

Ways & Means

Amend. 3507 3-31-89 (p.1117)

reprinted

FILED MAR 09 1989

SENATE FILE **389**
BY COMMITTEE ON

Substituted for HF-733 AGRICULTURE
4-7-89 (p.1319)

(SUCCESSOR TO SSB 280)

Passed Senate, Date 4-4-89 (p.1167) Passed House, Date 4-19-89 (p.1706)
Vote: Ayes 50 Nays 0 Vote: Ayes 91 Nays 2
Approved 5-4-89 (p.1908)

A BILL FOR

1 An Act relating to farm crisis relief, by extending the date of
2 repeal of certain 1986 provisions, expanding participation in
3 farm mediation, requiring borrowers to file a list of
4 creditors, providing for review of farm mediation service
5 decisions, expanding the confidentiality of mediation
6 information, providing for mediation fees, and providing
7 limitations on liability and immunity from certain judicial
8 actions.

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

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SENATE FILE 389

S-3507

1 Amend Senate File 389 as follows:
2 1. Page 1, line 4, by striking the figure "1991"
3 and inserting the following: "1990".

By COMMITTEE ON WAYS AND MEANS
WILLIAM DIELEMAN, Chairperson

S-3507 FILED MARCH 31, 1989 (ost 44-89 (p.1167))

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Motion for reconsideration 4-4-89 (p.1167) motion prevailed
Amendment adopted

1 Section 1. 1986 Iowa Acts, chapter 1214, section 29, is
2 amended to read as follows:

3 SEC. 29. Sections 1 through 7, 12, and 14 through 28 are
3507-4 repealed on July 1, ~~1989~~ 1991.

5 Sec. 2. Section 654A.4, subsection 2, Code 1989, is
6 amended by striking the subsection and inserting in lieu
7 thereof the following:

8 2. This chapter applies to a borrower who is a natural
9 person operating a farm or any corporation, trust, or limited
10 partnership as defined in section 172C.1.

11 Sec. 3. Section 654A.6, Code 1989, is amended by adding
12 the following new subsection:

13 NEW SUBSECTION. 3. Unless the borrower waives mediation,
14 the borrower shall file a list containing at least the name
15 and place of business for each creditor as defined in section
16 654A.1 or apply for an extension to file the list with the
17 farm mediation service within twenty-one days of the service's
18 receipt of a request for mediation.

19 Sec. 4. Section 654A.11, Code 1989, is amended by adding
20 the following new subsection:

21 NEW SUBSECTION. 4. The farm mediation service shall
22 provide by rule a procedure, consistent with chapter 17A, for
23 review of an initial decision by a mediator relating to the
24 issuance of a mediation release. A decision may be reviewed
25 by the administrative head of the service or a designee. Upon
26 final action by the service and exhaustion of administrative
27 remedies, an action for judicial review of a decision by the
28 service may be brought in either the district court of Polk
29 county or in the district court in which the farmer or
30 creditor resides.

31 Sec. 5. Section 654A.13, Code 1989, is amended by adding
32 the following new subsection:

33 NEW SUBSECTION. 3. Verbal or written information relating
34 to the mediation process and transmitted between a party to a
35 dispute and the farm mediation service, including a mediator

1 or the mediation staff, or any other person present during any
2 stage of the mediation process conducted by the service,
3 whether reflected in notes, memoranda, or other work products
4 in the case files, are confidential communications. Mediators
5 and staff members shall not be examined in any judicial or
6 administrative proceeding regarding confidential
7 communications and are not subject to judicial or
8 administrative process requiring the disclosure of
9 confidential communications.

10 If a governmental subdivision is a party to a dispute which
11 has been scheduled for a mediation meeting, verbal or written
12 information obtained by the governmental subdivision which was
13 transmitted by the farm mediation service, including a
14 mediator or the mediation staff, or by any other person
15 present during any stage of the mediation process, is
16 confidential for the purposes of chapter 22 and 5 U.S.C. § 552
17 (1970).

18 This subsection does not apply to information transmitted
19 by a party to a dispute where the farm mediation service,
20 including a mediator or staff member, has reason to believe
21 that the party has given perjured evidence.

22 Sec. 6. Section 654A.14, Code 1989, is amended by adding
23 the following new unnumbered paragraph:

24 NEW UNNUMBERED PARAGRAPH. The coordinator shall adopt
25 rules pursuant to chapter 17A to provide for an hourly
26 mediation fee not to exceed twenty-five dollars per hour per
27 party. The hourly mediation fee may be waived for any party
28 demonstrating financial hardship upon application to the farm
29 mediation service.

30 Sec. 7. NEW SECTION. 654A.15 LIMITATION ON LIABILITY --
31 IMMUNITY FROM SPECIAL ACTIONS.

32 1. A member of the farm mediation staff, including a
33 mediator, employee, or agent of the service, or member of a
34 board to the service, is not liable for civil damages for a
35 statement or decision made in the process of mediation unless

1 the member acts in bad faith, with malicious purpose, or in a
2 manner exhibiting willful and wanton disregard of human
3 rights, safety, or property.

4 2. A judicial action relating to a matter which is in the
5 mediation process, which seeks an injunction, mandamus, or
6 similar equitable relief shall not be brought against the farm
7 mediation service, including a mediator, employee, or agent of
8 the service, or member of board for the service.

9 EXPLANATION

10 Section 1 extends the sunset provision on farm crisis
11 relief, including administration of the farm mediation
12 service, until July 1, 1991.

13 Section 2 expands persons required to participate in farm
14 mediation to include corporations, trusts, and limited
15 partnerships.

16 Section 3 requires that the borrower must file with the
17 farm mediation service a list containing the names and places
18 of business for each creditor or must apply for an extension
19 to file the list.

20 Section 4 requires that the farm mediation service adopt a
21 procedure for the administrative review of a decision relating
22 to issuance of a mediation release, with judicial review of
23 final agency action.

24 Section 5 expands the confidential protection for
25 information transmitted during mediation. The language is
26 similar to section 679.12 relating to confidentiality of
27 information transmitted during dispute resolution.

28 Section 6 provides an hourly mediation fee not to exceed
29 twenty-five dollars per hour per party and provides for waiver
30 of the fee.

31 Section 7 provides a limitation on personal liability to
32 mediation personnel. The language is similar to section
33 679.13 relating to liability of persons in dispute resolution.
34 The section provides immunity to the service from equitable
35 actions if a matter is in mediation.

1 Section 1. 1986 Iowa Acts, chapter 1224, section 29, is
2 amended to read as follows:

3 SEC. 29. Sections 1 through 7, 12, and 14 through 28 are
4 repealed on July 1, ~~1989~~ 1990.

5 Sec. 2. Section 654A.4, subsection 2, Code 1989, is
6 amended by striking the subsection and inserting in lieu
7 thereof the following:

8 2. This chapter applies to a borrower who is a natural
9 person operating a farm or any corporation, trust, or limited
10 partnership as defined in section 172C.1.

11 Sec. 3. Section 654A.6, Code 1989, is amended by adding
12 the following new subsection:

13 NEW SUBSECTION. 3. Unless the borrower waives mediation,
14 the borrower shall file a list containing at least the name
15 and place of business for each creditor as defined in section
16 654A.1 or apply for an extension to file the list with the
17 farm mediation service within twenty-one days of the service's
18 receipt of a request for mediation.

19 Sec. 4. Section 654A.11, Code 1989, is amended by adding
20 the following new subsection:

21 NEW SUBSECTION. 4. The farm mediation service shall
22 provide by rule a procedure, consistent with chapter 17A, for
23 review of an initial decision by a mediator relating to the
24 issuance of a mediation release. A decision may be reviewed
25 by the administrative head of the service or a designee. Upon
26 final action by the service and exhaustion of administrative
27 remedies, an action for judicial review of a decision by the
28 service may be brought in either the district court of Polk
29 county or in the district court in which the farmer or
30 creditor resides.

31 Sec. 5. Section 654A.13, Code 1989, is amended by adding
32 the following new subsection:

33 NEW SUBSECTION. 3. Verbal or written information relating
34 to the mediation process and transmitted between a party to a
35 dispute and the farm mediation service, including a mediator

1 or the mediation staff, or any other person present during any
2 stage of the mediation process conducted by the service,
3 whether reflected in notes, memoranda, or other work products
4 in the case files, are confidential communications. Mediators
5 and staff members shall not be examined in any judicial or
6 administrative proceeding regarding confidential
7 communications and are not subject to judicial or
8 administrative process requiring the disclosure of
9 confidential communications.

10 If a governmental subdivision is a party to a dispute which
11 has been scheduled for a mediation meeting, verbal or written
12 information obtained by the governmental subdivision which was
13 transmitted by the farm mediation service, including a
14 mediator or the mediation staff, or by any other person
15 present during any stage of the mediation process, is
16 confidential for the purposes of chapter 22 and 5 U.S.C. § 552
17 (1970).

18 This subsection does not apply to information transmitted
19 by a party to a dispute where the farm mediation service,
20 including a mediator or staff member, has reason to believe
21 that the party has given perjured evidence.

22 Sec. 6. Section 654A.14, Code 1989, is amended by adding
23 the following new unnumbered paragraph:

24 NEW UNNUMBERED PARAGRAPH. The coordinator shall adopt
25 rules pursuant to chapter 17A to provide for an hourly
26 mediation fee not to exceed twenty-five dollars per hour per
27 party. The hourly mediation fee may be waived for any party
28 demonstrating financial hardship upon application to the farm
29 mediation service.

30 Sec. 7. NEW SECTION. 654A.15 LIMITATION ON LIABILITY --
31 IMMUNITY FROM SPECIAL ACTIONS.

32 1. A member of the farm mediation staff, including a
33 mediator, employee, or agent of the service, or member of a
34 board to the service, is not liable for civil damages for a
35 statement or decision made in the process of mediation unless

1 the member acts in bad faith, with malicious purpose, or in a
2 manner exhibiting willful and wanton disregard of human
3 rights, safety, or property.

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4 2. A judicial action relating to a matter which is in the
5 mediation process, which seeks an injunction, mandamus, or
6 similar equitable relief shall not be brought against the farm
7 mediation service, including a mediator, employee, or agent of
8 the service, or member of board for the service.

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1 Amend Senate File 389, as amended, passed, and
2 reprinted by the Senate, as follows:

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

5 "Sec. ____ . Section 511.8, subsection 10, paragraph
6 b, Code 1989, is amended to read as follows:

7 b. Any real estate acquired through foreclosure,
8 or in settlement or satisfaction of any indebtedness.

9 Any company or association may improve real estate so
10 acquired or remodel existing improvements and exchange
11 such real estate for other real estate or securities,
12 and real estate acquired by such exchange may be
13 improved or the improvements remodeled. ~~Any farm-real~~
14 ~~estate-acquired-under-this-paragraph-shall-be-sold~~
15 ~~within-five-years-from-the-date-of-acquisition-unless~~
16 ~~the-commissioner-of-insurance-shall-extend-the-time~~
17 ~~for-such-period-or-periods-as-seem-warranted-by-the~~
18 ~~circumstances.~~

19 Sec. ____ . NEW SECTION. 511.8A AGRICULTURAL LAND.
20 Agricultural land, as defined in section 172C.1,
21 purchased by a life insurance company or association
22 incorporated by or organized under the laws of this or
23 any other state, at sales upon foreclosure of
24 mortgages or deeds of trust owned by it, or acquired
25 upon judgments or decrees obtained or rendered for
26 debts due it, or real property conveyed to it in
27 satisfaction of debts previously contracted in the
28 course of its business, or real property obtained by
29 it through redemption as a junior mortgagee or
30 judgment creditor, shall be sold or otherwise disposed
31 of by the company or association within two years
32 after title is vested in the company or association,
33 unless the company or association procures a
34 certificate from the commissioner of insurance
35 extending the time. The commissioner may extend the
36 time if the interest of the company or association
37 will suffer materially by the forced sale of the
38 agricultural land. The time for the sale is extended
39 to the time the commissioner directs in the
40 certificate. Agricultural land held by a company or
41 association pursuant to this paragraph shall be valued
42 on the books of the company or association at a value
43 determined by obtaining the per acre average of the
44 valuations for the current year and the four previous
45 years for agricultural land in the county in which the
46 agricultural land is located as published by Iowa
47 state university of science and technology. If an
48 appraisal conducted by an independent real estate
49 appraiser is available for the current year, the five-
50 year county average shall be adjusted by either adding

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1 or subtracting from the five-year average the
2 percentage by which the particular farm's current
3 appraised value exceeds or is less than the current
4 year's county average value.

5 Sec. ____ . Section 515.35, subsection 4, paragraph
6 h, subparagraph (1), unnumbered paragraph 2, and
7 subparagraphs (2) through (4), Code 1989, are amended
8 to read as follows:

9 All real estate, other than agricultural land, as
10 defined in section 172C.1, specified in subparagraph
11 subdivisions (a), (b), and (c) ~~of this subparagraph~~
12 shall be sold and disposed of within three years after
13 the company acquires title to it, or within three
14 years after the real estate ceases to be necessary for
15 the accommodation of the company's business, and the
16 company shall not hold any of those properties for a
17 longer period unless the company elects to hold the
18 property under another paragraph of this section, or
19 unless the company procures a certificate from the
20 commissioner of insurance ~~that its~~ extending the time.
21 The commissioner may extend the time if the interest
22 of the company will suffer materially by the forced
23 sale of those properties and that the real estate.
24 The time for the sale is extended to the time the
25 commissioner directs in the certificate.

26 Agricultural land, as defined in section 172C.1,
27 which is real estate specified in subparagraph
28 subdivisions (a), (b), (c), and (d), shall be sold and
29 disposed of within two years after the company
30 acquires title to it. The company shall not hold the
31 agricultural land for a longer period unless the
32 company procures a certificate from the commissioner
33 of insurance extending the time. The commissioner may
34 extend the time if the interest of the company will
35 suffer materially by the forced sale of the real
36 estate. The time for the sale is extended to the time
37 the commissioner directs in the certificate.

38 Agricultural land held by a company pursuant to this
39 paragraph shall be valued on the books of the company
40 at a value determined by obtaining the per acre
41 average of the valuations for the current year and the
42 four previous years for agricultural land in the
43 county in which the agricultural land is located as
44 published by Iowa state university of science and
45 technology. If an appraisal conducted by an
46 independent real estate appraiser is available for the
47 current year, the five-year county average shall be
48 adjusted by either adding or subtracting from the
49 five-year average the percentage by which the
50 particular farm's current appraised value exceeds or

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1 is less than the current year's county average value.

2 (2) A company may acquire, hold, and convey real
3 estate other than agricultural land, as defined in
4 section 172C.1, as required for the convenient
5 accommodation and transaction of its business.

6 (3) A company may acquire real estate, other than
7 agricultural land, as defined in section 172C.1, or an
8 interest in the real estate as an investment for the
9 production of income, and may hold, improve, or
10 otherwise develop, subdivide, lease, sell, and convey
11 the real estate so acquired directly or as a joint
12 venture or through a limited or general partnership in
13 which the company is a partner.

14 (4) A company may also acquire and hold real
15 estate, other than agricultural land, as defined in
16 section 172C.1, if the purpose of the acquisition is
17 to enhance the sale value of real estate previously
18 acquired and held by the company under this paragraph,
19 and if the company expects the real estate so acquired
20 to qualify under subparagraph (2) or (3) of this
21 paragraph within three years after acquisition.

22 Sec. ____ . Section 524.910, subsection 2, Code
23 1989, is amended to read as follows:

24 2. Real property purchased by a state bank at
25 sales upon foreclosure of mortgages or deeds of trust
26 owned by it, or acquired upon judgments or decrees
27 obtained or rendered for debts due it, or real
28 property conveyed to it in satisfaction of debts
29 previously contracted in the course of its business,
30 or real property obtained by it through redemption as
31 a junior mortgagee or judgment creditor, shall be sold
32 or otherwise disposed of by the state bank within five
33 two years after title is vested in the state bank,
34 unless the time is extended by the superintendent.
35 Agricultural land held by a state bank pursuant to
36 this subsection shall be valued on the books of the
37 bank at a value determined by obtaining the per acre
38 average of the valuations for the current year and the
39 four previous years for agricultural land in the
40 county in which the agricultural land is located as
41 published by Iowa state university of science and
42 technology. If an appraisal conducted by an
43 independent real estate appraiser is available for the
44 current year, the five-year county average shall be
45 adjusted by either adding or subtracting from the
46 five-year average the percentage by which the
47 particular farm's current appraised value exceeds or
48 is less than the current year's county average value.
49 To the extent permitted by federal law, national banks
50 may value agricultural land on the same basis as state

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1 banks. Before the state bank sells or otherwise
 2 dispose of agricultural land held pursuant to this
 3 subsection, the state bank shall first offer the prior
 4 owner the opportunity to repurchase the agricultural
 5 land on the terms the state bank proposes to sell or
 6 dispose of the agricultural land.

7 Sec. . Section 654.16, Code 1989, is amended to
 8 read as follows:

9 654.16 SEPARATE REDEMPTION OF HOMESTEAD.

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

21 If the designated a homestead is sold at a
 22 foreclosure sale in order to satisfy the judgment
 23 designated, the court shall determine the fair market
 24 value of the designated homestead before the sheriff's
 25 sale. The court may consult with the county
 26 appraisers appointed pursuant to section 456.26, or
 27 with one or more independent appraisers, to determine
 28 the fair market value of the designated homestead.

29 The mortgagor may redeem the designated homestead
 30 by tendering the lesser of either the amount bid at
 31 the sheriff's sale pursuant to procedures set forth in
 32 chapter 628, or the fair market value, as determined
 33 pursuant to this section, of the designated homestead
 34 at any time within two years one year from the date of
 35 the foreclosure sheriff's sale, pursuant to the
 36 procedures set forth in chapter 628. Recovery under
 37 paragraph shall not apply to a member institution
 38 which has purchased a designated homestead at a
 39 foreclosure sale:

40 -- The mortgagor may redeem the designated homestead
 41 from a member institution which has purchased the
 42 designated homestead at a foreclosure sale, by
 43 tendering the fair market value of the designated
 44 homestead within one year from the date of the
 45 foreclosure sale, pursuant to the procedures set forth
 46 in chapter 628.

47 If the member institution which has purchased
 48 mortgagor does not redeem the designated homestead at
 49 a foreclosure sale is not a state bank as defined in
 50 section 524-263, the following shall apply:

1 1. At Not later than the time the sheriff's deed
2 is issued recorded, the institution grantee in the
3 sheriff's sale shall notify the mortgagor of the
4 mortgagor's right of first refusal. A copy of this
5 unnumbered paragraph and subsections 1 through 5 and,
6 titled "Notice of Right of First Refusal" is
7 sufficient notice.

8 2. If within one year after a sheriff's deed is
9 ~~issued-to-the-institution~~ recorded, the institution
10 grantee proposes to sell or otherwise dispose of the
11 designated homestead, in a transaction other than a
12 public auction, the institution grantee shall first
13 offer the mortgagor the opportunity to repurchase the
14 designated homestead on the same terms and at the same
15 price that the institution grantee proposes to sell or
16 dispose of the designated homestead. If the
17 institution grantee seeks to sell or otherwise dispose
18 of the designated homestead by public auction within
19 one year after a sheriff's deed is ~~issued-to-the~~
20 institution recorded, the mortgagor must be given
21 sixty days' notice of all of the following:

22 a. The date, time, place, and procedures of the
23 auction sale.

24 b. Any minimum terms or limitations imposed upon
25 the auction.

26 3. The institution grantee is not required to
27 offer the mortgagor financing for the purchase of the
28 homestead.

29 4. The mortgagor has ten business days after being
30 given notice of the terms and price of the proposed
31 sale or disposition, other than a public auction, in
32 which to exercise the right to repurchase the
33 homestead by submitting a binding offer to the
34 institution grantee on the same terms as the proposed
35 sale or other disposition, with closing to occur
36 within thirty days after the offer unless otherwise
37 agreed by the institution grantee. After the
38 expiration of either the period for offer or the
39 period for closing, without submission of an offer or
40 a closing occurring, the institution grantee may sell
41 or otherwise dispose of the designated homestead to
42 any other person on the terms upon which it was
43 offered to the mortgagor.

44 5. Notice of the mortgagor's right of first
45 refusal, a proposed sale, auction, or other
46 disposition, or the submission of a binding offer by
47 the mortgagor, is considered given on the date the
48 that notice or offer is personally served on the other
49 party or on the date the that notice or offer is
50 mailed to the other party's last known address by

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1 registered or certified mail, return receipt
2 requested. The right of first refusal provided in
3 this section is not assignable, but may be exercised
4 by the mortgagor's successor in interest, receiver,
5 personal representative, executor, or heir only in
6 case of bankruptcy, receivership, or death of the
7 mortgagor.

8 ~~As used in this section, "member institution" means~~
9 ~~any lending institution that is a member of the~~
10 ~~federal deposit insurance corporation, the federal~~
11 ~~savings and loan insurance corporation, the national~~
12 ~~credit union administration, or an affiliate of such~~
13 ~~institution."~~

14 2. Page 3, by inserting after line 8 the
15 following:

16 "Sec. ____ . An insurance company or association
17 which has purchased land before the effective date of
18 this Act has until July 1, 1991, to dispose of the
19 land as provided under sections 511.8A and 515.35, as
20 amended by this Act.

21 Sec. ____ . Section 524.910, as amended by this Act,
22 applies to all foreclosure actions filed on or after
23 March 30, 1990, and as applied to a prior owner's
24 opportunity to repurchase agricultural land is
25 retroactive to all foreclosure actions for which a
26 sheriff's sale has not been held on March 30, 1990.

27 Sec. ____ . Section 654.16, as amended by this Act,
28 applies to all foreclosure actions filed on or after
29 the effective date of this Act, and is retroactive to
30 all foreclosure actions for which a sheriff's sale has
31 not been held on the effective date of this Act.

32 Sec. ____ . This Act, being deemed of immediate
33 importance, takes effect upon enactment."

34 3. Title page, line 1, by striking the words
35 "farm crisis relief, by" and inserting the following:
36 "transfer of land ownership, by restricting the time
37 land can be held by insurance and financial
38 institutions, providing the opportunity to repurchase
39 land, providing for redemption,".

40 4. Title page, line 6, by striking the word
41 "and".

42 5. Title page, line 8, by inserting after the
43 word "actions" the following: ", and providing an
44 effective date and dates of applicability".

By JAY of Appanoose

H-3963 FILED APRIL 11, 1989

Handwritten: JAY of Appanoose

SENATE FILE 389

H-4067

1 Amend Senate File 389, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by inserting after line 4 the fol-
4 lowing:

5 "Sec. ____ . Section 535.13, Code 1989, is amended
6 by adding the following new unnumbered paragraph:

7 NEW UNNUMBERED PARAGRAPH. However, land is used
8 for an agricultural purpose, and is defined in this
9 section as such, only if the value of that part of the
10 land plus improvements, including buildings, used for
11 residential purposes does not exceed fifty percent of
12 the total value of the land, including the part of the
13 land and improvements used for residential purposes
14 plus the land used for agricultural production."

15 2. Title page, line 1, by striking the words
16 "farm crisis relief" and inserting the following:
17 "agricultural credit".

18 3. Title page, line 2, by inserting after the
19 word "provisions," the following: "amending the
20 definition of agricultural purpose,".

By MUHLBAUER of Crawford

H-4067 FILED APRIL 17, 1989

W. B. M. (p. 1705)

SENATE FILE 389

AN ACT

RELATING TO FARM CRISIS RELIEF, BY EXTENDING THE DATE OF REPEAL OF CERTAIN 1986 PROVISIONS, EXPANDING PARTICIPATION IN FARM MEDIATION, REQUIRING BORROWERS TO FILE A LIST OF CREDITORS, PROVIDING FOR REVIEW OF FARM MEDIATION SERVICE DECISIONS, EXPANDING THE CONFIDENTIALITY OF MEDIATION INFORMATION, PROVIDING FOR MEDIATION FEES, AND PROVIDING LIMITATIONS ON LIABILITY AND IMMUNITY FROM CERTAIN JUDICIAL ACTIONS.

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

Section 1. 1986 Iowa Acts, chapter 1214, section 29, is amended to read as follows:

SEC. 29. Sections 1 through 7, 12, and 14 through 28 are repealed on July 1, 1989 1990.

Sec. 2. Section 654A.4, subsection 2, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. This chapter applies to a borrower who is a natural person operating a farm or any corporation, trust, or limited partnership as defined in section 172C.1.

Sec. 3. Section 654A.6, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Unless the borrower waives mediation, the borrower shall file a list containing at least the name and place of business for each creditor as defined in section 654A.1 or apply for an extension to file the list with the farm mediation service within twenty-one days of the service's receipt of a request for mediation.

Sec. 4. Section 654A.11, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The farm mediation service shall provide by rule a procedure, consistent with chapter 17A, for review of an initial decision by a mediator relating to the issuance of a mediation release. A decision may be reviewed by the administrative head of the service or a designee. Upon final action by the service and exhaustion of administrative remedies, an action for judicial review of a decision by the service may be brought in either the district court of Polk county or in the district court in which the farmer or creditor resides.

Sec. 5. Section 654A.13, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Verbal or written information relating to the mediation process and transmitted between a party to a dispute and the farm mediation service, including a mediator or the mediation staff, or any other person present during any stage of the mediation process conducted by the service, whether reflected in notes, memoranda, or other work products in the case files, are confidential communications. Mediators

and staff members shall not be examined in any judicial or administrative proceeding regarding confidential communications and are not subject to judicial or administrative process requiring the disclosure of confidential communications.

If a governmental subdivision is a party to a dispute which has been scheduled for a mediation meeting, verbal or written information obtained by the governmental subdivision which was transmitted by the farm mediation service, including a mediator or the mediation staff, or by any other person present during any stage of the mediation process, is confidential for the purposes of chapter 22 and 5 U.S.C. § 552 (1970).

This subsection does not apply to information transmitted by a party to a dispute where the farm mediation service, including a mediator or staff member, has reason to believe that the party has given perjured evidence.

Sec. 6. Section 654A.14, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The coordinator shall adopt rules pursuant to chapter 17A to provide for an hourly mediation fee not to exceed twenty-five dollars per hour per party. The hourly mediation fee may be waived for any party demonstrating financial hardship upon application to the farm mediation service.

Sec. 7. NEW SECTION. 654A.15 LIMITATION ON LIABILITY -- IMMUNITY FROM SPECIAL ACTIONS.

1. A member of the farm mediation staff, including a mediator, employee, or agent of the service, or member of a board to the service, is not liable for civil damages for a statement or decision made in the process of mediation unless the member acts in bad faith, with malicious purpose, or in a manner exhibiting willful and wanton disregard of human rights, safety, or property.

2. A judicial action relating to a matter which is in the mediation process, which seeks an injunction, mandamus, or similar equitable relief shall not be brought against the farm mediation service, including a mediator, employee, or agent of the service, or member of board for the service.

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JO ANN ZIMMERMAN
President of the Senate

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DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 389, Seventy-third General Assembly.

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JOHN F. DWYER
Secretary of the Senate

Approved 5/4, 1989

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TERRY E. BRANSTAD
Governor