and have signed a separate mediation agreement with respect to that debt; or

(5) for which there is a lien for rental value of farm machinery under section 514.661 or a lien for rental value relating to a contract for deed subject to the farmer-lender mediation act under section 559.2091.

(b) For purposes of paragraph (a), clause (3), providing a copy of a forbearance policy is considered beginning a proceeding to enforce a debt if the board of an institution has adopted a forbearance policy that provides for deferring or rescheduling payments of principal or interest, renewal or extension of loan terms, reduction in the amount or rate of principal or interest due on a loan, or other similar actions, and requires that the debtor must receive a copy of the policy at least 20 days prior to loan acceleration or debt collection proceedings.

Sec. 4. Laws 1987, chapter 292, section 35, is amended to read:

**Sec. 35. CONTINUING EFFECT OF RULES.**

Emergency farmer-lender mediation rules adopted or amended by the state court administrator's office and published in the State Register on August 18, 1986, in volume 11, pages 302 to 307 the commissioner of agriculture, are effective until June 30, 1989, unless the rules are amended or superseded by rules adopted by the commissioner of agriculture or the rules are inconsistent with this act.

**Sec. 5. [223A.02] DEFINITIONS.**

Subdivision 1. BUYER. "Buyer" means a person purchasing farm products.

Subd. 2. COMMISSION MERCHANT. "Commission merchant" has the meaning given in United States Code, title 7, section 1631(c)(3).

Subd. 3. FARM PRODUCTS. "Farm products" has the meaning given in United States Code, title 7, section 1631(c)(5).

Subd. 4. FARM PRODUCTS STATUTORY LIEN. "Farm products statutory lien" means a consensual or nonconsensual lien on farm products but does not include a landlord's lien under section 514.960 or security interest created in

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a security agreement that is subject to article 9 of the Uniform Commercial Code, sections 336.9-101 to 336.9-508.

Subd. 5. LIENHOLDER. "Lienholder" means a person entitled to a farm products statutory lien.

Subd. 6. PERFECTED. "Perfected" means that the conditions have been satisfied to enforce the farm products statutory lien against third parties as provided by the law creating or authorizing the farm products statutory lien.

Subd. 7. PERSON. "Person" has the meaning given in United States Code, title 7, section 1631(c)(10), and also includes the federal government and its agencies, the state, political subdivisions, and other governmental entities.

Subd. 8. RECEIVE. "Receive" means actual delivery with signed receipt or mailing with signed receipt of the addressee.

Subd. 9. SELLING AGENT. "Selling agent" has the meaning given in United States Code, title 7, section 1631(c)(8).

#### **Sec. 6. [223A.03] BUYERS TAKING FREE OF AND SUBJECT TO FARM PRODUCTS STATUTORY LIEN.**

Subdivision 1. TAKING FREE OF LIEN. Except as provided in subdivision 2, and notwithstanding any other law, a buyer who buys farm products from a seller engaged in farming operations shall take free of a farm products statutory lien even though the farm products statutory lien is perfected and the buyer knows the lien exists.

Subd. 2. TAKING SUBJECT TO LIEN. A buyer of farm products takes subject to a farm products statutory lien if:

(1) the lienholder has perfected the farm products statutory lien;

(2) within one year before the sale of the farm products, the buyer has received a lien notice as provided in section 8 from the lienholder or from the seller; and

(3) the buyer has failed to perform the payment obligations as provided in the notice under section 8.

#### **Sec. 7. [223A.04] COMMISSION MERCHANTS AND SELLING AGENTS SUBJECT TO FARM PRODUCTS STATUTORY LIEN.**

Subdivision 1. SELLING NOT SUBJECT TO LIEN. Except as provided in subdivision 2, and notwithstanding any other law, a commission merchant or selling agent who sells a farm product for others is not subject to a farm products statutory lien even though the farm product statutory lien is perfected and the commission merchant or selling agent knows the lien exists.

Subd. 2. SELLING SUBJECT TO LIEN. A commission merchant or selling agent selling farm products for another person is subject to a farm products statutory lien in the farm products if:

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- (1) the lienholder has perfected the farm products statutory lien;
- (2) the commission merchant or selling agent has received a lien notice as provided in section 8 from the lienholder or seller; and
- (3) the commission merchant or selling agent has failed to perform the payment obligations.

Sec. 8. [223A.05] LIEN NOTICE.

Subdivision 1. CONTENTS. A lien notice must be an original or reproduced copy of a written notice of the farm products statutory lien organized according to farm products containing:

- (1) the name, signature, and address of the lienholder;
- (2) the name and address of the debtor;
- (3) the social security number of the debtor, if available; or in the case of a debtor doing business other than as an individual, the Internal Revenue Service taxpayer identification number of the debtor, if available;
- (4) a description of the farm products subject to the farm products statutory lien, including the amount of the products and, if applicable, the crop year, county where the products are located or growing, and a reasonable description of the real property where the farm products are located or are growing; and
- (5) any payment obligations imposed on the buyer, commission merchant, or selling agent as a condition for waiver or release of the security interest.

Subd. 2. AMENDMENTS. A lien notice must be amended in writing to reflect material changes and signed and transmitted in the same manner as the lien notice within three months after the material changes occur.

Subd. 3. EFFECTIVE PERIOD. (a) A lien notice is effective for a five-year period after the date the lien notice is received by the buyer, commission merchant, or selling agent and may be extended for five years if the buyer, commission merchant, or selling agent is notified within six months of the expiration of the initial five-year period.

(b) A lien notice lapses on the expiration period of the lien notice or the transmission of a notice signed by the lienholder that the lien notice has lapsed, whichever occurs first.

Sec. 9. [223A.06] PROCEEDS FROM FARM PRODUCTS SUBJECT TO LIEN.

A lienholder has a claim to the proceeds received from the sale, exchange, or other disposition of farm products subject to a farm products statutory lien, unless otherwise specifically provided by law.

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**Sec. 10. [223A.07] FORMS.**

The secretary of state may adopt forms by rule to facilitate the procedures under sections 5 to 8. The forms must be provided to county recorders and made available to the public.

Sec. 11. Minnesota Statutes 1986, section 583.27 is amended by adding a subdivision to read:

**Subd. 8. MARKET VALUE OF REAL PROPERTY; HOW ESTABLISHED IF IN DISPUTE.** In case of a dispute between the debtor and creditors concerning the market value of real property involved in mediation, the true and acceptable market value must be determined by appraisal as provided in this subdivision. The appraisal to determine true market value must be performed by an accredited appraiser and made within 45 days of the date of the dispute. The accredited appraiser shall be selected as follows:

(1) the mediator shall submit the names of three accredited appraisers to the principal creditor and debtor;

(2) the principal creditor and the debtor may each, within a time determined by the mediator, strike the name of one of the appraisers submitted by the mediator;

(3) the accredited appraiser whose name is not stricken by either the principal creditor or the debtor shall perform an appraisal which shall be the true market value accepted by all parties to the dispute.

The cost of the appraisal shall be divided equally between the principal creditor and debtor.

**Sec. 12. REPEALER.**

Laws 1987, chapter 358, section 85, is repealed.

**Sec. 13. EFFECTIVE DATE.**

Section 1 is effective the day after final enactment except that the notice that the agricultural land or the farm homestead will be offered for sale under section 500.24, subdivision 6, paragraph (a), must be provided as follows:

(1) for property that has been offered for sale before the eighth day after final enactment, but not sold, and the immediately preceding former owner has not received written notice that the property will be offered for sale, written notice must be provided to the preceding former owner before the eighth day after final enactment; and

(2) section 500.24, subdivision 6, paragraph (n), does not apply to a sale relating to an offer made to an immediately preceding former owner before final enactment.

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Section 2 applies to notices given after the 14th day after final enactment.

Sections 3, 4, and 12 are effective the day after final enactment.

Sections 5 to 10 are effective July 1, 1988, for farm products and apply to statutory liens perfected after June 30, 1988.

Section 11 is effective June 1, 1988, for mediation proceedings for which a mediation notice is issued after May 31, 1988.

Approved April 28, 1988

### CHAPTER 701—S.F.No. 1830

*An act relating to student athletics; prohibiting persons from entering into a contract to serve as the agent of a student athlete or represent a student athlete or professional sports organization in obtaining a professional sports contract with a student athlete before expiration of the student athlete's collegiate eligibility unless the athlete has executed an effective waiver of eligibility; prohibiting a person from offering anything of value to an employee of an educational institution in return for the employee's influence on a student athlete to enter into contracts with agents or professional sports contracts or for the referral of student athlete clients; imposing civil penalties; proposing coding for new law in Minnesota Statutes, chapter 325E.*

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

#### Section 1. [325E.33] MISCONDUCT OF ATHLETIC AGENTS.

Subdivision 1. DEFINITIONS. (a) The definitions in this subdivision apply to this section.

(b) "Student athlete" means a person who engages in, is eligible to engage in, or may be eligible to engage in any intercollegiate sporting event, contest, exhibition, or program. The term includes any individual who may be eligible to engage in collegiate sports in the future.

(c) "Athletic director" means the person discharging the duties of coordinating and administering the overall athletic program for the educational institution attended by the student athlete.

(d) "Educational institution" means the public or private high school, college, junior college, or university that the student athlete last attended or to which the student athlete has expressed written intention to attend.

Subd. 2. WAIVER OF ELIGIBILITY. A student athlete's waiver of intercollegiate athletic eligibility is not effective until the waiver of eligibility form prescribed by this subdivision has been filed with the offices of the secretary of

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