

1 Department of Agriculture

2

3 Adopted Permanent Rules Relating to Farmer-Lender Mediation

4

5 Rules as Adopted

6 1502.0001 SCOPE.

7 Parts 1502.0001 to 1502.0026 are adopted by the Department  
8 of Agriculture under Minnesota Statutes, section 583.285, and  
9 govern the procedures to be followed in farmer-lender mediation  
10 held under the Farmer-Lender Mediation Act. Mediation begun or  
11 concluded before the adoption of parts 1502.0001 to 1502.0026 is  
12 not void for lack of compliance with those parts.

13 1502.0002 DEFINITIONS.

14 Subpart 1. **Scope.** The definitions in this part and  
15 Minnesota Statutes, section 583.22, apply to parts 1502.0001 to  
16 1502.0026.

17 Subp. 2. **County extension agent.** "County extension agent"  
18 means the county agricultural extension agent for the county in  
19 which the debtor resides.

20 Subp. 3. **Farmer-Lender Mediation Act.** "Farmer-Lender  
21 Mediation Act" means Minnesota Statutes, sections 583.20 to  
22 583.32.

23 Subp. 4. **Mediation notice.** "Mediation notice" means the  
24 mediation notice served by an initiating creditor under  
25 Minnesota Statutes, section 336.9-501, 505.365, 559.209, or  
26 581.015.

27 Subp. 5. **Mediation proceeding notice.** "Mediation  
28 proceeding notice" means the mediation proceeding notice sent by  
29 the county extension agent under Minnesota Statutes, section  
30 583.24, subdivision 4.

31 Subp. 6. **Proceeding.** "Proceeding" means the process  
32 required by law, security agreement, lease agreement, or  
33 contract for enforcing a debt against agricultural property  
34 under Minnesota Statutes, chapter 580 or 581, or sections  
35 336.9-501 to 336.9-508, terminating a contract for deed to

1 purchase agricultural property under Minnesota Statutes, section  
2 559.21, or garnishing, levying on, executing on, seizing, or  
3 attaching agricultural property.

4 Subp. 7. Send. "Send" means to mail by first class mail.

5 1502.0003 ADMINISTRATION.

6 The director of Minnesota extension services shall  
7 administer the Farmer-Lender Mediation Act subject to the  
8 delegation power prescribed in Minnesota Statutes, sections  
9 583.22, subdivision 5, and 583.23, subdivision 3. Under the  
10 delegation power in Minnesota Statutes, section 583.22,  
11 subdivision 5, the county extension agent in the county in which  
12 the debtor resides is the director's designee as provided in  
13 parts 1502.0001 to 1502.0026 and for purposes of service,  
14 filing, and other purposes specified by the director.

15 1502.0004 RESPONSIBILITIES.

16 The director's responsibilities under the Farmer-Lender  
17 Mediation Act include, but are not limited to, the following:

18 A. The director shall provide training in mediation  
19 techniques to mediators. The training must include training on  
20 mediation process, skills, and farm finance issues in mediation.

21 B. The director shall provide support to mediators,  
22 including, but not limited to, technical assistance in complying  
23 with parts 1502.0001 to 1502.0026 and the Farmer-Lender  
24 Mediation Act, clerical support, postage, and other necessary  
25 supplies.

26 C. The director shall provide training in farm  
27 financial analysis (FINPAC) computer software to financial  
28 analysts.

29 D. The director shall set the compensation of  
30 mediators and financial analysts and shall reimburse them upon  
31 submission of expense claims.

32 E. The director shall coordinate community legal  
33 education programs for farmers.

34 F. The director shall collect and maintain accurate  
35 statistical data on the program.

## 1 1502.0005 FORMS.

2 The director shall make forms for mediation under the  
3 Farmer-Lender Mediation Act available through each county  
4 extension agent and county recorder for use by debtors,  
5 creditors, and mediators.

## 6 1502.0006 SUBSTANTIVE RIGHTS.

7 The fact that the director or county extension agent has in  
8 any way acted upon a request for mediation does not determine  
9 the substantive rights of the debtor or creditors under the  
10 Farmer-Lender Mediation Act or parts 1502.0001 to 1502.0026.

## 11 1502.0007 FILING AND WITHDRAWAL OF MEDIATION REQUEST.

12 A debtor must file a mediation request form with the county  
13 extension agent within 14 days after receiving a mediation  
14 notice. A debtor may withdraw a mediation request at any time  
15 before 14 days after receiving a mediation notice. The debtor's  
16 withdrawal must be in writing. Withdrawal of the mediation  
17 request constitutes a waiver of the debtor's right to mediate  
18 the debt that initiated the service of the mediation notice  
19 under the Farmer-Lender Mediation Act unless the debtor refiles  
20 the mediation request within the 14 days permitted to file the  
21 original mediation request.

## 22 1502.0008 FAILURE TO REQUEST MEDIATION.

23 The creditor must serve the mediation notice on the county  
24 extension agent within three days of service of the notice on  
25 the debtor. If a debtor fails to file a timely mediation  
26 request or withdraws a mediation request, the county extension  
27 agent shall send a copy of the Extension Notice of Debtor(s)  
28 Failure to Request Mediation (Form 3) to the debtor and the  
29 creditor who served the mediation notice. The extension Notice  
30 of Debtor(s) Failure to Request Mediation (Form 3) must be sent  
31 within 20 days after service of the mediation notice on the  
32 debtor or within three days after the creditor's filing with the  
33 county extension agent proof of the date of service of the  
34 mediation notice, whichever is later.

1 1502.0009 CANCELLATION OF MEDIATION PROCEEDING.

2 Subpart 1. Cure of default. If the ~~farmer~~ debtor cures  
3 the default of the debt specified in the mediation notice before  
4 the first mediation meeting, the county extension agent shall  
5 cancel the mediation proceeding upon receipt of a written  
6 statement from the debtor and creditor indicating that the  
7 default has been cured.

8 Subp. 2. Agreement reached before the first mediation  
9 meeting. If the debtor and the creditor who served the  
10 mediation notice have reached an agreement before the first  
11 mediation meeting, the county extension agent shall cancel the  
12 mediation proceeding upon receipt of a written statement from  
13 the creditor and debtor indicating that an agreement has been  
14 reached.

15 1502.0010 PROOF OF FILING MEDIATION REQUEST.

16 When a debtor files a mediation request with the county  
17 extension agent, the mediation request must be filed by  
18 certified mail using return receipt or by actual delivery of the  
19 mediation request with a signed receipt of the county extension  
20 agent.

21 1502.0011 CREDITOR CLAIM FORMS FOR DEBTS NOT SUBJECT TO  
22 MEDIATION.

23 Subpart 1. Supporting documents. A creditor owed a debt  
24 not subject to the Farmer-Lender Mediation Act under Minnesota  
25 Statutes, section 583.26, subdivision 4, paragraph (f), must  
26 return a claim form specifying why the debt is not subject to  
27 the Farmer-Lender Mediation Act to the county extension agent  
28 and attach the documents indicated for the debts listed in items  
29 A to E.

30 A. for a debt that has been in bankruptcy under  
31 Minnesota Statutes, section 583.24, subdivision 4, paragraph  
32 (a), clause (1), either a copy of the proof of claim form filed  
33 in bankruptcy, a copy of the bankruptcy petition in which the  
34 debt is listed as a scheduled debt, or a notice of petition for

1 bankruptcy in which the debt is listed as a scheduled debt;

2 B. for a debt in default and mediated under Minnesota  
3 Statutes, section 583.24, subdivision 4, paragraph (a), clause  
4 (2):

5 (1) an affidavit stating that the debt was in  
6 default when the creditor received a mediation proceeding notice  
7 under the Farmer-Lender Mediation Act, and that a claim form was  
8 filed, the debt was mediated during the mediation period, and  
9 (i) the mediation was unresolved; or (ii) a mediation agreement  
10 with respect to that debt was signed;

11 (2) a copy of the mediation proceeding notice;

12 (3) a copy of the creditor's claim form; and

13 (4) a copy of the Memorandum of Agreement (Form  
14 8) or Mediation Conclusion With No Agreement (Form 12), or other  
15 evidence that the debt was mediated during the mediation period;

16 C. for a debt, if the debtor did not request  
17 mediation and the creditor proceeded to enforce the debt under  
18 Minnesota Statutes, section 583.24, subdivision 4, paragraph  
19 (a), clause (3):

20 (1) a copy of the mediation notice;

21 (2) a copy of Extension Notice of Debtor(s)  
22 Failure to Request Mediation (Form 3); and

23 (3) an affidavit stating that the creditor began  
24 a proceeding to enforce the debt within 45 days after the debtor  
25 failed to make a timely request;

26 D. for a debt that is not subject to mediation under  
27 Minnesota Statutes, section 583.24, subdivision 4, paragraph  
28 (a), clause (5), because there is a lien under Minnesota  
29 Statutes, section 514.661 or 559.2091, a copy of the lien  
30 statement under Minnesota Statutes, section 514.661 or 559.2091,  
31 indicating that the filing officer has received and filed the  
32 lien statement; and

33 E. for a debt restructured in mediation under  
34 Minnesota Statutes, section 583.24, subdivision 4, paragraph  
35 (a), clause (4):

36 (1) a copy of the Mediation Proceeding Notice;

1 and

2 (2) a copy of the signed agreement reached in  
3 mediation that is a separate agreement between the debtor and  
4 the creditor with respect to that debt. The agreement may be an  
5 attachment to the Memorandum of Agreement (Form 8).

6 Subp. 2. Notification of debt not subject to mediation.

7 If a creditor returns a claim form with the documents required  
8 under subpart 1, items A to E, the county extension agent shall  
9 determine from the documents whether the debt is subject to the  
10 Farmer-Lender Mediation Act. The county extension agent shall  
11 notify the debtor, creditor, and mediator of the determination.

12 1502.0012 FINANCIAL ANALYST AND FARM ADVOCATE.

13 Within three business days of receiving a mediation  
14 request, the county extension agent shall provide a financial  
15 analyst to meet with the debtor at the orientation session and  
16 as necessary to prepare the debtor's records before the initial  
17 mediation meeting. The county extension agent shall provide the  
18 debtor with information on obtaining, without charge, a  
19 Department of Agriculture farm advocate to assist the debtor and  
20 the financial analyst. This information must include a list of  
21 farm advocates and an explanation of the farm advocates  
22 services, as provided by the Minnesota Farm Advocate Program.  
23 The county extension agent shall provide the debtor with  
24 information on the availability of legal assistance to  
25 financially eligible debtors through the Minnesota Family Farm  
26 Law Project.

27 1502.0013 COMPUTATION OF TIME PERIODS.

28 In computing any period by parts 1502.0001 to 1502.0026, by  
29 court order, or under the Farmer-Lender Mediation Act, the day  
30 of the last act, event, or default from which the designated  
31 period begins to run must not be included. The last day of the  
32 computed period must be included unless it is a Saturday,  
33 Sunday, or legal holiday, in which event the period runs until  
34 the end of the next day that is not a Saturday, Sunday, or legal  
35 holiday. When the period prescribed is less than seven days,

1 intermediate Saturdays, Sundays, and legal holidays must be  
2 excluded in the computation.

3 1502.0014 ORIENTATION SESSION.

4 At the orientation session, the mediator must inform the  
5 debtor and creditors of their right to seek counsel regarding  
6 the legal and tax consequences of documents and agreements. At  
7 the debtor's request, the financial analyst shall meet in  
8 private with the debtor at intervals during the orientation  
9 session.

10 1502.0015 SELECTION OF MEDIATOR.

11 Subpart 1. Procedure. The initiating creditor and the  
12 debtor may strike one name from the mediator list by sending the  
13 county extension agent a notice to that effect. The notice must  
14 be mailed within three days of the date the debtor or creditor  
15 received the mediation proceeding notice.

16 Subp. 2. Replacement mediator. If the appointed mediator  
17 withdraws from the case, the county extension agent shall  
18 appoint a replacement mediator not previously stricken from the  
19 mediator list by the debtor or the initiating creditor, or if an  
20 unstricken mediator is not available, the county extension agent  
21 shall appoint an available mediator, subject to the disapproval  
22 of either the debtor or creditor, upon a showing of conflict of  
23 interest.

24 Subp. 3. Co-mediators. At the discretion of the county  
25 extension agent, more than one mediator may be assigned to a  
26 mediation proceeding.

27 1502.0016 DUTIES OF MEDIATOR.

28 At the initial mediation meeting and subsequent meetings,  
29 the mediator shall:

30 A. perform the duties prescribed in Minnesota  
31 Statutes, section 583.26, subdivision 6, paragraph (b);

32 B. review the debtor's and creditors' rights and  
33 obligations in the mediation process;

34 C. explain the rules of conduct for mediation

1 meetings;

2 D. explain the confidentiality of mediation; and

3 E. facilitate written agreement on:

4 (1) money to be released for necessary farm  
5 operating expenses;

6 (2) money to be released for necessary living  
7 expenses; and

8 (3) the creditors, if any, responsible for  
9 releasing the money.

10 1502.0017 MEDIATION PROCESS.

11 Subpart 1. Combined proceeding for more than one debtor.

12 The county extension agent shall combine all mediation notices  
13 for more than one debtor into one mediation proceeding if the  
14 debtors are liable for the same debt or a portion of the same  
15 debt on a single piece of agricultural property.

16 Subp. 2. Combined proceeding for more than one mediation  
17 notice. The county extension agent shall combine all mediation  
18 notices for the same debtor that are received before the initial  
19 mediation meeting into one mediation proceeding. It shall be at  
20 the county extension agent's discretion as to how to proceed if  
21 a mediation notice is served on a debtor between the time of the  
22 initial mediation meeting and the end of the mediation period.

23 Subp. 3. Meeting place and time. The mediator shall call  
24 mediation meetings during the mediation period. The meetings  
25 must be held at a convenient and neutral place and at times as  
26 convenient as possible for the mediator, debtor, and creditors  
27 attending and participating in mediation meetings, including  
28 nights and weekends.

29 Subp. 4. Attendance by financial analyst, farm advocate,  
30 or attorney. A financial analyst, farm advocate, or attorney  
31 must be permitted to attend mediation meetings at the invitation  
32 of the debtor, a creditor, or the mediator. The mediator may  
33 establish procedures to facilitate an orderly exchange of  
34 information or views, but the mediator must allow a designated  
35 representative of a creditor or debtor to speak on behalf of



1 that creditor or debtor. A financial analyst, farm advocate, or  
2 attorney may not attend in place of a debtor or a creditor  
3 unless the mediator determines a debtor or creditor is unable to  
4 attend and the attendance of a financial analyst, farm advocate,  
5 or attorney in place of the debtor or a creditor is beneficial  
6 to the mediation.

7 Subp. 5. Record. Upon completion of mediation, the  
8 mediator shall forward all documents made or used in the course  
9 of or because of mediation to the county extension agent. The  
10 documents must be kept by the county extension agent in a secure  
11 place and are subject to the confidentiality provisions of  
12 Minnesota Statutes, section 13.02, subdivisions 9 and 12.

13 1502.0018 REMOVAL OF MEDIATOR.

14 Subpart 1. Procedure. The mediator may be removed at any  
15 time during the mediation period upon the written agreement  
16 request of the debtor ~~and-creditors-attending-mediation-meetings~~  
17 or initiating creditor. This agreement request must be sent to  
18 the county extension agent who, upon receipt of the agreement,  
19 shall assign an available replacement mediator not previously  
20 stricken from the mediator list by the debtor or initiating  
21 creditor to participate in the mediation or if an unstricken  
22 mediator from the list is not available, the county extension  
23 agent must assign an available mediator subject to the  
24 disapproval of either the debtor or creditor upon a showing of  
25 conflict of interest.

26 Subp. 2. Limitation. The debtor and creditors initiating  
27 creditor may each remove only one mediator during a mediation  
28 proceeding.

29 Subp. 3. Time periods unaffected. Time periods in the  
30 Farmer-Lender Mediation Act and parts 1502.0001 to 1502.0026 are  
31 not affected by the removal of a mediator.

32 1502.0019 MEDIATION AGREEMENT.

33 Subpart 1. Final meeting. The mediator ~~shall~~ may hold one  
34 a final meeting by-the-end-of-the-time-allowed-for-mediation for  
35 the purpose of signing the mediation agreement if the mediator

1 determines that a final meeting is necessary to conclude the  
2 mediation within the mediation period.

3 Subp. 2. Copies to other creditors. Copies of the signed  
4 agreement must be sent to all creditors who have filed claim  
5 forms within three days of the signing of the agreement by the  
6 debtor and creditors.

7 1502.0020 ~~OBLIGATION-OF-GOOD-FAITH~~ REJECTION OF DEBT  
8 RESTRUCTURING ALTERNATIVES.

9 A written statement of why alternatives are unacceptable  
10 under Minnesota Statutes, section 583.27, subdivision 1, clause  
11 (4), must identify the particular items in each proposal that  
12 are unacceptable and state the specific reason for rejection of  
13 each item.

14 1502.0021 ABUSIVE BEHAVIOR.

15 Lack of good faith may include abusive behavior on the part  
16 of the debtor or a creditor or a person assisting the debtor or  
17 a creditor.

18 1502.0022 LACK OF GOOD FAITH AFFIDAVIT.

19 If the mediator determines that a debtor or a creditor is  
20 not participating in good faith, the mediator shall file an  
21 affidavit indicating the reasons for the finding with the county  
22 extension agent, the debtor, and the creditors.

23 1502.0023 CREDITOR'S LACK OF GOOD FAITH.

24 If the mediator finds the creditor has not participated in  
25 mediation in good faith, the debtor may require court-supervised  
26 mediation by:

27 A. filing the mediator's affidavit with the district  
28 court of the county of the debtor's residence with a request for  
29 court supervision of mediation;

30 B. serving a copy of the request with each creditor;  
31 and

32 C. sending a copy of the affidavit to the county  
33 extension agent. The request must be filed with the court  
34 within ten days of receipt of the lack of good faith affidavit

1 by the debtor or within 90 days after the debtor filed the  
2 mediation request with the county extension agent, whichever is  
3 later.

4 1502.0024 ~~DEBTOR'S LACK OF GOOD FAITH~~ DOCUMENTS NECESSARY FOR  
5 MEDIATION.

6 Not participating in good faith may include:

7 ~~A. failure of the debtor to list all creditors as~~  
8 ~~defined in Minnesota Statutes, section 583.227, subdivision 4,~~  
9 and

10 B. failure of the debtor or creditor to provide the  
11 following records and documents if the mediator determines that  
12 they are necessary:

13 ~~(1)~~ A. a current, signed financial statement of  
14 assets and liabilities;

15 ~~(2)~~ B. a copy of the most recent depreciation  
16 schedule;

17 ~~(3)~~ C. farm record books for the past three years or  
18 evidence of crop and livestock production;

19 ~~(4)~~ D. projected farm budget for the current 12  
20 months;

21 ~~(5)~~ E. copies of any other legal documents that are  
22 necessary for the mediation and pertain to the farm business;  
23 and

24 ~~(6)~~ F. copies of FINPAC FINPACK printout analysis for  
25 the farm operation where applicable;

26 G. appraisals, including in-house appraisals, of the  
27 debtor's property; and

28 H. worksheets on foreclosure cost analysis, if any  
29 have been done by the lender.

30 1502.0025 COURT-SUPERVISED MEDIATION.

31 Subpart 1. List of mediators. If requested to do so by  
32 the court, the county extension agent shall provide the court  
33 with a list of mediators to be used in the selection of the  
34 mediator for court-supervised mediation.

35 Subp. 2. Suspension of remedies. The remedies of all

1 creditors are suspended during court-supervised mediation.

2 1502.0026 CREDITOR NOT ATTENDING MEDIATION MEETING.

3 Subpart 1. **Initiating creditor.** The initiating creditor  
4 shall not file a proof of claim form in lieu of attending  
5 meetings.

6 Subp. 2. **Good faith.** Creditors who file claim forms are  
7 bound by the good faith requirements of the Farmer-Lender  
8 Mediation Act.

9 Subp. 3. **Written objection.** To object to the provisions  
10 of a mediation agreement, a creditor who files a claim form in  
11 lieu of attending mediation meetings shall serve a written  
12 objection to the terms of the agreement on the mediator and the  
13 debtor within ten days after receiving the mediation agreement.  
14 The written objection must identify the particular items in the  
15 agreement that are unacceptable and state the specific reason  
16 for rejection of each item.

17 Subp. 4. **New mediation.** Upon receiving the objection, the  
18 mediator shall meet again with the debtor and creditors to  
19 mediate a new agreement. Mediation meetings must take place  
20 within ten days of the receipt of the written objections to the  
21 terms of the agreement.

22 Subp. 5. **Required attendance.** A creditor who files an  
23 objection shall attend and participate in any meeting held under  
24 subpart 4, unless the mediator determines there is a good reason  
25 why the creditor is unable to attend.