

APR 1 1986

APPROPRIATIONS CALENDAR

HOUSE FILE 2473

BY COMMITTEE ON APPROPRIATIONS

(Formerly House File 2408)

Passed House, Date 4-7-86 (p.1287) Passed Senate, Date 5-1-86 (p.1530)

Vote: Ayes 94 Nays 0 Vote: Ayes 34 Nays 1

Approved May 23, 1986

A BILL FOR

1 An Act relating to farm crisis relief, by providing for a legal
 2 assistance to farmers program, providing for the cure of a
 3 default, the appointment of a receiver, and the separate sale
 4 of a homestead in relation to a foreclosure on agricultural
 5 land, providing for a farm mediation program, designating a
 6 farm crisis program coordinator, and providing an effective
 7 date.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2473

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

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

19 The farm crisis program coordinator, provided in section
20 654A.2, shall contract with an eligible nonprofit organization
21 to provide legal assistance to financially distressed farmers.
22 The contract shall be awarded within thirty days after the
23 effective date of this Act. The contract may be terminated by
24 the coordinator upon written notice and for good cause.

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

26 To be eligible for a contract under section 13.20, an or-
27 ganization must:

- 28 1. Be a nonprofit organization chartered in the state.
- 29 2. Have attorneys admitted to practice in the Iowa supreme
30 court and the United States district courts.
- 31 3. Have offices throughout the state of Iowa.
- 32 4. Have attorneys and staff qualified to address agricul-
33 tural legal problems and agricultural credit problems affect-
34 ing financially distressed farmers.

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

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

3 1. Offer direct representation of individual farmers in
4 litigation and administrative cases.

5 2. Offer technical support to individual farmers.

6 3. Cooperate to the fullest extent feasible with the Iowa
7 state university agricultural extension service so that its
8 economic and farm management counseling services are utilized
9 by eligible persons.

10 4. Utilize, to the fullest extent feasible, existing re-
11 sources of accredited law schools within the state of Iowa to
12 provide consulting assistance to attorneys in the agricultural
13 law field.

14 5. Assist, to the fullest extent feasible, accredited law
15 schools within the state of Iowa in enhancing their expertise
16 in the area of agricultural law so that all attorneys within
17 the state will have a resource available to provide training
18 and experience in the agricultural law field.

19 6. Cooperate to the fullest extent feasible with the ex-
20 isting informational and referral networks among farmers,
21 farmer advocates, and others concerned with the economic
22 crisis in agricultural areas. The legal services provider is
23 not a state agency for the purposes of chapters 19A, 20, and
24 25A.

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

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

30 1. Is a resident of the state of Iowa.

31 2. Is a farmer, or a family shareholder of a family farm
32 corporation, and has an occupation of farming.

33 3. Is engaged in a farm business that has a debt-to-asset
34 ratio greater than fifty percent.

35 4. Has received less than twenty thousand dollars of tax-

1 able income in the last taxable year.

2 5. Is financially unable to acquire legal assistance.

3 Sec. 6. NEW SECTION. 13.24 REPORT.

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

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

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

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

26 NEW SUBSECTION. 6. A person shall not initiate a
27 proceeding under this chapter to enforce a secured interest in
28 agricultural property, as defined in section 654A.1, which is
29 subject to chapter 654A and which is subject to a secured debt
30 of ten thousand dollars or more unless the person receives a
31 mediation release under section 654A.11, or unless the court
32 determines after notice and hearing that the time delay
33 required for the mediation would cause the person to suffer
34 irreparable harm.

35 Sec. 8. NEW SECTION. 654.2A AGRICULTURAL LAND -- NOTICE,

1 RIGHT TO CURE DEFAULT.

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

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

13 3. The borrower has a right to cure the default unless the
14 creditor has given the borrower a proper notice of right to
15 cure with respect to two prior defaults on the obligation
16 secured by the deed of trust or mortgage, or the borrower has
17 voluntarily surrendered possession of the agricultural land
18 and the creditor has accepted it in full satisfaction of any
19 debt owing on the obligation in default.

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

21 a. A creditor shall not accelerate the maturity of the
22 unpaid balance of the obligation, demand or otherwise take
23 possession of the land, other than by accepting a voluntary
24 surrender of it, or otherwise attempt to enforce the
25 obligation until ninety days after a proper notice of right to
26 cure is given.

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

1 due, which is described in the notice of right to cure.

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

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

10 Sec. 9. NEW SECTION. 654.2B REQUIREMENTS OF NOTICE OF
11 RIGHT TO CURE.

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

23 Sec. 10. NEW SECTION. 654.2C MEDIATION NOTICE --
24 FORECLOSURE ON AGRICULTURAL PROPERTY.

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

34 Sec. 11. Section 654.14, unnumbered paragraph 1, Code
35 1985, is amended to read as follows:

1 In any an action to foreclose a real estate mortgage, where
2 if a receiver is appointed to take charge of the real estate,
3 preference shall be given to the owner or person in actual
4 possession, subject to approval of the court, in leasing the
5 mortgaged premises. If the real estate is agricultural land
6 used for farming, as defined in section 172C.1, the owner or
7 person in actual possession shall be appointed as receiver
8 without bond, unless a preponderance of evidence shows that
9 the owner or person in actual possession would cause
10 irreparable harm to the mortgagee's interest in the real
11 estate, including but not limited to the commission of waste.
12 The rents, profits, avails, and/or and income derived from
13 said the real estate shall be applied as follows:

14 Sec. 12. NEW SECTION. 654.16 SEPARATE SALE OF HOMESTEAD.

15 Notwithstanding chapter 561, if a foreclosure sale is
16 ordered on agricultural land used for farming, as defined in
17 section 172C.1, the mortgagor or the mortgagor's assignee may,
18 by a date set by the court but not later than ten days before
19 the sale, designate to the court the portion of the land which
20 the mortgagor or the mortgagor's assignee claims as homestead.
21 The homestead may be any contiguous portion of forty acres or
22 less of the real estate subject to the foreclosure, except
23 that access to the remaining portion of the real estate shall
24 not be impaired. At the time of the foreclosure sale, the
25 portion of the real estate excluding the homestead shall be
26 sold first. If the sale of the portion excluding the
27 homestead does not satisfy the mortgage obligation, the
28 homestead portion shall also be sold. If the portion desig-
29 nated as the homestead is sold, the court shall determine the
30 fair market value of the homestead, and the mortgagor or the
31 mortgagor's assignee may redeem the homestead separately by
32 tendering that amount pursuant to chapter 628.

33 Sec. 13. NEW SECTION. 654A.1 DEFINITIONS.

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

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

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

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

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

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

18 Sec. 14. NEW SECTION. 654A.2 FARM CRISIS PROGRAM
19 COORDINATOR.

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

24 Sec. 15. NEW SECTION. 654A.3 FARM MEDIATION SERVICE.

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

35 Sec. 16. NEW SECTION. 654A.4 APPLICABILITY OF CHAPTER.

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

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

6 a. An individual operating a farm.

7 b. A family farm corporation as defined in section 172C.1.

8 c. An authorized farm corporation as defined in section
9 172C.1.

10 Sec. 17. NEW SECTION. 654A.5 VOLUNTARY MEDIATION
11 PROCEEDINGS.

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

19 Sec. 18. NEW SECTION. 654A.6 MANDATORY MEDIATION
20 PROCEEDINGS.

21 1. A creditor subject to this chapter desiring to initiate
22 a proceeding to enforce a debt against agricultural property
23 which is real estate under chapter 654, to forfeit a contract
24 to purchase agricultural property under chapter 656, to
25 enforce a secured interest in agricultural property under
26 chapter 554, or to otherwise garnish, levy on, execute on,
27 seize, or attach agricultural property, shall file a request
28 for mediation with the farm mediation service. The creditor
29 may not begin the proceeding subject to this chapter until the
30 creditor receives a mediation release, or until the court
31 determines after notice and hearing that the time delay
32 required for the mediation would cause the creditor to suffer
33 irreparable harm.

34 2. Upon the receipt of a request for mediation, the farm
35 mediation service shall conduct an initial consultation with

1 the borrower without charge. The borrower may waive mediation
2 after the initial consultation.

3 Sec. 19. NEW SECTION. 654A.7 FINANCIAL ANALYST AND LEGAL
4 ASSISTANCE.

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

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

15 Sec. 20. NEW SECTION. 654A.8 INITIAL MEDIATION MEETING.

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

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

1 mediation release to the creditor.

2 Sec. 21. NEW SECTION. 654A.9 DUTIES OF MEDIATOR.

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

5 1. Listen to the borrower and the creditors desiring to be
6 heard.

7 2. Attempt to mediate between the borrower and the
8 creditors.

9 3. Advise the borrower and the creditors as to the
10 existence of available assistance programs.

11 4. Encourage the parties to adjust, refinance, or provide
12 for payment of the debts.

13 5. Advise, counsel, and assist the borrower and creditors
14 in attempting to arrive at an agreement for the future conduct
15 of financial relations among them.

16 Sec. 22. NEW SECTION. 654A.10 MEDIATION PERIOD.

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

22 Sec. 23. NEW SECTION. 654A.11 MEDIATION RELEASE.

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

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

31 3. If the borrower waives mediation, or if a mediation
32 agreement is not reached, the borrower and the creditors may
33 sign a statement prepared by the mediator that mediation was
34 waived or that the parties did not reach an agreement. If any
35 party does not sign the statement, the mediator shall sign the

1 statement. The statement constitutes a mediation release.
2 Unless the borrower waives mediation, a creditor shall not
3 receive a mediation release until the creditor has
4 participated in at least one mediation meeting.

5 Sec. 24. NEW SECTION. 654A.12 EXTENSION OF DEADLINES.

6 Upon petition by the borrower and all known creditors, the
7 farm mediation service may, for good cause, extend a deadline
8 imposed by section 654A.8 or section 654A.10 for up to thirty
9 days.

10 Sec. 25. NEW SECTION. 654A.13 CONFIDENTIALITY.

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

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

17 Sec. 26. NEW SECTION. 654A.14 RULES AND FORMS.

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

26 Sec. 27. NEW SECTION. 656.8 MEDIATION NOTICE.

27 Notwithstanding the provisions of sections 656.1 through
28 656.5, a person shall not initiate proceedings under this
29 chapter to forfeit a real estate contract for the purchase of
30 agricultural property, as defined in section 654A.1, which is
31 subject to an outstanding obligation on the contract of ten
32 thousand dollars or more unless the person received a
33 mediation release under section 654A.11, or unless the court
34 determines after notice and hearing that the time delay
35 required for the mediation would cause the person to suffer

1 irreparable harm.

2 Sec. 28. This Act, being deemed of immediate importance,
3 takes effect from and after its publication in The Messenger,
4 a newspaper published in Fort Dodge, Iowa, and in The Mt.
5 Pleasant News, a newspaper published in Mount Pleasant, Iowa.

6 EXPLANATION

7 This bill authorizes the farm crisis program coordinator in
8 the office of the attorney general to contract for legal
9 assistance services for eligible farmers. The program is to
10 be administered through a nonprofit organization which has
11 offices throughout the state. The legal services provider is
12 to directly represent individual farmers in litigation and
13 administrative cases and to offer technical legal support for
14 individual farmers. The provider is also to cooperate with
15 educational institutions and other groups in this state to
16 enhance the flow of information in the agricultural law field.

17 To be eligible for assistance under this program, a person
18 must be a resident of this state, must be in the occupation of
19 farming, must have a farm business debt-to-asset ratio greater
20 than fifty percent, must have received less than twenty
21 thousand dollars of taxable income in the last taxable year,
22 and must be financially unable to acquire legal assistance.

23 Sections 8 and 9 allow a mortgagor of agricultural land two
24 opportunities to cure a default on the mortgage by tendering
25 the overdue payment plus interest, which includes a five
26 percent late charge, within ninety days of the default.

27 Section 11 provides a presumption in favor of the owner or
28 person in actual possession of farmland in regard to the
29 appointment of a receiver during a foreclosure proceeding.
30 The presumption is overcome by proof that the mortgagee would
31 be irreparably harmed.

32 Section 12 provides that when there is a foreclosure upon
33 agricultural land, the owner-mortgagor may designate a portion
34 of the land up to forty acres to be the homestead. The
35 remaining portion of the land would then be sold. If this

1 satisfies the mortgage, the homestead would not be sold. If
2 the mortgage is not satisfied, then the homestead is sold, and
3 the court would determine the fair market value of the
4 homestead for purposes of redemption.

5 Beginning with section 13, the bill provides for a farm
6 mediation program coordinated through the position of farm
7 crisis program coordinator in the office of the attorney
8 general. Mediation would be voluntary upon the request of any
9 borrower or creditor of a borrower where agricultural property
10 serves as a security, and is mandatory where a creditor
11 desires to initiate actions to enforce the debt on
12 agricultural property. However, the creditor can avoid
13 mediation if the court finds that irreparable harm would
14 result. These requirements are found in sections 7, 10, 18,
15 and 27. Agricultural property is defined as real estate
16 principally used for farming and personal property used in the
17 farming operation or which serves as security for the farming
18 operation.

19 The farm mediation service, which contracts with the
20 coordinator to provide mediation services, provides a mediator
21 and coordinates the compilation of financial information
22 through the ASSIST program. The total mediation period is
23 forty-two days. At the close of mediation, the parties enter
24 into an agreement if mediation was successful, and sign a
25 statement if mediation was unsuccessful, either of which serve
26 as a mediation release.

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HOUSE FILE 2473

H-5712

1 Amend House File 2473 as follows:

2 1. Page 3, by inserting after line 34 the
3 following:

4 "Sec. ____ . Section 567.3, subsection 3, Code 1985,
5 is amended by striking the subsection and inserting in
6 lieu thereof the following:

7 3. The restriction set forth in subsection 1 of
8 this section does not apply to the following:

9 a. Agricultural land acquired by devise or
10 descent.

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

13 c. Agricultural land acquired by a process of law
14 in the collection of debts, by a deed in lieu of
15 foreclosure, pursuant to a forfeiture of a contract
16 for deed, or by any procedure for the enforcement of a
17 lien or claim on the land, whether created by mortgage
18 or otherwise. However, agricultural land so acquired
19 shall be converted to a purpose other than farming,
20 sold, or otherwise disposed of within three years
21 after title is transferred. Pending the sale,
22 disposition, or the development of the agricultural
23 land for purpose other than farming, the land shall
24 not be used for farming except under lease to an
25 individual, trust, corporation, partnership or other
26 business entity not subject to the restriction on the
27 increase in agricultural land holdings imposed by
28 section 172C.4.

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

42 e. An interest in agricultural land, not to exceed
43 three hundred twenty acres, acquired for an immediate
44 or pending use other than farming. However, a
45 nonresident alien, foreign business or foreign
46 government, or an agent, trustee or fiduciary thereof,
47 who lawfully owns over three hundred twenty acres on
48 January 1, 1980, may continue to own or hold the land,
49 but shall not purchase or otherwise acquire additional
50 agricultural land in this state except by devise or

H-5712
Page Two

1 descent from a nonresident alien. Pending the
2 development of the agricultural land for purpose other
3 than farming, the land shall not be used for farming
4 except under lease to an individual, trust,
5 corporation, partnership or other business entity not
6 subject to the restriction on the increase in
7 agricultural land holdings imposed by section 172C.4."

H-5712 FILED APRIL 4, 1986 BY BLANSHAN of Greene
Adopted 4/7 (p. 1286)

HOUSE FILE 2473

H-5729

1 Amend amendment H-5711 to House File 2473 as
2 follows:
3 1. Page 1, by inserting after line 7, the following:
4 "_____. Page 3, by inserting after line 34 the
5 following:
6 "Sec. _____. NEW SECTION. 561.22 WAIVER.
7 If a homestead exemption waiver is contained in a
8 written contract, the contract must contain a statement
9 in substantially the following form, in boldface type
10 of a minimum size of ten points, and be signed and
11 dated by the person waiving the exemption at the time
12 of the execution of the contract: "I understand that
13 homestead property is in many cases protected from the
14 claims of creditors and exempt from judicial sale; and
15 that by signing this contract, I voluntarily give up my
16 right to this protection for this property with respect
17 to claims based upon this contract.""

H-5729 FILED APRIL 7, 1986 BY CARTER of Henry
ADOPTED (*p. 1284*)

HOUSE FILE 2473

H-5726

1 Amend the amendment H-5711 to House File 2473 as
2 follows:
3 1. Page 2, line 8, by striking the figure "18"
4 and inserting the figure "1".

H-5726 FILED APRIL 7, 1986 BY BLANSHAN of Greene
ADOPTED (*p. 1284*)

HOUSE FILE 2473

H-5735

1 Amend House File 2473 as follows:
2 1. Title page, line 5, by inserting after the
3 word "land," the following: "providing a procedure
4 for the waiver of homestead exemption, providing for
5 the ownership of agricultural land by certain
6 nonresident aliens,".

H-5735 FILED APRIL 7, 1986 BY COCHRAN of Webster
ADOPTED BY UNANIMOUS CONSENT
(p. 1296)

HOUSE FILE 2473

H-5711

1 Amend House File 2473 as follows:

2 1. Page 3, line 26, by striking the word "person"
3 and inserting the following: "creditor, as defined in
4 section 654A.1,".

5 2. Page 3, line 27, by inserting after the word
6 "chapter" the following: "against a borrower subject
7 to section 654A.4".

8 3. Page 4, line 11, by striking the words "shall
9 be" and inserting the words "is deemed received if".

10 4. Page 4, line 19, by inserting after the word
11 "default." the following: "The borrower does not have
12 a right to cure the default if the creditor has given
13 the borrower a proper notice of right to cure with
14 respect to a prior default within twelve months prior
15 to the alleged default."

16 5. Page 4, line 25, by striking the word "ninety"
17 and inserting the word "forty-five".

18 6. Page 4, line 26, by inserting after the word
19 "given." the following: "The time period for a
20 request for mediation pursuant to chapter 654A shall
21 run concurrently with the period for the notice to
22 cure under this section."

23 7. Page 4, line 27, by striking the word "ninety"
24 and inserting the word "forty-five".

25 8. Page 6, by striking lines 8 through 11, and
26 inserting the following: "without bond, provided that
27 all parties agree to the appointment."

28 9. Page 6, by striking lines 14 through 32 and
29 inserting the following:

30 "Sec. . NEW SECTION. 654.16 SEPARATE
31 REDEMPTION OF HOMESTEAD.

32 If a foreclosure sale is ordered on agricultural
33 land used for farming, as defined in section 175.2,
34 the mortgagor may, by a date set by the court but not
35 later than ten days before the sale, designate to the
36 court the portion of the land which the mortgagor
37 claims as a homestead. The homestead may be any
38 contiguous portion of forty acres or less of the real
39 estate subject to the foreclosure. The homestead
40 shall contain the residence of the mortgagor and shall
41 be as compact as practicable.

42 If the homestead is not sold separately, but rather
43 is sold in conjunction with the nonhomestead property
44 in order to satisfy the judgment, the court shall
45 determine the fair market value of the homestead. The
46 court may consult with the county appraisers appointed
47 pursuant to section 450.24 to determine the fair
48 market value of the homestead. The mortgagor may
49 redeem the homestead separately by tendering the fair
50 market value of the homestead pursuant to chapter

H-5711

Page Two

1 628."

2 10. Page 8, line 33, by inserting after the word
3 "harm." the following: "The time period for the
4 notice of right to cure provided in section 654.2A
5 shall run concurrently with the time period for the
6 mediation period provided in this section and section
7 654A.10."

8 11. Page 12, by inserting after line 18 the
9 following:

10 "Sec. _____. Sections 1 through 7, 10, and 13
11 through 27 are repealed on July 1, 1989."

12 12. Title page, line 3, by striking the word
13 "sale" and inserting the word "redemption".

H-5711 FILED APRIL 4, 1986 BY BLANSHAN of Greene

*Adopted as amended by 5726 & 5729
4/7 (p. 1286)*

APPROPRIATIONS: Husak, Chair; Tieden and Gronstal

HOUSE FILE 2473
BY COMMITTEE ON APPROPRIATIONS

(As Amended and Passed by the House April 7, 1986)

Be Passed House, Date 5-2-86 (p. 3060) Passed Senate, Date 5-1-86 (p. 1530)

Vote: Ayes 93 Nays 0 Vote: Ayes 34 Nays 11

Approved May 23, 1986
Repassed Senate 5-2-86 (p. 1581)
42-2

A BILL FOR

5920 1 An Act relating to farm crisis relief, by providing for a legal
2 assistance to farmers program, providing for the cure of a
3 default, the appointment of a receiver, and the separate
4 redemption of a homestead in relation to a foreclosure on
5 agricultural land, providing a procedure for the waiver of
6 homestead exemption, providing for the ownership of
7 agricultural land by certain nonresident aliens, providing for
8 a farm mediation program, designating a farm crisis program
9 coordinator, and providing an effective date.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

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

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

19 The farm crisis program coordinator, provided in section
20 654A.2, shall contract with an eligible nonprofit organization
21 to provide legal assistance to financially distressed farmers.

5792 22 The contract shall be awarded within thirty days after the
23 effective date of this Act. The contract may be terminated by
24 the coordinator upon written notice and for good cause.

5793 25 Sec. 3. NEW SECTION. 13.21 ELIGIBLE ORGANIZATION.

26 To be eligible for a contract under section 13.20, an or-
27 ganization must:

- 28 1. Be a nonprofit organization chartered in the state.
- 29 2. Have attorneys admitted to practice in the Iowa supreme
30 court and the United States district courts.
- 31 3. Have offices throughout the state of Iowa.
- 32 4. Have attorneys and staff qualified to address agricul-
33 tural legal problems and agricultural credit problems affect-
34 ing financially distressed farmers.

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

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

3 1. Offer direct representation of individual farmers in
567-4 litigation and administrative cases.

5 2. Offer technical support to individual farmers.

6 3. Cooperate to the fullest extent feasible with the Iowa
7 state university agricultural extension service so that its
8 economic and farm management counseling services are utilized
9 by eligible persons.

10 4. Utilize, to the fullest extent feasible, existing re-
11 sources of accredited law schools within the state of Iowa to
12 provide consulting assistance to attorneys in the agricultural
13 law field.

14 5. Assist, to the fullest extent feasible, accredited law
15 schools within the state of Iowa in enhancing their expertise
16 in the area of agricultural law so that all attorneys within
17 the state will have a resource available to provide training
18 and experience in the agricultural law field.

19 6. Cooperate to the fullest extent feasible with the ex-
20 isting informational and referral networks among farmers,
21 farmer advocates, and others concerned with the economic
22 crisis in agricultural areas. The legal services provider is
23 not a state agency for the purposes of chapters 19A, 20, and
24 25A.

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

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

30 1. Is a resident of the state of Iowa.

31 2. Is a farmer, or a family shareholder of a family farm
32 corporation, and has an occupation of farming.

33 3. Is engaged in a farm business that has a debt-to-asset
34 ratio greater than fifty percent.

35 4. Has received less than twenty thousand dollars of tax-

1 able income in the last taxable year.

2 5. Is financially unable to acquire legal assistance.

3 Sec. 6. NEW SECTION. 13.24 REPORT.

5793 4 1. The legal services provider which enters into a
5 contract with the coordinator under authority of this Act
6 shall submit to the coordinator a working plan for the
7 accomplishment of the objectives of this Act within thirty
8 days after the contract is awarded. The plan must establish
9 priorities and procedures, and set forth its annual operating
10 budget for the fiscal year including projected salaries and
11 all anticipated expenses. This budget shall set forth the
12 maximum obligation of financial aid proposed for payment by
13 the state and the availability of any additional funds or
14 resources from the federal government and other sources to
15 meet such expenses of operation.

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

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

5435768 > 24 Sec. 7. Section 554.9501, Code 1985, is amended by adding
25 the following new subsection:

26 NEW SUBSECTION. 6. A creditor, as defined in section
27 654A.1, shall not initiate a proceeding under this chapter
28 against a borrower subject to section 654A.4 to enforce a
29 secured interest in agricultural property, as defined in
30 section 654A.1, which is subject to chapter 654A and which is
543031 subject to a secured debt of ten thousand dollars or more
32 unless the person receives a mediation release under section
33 654A.11, or unless the court determines after notice and
34 hearing that the time delay required for the mediation would
35 cause the person to suffer irreparable harm.

1 Sec. 8. NEW SECTION. 561.22 WAIVER.

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

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

15 3. The restriction set forth in subsection 1 of this
16 section does not apply to the following:

17 a. Agricultural land acquired by devise or descent.

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

592020 c. Agricultural land acquired by a process of law in the
21 collection of debts, by a deed in lieu of foreclosure,
22 pursuant to a forfeiture of a contract for deed, or by any
23 procedure for the enforcement of a lien or claim on the land,
24 whether created by mortgage or otherwise. However,
25 agricultural land so acquired shall be converted to a purpose
26 other than farming, sold, or otherwise disposed of within
27 three years after title is transferred. Pending the sale,
28 disposition, or the development of the agricultural land for
29 purpose other than farming, the land shall not be used for
30 farming except under lease to an individual, trust,
31 corporation, partnership or other business entity not subject
32 to the restriction on the increase in agricultural land
33 holdings imposed by section 172C.4.

34 d. Agricultural land acquired for research or experimental
35 purposes, if commercial sales from the agricultural land are

1 incidental to the research and experimental objectives of the
2 nonresident alien, foreign business, or foreign government, or
3 an agent, trustee, or fiduciary thereof, and if the
4 agricultural land is used for the testing, development, or
5 production of seeds, animals, or plants for sale or resale to
6 farmers, or for incidental activities. Commercial sales are
7 incidental to research and experimental objectives when they
8 are less than twenty-five percent of the gross sales of the
9 primary product of the research or experimentation.

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

24 Sec. 10. NEW SECTION. 654.2A AGRICULTURAL LAND --NOTICE,
25 RIGHT TO CURE DEFAULT.

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

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

1 certified mail to the borrower.

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

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

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

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

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

35 6. This section does not prohibit a borrower from

1 voluntarily surrendering possession of the agricultural land,
2 and does not prohibit the creditor from enforcing the
3 creditor's interest in the land at any time after compliance
4 with this section.

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

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

18 Sec. 12. NEW SECTION. 654.2C MEDIATION NOTICE --
19 FORECLOSURE ON AGRICULTURAL PROPERTY.

20 A person shall not initiate a proceeding under this chapter
21 to foreclose a deed of trust or mortgage on agricultural
22 property, as defined in section 654A.1, which is subject to
5450 23 chapter 654A and which is subject to a debt of ten thousand
24 dollars or more under the deed of trust or mortgage unless the
25 person receives a mediation release under section 654A.11, or
26 unless the court determines after notice and hearing that the
27 time delay required for the mediation would cause the person
28 to suffer irreparable harm.

29 Sec. 13. Section 654.14, unnumbered paragraph 1, Code
30 1985, is amended to read as follows:

31 In any an action to foreclose a real estate mortgage, where
32 if a receiver is appointed to take charge of the real estate,
33 preference shall be given to the owner or person in actual
34 possession, subject to approval of the court, in leasing the
35 mortgaged premises. If the real estate is agricultural land

1 used for farming, as defined in section 172C.1, the owner or
2 person in actual possession shall be appointed as receiver
3 without bond, provided that all parties agree to the
59214 appointment. The rents, profits, avails, and/or and income
5 derived from said the real estate shall be applied as follows:

59206 Sec. 14. NEW SECTION. 654.16 SEPARATE REDEMPTION OF
7 HOMESTEAD.

8 If a foreclosure sale is ordered on agricultural land used
9 for farming, as defined in section 175.2, the mortgagor may,
10 by a date set by the court but not later than ten days before
11 the sale, designate to the court the portion of the land which
12 the mortgagor claims as a homestead. The homestead may be any
13 contiguous portion of forty acres or less of the real estate
14 subject to the foreclosure. The homestead shall contain the
15 residence of the mortgagor and shall be as compact as
16 practicable.

17 If the homestead is not sold separately, but rather is sold
18 in conjunction with the nonhomestead property in order to
19 satisfy the judgment, the court shall determine the fair
20 market value of the homestead. The court may consult with the
21 county appraisers appointed pursuant to section 450.24 to
22 determine the fair market value of the homestead. The
23 mortgagor may redeem the homestead separately by tendering the
24 fair market value of the homestead pursuant to chapter 628.

25 Sec. 15. NEW SECTION. 654A.1 DEFINITIONS.

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

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

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

35 3. "Creditor" means the holder of a mortgage on

1 agricultural property, a vendor of a real estate contract for
2 agricultural property, a person with a lien or security
3 interest in agricultural property, or a judgment creditor with
4 a judgment against a debtor with agricultural property.

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

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

10 Sec. 16. NEW SECTION. 654A.2 FARM CRISIS PROGRAM
11 COORDINATOR.

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

16 Sec. 17. NEW SECTION. 654A.3 FARM MEDIATION SERVICE.

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

27 Sec. 18. NEW SECTION. 654A.4 APPLICABILITY OF CHAPTER.

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

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

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

1 172C.1.

2 Sec. 19. NEW SECTION. 654A.5 VOLUNTARY MEDIATION
3 PROCEEDINGS.

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

11 Sec. 20. NEW SECTION. 654A.6 MANDATORY MEDIATION
12 PROCEEDINGS.

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

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

33 Sec. 21. NEW SECTION. 654A.7 FINANCIAL ANALYST AND LEGAL
34 ASSISTANCE.

35 1. After receiving a mediation request, the farm mediation

1 service shall refer the borrower to a financial analyst
2 associated with the Iowa state university extension service
3 ASSIST program. The financial analyst shall assist the
4 borrower in the preparation of information relative to the
5 finances of the borrower for the initial mediation meeting.

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

10 Sec. 22. NEW SECTION. 654A.8 INITIAL MEDIATION MEETING.

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

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

32 Sec. 23. NEW SECTION. 654A.9 DUTIES OF MEDIATOR.

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

35 1. Listen to the borrower and the creditors desiring to be

1 heard.

2 2. Attempt to mediate between the borrower and the
3 creditors.

4 3. Advise the borrower and the creditors as to the
5 existence of available assistance programs.

6 4. Encourage the parties to adjust, refinance, or provide
7 for payment of the debts.

8 5. Advise, counsel, and assist the borrower and creditors
9 in attempting to arrive at an agreement for the future conduct
10 of financial relations among them.

11 Sec. 24. NEW SECTION. 654A.10 MEDIATION PERIOD.

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

17 Sec. 25. NEW SECTION. 654A.11 MEDIATION RELEASE.

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

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

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

35 Sec. 26. NEW SECTION. 654A.12 EXTENSION OF DEADLINES.

1 Upon petition by the borrower and all known creditors, the
2 farm mediation service may, for good cause, extend a deadline
3 imposed by section 654A.8 or section 654A.10 for up to thirty
4 days.

5 Sec. 27. NEW SECTION. 654A.13 CONFIDENTIALITY.

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

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

12 Sec. 28. NEW SECTION. 654A.14 RULES AND FORMS.

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

21 Sec. 29. NEW SECTION. 656.8 MEDIATION NOTICE.

22 Notwithstanding the provisions of sections 656.1 through
23 656.5, a person shall not initiate proceedings under this
24 chapter to forfeit a real estate contract for the purchase of
25 agricultural property, as defined in section 654A.1, which is
26 subject to an outstanding obligation on the contract of ten
27 thousand dollars or more unless the person received a
28 mediation release under section 654A.11, or unless the court
29 determines after notice and hearing that the time delay
30 required for the mediation would cause the person to suffer
31 irreparable harm.

32 Sec. 30. Sections 1 through 7, 12, and 15 through 29 are
33 repealed on July 1, 1989.

34 Sec. 31. This Act, being deemed of immediate importance,
35 takes effect from and after its publication in The Messenger,

1 a newspaper published in Fort Dodge, Iowa, and in The Mt.

5425 2 Pleasant News, a newspaper published in Mount Pleasant, Iowa.

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HOUSE FILE 2473

-5932

1 Amend House File 2473 as amended, passed and
2 reprinted by the House as follows:

3 1. Page 3, by inserting after line 23 the
4 following:

5 "Sec. . NEW SECTION. 554.9319 SALE OF A
6 PRODUCT SUBJECT TO A LIEN OR SECURITY INTEREST.

7 1. An individual who in the ordinary course of
8 business sells a product including a farm product
9 which is subject to a security interest or a lien
10 pursuant to chapter 570, 571, 572, 574, 576, 577, 578,
11 579, 580, or 582 may assert a claim against the
12 proceeds of the product in order to meet the necessary
13 living expenses of the individual or the individual's
14 household. The individual shall assert the lien by
15 filing with the secured party or the lienholder and
16 the county recorder of the county in which the person
17 resides at least three days prior to the sale a sworn
18 affidavit stating all of the following:

19 a. That the individual is asserting a claim under
20 this section.

21 b. That the proceeds are from the sale of a
22 product.

23 c. That the individual or the individual's
24 household requires the amount claimed to meet
25 necessary living expenses.

26 d. The name of all individuals in the household.

27 e. The amount claimed by the individual under this
28 section on the basis of the affidavit.

29 f. That the total amount claimed by the individual
30 under this section, including the amount claimed on
31 the affidavit that is being sworn, in the preceding
32 twelve months does not exceed the appropriate amount
33 permitted in subsection 2 based upon the size of the
34 individual's household.

35 2. a. Until superseded by rule pursuant to
36 paragraph "b", the maximum amount that an individual
37 may claim under this section during any twelve-month
38 period is the following, based upon the size of the
39 individual's household:

40 (1) For a household with one member, the annual
41 maximum is five thousand three hundred sixty dollars.

42 (2) For a household with more than one member the
43 annual maximum is that amount permitted under
44 subparagraph (1) and in addition one thousand eight
45 hundred eighty dollars for each additional member of
46 the household.

47 b. The department of human services shall review
48 maximum limitations at least once each twelve months
49 and may revise the limitations by rule adopted
50 pursuant to chapter 17A. In establishing new

S-5932 p. 2

1 standards, the department shall consider any revisions
2 in the federal poverty guidelines, the current
3 condition of the state's economy, the changes in the
4 consumer price index and any other factors which the
5 department deems relevant. The department shall send
6 a copy of any new standard adopted to each county
7 recorder who shall maintain the standards on file.

8 c. In applying the annual maximums established
9 under this subsection, an individual shall deduct from
10 the applicable maximum standard any income received
11 during the twelve-month period of time by a member of
12 the household from sources of income other than from
13 the sale of products subject to security interests and
14 liens.

15 3. A secured party or a lienholder may contest a
16 claim on an affidavit filed under this section by
17 filing a petition in the district court of the county
18 in which the individual asserting the claim under this
19 section resides.

20 4. The county recorder shall maintain for eighteen
21 months from the date of filing any affidavit filed
22 under this section. The affidavit shall be recorded
23 under the name of the individual making the affidavit.

24 5. As used in this section, "individual's
25 household" includes any individual residing in the
26 same house as the individual filing the affidavit or
27 any individual for which the individual filing the
28 affidavit has provided at least fifty percent of the
29 individual's support for the preceding twelve months."

30 2. Title page, line 7, by inserting before the
31 word "providing" the words "providing for the
32 enforcement of security interests and liens,".

S-5932 Filed May 1, 1986

BY BOSWELL

Adopted 5/1 (p. 1521)

Adopted

HOUSE FILE 2473

S-5931

1 Amend House File 2473 as amended, passed, and
2 reprinted by the House as follows:

3 1. Page 8, line 4, by inserting after the word
4 "appointment." the following: "Upon the agreement of
5 the parties in mediation under chapter 654A, the
6 mortgagor shall have the right to rent the
7 agricultural land. If there is a foreclosure sale on
8 the agricultural land, the mortgagor shall have the
9 first right of refusal to repurchase the agricultural
10 land during any period the mortgagee is holding the
11 land."

S-5931 Filed May 1, 1986

BY RIORDAN

Adopted 5/1 (p. 1524)

Motion to reconsider w/d (p. 1534)

ADOPTED

HOUSE FILE 2473

S-5930

Amend House File 2473, as amended, passed, and re-
printed by the House as follows:

1. Page 3, line 31, by striking the word "ten" and inserting in lieu thereof the word "forty".
2. Page 7, line 23, by striking the word "ten" and inserting in lieu thereof the word "forty".
3. Page 9, line 30, by striking the word "ten" and inserting in lieu thereof the word "forty".

S-5930 Filed May 1, 1986

BY TIEDEN

LOST

*Adopted 5/1 (p. 1521)
Recomm. & Log. (p. 1529)*

HOUSE FILE 2473

S-5928

Amend House File 2473 as amended, passed and reprinted by the House as follows:

1. Page 14, line 2, by inserting after the word "Iowa" the following: ", but not later than July 1, 1986".

S-5928 Filed May 1, 1986

BY HUSAK

ADOPTED

Adopted 5/1 (p. 1530)

HOUSE FILE 2473

S-5920

- 1 Amend House File 2473 as amended, passed, and
- 2 reprinted by the House as follows:
- 3 1. Page 4, by striking lines 25 through 28 and
- 4 inserting the following: "agricultural land so
- 5 acquired shall be sold or otherwise disposed of within
- 6 two years after title is transferred. Pending the
- 7 sale or disposition, the land shall not be used for".
- 8 2. Page 4, line 33, by inserting after the figure
- 9 "172C.4." the following: "Agricultural land which has
- 10 been acquired pursuant to this paragraph shall not be
- 11 acquired or utilized by the nonresident alien, foreign
- 12 business, or foreign government, or an agent, trustee,
- 13 or fiduciary thereof, under either paragraph "d" or
- 14 paragraph "e".
- 15 3. Page 8, by striking lines 6 through 24.
- 16 4. Title page, line 3, by striking the word
- 17 "default," and inserting the words "default and".
- 18 5. Title page, lines 3 and 4, by striking the
- 19 words ", and the separate redemption of a homestead".

S-5920 Filed May 1, 1986

BY COMM. ON APP., WELSH, CHAIR

ADOPTED

Adopted as amended by
5/1 (p. 1514) HOUSE FILE 2473

S-5922

- 1 Amend House File 2473 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. By striking page 10, line 35 through page 11,
- 4 line 6 and inserting the following:
- 5 "After receiving the mediation request, the farm
- 6 mediation service may refer the borrower to a
- 7 financial analyst, and the farm".

S-5922 Filed May 1, 1986

BY PRIEBE

ADOPTED

Adopted 5/1 (p. 1529)

HOUSE FILE 2473

S-5925

- 1 Amend amendment S-5920 to House File 2473 as amended,
- 2 passed, and reprinted by the House as follows:
- 3 1. Page 1, line 7, by inserting after the word "for"
- 4 the word "any".

S-5925 Filed May 1, 1986

BY PRIEBE

ADOPTED

Adopted 5/1 (p. 1514)

1 Amend House File 2473 as amended, passed, and
 2 reprinted by the House as follows:
 3 1. Page 2, line 4, by inserting after the word
 4 "cases" the following: ", but shall not engage in the
 5 prosecution of frivolous or harassing actions on
 6 behalf of the farmers".

S-5694 Filed April 15, 1986

BY DOYLE

Adopted 5/1 (p. 15-20)

HOUSE FILE 2473

S-5708

1 Amend House File 2473 as amended, passed and
 2 reprinted by the House as follows:
 3 1. Page 3, by inserting after line 23 the
 4 following:
 5 "Sec. ____ . Section 172C.1, Code 1985, is amended
 6 by adding the following new subsections:
 7 NEW SUBSECTION. 18. "Commercial cattle feedlot"
 8 means a high capacity confinement feeding facility
 9 utilized for the fattening and finishing of feeder
 10 cattle, which has a one-time feedlot designed capacity
 11 of not in excess of ten thousand head of cattle. A
 12 commercial cattle feedlot excludes typical farming
 13 operations and the production of grain or other cash
 14 crops. However, commercial cattle feedlots may
 15 include the production of silage or hay roughage to be
 16 utilized as cattle feed in the commercial feedlot
 17 cattle rations.
 18 NEW SUBSECTION. 19. "One-time feedlot designed
 19 capacity" means the maximum number of feeder cattle a
 20 commercial cattle feedlot is designed to contain at
 21 any one time.
 22 Sec. 2. Section 172C.4, Code 1985, is amended by
 23 adding the following new subsection:
 24 NEW SUBSECTION. 11A. Agricultural land which is
 25 used for a commercial cattle feedlot. The maximum
 26 number of acres of agricultural land which may be held
 27 by a commercial cattle feedlot pursuant to this
 28 exception is a number equal to twenty-five percent of
 29 a one-time feedlot designed capacity of up to five
 30 thousand head, and a number equal to twelve and one-
 31 half percent of a one-time feedlot designed capacity
 32 of over five thousand head and up to ten thousand
 33 head. The land may be used for the confinement
 34 facility, the production of silage and hay roughage,
 35 and for the disposal of feedlot waste. However, a
 36 corporation or a wholly or partially owned subsidiary
 37 of a corporation engaged in the slaughter, processing,
 38 distribution, or marketing of beef products shall not
 39 fatten or finish feeder cattle owned by the
 40 corporation or subsidiary in a commercial cattle
 41 feedlot owned by the corporation or subsidiary."
 42 2. Title page, line 7, by inserting after the
 43 word "by" the words "certain commercial cattle
 44 feedlots and".

S-5708 Filed April 18, 1986 BY WALDSTEIN

Filed not germane 5/1 (p. 15-20)

HOUSE FILE 2473

S-5793

1 Amend House File 2473 as amended, passed, and
2 reprinted by the House as follows:

3 1. Page 1, line 22, by striking the word "thirty"
4 and inserting the word "sixty".

5 2. Page 1, by inserting after line 24 the
6 following:

7 "Prior to the awarding of the contract under this
8 section, potential legal services providers shall
9 submit to the coordinator a working plan for the
10 accomplishment of the objectives of this Act. The
11 plan shall establish priorities and procedures and set
12 forth its annual operating budget for the first fiscal
13 year, including projected salaries and all anticipated
14 expenses. This budget shall set forth the maximum
15 obligation of financial aid proposed for payment by
16 the state and the availability of any additional funds
17 or resources from the federal government and other
18 sources to meet such expenses of operation."

19 3. Page 3, by striking lines 6 through 9, and
20 inserting the following: "shall submit to the
21 coordinator at least thirty days before the end of
22 each fiscal year its annual operating".

23 4. Page 3, line 10, by inserting before the word
24 "fiscal" the word "next".

S-5793 Filed April 29, 1986

BY RITSEMA

Loat. 5/1 (p. 1520)

SENATE AMENDMENT TO HOUSE FILE 2473

H-6112

1 Amend House File 2473 as amended, passed, and
2 reprinted by the House as follows:

3 1. Page 2, line 4, by inserting after the word
4 "cases" the following: ", but shall not engage in the
5 prosecution of frivolous or harassing actions on
6 behalf of the farmers".

7 2. Page 3, by inserting after line 23 the
8 following:

9 "Sec. ____ . NEW SECTION. 554.9319 SALE OF A
10 PRODUCT SUBJECT TO A LIEN OR SECURITY INTEREST.

11 1. An individual who in the ordinary course of
12 business sells a product including a farm product
13 which is subject to a security interest or a lien
14 pursuant to chapter 570, 571, 572, 574, 576, 577, 578,
15 579, 580, or 582 may assert a claim against the
16 proceeds of the product in order to meet the necessary
17 living expenses of the individual or the individual's
18 household. The individual shall assert the lien by
19 filing with the secured party or the lienholder and
20 the county recorder of the county in which the person
21 resides at least three days prior to the sale a sworn
22 affidavit stating all of the following:

23 a. That the individual is asserting a claim under
24 this section.

25 b. That the proceeds are from the sale of a
26 product.

27 c. That the individual or the individual's
28 household requires the amount claimed to meet
29 necessary living expenses.

30 d. The name of all individuals in the household.

31 e. The amount claimed by the individual under this
32 section on the basis of the affidavit.

33 f. That the total amount claimed by the individual
34 under this section, including the amount claimed on
35 the affidavit that is being sworn, in the preceding
36 twelve months does not exceed the appropriate amount
37 permitted in subsection 2 based upon the size of the
38 individual's household.

39 2. a. Until superseded by rule pursuant to
40 paragraph "b", the maximum amount that an individual
41 may claim under this section during any twelve-month
42 period is the following, based upon the size of the
43 individual's household:

44 (1) For a household with one member, the annual
45 maximum is five thousand three hundred sixty dollars.

46 (2) For a household with more than one member the
47 annual maximum is that amount permitted under
48 subparagraph (1) and in addition one thousand eight
49 hundred eighty dollars for each additional member of
50 the household.

H-6112

Page Two

1 b. The department of human services shall review
2 maximum limitations at least once each twelve months
3 and may revise the limitations by rule adopted
4 pursuant to chapter 17A. In establishing new
5 standards, the department shall consider any revisions
6 in the federal poverty guidelines, the current
7 condition of the state's economy, the changes in the
8 consumer price index and any other factors which the
9 department deems relevant. The department shall send
10 a copy of any new standard adopted to each county
11 recorder who shall maintain the standards on file.

12 c. In applying the annual maximums established
13 under this subsection, an individual shall deduct from
14 the applicable maximum standard any income received
15 during the twelve-month period of time by a member of
16 the household from sources of income other than from
17 the sale of products subject to security interests and
18 liens.

19 3. A secured party or a lienholder may contest a
20 claim on an affidavit filed under this section by
21 filing a petition in the district court of the county
22 in which the individual asserting the claim under this
23 section resides.

24 4. The county recorder shall maintain for eighteen
25 months from the date of filing any affidavit filed
26 under this section. The affidavit shall be recorded
27 under the name of the individual making the affidavit.

28 5. As used in this section, "individual's
29 household" includes any individual residing in the
30 same house as the individual filing the affidavit or
31 any individual for which the individual filing the
32 affidavit has provided at least fifty percent of the
33 individual's support for the preceding twelve months."

34 3. Page 4, by striking lines 25 through 28 and
35 inserting the following: "agricultural land so
36 acquired shall be sold or otherwise disposed of within
37 two years after title is transferred. Pending the
38 sale or disposition, the land shall not be used for
39 any".

40 4. Page 4, line 33, by inserting after the figure
41 "172C.4." the following: "Agricultural land which has
42 been acquired pursuant to this paragraph shall not be
43 acquired or utilized by the nonresident alien, foreign
44 business, or foreign government, or an agent, trustee,
45 or fiduciary thereof, under either paragraph "d" or
46 paragraph "e"."

47 5. Page 8, line 4, by inserting after the word
48 "appointment." the following: "Upon the agreement of
49 the parties in mediation under chapter 654A, the
50 mortgagor shall have the right to rent the

H-6112

Page Three

1 agricultural land. If there is a foreclosure sale on
2 the agricultural land, the mortgagor shall have the
3 first right of refusal to repurchase the agricultural
4 land during any period the mortgagee is holding the
5 land."

6 6. Page 8, by striking lines 6 through 24.

7 7. By striking page 10, line 35 through page 11,
8 line 6 and inserting the following:

9 "After receiving the mediation request, the farm
10 mediation service may refer the borrower to a
11 financial analyst, and the farm".

12 8. Page 14, line 2, by inserting after the word
13 "Iowa" the following: ", but not later than July 1,
14 1986".

15 9. Title page, line 3, by striking the word
16 "default," and inserting the words "default and".

17 10. Title page, lines 3 and 4, by striking the
18 words ", and the separate redemption of a homestead".

19 11. Title page, line 7, by inserting before the
20 word "providing" the words "providing for the
21 enforcement of security interests and liens,".

22 12. By renumbering, relettering, or redesignating
23 and correcting internal references as necessary.

H-6112 FILED MAY 1, 1986

RECEIVED FROM THE SENATE

House amended & concurred 5/2 (p. 2060)

SENATE 50
May 5, 1986

HOUSE AMENDMENT TO
SENATE AMENDMENT TO
HOUSE FILE 2473

S-5968

- 1 Amend the Senate amendment H-6112 to House File
2 2473 as amended, passed and reprinted by the House as
3 follows:
- 4 1. By striking page 1, line 3 through page 3,
5 line 23, and inserting the following:
 - 6 2. Page 3, line 31, by striking the word "ten"
7 and inserting the word "twenty".
 - 8 3. Page 4, by striking lines 25 through 28 and
9 inserting the following: "agricultural land so
10 acquired shall be sold or otherwise disposed of within
11 two years after title is transferred. Pending the
12 sale or disposition, the land shall not be used for
13 any".
 - 14 4. Page 4, line 33, by inserting after the figure
15 "172C.4." the following: "Agricultural land which has
16 been acquired pursuant to this paragraph shall not be
17 acquired or utilized by the nonresident alien, foreign
18 business, or foreign government, or an agent, trustee,
19 or fiduciary thereof, under either paragraph "d" or
20 paragraph "e".
 - 21 5. Page 7, line 23, by striking the word "ten"
22 and inserting the word "twenty".
 - 23 6. Page 8, by striking lines 6 through 24.
 - 24 7. Page 9, line 30, by striking the word "ten"
25 and inserting the word "twenty".
 - 26 8. Page 13, line 26, by striking the word "ten"
27 and inserting the word "twenty".
 - 28 9. Page 14, line 2, by inserting after the word
29 "Iowa" the following: ", but not later than July 1,
30 1986".
 - 31 10. Title page, line 3, by striking the word
32 "default," and inserting the words "default and".
 - 33 11. Title page, lines 3 and 4, by striking the
34 words ", and the separate redemption of a homestead".
 - 35 12. By renumbering, relettering, or redesignating
36 and correcting internal references as necessary.

S-5968 Filed May 2, 1986 REC'D FROM THE HOUSE

ADOPTED

Concurred 5/2 (p 1581)

HOUSE FILE 2473

H-6124

1 Amend the Senate amendment, H-6112, to House File
2 2473 as amended, passed, and reprinted by the House as
3 follows:

4 1. By striking page 1, line 3 through page 3,
5 line 23, and inserting the following:

6 "_____. Page 4, by striking lines 25 through 28 and
7 inserting the following: "agricultural land so
8 acquired shall be sold or otherwise disposed of within
9 two years after title is transferred. Pending the
10 sale or disposition, the land shall not be used for
11 any".

12 _____. Page 4, line 33, by inserting after the
13 figure "172C.4." the following: "Agricultural land
14 which has been acquired pursuant to this paragraph
15 shall not be acquired or utilized by the nonresident
16 alien, foreign business, or foreign government, or an
17 agent, trustee, or fiduciary thereof, under either
18 paragraph "d" or paragraph "e"."

19 _____. Page 8, by striking lines 6 through 24.

20 _____. Page 14, line 2, by inserting after the word
21 "Iowa" the following: ", but not later than July 1,
22 1986".

23 _____. By renumbering, relettering, or
24 redesignating and correcting internal references as
25 necessary.

26 _____. Title page, line 3, by striking the word
27 "default," and inserting the words "default and".

28 _____. Title page, lines 3 and 4, by striking the
29 words ", and the separate redemption of a homestead"."

BY CARTER of Henry

H-6124 FILED MAY 1, 1986

GRUHN of Dickinson

Adopted as amended by 6133 5/2 (p. 2060)

HOUSE FILE 2473

H-6133

1 Amend amendment H-6124 to the Senate amendment
2 H-6112 to House File 2473 as amended, passed and
3 reprinted by the House as follows:

4 1. Page 1, by inserting after line 5, the
5 following:

6 "_____. Page 3, line 31, by striking the word "ten"
7 and inserting the word "twenty"."

8 2. Page 1, by inserting after line 18 the
9 following:

10 "_____. Page 7, line 23, by striking the word "ten"
11 and inserting the word "twenty"."

12 3. Page 1, by inserting after line 19, the
13 following:

14 "_____. Page 9, line 30, by striking the word "ten"
15 and inserting the word "twenty".

16 _____. Page 13, line 26, by striking the word "ten"
17 and inserting the word "twenty"."

H-6133 FILED MAY 2, 1986

BY SKOW of Guthrie

ADOPTED *(p. 2060)*

HOUSE FILE 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.

DONALD D. AVENSON
Speaker of the House

ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2473, Seventy-first General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved *May 23*, 1986

TERRY E. BRANSTAD
Governor