

CHAPTER 1656

RURAL FINANCE AUTHORITY

VALUE-ADDED LOANS

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VALUE-ADDED AGRICULTURAL PRODUCT LOAN PROGRAM

1656.0010 ESTABLISHMENT OF PROGRAM; PROGRAM RULES.

Subpart 1. **Establishment.** The Rural Finance Authority, by its Resolution No. 94-08, has established a program to help farmers finance the purchase of stock in a cooperative proposing to directly or indirectly build or purchase and operate an agricultural product processing facility authorized by Minnesota Statutes, section 41B.046.

Subp. 2. **Authority and purpose.** This chapter is adopted by the Rural Finance Authority pursuant to Minnesota Statutes, section 41B.07, to define and provide for administration of the program.

Subp. 3. **Application.** This chapter applies to all applications for and loans made pursuant to the program, the use of loan proceeds, and all eligible borrowers and lenders participating in the program.

Statutory Authority: *MS s 41B.07*

History: *19 SR 883*

1656.0020 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to this chapter.

Subp. 2. **Agricultural product processing facility.** "Agricultural product processing facility" means land, buildings, structures, fixtures, and improvements located or to be located in Minnesota and used or operated primarily for the processing or production of marketable products from agricultural crops, including waste and residues from agricultural crops, but not including livestock or livestock products, poultry or poultry products, or wood or wood products.

Subp. 3. **Applicant.** "Applicant" means a potential borrower who submits an application to the RFA through an eligible lender.

Subp. 4. **Application.** "Application" means the application for a stock loan in the form prescribed and provided by the RFA.

Subp. 5. **Assets.** "Assets" means property, real or personal, tangible or intangible, and all contract rights of value that constitute assets, including cash crops or feed on hand, livestock held for sale, breeding stock, marketable bonds and securities, securities not readily marketable, accounts receivable, notes receivable, cash invested in growing crops, cash value of life insurance, machinery and equipment, cars and trucks, farm and other real estate including life estates and personal residence, and the value of a beneficial interest in trusts.

Subp. 6. **Borrower.** "Borrower" means the person or persons liable on a stock loan made under this program. A borrower may also be a domestic family farm corporation as defined in Minnesota Statutes, section 500.24.

Subp. 7. **Executive director.** "Executive director" means the executive director of the RFA or any other officer duly authorized to act on behalf of the RFA board or its executive director.

Subp. 8. **Liabilities.** "Liabilities" means the debts or other obligations for which an applicant is responsible including: accounts payable, notes or other indebtedness owed to any source, taxes, rent, amount owed on real estate contracts or mortgages, judgments, and accrued interest payable.

Subp. 9. **Net worth.** "Net worth" means the total value of an applicant's assets and the assets of the applicant's spouse and dependents, less the liabilities of the same parties.

Subp. 10. **Note and loan agreement.** "Note and loan agreement" means the form prescribed by the RFA that is signed by a borrower evidencing the terms of the stock loan and the borrower's obligation to repay the loan.

Subp. 11. **Participation agreement.** "Participation agreement" means the document entered into between the RFA and an approved lender that establishes the relationship between the parties and the terms and conditions of stock loans to be offered to the RFA for participation under the value-added stock loan participation program.

Subp. 12. **RFA.** "RFA" means the Rural Finance Authority established by Minnesota Statutes, sections 41B.01 to 41B.23.

Subp. 13. **RFA participation.** "RFA participation" means the RFA's undivided interest in the principal of a stock loan, all rights and interests in the loan documents, all payments arising under the loan, the stock securing the loan, and any other collateral pledged to secure the loan.

Subp. 14. **Stock loan or loan.** "Stock loan" or "loan" means a loan secured by the stock purchased, a personal note executed by the borrower, and whatever other security is required by the lender or the RFA, made by an eligible lender to an eligible borrower, offered to the RFA for participation, and in which the RFA has purchased a participation.

Subp. 15. **Unit of stock.** "Unit of stock" means the minimum number of shares of common stock an applicant must purchase to become a member of a cooperative proposing to directly or indirectly build or purchase and operate an agricultural product processing facility.

Subp. 16. **Value-added stock loan participation program or value-added agricultural product loan program or program.** "Value-added stock loan participation program" or "value-added agricultural product loan program" or "program" means the program authorized and created by Minnesota Statutes, section 41B.046.

Statutory Authority: *MS s 41B.07*

History: *19 SR 883*

1656.0030 BORROWER ELIGIBILITY.

To be eligible for assistance through a loan participation under the value-added stock loan participation program, an applicant must:

A. be a resident of Minnesota or a domestic family farm corporation as defined in Minnesota Statutes, section 500.24, subdivision 2;

B. be a grower of the agricultural product which is to be processed by an agricultural product processing facility;

C. demonstrate an ability to repay the loan;

D. have a total net worth not to exceed current RFA guidelines for the basic beginning farmer participation program, which are available by calling the RFA office for a current quote; and

E. have not previously participated in the value-added stock loan participation program.

Statutory Authority: *MS s 41B.07*

History: *19 SR 883*

1656.0040 LENDER ELIGIBILITY.

Subpart 1. **Statutory eligibility.** A bank, credit union, or savings association chartered by the state of Minnesota or federal government, a subdivision of the farm credit system (Agri Bank), the Federal Deposit Insurance Corporation, or any insurance company, fund, or other financial institution doing business as an agricultural lender within the state may apply to the RFA for certification as an approved lender.

Subp. 2. **Approval.** Upon a lender's demonstration of its ability to originate and service agricultural loans, the RFA shall designate it as an approved lender for purposes of RFA programs.

Subp. 3. **Participation agreement.** Before offering stock loans to the RFA for participation, each approved lender must enter into an RFA master participation agreement. The agreement shall specify the relationship between the parties and the terms and conditions of stock loans to be made by the lender under the value-added stock loan participation program and offered to the RFA for participation.

Statutory Authority: *MS s 41B.07*

History: *19 SR 883; L 1995 c 202 art 1 s 25*

1656.0050 APPLICATION PROCESS AND OFFER OF PARTICIPATION.

Subpart 1. **Request for a value-added stock loan participation.** All applications under the program must be in the form designated by the RFA. A lender and an applicant must jointly complete and sign an application and prepare all supporting documents identified in the application. Financial statements should be dated within 90 days of the application.

Subp. 2. **Lender determination.** The lender shall complete the initial review of the proposal and determine the creditworthiness of the applicant and the value of the collateral to be used to secure the loan. If the lender agrees to make a stock loan to the applicant, the lender and the applicant shall jointly prepare the application and the required loan documents.

Subp. 3. **Offer.** The lender, as the originator of the stock loan, shall present the application and loan documents to the RFA. Presentation of the documents constitutes an offer to sell a participation interest in the loan.

Subp. 4. **Fee.** A nonrefundable \$50 application fee must be submitted with each application.

Subp. 5. **Loan participation.** The maximum RFA participation is 45 percent of the loan principal or \$24,000, whichever is less. The interest rate on the loan participation must be 4.0 percent or one-half of the lender's effective rate (APR), rounded down to the nearest one-tenth of one percent, at the time of loan closing, whichever rate is lower. This rate shall remain the fixed rate for the duration of the loan participation.

Subp. 6. **Terms of loan.** The maximum term of the loan is eight years. Loan payments of interest only are permitted for up to two years, with a fully amortized repayment schedule of interest and principal calculated for the remaining years. The loan may not have a balloon. The lender may, for its portion of the loan, use a variable interest rate correlated to a specific index.

Subp. 7. **Misrepresentation in application.** If a change occurs in the information provided by the lender to the RFA prior to the closing of a loan, the lender shall immediately update and correct that information. Misrepresentation in the application or failure to update any required information is grounds to reject an application, revoke a notice of approval, or refuse to close the loan.

Statutory Authority: *MS s 41B.07*

History: *19 SR 883*

1656.0060 RFA REVIEW, NOTICE, APPEAL.

Subpart 1. **RFA review.** The RFA shall accept or reject all applications within a reasonable time after their receipt. If the documentation is not sufficient to make a determination, the RFA may request additional information as needed.

Subp. 2. **RFA acceptance.** The RFA will accept applications based upon whether:

- A. the applicant meets all eligibility criteria;
- B. the applicant demonstrates an ability to repay the stock loan and other obligations based on the financial information submitted with the application;
- C. loans are restricted to the purchase of new issue stock purchased directly from the issuing cooperative whose facilities are or will be located in Minnesota;
- D. no more than 95 percent of the purchase price of the first unit of stock purchased, 80 percent of the second unit, or any portion thereof, and 50 percent of any additional units, or any portion thereof, purchased will be financed under this program; and
- E. the RFA has sufficient funds available to purchase a participation in the loan.

Subp. 3. **RFA notice.** The RFA shall promptly notify the lender in writing whether or not an application is accepted. If the application is not accepted the notice must state the reasons.

Subp. 4. **Administrative appeal.** If an application is rejected, either the lender or the applicant may petition for administration reconsideration. The petition must be in writing and must be sent within 30 days of the date of the RFA notice. The petition must state the grounds for the appeal, and may include additional relevant information. Within 15 working days of receiving the petition, the executive director shall send a written response to the petitioner upholding or reversing the original decision and giving the reasons for the decision.

Subp. 5. **Formal appeal.** After administrative appeal, a petitioner may appeal the executive director's decision directly to the RFA board by written notice to the executive director within 15 days of receiving the executive director's reconsideration decision. The decision of the board is final.

Statutory Authority: *MS s 41B.07*

History: 19 SR 883

1656.0070 LOAN CLOSING, PURCHASE OF PARTICIPATION, AND LOAN MANAGEMENT.

Subpart 1. **Closing.** Upon receiving notification of RFA acceptance, the lender shall close the stock loan within the time frame prescribed by the RFA. The lender must record needed security instruments and cross-reference all documents relating to the loan, including the RFA note and loan agreement. The lender must notify the RFA that the loan is closed and the required security instruments are recorded and submit the original RFA application and copies of the recorded documents to the RFA.

Subp. 2. **Payment.** Within approximately ten business days of receipt of written notice under subpart 1 that the stock loan is closed and recorded, the RFA shall pay the lender for the RFA's participation interest in the loan.

Subp. 3. **Participation certificate.** Within five working days after the receipt of RFA funds and participation certificate, the lender shall complete and return the certificate as prescribed by the RFA witnessing the RFA's undivided pro rata interest in the stock loan.

Subp. 4. **Loan management.** The lender shall manage the loan, including the RFA participation interest, with the degree of care and diligence usually maintained by agricultural lenders. The lender shall have custody and control of all loan documents, except the original application which shall be retained by the RFA. The lender shall manage, administer, and enforce the loan documents in its own name and also on behalf of itself and the RFA, including, without limitation, the right to accelerate a stock loan on default and to foreclose or otherwise enforce remedies against the borrower.

Subp. 5. **Lender notification.** The lender shall promptly notify the RFA of occurrences that substantially affect the security, collection, or enforcement of any stock loan.

Subp. 6. **Prior written consent.** The lender shall obtain the prior written consent of the borrower and the RFA before:

A. making or consenting to a release, substitution, or exchange of collateral that reduces the aggregate value of the collateral;

B. waiving a claim against the borrower or a guarantor, surety, or obligor in connection with the indebtedness; or

C. modifying or waiving a term of the notes or related instruments evidencing or securing the stock loan.

Statutory Authority: *MS s 41B.07*

History: 19 SR 883

1656.0080 PARTICIPATION REPURCHASE.

A. A lender is under no obligation to repurchase any RFA participation interest in a stock loan except as provided in this part.

B. A lender may, at its option and upon written approval by the RFA, repurchase an RFA participation interest at any time.

C. A lender must repurchase the RFA participation interest whenever the stock loan is paid in full or refinanced.

D. A lender must repurchase the RFA participation interest if the lender has made misrepresentations or fails to perform its obligations under the participation agreement, has

received written notice from the RFA, and has not corrected the representation or performance under the notice.

E. A repurchase must be for the outstanding and unpaid principal balance of the RFA participation plus accrued interest and any penalties or costs incurred by the RFA to secure repurchase.

Statutory Authority: *MS s 41B.07*

History: *19 SR 883*

1656.0090 REVIEW OF LOAN AND COLLATERAL.

Subpart 1. **Inspection.** At any time during the term of a stock loan, the RFA or the state legislative auditor may inspect the books, records, documents, and accounting practices of the lender relative to the loan to determine compliance with the terms and conditions of the loan and the participation agreement. Inspections must be during the lender's normal business hours. The lender must allow the RFA to copy any documents relating to the stock loan and the RFA participation.

Subp. 2. **Collateral.** The lender and the RFA may physically inspect the collateral securing the stock loan upon notice to the borrower. Inspections must be conducted at a reasonable time.

Statutory Authority: *MS s 41B.07*

History: *19 SR 883*