

JAN 22 1998
Agriculture

HOUSE FILE 2063
BY CHAPMAN

also 2473

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to mediations affecting agricultural producers.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2063

1 Section 1. Section 654A.4, subsection 2, Code 1997, is
2 amended to read as follows:

3 2. This chapter applies to a borrower who is a natural
4 person operating a farm or including but not limited to a
5 natural person or any corporation, trust, limited liability
6 company, limited liability partnership, or limited partnership
7 as-defined-in-section-9H-1 organized under state law.

8 Sec. 2. Section 654A.11, subsection 3, paragraph b, Code
9 1997, is amended to read as follows:

10 b. The mediator shall issue a mediation release unless the
11 creditor fails to personally attend and participate in at
12 least-one all mediation meeting meetings. The mediator shall
13 issue a mediation release if the borrower waives or fails to
14 personally attend and participate in at-least-one all
15 mediation meeting meetings, regardless of participation by the
16 creditor. ~~The creditor or borrower may be represented by~~
17 ~~another person, if the person participates in mediation and~~
18 ~~has authority to discuss the debt on behalf of the creditor or~~
19 ~~borrower. However, if a creditor or borrower is not a natural~~
20 person, the creditor or borrower must be represented by a
21 natural person who is an officer, director, employee, partner,
22 trustee, or executor of the creditor or borrower. If the
23 creditor or borrower or a representative is not able to attend
24 and participate as required in this paragraph, due to physical
25 infirmity, mental infirmity, or other exigent circumstances
26 determined reasonable by the farm mediation service, the
27 creditor or borrower must be represented by another natural
28 person. Any representative of the creditor or borrower must
29 be authorized to sign instruments required under this chapter,
30 including a mediation agreement or a statement prepared by the
31 mediator that mediation was waived. This section does not
32 require the creditor or borrower to reach an agreement,
33 including restructuring a debt, in order to receive a
34 mediation release.

35 Sec. 3. Section 654B.1, subsection 5, Code 1997, is

1 amended to read as follows:

2 5. "Farm resident" means a person holding an interest in
3 farmland, in fee, under a real estate contract, or under a
4 lease, if the person manages farming operations on the land.
5 A farm resident includes a natural person, or any corporation,
6 trust, or limited liability company, partnership, limited
7 partnership, as-defined-in-section-9H-1 or limited liability
8 partnership organized under state law.

9 Sec. 4. Section 654B.4, subsection 3, Code 1997, is
10 amended to read as follows:

11 3. At the meeting, a party ~~to-the-dispute~~ participating in
12 mediation may be represented by counsel or appear with a
13 consultant to assist the party in mediation.

14 Sec. 5. Section 654B.8, subsection 2, paragraph a, Code
15 1997, is amended to read as follows:

16 a. The mediator shall issue a mediation release unless the
17 other party desiring to initiate a civil proceeding to resolve
18 the dispute fails to personally attend and participate in at
19 least-one all mediation meeting meetings. The mediator shall
20 issue a mediation release if the farm resident waives or fails
21 to personally attend and participate in at-least-one all
22 mediation meeting meetings, regardless of participation by the
23 other party. ~~A-party-to-a-dispute-may-be-represented-by~~
24 ~~another-person,-if-the-person-participates-in-mediation-and~~
25 ~~has-authority-to-discuss-the-dispute-on-behalf-of-the-party~~
26 ~~being-represented:~~ However, if the other party or the farm
27 resident is not a natural person, the other party or farm
28 resident must be represented by a natural person who is an
29 officer, director, employee, partner, trustee, or executor of
30 the other party or farm resident. If the other party or farm
31 resident, or a representative is not able to attend and
32 participate as required in this paragraph, due to physical
33 infirmity, mental infirmity, or other exigent circumstances
34 determined reasonable by the farm mediation service, the other
35 party or farm resident must be represented by another natural

1 person. Any representative of the other party or the farm
2 resident must be authorized to sign instruments required under
3 this chapter, including a mediation agreement or a statement
4 prepared by the mediator that mediation was waived. This
5 section does not require a party to reach an agreement. This
6 section does not require a person to change a position, alter
7 an activity which is a subject of the dispute, or restructure
8 a contract in order to receive a mediation release.

9 Sec. 6. Section 654C.5, subsection 2, Code 1997, is
10 amended to read as follows:

11 2. The parties agreeing to mediation shall personally
12 attend and participate in at least one all mediation meeting
13 meetings. A party to a dispute may be represented by another
14 person, if the person participates in mediation and has
15 authority to discuss the dispute on behalf of the party being
16 represented. However, if a party is not a natural person, the
17 party must be represented by a natural person who is an
18 officer, director, employee, partner, trustee, or executor of
19 the party. If the party or a representative is not able to
20 attend and participate as required in this subsection, due to
21 physical infirmity, mental infirmity, or other exigent
22 circumstances determined reasonable by the farm mediation
23 service, the party must be represented by another natural
24 person. Any representative of a party must be authorized to
25 sign instruments required under this chapter, including a
26 mediation agreement or a statement prepared by the mediator
27 that mediation was waived. This section does not require a
28 party to reach an agreement. This section does not require a
29 person to change a position, alter an activity which is a
30 subject of the dispute, alter an application for a permit for
31 construction of an animal feeding operation, or restructure a
32 contract.

33 EXPLANATION

34 This bill amends Iowa Code chapters 654A, 654B, and 654C,
35 which provide for mediation affecting agricultural producers.

1 Iowa Code chapter 654A requires mediation between farmers who
2 are borrowers and creditors prior to the enforcement of a
3 legal action to collect the debt. Iowa Code chapter 654B
4 requires mediation in disputes involving farmers who provide
5 care and feeding to livestock under contract. Iowa Code
6 chapter 654C allows for mediation between producers and
7 neighbors negotiating to allow the construction of animal
8 feeding operation structures closer than otherwise legally
9 required to the neighbor's property.

10 The bill requires greater participation by the parties
11 attending the mediation meetings. It provides for the types
12 of corporate entities that must be involved as parties to a
13 mediation. It requires personal participation by the parties
14 subject to mediation. If the party is a corporate entity,
15 attendance and participation is required by an officer,
16 director, employee, partner, trustee, or executor of the
17 party. Another representative may attend if a party cannot
18 otherwise be represented. Any representative must be able to
19 execute documents required under the chapter including a
20 mediation agreement or waiver.

21 Current law requires participation at only one mediation
22 meeting, by a party or a party's representative. The bill is
23 partly in response to the case, Arends v. Iowa Select Farms,
24 556 N.W.2d 812, in which the Iowa supreme court held that
25 mediation requirements were satisfied when an attorney for one
26 party attended and participated in a mediation meeting, even
27 though the attorney did not have the authority to enter into
28 an agreement on behalf of the party.

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