

**CHAPTER 1214**  
**FARM CRISIS PROGRAM**  
*H.F. 2473*

**AN ACT** relating to farm crisis relief, by providing for a legal assistance to farmers program, providing for the cure of a default and the appointment of a receiver in relation to a foreclosure on agricultural land, providing a procedure for the waiver of homestead exemption, providing for the ownership of agricultural land by certain nonresident aliens, providing for a farm mediation program, designating a farm crisis program coordinator, and providing an effective date.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. **FINDINGS.** The general assembly finds that the agricultural sector of the economy of this state is under severe financial stress due to low farm commodity prices, continuing high interest rates, and reduced net farm income. The suffering agricultural economy also adversely affects economic conditions for all other businesses in rural communities. Thousands of this state's farmers are unable to meet current payments of interest and principal on mortgages and other loan and land contracts and are threatened by the loss of their farmland, equipment, crops, and livestock through mortgage and lien foreclosures, forfeiture of real estate contracts, and other collection actions. The agricultural economic emergency requires an orderly process with state assistance to adjust agricultural indebtedness to preserve the general welfare and fiscal integrity of the state.

Sec. 2. **NEW SECTION. 13.20 AUTHORITY TO CONTRACT FOR LEGAL ASSISTANCE PROGRAM.**

The farm crisis program coordinator, provided in section 654A.2, shall contract with an eligible nonprofit organization to provide legal assistance to financially distressed farmers. The contract shall be awarded within thirty days after the effective date of this Act. The contract may be terminated by the coordinator upon written notice and for good cause.

Sec. 3. **NEW SECTION. 13.21 ELIGIBLE ORGANIZATION.**

To be eligible for a contract under section 13.20, an organization must:

1. Be a nonprofit organization chartered in the state.
2. Have attorneys admitted to practice in the Iowa supreme court and the United States district courts.
3. Have offices throughout the state of Iowa.
4. Have attorneys and staff qualified to address agricultural legal problems and agricultural credit problems affecting financially distressed farmers.

Sec. 4. **NEW SECTION. 13.22 PROGRAM REQUIREMENTS.**

A legal services provider which enters into a contract with the coordinator under authority of section 13.20 shall:

1. Offer direct representation of individual farmers in litigation and administrative cases.
2. Offer technical support to individual farmers.
3. Cooperate to the fullest extent feasible with the Iowa state university agricultural extension service so that its economic and farm management counseling services are utilized by eligible persons.
4. Utilize, to the fullest extent feasible, existing resources of accredited law schools within the state of Iowa to provide consulting assistance to attorneys in the agricultural law field.
5. Assist, to the fullest extent feasible, accredited law schools within the state of Iowa in enhancing their expertise in the area of agricultural law so that all attorneys within the state will have a resource available to provide training and experience in the agricultural law field.

6. Cooperate to the fullest extent feasible with the existing informational and referral networks among farmers, farmer advocates, and others concerned with the economic crisis in agricultural areas. The legal services provider is not a state agency for the purposes of chapters 19A, 20, and 25A.

Sec. 5. NEW SECTION. 13.23 PERSONS ELIGIBLE FOR LEGAL ASSISTANCE.

A person may obtain legal representation and legal assistance from the contracting legal services provider if the person meets all of the following criteria:

1. Is a resident of the state of Iowa.
2. Is a farmer, or a family shareholder of a family farm corporation, and has an occupation of farming.
3. Is engaged in a farm business that has a debt-to-asset ratio greater than fifty percent.
4. Has received less than twenty thousand dollars of taxable income in the last taxable year.
5. Is financially unable to acquire legal assistance.

Sec. 6. NEW SECTION. 13.24 REPORT.

1. The legal services provider which enters into a contract with the coordinator under authority of this Act shall submit to the coordinator a working plan for the accomplishment of the objectives of this Act within thirty days after the contract is awarded. The plan must establish priorities and procedures, and set forth its annual operating budget for the fiscal year including projected salaries and all anticipated expenses. This budget shall set forth the maximum obligation of financial aid proposed for payment by the state and the availability of any additional funds or resources from the federal government and other sources to meet such expenses of operation.

2. At the end of each fiscal year the contracting legal services provider shall provide to the coordinator an audited statement of actual expenses incurred. The report shall also summarize the legal services provided and make recommendations for improved services for financially distressed farmers.

3. The contract entered into pursuant to section 13.20 shall provide that any contractual payments to the legal services provider are to be made monthly.

Sec. 7. Section 554.9501, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 6. A creditor, as defined in section 654A.1, shall not initiate a proceeding under this chapter against a borrower subject to section 654A.4 to enforce a secured interest in agricultural property, as defined in section 654A.1, which is subject to chapter 654A and which is subject to a secured debt of twenty thousand dollars or more unless the person receives a mediation release under section 654A.11, or unless the court determines after notice and hearing that the time delay required for the mediation would cause the person to suffer irreparable harm.

Sec. 8. NEW SECTION. 561.22 WAIVER.

If a homestead exemption waiver is contained in a written contract, the contract must contain a statement in substantially the following form, in boldface type of a minimum size of ten points, and be signed and dated by the person waiving the exemption at the time of the execution of the contract: "I understand that homestead property is in many cases protected from the claims of creditors and exempt from judicial sale; and that by signing this contract, I voluntarily give up my right to this protection for this property with respect to claims based upon this contract."

Sec. 9. Section 567.3, subsection 3, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

3. The restriction set forth in subsection 1 of this section does not apply to the following:
  - a. Agricultural land acquired by devise or descent.

b. A bona fide encumbrance on agricultural land taken for purposes of security.

c. Agricultural land acquired by a process of law in the collection of debts, by a deed in lieu of foreclosure, pursuant to a forfeiture of a contract for deed, or by any procedure for the enforcement of a lien or claim on the land, whether created by mortgage or otherwise. However, agricultural land so acquired shall be sold or otherwise disposed of within two years after title is transferred. Pending the sale or disposition, the land shall not be used for any purpose other than farming, the land shall not be used for farming except under lease to an individual, trust, corporation, partnership or other business entity not subject to the restriction on the increase in agricultural land holdings imposed by section 172C.4. Agricultural land which has been acquired pursuant to this paragraph shall not be acquired or utilized by the nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof, under either paragraph "d" or paragraph "e".

d. Agricultural land acquired for research or experimental purposes, if commercial sales from the agricultural land are incidental to the research and experimental objectives of the nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof, and if the agricultural land is used for the testing, development, or production of seeds, animals, or plants for sale or resale to farmers, or for incidental activities. Commercial sales are incidental to research and experimental objectives when they are less than twenty-five percent of the gross sales of the primary product of the research or experimentation.

e. An interest in agricultural land, not to exceed three hundred twenty acres, acquired for an immediate or pending use other than farming. However, a nonresident alien, foreign business or foreign government, or an agent, trustee or fiduciary thereof, who lawfully owns over three hundred twenty acres on January 1, 1980, may continue to own or hold the land, but shall not purchase or otherwise acquire additional agricultural land in this state except by devise or descent from a nonresident alien. Pending the development of the agricultural land for purpose other than farming, the land shall not be used for farming except under lease to an individual, trust, corporation, partnership or other business entity not subject to the restriction on the increase in agricultural land holdings imposed by section 172C.4.

Sec. 10. NEW SECTION. 654.2A AGRICULTURAL LAND – NOTICE, RIGHT TO CURE DEFAULT.

1. A creditor shall not initiate an action pursuant to this chapter to foreclose on a deed of trust or mortgage on agricultural land, as defined in section 172C.1, until the creditor has complied with this section.

2. A creditor who believes in good faith that a borrower on a deed of trust or mortgage on agricultural land is in default may give the borrower notice of the alleged default, and, if the borrower has a right to cure the default, shall give the borrower the notice of right to cure provided in section 654.2B. The notice is deemed received if sent by certified mail to the borrower.

3. The borrower has a right to cure the default unless the creditor has given the borrower a proper notice of right to cure with respect to two prior defaults on the obligation secured by the deed of trust or mortgage, or the borrower has voluntarily surrendered possession of the agricultural land and the creditor has accepted it in full satisfaction of any debt owing on the obligation in default. The borrower does not have a right to cure the default if the creditor has given the borrower a proper notice of right to cure with respect to a prior default within twelve months prior to the alleged default.

4. If the borrower has a right to cure a default:

a. A creditor shall not accelerate the maturity of the unpaid balance of the obligation, demand or otherwise take possession of the land, other than by accepting a voluntary surrender of it, or otherwise attempt to enforce the obligation until forty-five days after a proper notice of right to cure is given. The time period for a request for mediation pursuant to chapter 654A shall run concurrently with the period for the notice to cure under this section.

b. Until the expiration of forty-five days after notice is given, the borrower may cure the default by tendering either the amount of all unpaid installments due at the time of tender, without acceleration, plus a delinquency charge of the scheduled annual interest rate plus five percent per annum for the period between the giving of the notice of right to cure and the tender, or the amount stated in the notice of right to cure, whichever is less, or by tendering any performance necessary to cure a default other than nonpayment of amounts due, which is described in the notice of right to cure.

5. The act of curing a default restores to the borrower the borrower's rights under the obligation and the deed of trust or mortgage, except as provided in subsection 3.

6. This section does not prohibit a borrower from voluntarily surrendering possession of the agricultural land, and does not prohibit the creditor from enforcing the creditor's interest in the land at any time after compliance with this section.

Sec. 11. NEW SECTION. 654.2B REQUIREMENTS OF NOTICE OF RIGHT TO CURE.

The notice of right to cure shall be in writing and shall conspicuously state the name, address, and telephone number of the creditor to which payment is to be made, a brief identification of the obligation secured by the deed of trust or mortgage and of the borrower's right to cure the default, a statement of the nature of the right to cure the default, a statement of the nature of the alleged default, a statement of the total payment, including an itemization of any delinquency or deferral charges, or other performance necessary to cure the alleged default, and the exact date by which the amount must be paid or performance tendered.

Sec. 12. NEW SECTION. 654.2C MEDIATION NOTICE — FORECLOSURE ON AGRICULTURAL PROPERTY.

A person shall not initiate a proceeding under this chapter to foreclose a deed of trust or mortgage on agricultural property, as defined in section 654A.1, which is subject to chapter 654A and which is subject to a debt of twenty thousand dollars or more under the deed of trust or mortgage unless the person receives a mediation release under section 654A.11, or unless the court determines after notice and hearing that the time delay required for the mediation would cause the person to suffer irreparable harm.

Sec. 13. Section 654.14, unnumbered paragraph 1, Code 1985, is amended to read as follows:

In ~~any~~ an action to foreclose a real estate mortgage, ~~where~~ if a receiver is appointed to take charge of the real estate, preference shall be given to the owner or person in actual possession, subject to approval of the court, in leasing the mortgaged premises. If the real estate is agricultural land used for farming, as defined in section 172C.1, the owner or person in actual possession shall be appointed as receiver without bond, provided that all parties agree to the appointment. The rents, profits, avails, ~~and/or~~ and income derived from ~~said~~ the real estate shall be applied as follows:

Sec. 14. NEW SECTION. 654A.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Agricultural property" means agricultural land that is principally used for farming as defined in section 172C.1, and personal property that is used as security to finance a farm operation or used as part of a farm operation including equipment, crops, livestock, and proceeds of the security.

2. "Coordinator" means the farm crisis program coordinator provided in section 654A.2.

3. "Creditor" means the holder of a mortgage on agricultural property, a vendor of a real estate contract for agricultural property, a person with a lien or security interest in agricultural property, or a judgment creditor with a judgment against a debtor with agricultural property.

4. "File" means to deliver by the required date by certified mail or another method acknowledging receipt.

5. "Mediation release" means an agreement or statement signed by all parties or by less than all the parties and the mediator pursuant to section 654A.11.

**Sec. 15. NEW SECTION. 654A.2 FARM CRISIS PROGRAM COORDINATOR.**

The attorney general or the attorney general's designee shall serve as the farm crisis program coordinator. The coordinator has the powers and duties specified in this chapter and in chapter 13.

**Sec. 16. NEW SECTION. 654A.3 FARM MEDIATION SERVICE.**

The farm crisis coordinator shall contract with a nonprofit organization chartered in this state to provide farmer-creditor mediation services. The contract shall be awarded within thirty days after the effective date of this Act. The contract may be terminated by the coordinator upon written notice and for good cause. The organization awarded the contract is designated as the farm mediation service for the duration of the contract. However, the farm mediation service is not a state agency for the purposes of chapters 19A, 20, and 25A.

**Sec. 17. NEW SECTION. 654A.4 APPLICABILITY OF CHAPTER.**

1. This chapter applies to all creditors of a borrower described under subsection 2 with a secured debt against the borrower of twenty thousand dollars or more.

2. This chapter applies to a borrower who is any of the following:

- a. An individual operating a farm.
- b. A family farm corporation as defined in section 172C.1.
- c. An authorized farm corporation as defined in section 172C.1.

**Sec. 18. NEW SECTION. 654A.5 VOLUNTARY MEDIATION PROCEEDINGS.**

A borrower who owns agricultural property or a creditor of that borrower may request mediation of the indebtedness by applying to the farm mediation service. The farm mediation service shall make voluntary mediation application forms available. The farm mediation service shall evaluate each request and may direct a mediator to meet with the borrower and creditor to assist in mediation.

**Sec. 19. NEW SECTION. 654A.6 MANDATORY MEDIATION PROCEEDINGS.**

1. A creditor subject to this chapter desiring to initiate a proceeding to enforce a debt against agricultural property which is real estate under chapter 654, to forfeit a contract to purchase agricultural property under chapter 656, to enforce a secured interest in agricultural property under chapter 554, or to otherwise garnish, levy on, execute on, seize, or attach agricultural property, shall file a request for mediation with the farm mediation service. The creditor may not begin the proceeding subject to this chapter until the creditor receives a mediation release, or until the court determines after notice and hearing that the time delay required for the mediation would cause the creditor to suffer irreparable harm. The time period for the notice of right to cure provided in section 654.2A shall run concurrently with the time period for the mediation period provided in this section and section 654A.10.

2. Upon the receipt of a request for mediation, the farm mediation service shall conduct an initial consultation with the borrower without charge. The borrower may waive mediation after the initial consultation.

**Sec. 20. NEW SECTION. 654A.7 FINANCIAL ANALYST AND LEGAL ASSISTANCE.**

1. After receiving a mediation request, the farm mediation service shall refer the borrower to a financial analyst associated with the Iowa state university extension service ASSIST program. The financial analyst shall assist the borrower in the preparation of information relative to the finances of the borrower for the initial mediation meeting.

2. After receiving the mediation request, the farm mediation service shall notify the borrower that legal assistance may be available without charge through the legal assistance for farmers program provided in chapter 13.

**Sec. 21. NEW SECTION. 654A.8 INITIAL MEDIATION MEETING.**

1. Unless the borrower waives mediation, within twenty-one days after receiving a mediation request the farm mediation service shall send a mediation meeting notice to the borrower and to all known creditors of the borrower setting a time and place for an initial mediation meeting between the borrower, the creditors, and a mediator directed by the farm mediation service to assist in mediation. An initial mediation meeting shall be held within twenty-one days of the issuance of the mediation meeting notice.

2. If a creditor subject to this chapter receives a mediation meeting notice under subsection 1, the creditor and the creditor's successors in interest may not continue proceedings to enforce a debt against agricultural property of the borrower under chapter 654, to forfeit a real estate contract for the purchase of agricultural property of the borrower under chapter 656, to enforce a secured interest in agricultural property under chapter 554, or to otherwise garnish, levy on, execute on, seize, or attach agricultural property. Time periods under and affecting those procedures stop running until the farm mediation service issues a mediation release to the creditor.

**Sec. 22. NEW SECTION. 654A.9 DUTIES OF MEDIATOR.**

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

1. Listen to the borrower and the creditors desiring to be heard.
2. Attempt to mediate between the borrower and the creditors.
3. Advise the borrower and the creditors as to the existence of available assistance programs.
4. Encourage the parties to adjust, refinance, or provide for payment of the debts.
5. Advise, counsel, and assist the borrower and creditors in attempting to arrive at an agreement for the future conduct of financial relations among them.

**Sec. 23. NEW SECTION. 654A.10 MEDIATION PERIOD.**

The mediator may call mediation meetings during the mediation period, which is up to forty-two days after the farm mediation service received the mediation request. However, if all parties consent, mediation may continue after the end of the mediation period.

**Sec. 24. NEW SECTION. 654A.11 MEDIATION RELEASE.**

1. If an agreement is reached between the borrower and the creditors, the mediator shall draft a written mediation agreement, have it signed by the creditors, and submit the agreement to the farm mediation service.

2. The borrower and the creditors who are parties to the mediation agreement may enforce the mediation agreement as a legal contract. The agreement constitutes a mediation release.

3. If the borrower waives mediation, or if a mediation agreement is not reached, the borrower and the creditors may sign a statement prepared by the mediator that mediation was waived or that the parties did not reach an agreement. If any party does not sign the statement, the mediator shall sign the statement. The statement constitutes a mediation release. Unless the borrower waives mediation, a creditor shall not receive a mediation release until the creditor has participated in at least one mediation meeting.

**Sec. 25. NEW SECTION. 654A.12 EXTENSION OF DEADLINES.**

Upon petition by the borrower and all known creditors, the farm mediation service may, for

good cause, extend a deadline imposed by section 654A.8 or section 654A.10 for up to thirty days.

Sec. 26. NEW SECTION. 654A.13 CONFIDENTIALITY.

1. All data regarding the finances of individual borrowers and creditors which is created, collected, and maintained by the farm mediation service are not public records under chapter 22.

2. Meetings of the farm mediation service are closed meetings and are not subject to chapter 21.

Sec. 27. NEW SECTION. 654A.14 RULES AND FORMS.

The farm mediation service shall recommend rules to the coordinator. The coordinator shall adopt rules pursuant to chapter 17A to set the compensation of mediators and to implement this chapter. The compensation of the mediators shall be no more than twenty-five dollars per hour, and all parties shall contribute an equal amount of the cost. The coordinator shall adopt voluntary mediation application and mediation request forms.

Sec. 28. NEW SECTION. 656.8 MEDIATION NOTICE.

Notwithstanding the provisions of sections 656.1 through 656.5, a person shall not initiate proceedings under this chapter to forfeit a real estate contract for the purchase of agricultural property, as defined in section 654A.1, which is subject to an outstanding obligation on the contract of twenty thousand dollars or more unless the person received a mediation release under section 654A.11, or unless the court determines after notice and hearing that the time delay required for the mediation would cause the person to suffer irreparable harm.

Sec. 29. Sections 1 through 7, 12, and 14 through 28 are repealed on July 1, 1989.

Sec. 30. This Act, being deemed of immediate importance, takes effect from and after its publication in *The Messenger*, a newspaper published in Fort Dodge, Iowa, and in *The Mt. Pleasant News*, a newspaper published in Mount Pleasant, Iowa, but not later than July 1, 1986.

Approved May 23, 1986

I hereby certify that the foregoing Act, House File 2473, was published in *The Messenger*, Fort Dodge, Iowa, on May 29, 1986, and in *The Mt. Pleasant News*, Mount Pleasant, Iowa, on May 29, 1986.

MARY JANE ODELL, *Secretary of State*

## CHAPTER 1215

### SPECIAL ASSESSMENT PAYMENTS

*H.F. 2477*

**AN ACT** relating to the payment of installments of special assessments.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 384.65, subsection 3, Code 1985, is amended to read as follows:

3. All future installments of an assessment may be paid on any date by payment of the then outstanding balance, plus interest to the next December 1, or additional annual installments may be paid after the current installment has been paid before December 1 without interest. A payment must be for the full amount of the next installment. If installments remain to be paid, the next annual installment with interest added to December 1 will be due as provided in subsection 2.

Approved May 23, 1986