CHAPTER 654B

FARM MEDIATION — CARE AND FEEDING CONTRACTS — NUISANCES

Referred to in §13.13, §13.15, §352.11, §468.190, §657.10

Legislative findings; 90 Acts, ch 1143, §1

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654B.1 Definitions.

1. *"Care and feeding contract"* means an agreement, either oral or written, between a farm resident and the owner of livestock, under which the farm resident agrees to act as a feeder by promising to care for and feed the livestock on the farm resident's premises.

2. *"Dispute"* means a controversy between a person who is a farm resident and another person, which arises from a claim eligible to be resolved in a civil proceeding in law or equity, if the claim relates to either of the following:

a. The performance of either person under a care and feeding contract, if both persons are parties to the contract.

b. An action of one person which is alleged to be a nuisance interfering with the enjoyment of the other person.

3. *"Farmland"* means agricultural land that is principally used for farming as defined in section 9H.1.

4. *"Farm mediation service"* means the organization selected pursuant to section 13.13.

5. *"Farm resident"* means a person holding an interest in farmland, in fee, under a real estate contract, or under a lease, if the person manages farming operations on the land. A farm resident includes a natural person, or any corporation, trust, or limited partnership as defined in section 9H.1.

6. *"Mediation release"* means an agreement or statement signed by all parties or by less than all the parties and the mediator pursuant to section 654B.8.

7. *"Nuisance"* means an action injurious to health, indecent, or offensive to the senses, or an obstruction to the free use of property, so as essentially to interfere with the comfortable enjoyment of life or property, including but not limited to nuisances defined in section 657.2, subsections 1 through 5, and 7.

8. *"Other party"* means any person having a dispute with a farm resident.

9. *"Participate"* or *"participation"* means attending a mediation meeting, and having knowledge about and discussing issues concerning a subject relating to a dispute.

90 Acts, ch 1143, §16

654B.2 Voluntary mediation proceedings.

A farm resident or other party may request mediation of a dispute 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 farm resident and other party to assist in mediation.

90 Acts, ch 1143, §17

654B.3 Mandatory mediation proceedings.

1. *a.* A person who is a farm resident, or other party, desiring to initiate a civil proceeding to resolve a dispute, shall file a request for mediation with the farm mediation service. The person shall not begin the proceeding until the person receives a mediation release or until the court determines after notice and hearing that one of the following applies:

(1) The time delay required for the mediation would cause the person to suffer irreparable harm.

(2) The dispute involves a claim which has been brought as a class action.

b. The requirements of paragraph *"a"* are jurisdictional prerequisites to a person filing a civil action that initiates a civil proceeding to resolve a dispute subject to this chapter.

2. Upon receipt of the request for mediation, the farm mediation service shall conduct an initial consultation with each party to the dispute privately and without charge. Mediation may be waived after the initial consultation, if the parties agree.

3. Unless mediation is waived by the parties to the dispute, the parties shall file with the farm mediation service information required by the service to conduct mediation.

90 Acts, ch 1143, §18; 2000 Acts, ch 1129, §2

654B.4 Initial mediation meeting.

1. Unless both parties to the dispute waive mediation, within twenty-one days after receiving a mediation request, the farm mediation service shall send a mediation meeting notice to all parties to the dispute setting a time and place for an initial mediation meeting between the parties 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 person receives a mediation meeting notice under this section, the person shall not continue civil proceedings based on a claim relating to a dispute subject to this chapter, unless the court determines after notice and hearing that one of the following applies:

a. The time delay required for the mediation would cause the person to suffer irreparable harm.

b. The dispute involves a claim which has been brought as a class action.

3. At the meeting, a party participating in mediation may be accompanied by counsel or a consultant to assist the party in mediation.

90 Acts, ch 1143, §19; 98 Acts, ch 1122, §2

Referred to in **§654B.9**

654B.5 Duties of the mediator — training program.

1. The farm mediation service, with the assistance of knowledgeable persons, shall provide a program to train mediators to assist in the mediation of nuisance disputes.

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

a. Listen to all involved parties.

b. Attempt to mediate between all involved parties.

c. Encourage compromise and workable solutions.

d. Advise, counsel, and assist the parties in attempting to arrive at an agreement for the future conduct of relations among them.

90 Acts, ch 1143, §20

654B.6 Reserved.

654B.7 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.

90 Acts, ch 1143, §21

Referred to in **§654B.9**

654B.8 Mediation release.

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

2. *a.* The mediator shall issue a mediation release unless the other party desiring to initiate a civil proceeding to resolve the dispute fails to personally attend and participate in all mediation meetings. The mediator shall issue a mediation release if the farm resident waives or fails to personally attend and participate in all mediation meetings, regardless of participation by the other party. However, if the other party or the farm resident is not a

natural person, the other party or farm resident must be represented by a natural person who is an officer, director, employee, or partner of the other party or farm resident. If a person acts in a fiduciary capacity for the other party or farm resident, the fiduciary may represent the other party or farm resident. If the other party or farm resident or eligible representative is not able to attend and participate as required in this paragraph due to physical infirmity, mental infirmity, or other exigent circumstances determined reasonable by the farm mediation service, the other party or farm resident must be represented by another natural person. Any representative of the other party or the farm resident must be authorized to sign instruments provided by this chapter, including a mediation agreement or a statement prepared by the mediator that mediation was waived. This section does not require a party to reach an agreement. This section does not require a person to change a position, alter an activity which is a subject of the dispute, or restructure a contract in order to receive a mediation release.

b. The mediator shall promptly notify a party by certified mail of a denial to issue a mediation release and the reasons for the denial. The notice shall state that the party has seven days from the date that the notice is delivered to appeal the mediator's decision, pursuant to procedures adopted by the service. After a final decision by the farm mediation service, the party may seek an action for judicial review pursuant to section 654B.10.

3. The parties to the mediation agreement may enforce the mediation agreement as a legal contract. The agreement constitutes a mediation release.

4. If the parties waive mediation, or if a mediation agreement is not reached, the parties 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.

90 Acts, ch 1143, §22; 90 Acts, ch 1199, §10; 98 Acts, ch 1122, §3
Referred to in **§654B.1**, **§657.10**

654B.9 Extension of deadlines.

Upon petition by all parties, the farm mediation service may, for good cause, extend a deadline imposed by section 654B.4 or section 654B.7 for up to thirty days.

90 Acts, ch 1143, §23

654B.10 Judicial review.

An action for judicial review shall be brought in equity, and the action shall be limited to whether, based on clear and convincing evidence, the decision by the administrative head of the mediation service is an abuse of discretion. The action may be brought in either the district court of Polk county or in the district court in which the affected farm resident resides. Upon reversing the decision by the service, the court shall order that the service issue a mediation release.

90 Acts, ch 1143, §24
Referred to in **§654B.8**

654B.11 Effect of mediation.

An interest in property, or rights and obligations under a contract are not affected by the failure of a person to obtain a mediation release regardless of its validity.

Time periods relating to a claim, including applicable statutes of limitations, shall be suspended upon filing a mediation request. Time periods affecting a claim in a civil proceeding shall be suspended upon filing a mediation request. The suspension shall terminate upon signing a mediation release.

90 Acts, ch 1143, §25

654B.12 Repealed by 94 Acts, ch 1106, §1.