
31. STATE MEDIATION PROGRAMS
TITLE V OF THE AGRICULTURAL CREDIT ACT OF 1987
[As Amended Through Public Law 109-17, June 29, 2005]

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July 11, 2005

31. STATE MEDIATION PROGRAMS

TITLE V OF THE AGRICULTURAL CREDIT ACT OF 1987

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Agricultural Credit Act of 1987”.

(b) **TABLE OF CONTENTS.**—The table of contents is as follows:

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Sec. 1. Short title; table of contents.

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TITLE V—STATE MEDIATION PROGRAMS

Subtitle A—Matching Grants for State Mediation Programs

- Sec. 501. Qualifying States.
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- Sec. 506. Authorization of appropriations.

Subtitle B—Waiver of Mediation Rights

- Sec. 511. Waiver of mediation rights by Farm Credit System borrowers.
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TITLE V—STATE MEDIATION PROGRAMS

Subtitle A—Matching Grants for State Mediation Programs

SEC. 501. [7 U.S.C. 5101] QUALIFYING STATES.

(a) **IN GENERAL.**—A State is a qualifying State if the Secretary of Agriculture (hereinafter in this subtitle referred to as the “Secretary”) determines that the State has in effect a mediation program that meets the requirements of subsection (c).

(b) **DETERMINATION BY SECRETARY.**—Within 15 days after the Secretary receives from the Governor of a State a description of the mediation program of the State and a statement certifying that the State has met all of the requirements of subsection (c), the Secretary shall determine whether the State is a qualifying State.

(c) **REQUIREMENTS OF STATE MEDIATION PROGRAMS.**—

(1) **ISSUES COVERED.**—

(A) **IN GENERAL.**—To be certified as a qualifying State, the mediation program of the State must provide medi-

ation services to persons described in paragraph (2) that are involved in agricultural loans (regardless of whether the loans are made or guaranteed by the Secretary or made by a third party).

(B) OTHER ISSUES.—The mediation program of a qualifying State may provide mediation services to persons described in paragraph (2) that are involved in one or more of the following issues under the jurisdiction of the Department of Agriculture:

(i) Wetlands determinations.

(ii) Compliance with farm programs, including conservation programs.

(iii) Agricultural credit.

(iv) Rural water loan programs.

(v) Grazing on National Forest System land.

(vi) Pesticides.

(vii) Such other issues as the Secretary considers appropriate.

(2) PERSONS ELIGIBLE FOR MEDIATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the persons referred to in paragraph (1) include—

(i) agricultural producers;

(ii) creditors of producers (as applicable); and

(iii) persons directly affected by actions of the Department of Agriculture.

(B) VOLUNTARY PARTICIPATION.—

(i) IN GENERAL.—Subject to clause (ii) and section 503, a person may not be compelled to participate in mediation services provided under this Act.

(ii) STATE LAWS.—Clause (i) shall not affect a State law requiring mediation before foreclosure on agricultural land or property.

(3) CERTIFICATION CONDITIONS.—The Secretary shall certify a State as a qualifying State with respect to the issues proposed to be covered by the mediation program of the State if the mediation program—

(A) provides for mediation services that, if decisions are reached, result in mediated, mutually agreeable decisions between the parties to the mediation;

(B) is authorized or administered by an agency of the State government or by the Governor of the State;

(C) provides for the training of mediators;

(D) provides that the mediation sessions shall be confidential;

(E) ensures, in the case of agricultural loans, that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program; and

(F) ensures, in the case of other issues covered by the mediation program, that persons directly affected by actions of the Department of Agriculture receive adequate notification of the mediation program.

(d) DEFINITION OF MEDIATION SERVICES.—In this section, the term “mediation services”, with respect to mediation or a request for mediation, may include all activities related to—

- (1) the intake and scheduling of cases;
- (2) the provision of background and selected information regarding the mediation process;
- (3) financial advisory and counseling services (as appropriate) performed by a person other than a State mediation program mediator; and
- (4) the mediation session.

SEC. 502. [7 U.S.C. 5102] MATCHING GRANTS TO STATES.

(a) **MATCHING GRANTS.**—Within 60 days after the Secretary certifies the State as a qualifying State under section 501(b), the Secretary shall provide financial assistance to the State, in accordance with subsection (b), for the operation and administration of the mediation program.

(b) **AMOUNT OF GRANT.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the Secretary shall pay to a State under subsection (a) not more than 70 percent of the cost of the operation and administration of the mediation program within the State.

(2) **MAXIMUM AMOUNT.**—The Secretary shall not pay more than \$500,000 per year to a single State under subsection (a).

(c) **USE OF GRANT.**—

(1) **IN GENERAL.**—Each State that receives an amount paid under subsection (a) shall use that amount only for the operation and administration of the mediation program of the State with respect to which the amount was paid.

(2) **OPERATION AND ADMINISTRATION EXPENSES.**—For purposes of paragraph (1), operation and administration expenses for which a grant may be used include—

- (A) salaries;
- (B) reasonable fees and costs of mediators;
- (C) office rent and expenses, such as utilities and equipment rental;
- (D) office supplies;
- (E) administrative costs, such as workers' compensation, liability insurance, the employer's share of Social Security, and necessary travel;
- (F) education and training;
- (G) security systems necessary to ensure the confidentiality of mediation sessions and records of mediation sessions;
- (H) costs associated with publicity and promotion of the mediation program;
- (I) preparation of the parties for mediation; and
- (J) financial advisory and counseling services for parties requesting mediation.

(d) **PENALTY.**—If the Secretary determines that a State has not complied with subsection (c), such State shall not be eligible for additional financial assistance under this subtitle.

SEC. 503. [7 U.S.C. 5103] PARTICIPATION OF FEDERAL AGENCIES.

(a) **DUTIES OF THE SECRETARY OF AGRICULTURE.**—

(1) **IN GENERAL.**—The Secretary, with respect to each program or agency under the jurisdiction of the Secretary—

- (A) shall prescribe rules requiring each such program or agency to participate in good faith in any State mediation program certified under section 501;
 - (B) shall participate in mediation programs certified under section 501; and
 - (C) shall—
 - (i) cooperate in good faith with requests for information or analysis of information made in the course of mediation under any mediation program certified under section 501; and
 - (ii) if applicable, present and explore debt restructuring proposals advanced in the course of such mediation.
- (2) **NONBINDING ON SECRETARY.**—The Secretary shall not be bound by any determination made in a program described in section 501 if the Secretary has not agreed to such determination.
- (b) **DUTIES OF THE FARM CREDIT ADMINISTRATION.**—The Farm Credit Administration shall prescribe rules requiring the institutions of the Farm Credit System—
- (1) to cooperate in good faith with requests for information or analysis of information made in the course of mediation under any mediation program described in section 501; and
 - (2) to present and explore debt restructuring proposals advanced in the course of such mediation.

SEC. 504. [7 U.S.C. 5104] REGULATIONS.

The Secretary and the Farm Credit Administration shall prescribe such regulations as may be necessary to carry out this subtitle. The regulations prescribed by the Secretary shall require qualifying States to adequately train mediators to address all of the issues covered by the mediation program of the State.

SEC. 505. [7 U.S.C. 5105] REPORT.

Not later than January 1, 1998, the Secretary of Agriculture shall report to Congress on—

- (1) the effectiveness of the State mediation programs receiving matching grants under this subtitle;
- (2) recommendations for improving the delivery of mediation services to producers; and
- (3) the savings to the States as a result of having a mediation program.

SEC. 506. [7 U.S.C. 5106] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle \$7,500,000 for each of the fiscal years 1988 through 2010.

Subtitle B—Waiver of Mediation Rights

[Omitted—subtitle B consisted of amendments to other laws.]