

MEDIATION MINUTE

NORTH DAKOTA DEPARTMENT OF AGRICULTURE

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Loan program available for feedlot owners

Authorized this year by the State Industrial Commission, the Bank of North Dakota's Feedlot Loan Guarantee Program assists commercial feedlot owners who background or feed cattle to harvest-ready weight. This program provides financial institutions with an 85 percent guarantee of the purchase price of the cattle and the estimated cost to bring the cattle to projected weight.

Loan Requirements

Lead Lender - Any bank, credit union, savings and loan association or any other lending institution in the state of North Dakota.

Borrower - The owner of a commercial feedlot located in North Dakota that backgrounds or feeds cattle to harvest-ready weight. A "commercial feedlot" is defined as a cattle feeding operation that is approved and operating under the rules established by the North Dakota Department of Health, where custom feeding services may be offered. "Backgrounds" refers to the feeding period for calves following weaning and prior to being fed a finishing ration which takes them to a harvest-ready weight.

Backgrounding shall include the feeding of dairy heifers. "Harvest-ready weight" is a weight which the animal is expected to be slaughtered for future food consumption.

Guarantee - Bank of North Dakota (BND) may guarantee up to 85 percent of the total of the purchase price of the

cattle and estimated cost to bring the cattle to projected weight.

Term - The guarantee term may not exceed 2 years.

Guarantee Fee - The guarantee fee is 0.5 percent per year of the guaranteed portion.

Interest Rate - The lender may not charge more than 3 percent above BND base rate.

An application by a lead lender is required for BND's participation. Applications are available from the address below or from www.banknd.nd.gov/ls/pdf18196B.pdf. See application for additional documentation required when submitting a request to BND. The lead lender is responsible for servicing of loan.

The program is authorized through June 30, 2009.

For more information about this program or other Bank of North Dakota programs, contact:

Bank of North Dakota
700 E. Main Ave
P.O. Box 5509
Bismarck ND 58502-5509
(701) 328-5672
(800) 472-2166 ext. 5762
TDD (800) 643-3916

Chapter 12 bankruptcy expanded, now permanent

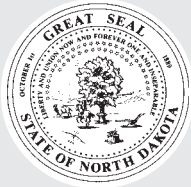
Consumer issues affected by the new Bankruptcy Abuse Prevention and Consumer Protection Reform Act of 2005, recently passed by Congress and signed by the president, has certainly attracted much attention. Less publicized were changes made in Chapter 12 of the Bankruptcy code, which provides farmers with options for restructuring their debt and saving their farms.

The news is mostly good – Congress agreed to make Chapter 12 permanent and eligibility has been expanded.

Writing in the 2005/2 issue of *Farmers Legal Action Report*, attorney Susan Schneider details the changes in the bankruptcy code. Schneider, who directs the graduate program in agricultural law at the University of Arkansas, urges farmers in bank-

ruptcy or considering bankruptcy to consult with their attorneys "to be sure that all of the new laws effects have been considered."

To obtain the issue of *Farmers Legal Action Report* or to subscribe, contact the Farmers Legal Action Group (FLAG) at (651) 223-5400 or lawyers@flaginc.org. FLAG's website is www.flaginc.org.



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A mediation success story

FSA negotiation resolves brotherly squabble

The following story is an actual case, and is published by the U.S. Department of Agriculture at www.fsa.usda.gov/outreach/pdfs/agSucces_04.PDF

Context: During 1998, a Farm Service Agency (FSA) county office farm loan officer faced a situation involving a producer who was past due on a loan of approximately \$200,000, as well as debts to two other creditors. The FSA loan was in the name of two brothers who shared the farm, one brother focusing on business operations, the other on production. The loan was heading toward foreclosure when the business brother requested mediation, mostly with the intent to buy some time until harvest. Prior to the mediation, the loan officer only had contact with the brother concerned with business operations. However, given that the two brothers were signatories to the loan, the attendance of both at the mediation was critical.

Intervention: Both brothers attended the mediation, along with the loan officer and a mediator from the state Agricultural Mediation Program. The mediation was an opportunity for both brothers to come to agreement on what needed to be done. The brother involved solely in production had been resistant to the decisions made by the brother focusing on business issues. However, through a preliminary separate session with the mediator, the brother who managed the business was able to explain why he was making these decisions. The mediator helped the two brothers communicate better and come to an understanding, which then enabled them to work as a team with the FSA county office.

Outcome: The loan officer set a deadline for the brothers to make payment on their loan. While this was a standard deadline, the brothers were helped by the additional time afforded from the mediation. The brothers, now working with each other instead of against each other, agreed that they could meet the deadline, and did.

Cost/Benefit: According to the loan officer, the great value of the mediation was that "everyone showed up. They knew what I was up against and the time frame they would have to work with."

Additionally, the mediator saw a significant change in how the brothers dealt with each other. Through the mediation the brother who focused just on finances was "forced to tell his brother what was going on." The officer observed that the brothers "seemed to deal a bit better with each other after the mediation." The benefit was not just that a \$200,000 debt remains in the black. Since this time, the officer has dealt with both brothers on issues regarding their farm. The improvement of the relationship was crucial to an improvement in the business management. Because they now communicate better, they are better able to make decisions about their business and have been repaying their debts without difficulty since the mediation.

Administrator's corner . . .

The services provided by the North Dakota Agricultural Mediation Service (NDAMS) are more extensive than those offered by many other USDA-certified programs in the country. In addition to formal mediation, financial analysis, counseling and negotiation assistance are provided through informal mediation. The charts below explain in more detail the types of mediation offered by the program.

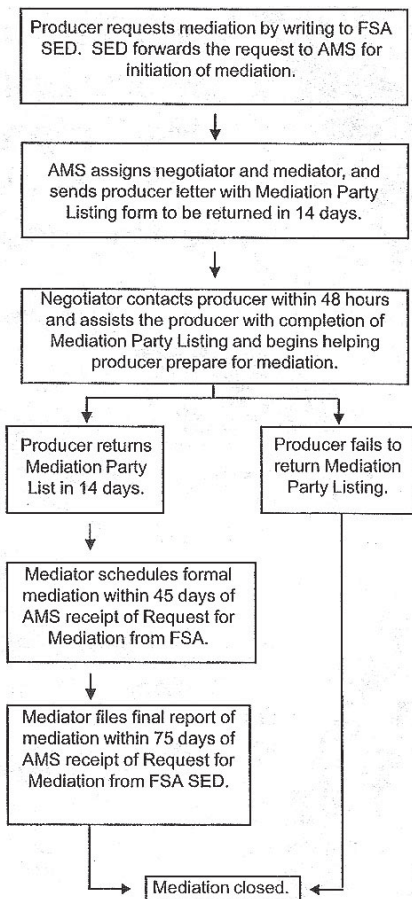
Agricultural mediation is a specialized area of dispute resolution. Mediation allows parties to identify issues and explore options that may help the parties avoid formal appeals or costly litigation.

The North Dakota Agricultural Mediation Service can also help beginning farmers with farm planning and loan applications. If you have any questions please give us a call at 1-800-642-4752.

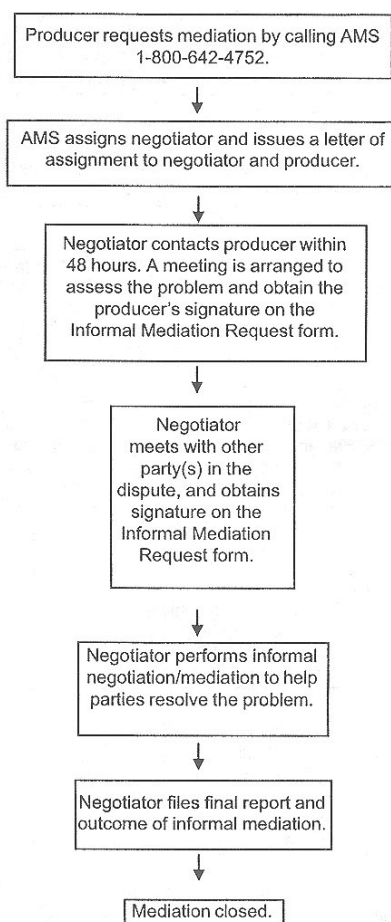


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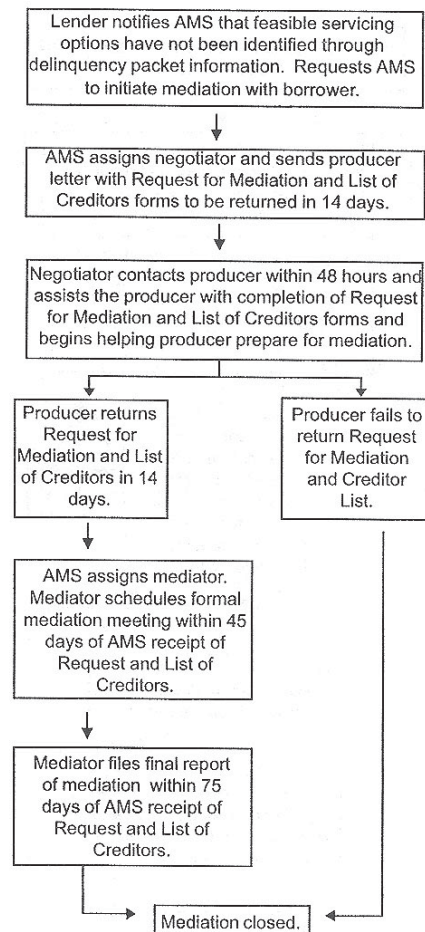
Formal Non-Credit Mediation



Informal Mediation



Formal Credit Mediation



Meet the staff

Don Kuhn joined the North Dakota Agricultural Mediation Service in 1998. Before then, he was a Farm Service Agency supervisor.

Don's territory is mainly northeast North Dakota, although he does travel throughout the state.

Don works out of his home in Grand Forks, where he lives with his wife Shirley. The Kuhns have three children.



Don Kuhn

Credit Review Board meets in Fargo

The North Dakota Credit Review Board (CRB) met Nov. 1, in Fargo. In addition to the board meeting, area agricultural lenders participated in a roundtable forum to review the current agricultural economy and outlook in the Fargo area.

"This is an opportunity for area lenders to share their thoughts and ideas in an informal discussion," said Woody Barth, Solen, CRB chairman. "We are always interested in their assessment of current farm financial conditions and producer attitudes, as well expectations for the coming year."

The CRB periodically holds its meetings and similar forums in different locations around the state.

N.D. Supreme Court rules against tenant

The North Dakota Supreme Court has held that when a ranch tenant is evicted for nonpayment of rent, the landowner is entitled to recover full daily rental value until all of the tenants' animals are removed.

In the appeal of *H-T Enterprises v Antelope Creek Bison Ranch*, the high court upheld a lower court decision rejecting the tenants' argument that it is inequitable to charge the full daily rental value for the period when only a few animals remained on the property. The court also held that a tenant is not entitled to offset against unpaid rent the value of improvements made to leased property without a purchase option.

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