CHAPTER 654C

FARM MEDIATION — ANIMAL FEEDING OPERATION STRUCTURES

Referred to in §13.13, 13.15, 468.190

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654C.1 Definitions.

As used in this chapter, unless otherwise required:

1. *"Animal feeding operation structure"* means the same as defined in section 459.102.
2. *"Dispute"* means a controversy between an owner and a neighbor, which arises from negotiations between the parties to establish an animal feeding operation structure within the separation distance.
3. *"Farm mediation service"* means the organization selected pursuant to section 13.13.
4. *"Neighbor"* means a person benefiting from a separation distance required pursuant to section 459.202 or 459.204, including a person owning a residence other than the owner of the animal feeding operation, a commercial enterprise, bona fide religious institution, educational institution, or a city, authorized to execute a waiver.
5. *"Owner"* means the owner of an animal feeding operation, as defined in section 459.102, which utilizes an animal feeding operation structure.
6. *"Participate"* or *"participation"* means attending a mediation meeting, and having knowledge about and discussing issues concerning a subject relating to a dispute.
7. *"Waiver"* means a waiver executed between an owner and a neighbor as provided in section 459.205.

95 Acts, ch 195, §27

654C.2 Mediation proceedings.

1. A person who is an owner or a neighbor may file a request for mediation with the farm mediation service. 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 shall be canceled after the initial consultation, unless both parties agree to proceed.
2. Both parties to the dispute shall file with the farm mediation service information required by the service to conduct mediation.
3. Unless mediation is canceled, 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.

95 Acts, ch 195, §28
Referred to in §654C.6

654C.3 Duties of the mediator.

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

1. Listen to all involved parties.
2. Attempt to mediate between all involved parties.
3. Encourage compromise and workable solutions.
4. Advise, counsel, and assist the parties in attempting to arrive at an agreement for the future conduct of relations among themselves.

95 Acts, ch 195, §29

654C.4 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.

95 Acts, ch 195, §30
Referred to in §654C.6

654C.5 Mediation agreement.

1. If an agreement is reached between all parties, the mediator shall draft a written mediation agreement, which shall be signed by the parties. The mediation agreement shall provide for a waiver which the mediator shall file in the office of the recorder of deeds of the county in which the benefited land is located, as provided in section 459.205. The mediator shall forward a mediation agreement to the farm mediation service.

2. The parties agreeing to mediation shall personally attend and participate in all mediation meetings. However, if a party is not a natural person, the party must be represented by a natural person who is an officer, director, employee, or partner of the party. If a person acts in a fiduciary capacity for a party, the fiduciary may represent the party. If the party or an eligible representative is not able to attend and participate as required in this subsection due to physical infirmity, mental infirmity, or other exigent circumstances determined reasonable by the farm mediation service, the party must be represented by another natural person. Any representative of a party 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, alter an application for a permit for construction of an animal feeding operation, or restructure a contract.

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

4. If the parties do not agree to proceed with mediation, or if a mediation agreement is not reached, the parties may sign a statement prepared by the mediator that mediation proceedings were not conducted or concluded or that the parties did not reach an agreement.

95 Acts, ch 195, §31; 98 Acts, ch 1122, §4

654C.6 Extension of deadlines.

Upon petition by all parties, the farm mediation service may, for good cause, extend a deadline imposed by section 654C.2 or 654C.4 for up to thirty days.

95 Acts, ch 195, §32

654C.7 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 agreement.

95 Acts, ch 195, §33