

CHAPTER 6-09.10

CREDIT REVIEW BOARD AND AGRICULTURAL MEDIATION

6-09.10-01. Definitions. As used in this chapter, unless the context requires otherwise:

1. "Board" means the credit review board, or its authorized agent when applicable.
2. "Farmer" means a person who is or was involved in the production of an agricultural commodity or livestock.
3. "Fund" means the home-quarter purchase fund.
4. "Home-quarter" means a single contiguous tract of not more than one hundred sixty acres [64.75 hectares] which serves as the base unit of a farm and upon which the farm residence and buildings are located.
5. "Person" means an individual, corporation, limited liability company, partnership, or other legal entity.

6-09.10-02. Credit review board. The board consists of six members. The governor, the attorney general, and the agriculture commissioner shall each appoint two members to the board. The governor and attorney general shall each appoint one member with experience as a director or officer of a financial institution and one member actively engaged in farming in the state. The agriculture commissioner shall appoint two members who are actively engaged in farming in the state. No member of the board may hold state office or serve in state office or serve in state government in any capacity at any time of appointment or during service on the board. The credit review board members shall serve terms of two years.

6-09.10-02.1. Additional duties of board. In addition to other powers and duties enumerated in this chapter, the board shall:

1. Establish policy for the North Dakota agricultural mediation service.
2. Recommend policies and procedures to the industrial commission regarding farm loan programs of the Bank of North Dakota.

6-09.10-03. North Dakota agricultural mediation service - Powers - Compensation and expenses - Fees. The board shall meet at the call of the chair, as is necessary to fulfill its duties under this chapter. The agriculture commissioner shall administer the agricultural mediation service. The commissioner shall establish an agricultural mediation service to disseminate information to farmers concerning farm credit problems and to provide assistance to seek to resolve farm credit problems. The commissioner shall appoint an administrator of the agricultural mediation service. The commissioner shall hire staff, negotiators, and mediators who may mediate disputes involving farmers or other persons eligible for mediation with an agency of the United States department of agriculture. The board may charge the farmer and others a reasonable fee for any assistance, provided the fees are used to continue the service. Fees charged to mediation participants are limited to twenty-five dollars per hour, each, for the time spent in mediation sessions. The board shall adopt policies governing the negotiators, staff, and mediators hired under this section. Board members are entitled to receive one hundred thirty-five dollars for each day of official service, as directed by the board. The board members are entitled to expenses as provided in sections 44-08-04 and 54-06-09. The expenses provided under this section may be paid from any funds available in the home-quarter purchase fund.

6-09.10-04. Request for assistance - Negotiation - Mediation. Any farmer, creditor, person dealing with a farmer, or other person eligible for mediation with an agency of the United States department of agriculture may request assistance from the administrator. Upon receipt of the request, and upon consent of all parties to mediation, the negotiator or mediator shall encourage and assist the parties in reaching a voluntary settlement.

6-09.10-04.1. Liability. The board, commissioner, administrator, staff, negotiators, and mediators are not subject to any liability arising from any actions undertaken regarding a farmer, creditor, or other person in attempting to reach a settlement.

6-09.10-05. Interest rate buydowns by the board.

1. If the board, or its authorized agent, is unable to mediate a settlement with regard to a farmer's debt, the board may approve the purchase, refinancing, or redemption of the farmer's home-quarter. If the board approves the purchase, refinancing, or redemption of the home-quarter, it shall subsidize the interest rate paid by the farmer after credit has been obtained by the farmer from any governmental or private financial institution or agency.
2. The board may only approve an interest subsidy if the farmer has the financial ability to meet all payments and financial responsibilities, including the payment of principal and interest on loans subsidized under this chapter.
3. The board may defer or waive payment, restructure payment, or enter into other reasonable loan servicing options with a farmer who has received an interest subsidy, upon proof of financial hardship, or if the farmer, after deferral, restructure, or other loan servicing options, has the ability to make all the payments and meet all the financial responsibilities with regard to the change in payments.

6-09.10-06. Fund - Appropriation.

1. A revolving fund must be maintained at the Bank of North Dakota for the subsidy of interest rates on home-quarter purchases and coordination and operation of a farm management delivery system as provided in this chapter. All moneys transferred into the fund, interest upon moneys in the fund, and payments to the fund are hereby appropriated for the purposes of this chapter. Any moneys generated by the farm management delivery system must be transferred to the state board for career and technical education and allocated by the state board for career and technical education to the adult farm management program, the agricultural mediation services, and North Dakota state university for expenses related to the jointly developed and implemented farm management delivery system.
2. The board may petition the emergency commission for a transfer from the state contingency fund whenever it appears to the board that the moneys remaining in the fund are not sufficient to meet demands on the fund. The emergency commission may grant the transfer request, or so much thereof as may be necessary, if it finds that an emergency situation exists in the industry of farming, due to increasing numbers of farm foreclosures.
3. The board and the Bank of North Dakota shall enter into an agreement through which the Bank shall supervise and monitor the payment and repayment of interest subsidies approved by the board.

6-09.10-07. Interest rates - Repayment - Loan qualification. An interest subsidy may only be approved on the first fifty thousand dollars of principal loaned to the farmer for the purchase or refinancing of the home-quarter. For the first year after approval of any loan, the board shall subsidize ten percentage points per annum of the interest payments due from the farmer, not to exceed the amount of interest actually charged on the first fifty thousand dollars of principal. For the second and third years of the loan, the board shall subsidize six percentage points per annum of the interest payments due from the farmer, not to exceed the amount of interest actually charged on the first fifty thousand dollars of principal. The amount of any interest payments subsidized by the board must be added to the principal amount of the loan, and the lender shall repay this amount into the fund as it is repaid by the borrower. Loans approved by the board must be amortized and may have terms of up to forty years.

6-09.10-08. Home-quarter - Appraised value. The board shall determine the appraised value of home-quarters for the purposes of this chapter. In determining appraised value, the board shall receive testimony, from either party, on the value of the home-quarter as a single tract of land.

6-09.10-08.1. Contract for legal and tax assistance - Administration. Repealed by S.L. 1997, ch. 98, § 3.

6-09.10-08.2. Legal and tax service contract requirements. Repealed by S.L. 1997, ch. 98, § 3.

6-09.10-08.3. Eligible farmers and small business persons. Repealed by S.L. 1997, ch. 98, § 3.

6-09.10-08.4. Payment for assistance. Repealed by S.L. 1997, ch. 98, § 3.

6-09.10-08.5. Alternatives to litigation - Cooperation with other service providers. Repealed by S.L. 1997, ch. 98, § 3.

6-09.10-08.6. Assumption of powers and duties of credit review board. Repealed by S.L. 1997, ch. 98, § 3.

6-09.10-09. Rulemaking authority. The board may adopt rules under chapter 28-32 as are necessary to implement this chapter.

6-09.10-10. Mediation - Open records and meetings exception. Information created, collected, and maintained by the agricultural mediation service in the course of any formal or informal mediation is confidential and is not subject to the open records requirements of section 44-04-18. Such information may be released only upon written consent of all parties to the mediation or pursuant to an order issued by the court upon a showing of good cause. All mediation meetings and meetings involving the board, staff, negotiators, or mediators wherein the finances of specific farmers, creditors, and others are discussed, are confidential, closed meetings and are not subject to the open meetings requirements of section 44-04-19.

6-09.10-11. Agriculture commissioner - Authorization. The agriculture commissioner is authorized to receive and expend any federal, private, or other funds that become available for the purpose of defraying the expenses of the agricultural mediation service.