

1 Department of Agriculture

2

3 Adopted Permanent Rules Relating to RFA Beginning Farmer Loans

4

5 Rules as Adopted

6 BASIC BEGINNING FARMER LOAN PARTICIPATION PROGRAM

7 1650.0011 APPLICABILITY AND PURPOSE.

8 Subpart 1. **Applicability.** Parts 1650.0011 to 1650.0071
9 establish the criteria and procedures to be used by the RFA in
10 administering the basic beginning farmer loan participation
11 program authorized by Minnesota Statutes, chapter 41B.

12 Subp. 2. **Purpose.** The purpose of the RFA basic beginning
13 farmer loan participation program and for the issuance of bonds
14 to finance or provide security for the program is to preserve
15 and develop the state's agricultural resources. This is
16 accomplished by extending credit on real estate security through
17 the purchase of participation interests in first priority
18 mortgage farm real estate loans. Loans to persons entering or
19 currently farming and meeting the eligibility criteria in part
20 1650.0031 are eligible for participation.

21 1650.0021 DEFINITIONS.

22 Subpart 1. **Scope.** The definitions in this part apply to
23 parts 1650.0011 to 1650.0071.

24 Subp. 2. **Agricultural purposes or farming.** "Agricultural
25 purposes" or "farming" means the cultivation or use of land or
26 land improvements and personal property for the production of
27 agricultural crops, vegetables, fruit, or other horticultural
28 crops, forest products, bees and apiary products, livestock,
29 dairy animals, dairy products, poultry or poultry products,
30 fur-bearing animals, aquaculture, hydroponics, exotic species of
31 plants or animals, or other agriculturally related products.

32 "Agricultural purposes" and "farming" include:

- 33 A. the use of wetlands, pasture, forest land,
- 34 wildlife, and homestead and other real property associated with
- 35 the agricultural use of land; and

1 B. the practices and facilities needed to conserve
2 soil and water, protect human and animal health, have a safe and
3 efficient operation, and meet local, state, and federal laws and
4 regulations relating to the operation of a farm.

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

8 Subp. 4. **Application.** "Application" means the application
9 for the basic beginning farmer loan participation in the form
10 provided by the RFA.

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

21 Subp. 6. **Beginning farmer loan.** "Beginning farmer loan"
22 means a first mortgage loan made by an eligible lender to an
23 eligible borrower, offered to the RFA for participation, and in
24 which the RFA has purchased a participation.

25 Subp. 7. **Borrower.** "Borrower" means the person or persons
26 liable on a first mortgage participation made under this
27 program. A borrower may also be a domestic family farm
28 corporation as defined in Minnesota Statutes, section 500.24,
29 subdivision 2.

30 Subp. 8. **Debt to asset ratio.** "Debt to asset ratio" means
31 the total outstanding liabilities of an applicant divided by the
32 total outstanding assets of the applicant expressed as a
33 percentage.

34 Subp. 9. **Executive director.** "Executive director" means
35 the executive director of the RFA or any other officer
36 authorized to act on behalf of the RFA board or its executive

1 director.

2 Subp. 10. **Liabilities.** "Liabilities" means the debts or
3 other obligations for which an applicant is responsible,
4 including: accounts payable, notes or other indebtedness,
5 taxes, rent, amount owed on real estate contracts or mortgages,
6 judgments, and accrued interest payable.

7 Subp. 11. **Net worth.** "Net worth" means the total value of
8 an applicant's assets and the assets of the applicant's spouse
9 and dependents, less the liabilities of the same parties.

10 Subp. 12. **Note and loan agreement.** "Note and loan
11 agreement" means the form provided by the RFA that is signed by
12 a borrower evidencing the terms of the first mortgage loan and
13 the borrower's obligation to repay the loan.

14 Subp. 13. **Participation agreement.** "Participation
15 agreement" means the document entered into between the RFA and
16 an approved lender that establishes the relationship between the
17 parties and the terms and conditions of first mortgage loans to
18 be offered to the RFA for participation under the basic
19 beginning farmer participation program.

20 Subp. 14. **RFA.** "RFA" means the Rural Finance Authority
21 established by Minnesota Statutes, section 41B.025.

22 Subp. 15. **RFA beginning farmer program.** "RFA beginning
23 farmer program" means the RFA program for the purchase of
24 participation interests in first mortgage real estate loans made
25 to eligible borrowers so that the borrowers may use the real
26 estate for agricultural purposes.

27 Subp. 16. **RFA participation.** "RFA participation" means
28 the RFA's undivided interest in the principal of a first
29 mortgage loan, all rights and interests in the loan documents,
30 all payments arising under the loan, the first security real
31 estate mortgage securing the loan, and any other collateral
32 pledged to secure the loan.

33 1650.0031 BORROWER ELIGIBILITY.

34 Subpart 1. **Criteria.** To be eligible for assistance under
35 the basic beginning farmer program, an applicant must meet the

1 criteria in subparts 2 and 3.

2 Subp. 2. General eligibility criteria. Each applicant
3 must:

4 A. be a resident of Minnesota;

5 B. certify that the applicant or one of the
6 applicants will be the principal operator of the farm and will
7 make farming that applicant's principal occupation, and that the
8 farm being purchased will be used for agricultural purposes
9 only;

10 C. certify that the applicant is eligible for the
11 program;

12 D. submit the correct fees as established in
13 Minnesota Statutes, section 41B.03, subdivision 6; and

14 E. not be a current or previous participant in the
15 RFA Restructure II Program.

16 Subp. 3. Beginning farmer criteria. In addition to the
17 requirements of subpart 2, a beginning farmer applicant must:

18 A. have sufficient education, training, or experience
19 to succeed in the type of farming to be undertaken;

20 B. have a financial need for the loan and the ability
21 to repay the first mortgage loan;

22 C. agree to enroll and continue in a farm business
23 management program approved by the commissioner of agriculture
24 in accordance with Minnesota Statutes, section 41B.03,
25 subdivision 3, paragraph (a), clause (7), for the first five
26 years of the loan, if an approved program is available within 45
27 miles from the borrower's residence;

28 ~~D. agree to file a soil and water conservation plan~~
29 ~~approved by~~ visit the soil and water conservation district
30 office or the soil natural resources conservation service in the
31 county where the land is located to inquire about the soil and
32 water conservation needs for the identified farm property; and

33 E. have a total net worth not to exceed the amount
34 established pursuant to Minnesota Statutes, section 41B.03,
35 subdivision 3, the current amount of which is available from the
36 RFA office.

1 1650.0041 LENDER ELIGIBILITY.

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

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

13 Subp. 3. **Participation agreement.** Before offering first
14 mortgage loans to the RFA for participation, each approved
15 lender must enter into an RFA master participation agreement.
16 The agreement must specify the contractual relationship between
17 the parties and the terms and conditions of first mortgage loans
18 to be made by the lender under the basic beginning farmer
19 program and offered to the RFA for participation.

20 1650.0046 APPLICATION PROCESS AND OFFER OF PARTICIPATION.

21 Subpart 1. **Request for a first mortgage loan.** A lender
22 and an applicant must jointly complete and sign an application
23 and prepare all supporting documents identified in the
24 application.

25 Subp. 2. **Lender determination.** The lender shall review
26 the proposal and determine the creditworthiness of the applicant
27 and the value of the collateral to be used to secure the loan.
28 If the lender agrees to make a first mortgage loan to the
29 applicant, the lender and the applicant shall jointly prepare
30 the application and required loan documents.

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

1 1650.0056 RFA REVIEW, NOTICE, APPEAL.

2 Subpart 1. RFA review. The RFA shall accept or reject a
3 lender's offer to participate in the loan within 30 business
4 days after receipt of the lender's offer. If the documentation
5 is not sufficient to make a determination, the RFA may request
6 additional information to establish creditworthiness and
7 eligibility of the applicant.

8 Subp. 2. RFA acceptance. The RFA shall accept an offer if:

9 A. the applicant is eligible;

10 B. the applicant demonstrates an ability to repay the
11 first mortgage loan and other obligations based on the financial
12 information submitted under part 1650.0046;

13 C. the sale price of the property is not
14 substantially in excess of its fair market value; and

15 D. the RFA has sufficient funds available to purchase
16 a participation in the loan.

17 Subp. 3. RFA notice. The RFA shall promptly notify the
18 lender in writing whether or not the offer is accepted. If the
19 offer is not accepted, the notice must state the reasons.

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

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

34 1650.0066 LOAN CLOSING, PURCHASE OF PARTICIPATION, AND LOAN
35 MANAGEMENT.

1 Subpart 1. **Closing.** Upon receiving notification of RFA
2 acceptance, the lender shall close the first mortgage loan. The
3 lender must record and cross-reference all documents relating to
4 the loan including the RFA note and loan agreement. The lender
5 must notify the RFA that the loan is closed and recorded by
6 certifying and submitting the original RFA application, and
7 submit a copy of the note and loan agreement, copies of the
8 recorded documents, and the final title opinion to the RFA.

9 Subp. 2. **Payment.** Within ten business days of receipt of
10 written notice under subpart 1 that the first mortgage loan is
11 closed and recorded, the RFA shall initiate payment to the
12 lender for the RFA's participation interest in the loan.

13 Subp. 3. **Participation certificate.** Within five working
14 days after receipt of payment under subpart 2, the lender shall
15 complete and return a participation certificate, as provided by
16 the RFA, witnessing the RFA's undivided pro rata interest in the
17 basic beginning farmer first mortgage loan.

18 Subp. 4. **Loan management.** The lender shall manage the
19 first mortgage loan, including the RFA participation interest,
20 with the degree of care and diligence usually maintained by
21 agricultural real estate lenders. The lender shall have custody
22 and control of all loan documents except the original
23 application, which must be kept by the RFA.

24 The lender shall manage, administer, and enforce the loan
25 documents in its own name and also on behalf of itself and the
26 RFA, including, without limitation, the right to accelerate a
27 basic beginning farmer first mortgage loan on default and to
28 foreclose or otherwise enforce remedies against the borrower.

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

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

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

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

4 C. modifying or waiving a term of the notes or
5 related instruments evidencing or securing the first mortgage
6 loan.

7 1650.0068 PARTICIPATION REPURCHASE.

8 A. An originating lender is under no obligation to
9 repurchase any RFA participation interest in a basic beginning
10 farmer first mortgage loan, except as provided in this part.

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

14 C. A lender must repurchase the RFA participation
15 interest whenever the first mortgage loan is paid in full or
16 refinanced.

17 D. A lender must repurchase the RFA participation
18 interest if the lender has made misrepresentations or fails to
19 perform its obligations under the participation agreement, has
20 received written notice from the RFA, and has not corrected the
21 representation or performance under the notice.

22 E. Any repurchase must be for the principal balance
23 of the RFA participation plus accrued interest and any penalties
24 or costs incurred by the RFA to secure repurchase.

25 1650.0071 REVIEW OF LOAN AND COLLATERAL.

26 Subpart 1. Inspection. At any time during the term of a
27 basic beginning farmer first mortgage loan, the RFA or the state
28 legislative auditor may inspect the books, records, documents,
29 and accounting practices of the lender relative to the loan to
30 determine compliance with the terms and conditions of the loan
31 and the participation agreement. Inspections must be during the
32 lender's normal business hours. The lender must allow the RFA
33 to copy any documents relating to the first mortgage loan and
34 the RFA participation.

35 Subp. 2. Collateral. The lender and the RFA may

1 physically inspect the collateral securing the first mortgage
2 loan upon notice to the borrower. An inspection must be
3 conducted at a reasonable time.

4 REPEALER. Minnesota Rules, parts 1650.0010; 1650.0020;
5 1650.0030; 1650.0040; 1650.0045; 1650.0055; 1650.0065;
6 1650.0067; and 1650.0070, are repealed.