

1992

CHAPTER 74

An Act to amend *The Saskatchewan Farm Security Act*

(Assented to August 28, 1992)

Whereas the agriculture industry in Saskatchewan is in a state of severe financial difficulty as a result of low commodity prices and a high level of debt held by farmers;

And whereas many farmers have lost or are about to lose title to their farm lands through foreclosure or debt settlement;

And whereas it is desirable to assist Saskatchewan farmers by assuring them and their families some security of tenure in those farm lands through leasing arrangements with their lenders while they rebuild their farms;

And whereas, if lenders and farmers cannot agree on a leasing arrangement, it is desirable to have an arbitration process to determine whether a leasing arrangement should come into existence between the farmer and the lender and on what terms and conditions;

THEREFORE, HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title

1 **This Act may be cited as *The Saskatchewan Farm Security Amendment Act, 1992*.**

S.S. 1988-89, c.S-17.1 amended

2 ***The Saskatchewan Farm Security Act* is amended in the manner set forth in this Act.**

Section 2 amended

3 **Subsection 2(1) is amended:**

(a) **by striking out "legally and" in subclause (a)(ii) and substituting "legally or"; and**

(b) **by adding "**, except in sections 27.1 to 27.9," **after "means" in clause (b).**

Section 3 amended

4 **Clause 3(c) is amended by adding "**, except in sections 27.1 to 27.9," **after "means".**

Section 12 amended

5(1) **Subsection 12(3) is amended by striking out "an investigation into" and substituting "a review of".**

(2) **Subsection 12(4) is amended by striking out "investigation" and substituting "review".**

(3) **The following subsection is added after subsection 12(15):**

"(16) Where an application to the court pursuant to section 11 has not been made within three years after the day on which a notice of intention pursuant to subsection (1) was served, whether the notice was served before or after the coming into force of this subsection, the notice of intention is deemed to have expired for the purposes of this section, and no further action may be taken by the mortgagee for an order pursuant to subsection (1) until a further notice pursuant to subsection (1) is served".

Section 13 amended

6 Clause 13(e) is repealed and the following substituted:

"(e) may:

- (i) adjourn the application for any period that it considers appropriate; or
- (ii) adjourn the application for any period that it considers appropriate and order that further mediation occur between the farmer and the mortgagee on any terms and conditions that the court considers appropriate".

Section 27 amended

7(1) Subsection 27(1) is amended by adding ", but subject to subsection 27.2(22)" **after "other Act".**

(2) Subsection 27(1.1) is amended by adding "or transferable by devise" after "assignable".

(3) Subsection 27(1.5) is amended by striking out "estate" and substituting "personal representative".

New sections 27.1 to 27.9

8 The following sections are added after section 27:

Interpretation of sections 27.11 to 27.9

"27.1 In sections 27.11 to 27.9:

- (a) **`board'** means the Farm Tenure Arbitration Board established pursuant to section 27.11;
- (b) **`farmer'**:
 - (i) means a mortgagor that is:
 - (A) a producer who:
 - (I) is a Canadian citizen or is a permanent resident as defined in the *Immigration Act* (Canada);
 - (II) is a resident person;
 - (III) has generated in the immediately preceding three years an average annual gross income from agricultural sales of at least \$5,000 from his or her farming operations; and
 - (IV) is at least 18 years of age;
 - (B) an agricultural corporation:
 - (I) the majority of issued voting shares of which are legally or beneficially owned by a producer described in subparagraphs (A)(I), (II) and (IV); and
 - (II) that has generated in the immediately preceding three years an average annual gross income from agricultural sales of at least \$5,000 from its farming operations; or
 - (C) a person prescribed in the regulations; and
 - (ii) includes an assignee named in an assignment made in accordance with subsection 27.21(1) and a devisee named in a will who is described in subsection 27.21(1);
- (c) **`growing season'** means the period between May 1 and October 31 in any calendar year;
- (d) **`lender'** means a mortgagee that is:
 - (i) a recognized financial institution;
 - (ii) Her Majesty the Queen in right of Saskatchewan; or
 - (iii) any other body corporate that is prescribed in the regulations;
- (e) **`original farmer'** means, with respect to specific farm land, the mortgagor of the farm land who is a farmer, other than a farmer described in subclause (b)(ii).

Farm Tenure Arbitration Board

- “27.11(1)** The Farm Tenure Arbitration Board is established consisting of those persons appointed as members by the Lieutenant Governor in Council:
- (a) after consultation with recognized financial institutions and organizations that represent farmers; and
 - (b) in accordance with any criteria or procedures for appointment that may be prescribed in the regulations.
- (2) The Lieutenant Governor in Council may designate:
- (a) one of the members as chairperson; and
 - (b) one or more members as vice-chairpersons.
- (3) The board may:
- (a) conduct hearings from time to time at any times and places within Saskatchewan that the board considers expedient;
 - (b) inspect or authorize any member of the board or any other person to inspect any farm land that is directly or indirectly involved in an application before the board;
 - (c) appoint or direct any person to inquire into and report on any matter that is before the board.
- (4) Where a hearing is conducted with respect to an application made pursuant to sections 27.1 to 27.9, the board shall provide the farmer or mortgagor and the lender with an opportunity to make representations to the board and to be represented by counsel before the board.
- (5) In addition to the powers conferred on them by this Act, each member of the board, including the chairperson, has all the powers of a commissioner pursuant to *The Public Inquiries Act*.
- (6) The board may make rules governing:
- (a) the practices and procedures of the board and the hearings conducted by the board;
 - (b) the business of the board.
- (7) The board may:
- (a) employ, engage the services of or retain any officers or other employees that are required for the proper conduct of its business; and
 - (b) determine the duties, powers, conditions of employment and remuneration of officers and employees mentioned in clause (a).
- (8) The board may:
- (a) engage the services of any legal counsel, consultants and technical advisers that it considers appropriate to assist the board in carrying out its responsibilities; and
 - (b) pay any fees and expenses that it considers appropriate to the legal counsel, consultants and technical advisers engaged pursuant to clause (a).
- (9) *The Public Service Superannuation Act* applies to any officers or employees of the board that are employed pursuant to subsection (7).

Right to lease

- “27.2(1)** Where, after the coming into force of this section, a mortgagor transfers his or her farm land by voluntary transfer, quit claim or otherwise to a lender, or a lender obtains a final order of foreclosure or cancellation of agreement for sale against farm land, the lender shall, within the time specified in subsection (6):

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- (a) if the mortgagor is a farmer, serve the mortgagor and the board with notice in the prescribed form that the mortgagor is offered the farm land for lease for the rent and on the terms and conditions set out in the form of lease provided with the notice;
- (b) if the mortgagor is a farmer, serve the mortgagor and the board with notice in the prescribed form that he or she will not be offered that farm land for lease; or
- (c) serve the mortgagor and the board with notice in the prescribed form that:
- (i) he or she will not be offered the farm land for lease because the mortgagor is not a farmer within the meaning of clause 27.1(b) or does not meet the qualifications set out in clauses 27.21(1)(a) to (c); or
 - (ii) he or she will not be offered for lease any part of the farm land that exceeds the limits set out in subsection 27.9(2) or (3), as the case may be.
- (2) A lender may refuse to offer a lease to a farmer pursuant to subsection (1) solely on the basis that:
- (a) the original farmer or the farmer has dealt with the lender in a dishonest manner;
 - (b) the farm land has deteriorated through the absence, neglect or wilful act of the original farmer;
 - (c) the farm land has been abandoned; or
 - (d) the original farmer had the ability to meet his or her obligations pursuant to the mortgage but did not do so.
- (3) Subject to subsection (14), where a lease has been entered into pursuant to sections 27.1 to 27.9, the lender shall:
- (a) at least 30 days prior to the expiry of the lease, reoffer the farm land to the farmer for lease, and subsections (4), (5), (7), (9) and (11) to (23) and sections 27.1, 27.11, 27.21 and 27.31 to 27.9 apply to the lease entered into pursuant to the reoffer; and
 - (b) continue to reoffer the farm land to the farmer for lease pursuant to clause (a) until the expiry of the periods mentioned in subsection (11) or in section 27.61, as the case may be.
- (4) Notwithstanding anything in sections 27.1 to 27.9 but subject to subsection (3), the lender may set the length of an individual lease entered into pursuant to sections 27.1 to 27.9 between the lender and the farmer.
- (5) Notwithstanding anything in sections 27.1 to 27.9, the board shall not amend or review the length of an individual lease that is set by the lender pursuant to subsection (4).
- (6) The lender shall comply with subsection (1) within:
- (a) 60 days after the day on which the farm land is transferred, the day on which the final order is registered in the appropriate land titles office or the date of cancellation of the agreement for sale; or
 - (b) any further time that is agreed to in writing by the lender and the farmer.
- (7) Subject to subsection (8), where, on the application of a lender, the farm land of a mortgagor who is a farmer is sold after the coming into force of this section:
- (a) by way of judicial sale; or
 - (b) by a sheriff pursuant to a writ of execution;
- a purchaser of the farm land, including the original lender, has the same rights and obligations pursuant to sections 27.1 to 27.9 with respect to that farmer and that farm land, as a lender who has obtained a final order of foreclosure.
- (8) Subsection (7) does not apply to a purchaser of farm land by way of judicial sale where:
- (a) the farmer has executed a waiver in the prescribed form; and
 - (b) a certificate of independent legal advice respecting the waiver has been executed in the prescribed form.
- (9) Where an offer to lease has been made pursuant to subsection (1) or (3):

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- (a) the farmer has the right, for a period of 30 days after the offer is received, to notify the lender in writing of the farmer's intention to lease all or part of the farm land that is the subject of the offer; and
- (b) the farmer may exercise the right within the period mentioned in clause (a):
- (i) by executing the lease received from the lender and returning it to the lender, thereby accepting the lease for the stated rent and on the stated terms and conditions; or
 - (ii) by notifying the lender in writing that the farmer intends to:
 - (A) lease all or part of the farm land; and
 - (B) apply to the board pursuant to clause 27.31(1)(a).
- (10) Where a lender serves notice on a farmer or mortgagor that no offer will be made pursuant to subsection (1), the farmer or mortgagor:
- (a) may apply to the board, within 30 days after being served, for a review of the lender's decision not to offer a lease of the farm land; and
 - (b) shall, within seven days after making an application pursuant to clause (a), provide the lender with a copy of the application.
- (11) Subject to subsections (13) and (14), where a farmer and a lender have entered into a lease pursuant to sections 27.1 to 27.9, the rights and obligations created by sections 27.1 to 27.9 apply to the farmer and the lender:
- (a) in the case of farm land transferred voluntarily where no notice of intention has been served pursuant to subsection 12(1), for a period of six years from the first day on which the original lease pursuant to sections 27.1 to 27.9 is in force;
 - (b) in the case of farm land transferred voluntarily after a notice of intention has been served pursuant to subsection 12(1), for a period of six years from the day of service of the notice; or
 - (c) in the case of farm land transferred pursuant to a final order of foreclosure or in the case of a cancellation of an agreement for sale, for a period of six years from the day of service of a notice of intention pursuant to subsection 12(1).
- (12) Subject to subsections (13), (14), (21) and (23) and any order of the board, a lender shall postpone leasing or selling the farm land to a person other than the farmer until the expiry of the periods mentioned in subsection (11) or in section 27.61, as the case may be.
- (13) Where the periods mentioned in subsection (11) or in section 27.61 expire during a growing season:
- (a) the period of the lease is extended until the completion of that growing season;
 - (b) the terms and conditions of the expiring lease continue during the period of extension.
- (14) Where a lease has been offered or entered into pursuant to sections 27.1 to 27.9, the rights and obligations provided by those sections terminate:
- (a) if the farmer fails at any time to exercise his or her rights pursuant to clause (9)(a) or subsection (10);
 - (b) if the farm land is sold to the farmer;
 - (c) on service of notice in the prescribed form by the lender if the farmer fails to make payment pursuant to the terms of the lease;
 - (d) on service of notice in the prescribed form by the lender if the farmer breaches a term or condition of the lease;
 - (e) on service of notice in the prescribed form by the lender if the farmer fails to comply with an order of the board or the court with respect to a lease of the farm land; or
 - (f) on service of notice in the prescribed form by the lender if the farmer ceases to be a resident person.
- (15) Where a termination notice is served by a lender on a farmer pursuant to clause (14)(c), (d), (e) or (f), the lender shall at the same time serve a copy of the notice on the board.
- (16) Where a part of the farm land is leased to a third party or sold to the farmer as permitted pursuant to sections 27.1 to 27.9, the farmer's and lender's rights and obligations pursuant to sections 27.1 to 27.9 continue with respect to the part of the farm land that is not leased to a third

party or sold to the farmer.

(17) Notwithstanding clauses (14)(c) and (d), a farmer is deemed not to have lost any rights or remedies granted by sections 27.1 to 27.9 where:

(a) the lender permits the farmer to remedy:

- (i) arrears of rent on the lease; or
- (ii) a default on a term or condition of the lease; and

(b) the farmer remedies the arrears of rent or the default, as the case may be.

(18) An offer made pursuant to subsection (1) or (3) must have printed or written on it or attached to it a copy of section 27.31.

(19) The lender is deemed to have complied with:

(a) subsection (1) where the farmer and the lender have agreed in writing to execute a lease pursuant to sections 27.1 to 27.9 prior to the farmer transferring the farm land to the lender by voluntary transfer, quit claim or otherwise or the lender obtaining a final order of foreclosure, an order confirming a judicial sale or a final order for cancellation of an agreement for sale against the farm land; or

(b) subsection (3) where the farmer and the lender agree in writing to execute, extend or renew a lease or to execute a lease prior to the period mentioned in clause (3)(a).

(20) *The Landlord and Tenant Act* applies to a lease entered into pursuant to sections 27.1 to 27.9.

(21) No certificate of *lis pendens* or caveat may be filed in a land titles office with respect to any rights or obligations claimed by a farmer or a mortgagor pursuant to sections 27.1 to 27.9.

(22) Notwithstanding subsection (12), a lender may assign, transfer or sell farm land to another lender without complying with section 27.

(23) The rights and obligations described in sections 27 to 27.9 apply to a lender to whom farm land is assigned, transferred or sold pursuant to subsection (22).

Assignment of rights

“27.21(1) Subject to subsections (2) and (3), a farmer's rights pursuant to sections 27.1 to 27.9 are assignable or transferable by devise only to:

(a) the spouse of the original farmer, where the spouse:

- (i) is a Canadian citizen or is a permanent resident as defined in the *Immigration Act* (Canada);
- (ii) is a resident person; and
- (iii) is at least 18 years of age;

(b) a son or daughter of the original farmer or the spouse of a son or daughter of the original farmer, where that son, daughter or spouse:

- (i) is or will be actively farming the farm land during the period of a lease entered into pursuant to sections 27.1 to 27.9;
- (ii) is a Canadian citizen or is a permanent resident as defined in the *Immigration Act* (Canada);
- (iii) is a resident person; and
- (iv) is at least 18 years of age; or

(c) an agricultural corporation in which the majority of issued voting shares are legally or beneficially owned by any of the persons described in clause (a) or (b).

(2) Subject to subsection (3), the rights pursuant to section 27.1 to 27.9 of a farmer that is an agricultural corporation may be assigned only to an individual who:

- (a) is a beneficial or legal owner of issued voting shares in that agricultural corporation;
- (b) is or will be actively farming the farm land during the period of a lease entered into pursuant to sections 27.1 to 27.9;
- (c) is a Canadian citizen or is a permanent resident as defined in the *Immigration Act* (Canada);
- (d) is at least 18 years of age.

(3) A farmer shall provide written notice of an assignment pursuant to subsection (1) to the lender

within 30 days of the assignment.

(4) A notice pursuant to subsection (3) must set out the name and address of the assignee.

(5) Where:

(a) an assignment has been made pursuant to subsection (1); and

(b) a farmer is served with notice pursuant to subsection 27.2(1) or an offer pursuant to subsection 27.2(3) before notice of the assignment has been given to the lender pursuant to subsection (3);

the farmer, as assignor, shall immediately advise the assignee of the receipt of the notice or offer and the contents of the notice or offer, and the time limits for that notice or offer are deemed to operate from the day on which the notice or offer was served on the farmer.

(6) Where a lender receives notice of an assignment pursuant to subsection (3) after the lender has served notice of an offer, the lender may withdraw the offer and comply with subsection 27.2(1) again within 30 days.

(7) If a farmer or mortgagor dies, the personal representative of the farmer or mortgagor is entitled to exercise the rights conferred, and shall fulfil the obligations imposed, on the farmer pursuant to sections 27.1 to 27.9.

(8) Where an original farmer has made an assignment or a devise pursuant to subsection (1), the assignee or devisee may make a subsequent assignment or devise of those rights only to a person to whom the original farmer could have made an assignment or devise pursuant to subsection (1) or to the original farmer.

(9) Where a farmer has made an assignment pursuant to subsection (1), the farmer has no more rights or obligations with respect to that farm land pursuant to sections 27.1 to 27.9 unless there is a subsequent assignment by the assignee to the farmer.

(10) On the request of a lender, an assignee shall promptly provide a certificate of eligibility in the prescribed form to the lender.

Application for review of lender's decision

27.3(1) Where an application is made by a farmer or mortgagor pursuant to subsection 27.2(10), the board shall review the decision of a lender not to offer a lease.

(2) On a review pursuant to subsection (1) of a decision by a lender pursuant to clause 27.2(1)(b), the lender must satisfy the board that the farmer is ineligible for the initial offer of a lease on the basis that:

(a) the original farmer or the farmer has dealt with the lender in a dishonest manner;

(b) the farm land has deteriorated through the absence, neglect or wilful act of the original farmer;

(c) the farm land has been abandoned; or

(d) the original farmer had the ability to meet his or her obligations pursuant to the mortgage but did not do so.

(3) On a review pursuant to subsection (1) of a decision by a lender pursuant to clause 27.2(1)(c), the mortgagor must satisfy the board that he or she is eligible for the initial offer of a lease on the basis that:

(a) he or she is a farmer within the meaning of clause 27.1(b) or meets the qualifications set out in clauses 27.21(1)(a) to (c); or

(b) the farm land does not exceed the limits set out in subsection 27.9(2) or (3), as the case may be.

- (4) On receipt of an application pursuant to subsection (1), the board shall conduct a hearing into the matter unless the farmer or mortgagor and the lender agree that the matter may be decided on the basis of written material filed with the board.
- (5) Where the board is satisfied that the farmer or mortgagor is ineligible for the offer of a lease, the board shall, by order, confirm the decision of the lender not to offer the lease to the farmer or mortgagor.
- (6) Where the board is satisfied that a farmer is eligible for the offer of a lease, the board shall order the farmer and lender to execute a lease on any commercially reasonable rent, terms and conditions, other than the length of an individual lease, that the board considers appropriate, and sections 27.1 to 27.9 apply, with any necessary modification, to that lease.
- (7) Where the board makes an order pursuant to subsection (5), or no application is made by a farmer or mortgagor pursuant to subsection 27.2(10), the rights and obligations of the farmer or mortgagor and the lender pursuant to sections 27.1 to 27.9 terminate.

Other applications to board

“27.31(1) Where a lease has been offered pursuant to sections 27.1 to 27.9:

- (a) a farmer may apply to the board for a determination, having regard for the local market and any other considerations that may be prescribed in the regulations, of what are the commercially reasonable rent, terms and conditions of the lease, other than the length of an individual lease, where no agreement to lease has been reached between the farmer and the lender; and
- (b) a lender may apply to the board for a determination of whether, or in what form, a lease should be granted to a farmer where the farmer intends to lease part but not all of the farm land offered for lease and the selection of farm land by the farmer:
- (i) creates a problem of access; or
 - (ii) unreasonably diminishes the value of any of the farm land that was offered for lease.
- (2) Where a lease has been entered into pursuant to sections 27.1 to 27.9, a farmer may apply to the board for a determination of whether a lease was properly terminated pursuant to clause 27.2(14)(c), (d), (e) or (f).
- (3) An application pursuant to clause (1)(a) must be made within 45 days after the offer for lease is served by the lender on the farmer.
- (4) An application pursuant to clause (1)(b) must be made within 15 days after the day on which the farmer notifies the lender of the farmer's intention to exercise the right to lease pursuant to clause 27.2(9)(b).
- (5) An application pursuant to subsection (2) must be made within 15 days after notice of the terminating event is served by the lender on the farmer.
- (6) Within seven days after making an application pursuant to subsection (1) or (2), the farmer or the lender, as the case may be, shall provide the other party with a copy of the application.
- (7) Where an application is received pursuant to subsection (1) or (2), the board shall conduct a hearing unless the farmer and the lender agree that the matter may be decided on the basis of written material filed with the board.
- (8) On an application pursuant to clause (1)(a), the board shall direct the farmer and the lender to execute a lease on any commercially reasonable rent, terms and conditions, other than the length of an individual lease, that the board considers appropriate.
- (9) On an application pursuant to clause (1)(b), the board may make any order with respect to the application that it considers appropriate, including an order:
- (a) determining whether or in what form a lease should be granted;
 - (b) directing the farmer and the lender to execute a lease on any commercially reasonable rent, terms and conditions, other than the length of an individual lease, that the board considers appropriate.

(10) On an application pursuant to subsection (2), the board may make any order with respect to the application that it considers appropriate, including an order:

- (a) reinstating a lease on any terms and conditions that the board considers appropriate;
- (b) reinstating a farmer's and a lender's rights and obligations pursuant to sections 27.1 to 27.9;
- (c) directing the farmer and the lender to execute a lease on any commercially reasonable rent, terms and conditions, other than the length of an individual lease, that the board considers appropriate.

Enforcement of orders

“27.4(1) A copy of an order of the board that is certified by the board to be a true copy may be filed in the office of the local registrar of the court at the judicial centre nearest to the farm land involved.

(2) An order of the board that is filed pursuant to subsection (1) shall be entered as a judgment of the court and may be enforced as a judgment of the court.

Proceedings in court

“27.41(1) A farmer or mortgagor and a lender are deemed to have agreed to submit applications pursuant to subsection 27.2(10) or 27.31(1) or (2) to the board.

(2) An application described in subsection (1) may be made instead to the court where either the lender or the farmer or mortgagor makes an election pursuant to subsection (3).

(3) Subject to subsection (4), a lender or a farmer or mortgagor may at any time elect to make applications pursuant to subsection 27.2(10) or 27.31(1) or (2) to the court by serving a notice in writing on the other party.

(4) An election pursuant to subsection (3) may not be made with respect to a matter that is already the subject of an application to the board.

(5) Subsection (1) does not apply to an application with respect to which an election has been made pursuant to subsection (3).

(6) Where an application is made to the court pursuant to this section:

- (a) every reference to the board in sections 27.1 and 27.2 to 27.9 is deemed to be a reference to the court, with any necessary modification; and
- (b) the court may make any order with respect to the application that the board could have made.

Hearings

“27.5(1) On receipt of an application pursuant to subsection 27.2(10) or 27.31(1) or (2), the board shall fix a day, time and place for a hearing in accordance with this section.

(2) For the purposes of subsection (1), the day fixed for the hearing is to be:

- (a) as soon as is practicable; and
- (b) subject to subsection (3), not later than 15 days after the day on which the application is made.

(3) Where the board does not sit during the period mentioned in clause (2)(b), the day of the hearing is to be the next available board sitting day.

(4) Unless otherwise agreed by the farmer or mortgagor and the lender, the board shall not hold a hearing with respect to an application unless the board has provided seven days' written notice to the farmer or mortgagor and the lender of the day, time and place of the hearing.

(5) Subject to subsections (6) and (7), the board shall make an order in writing within 15 days after the day on which the hearing commences unless the board does not have sufficient evidence on which to make an order, and shall immediately provide copies of the order to the parties.

(6) A hearing shall be adjourned to the next available sitting day if the board:

- (a) is unable to hear all of the evidence; and
- (b) does not sit again in the period mentioned in subsection (5).

(7) The time for commencing a hearing or for making an order pursuant to this section does not

include the period of any adjournment agreed to by the parties or ordered by the board.

Finality of proceedings

"27.51(1) Subject to section 27.6, every decision or order of the board pursuant to sections 27.1 to 27.9 is final.

(2) No order, decision or proceeding of the board shall be questioned, reviewed, restrained or removed by prohibition, injunction, certiorari, mandamus or any other process or proceeding in any court.

Appeal

"27.6 With leave of a judge of the Court of Appeal, a farmer, a mortgagor or a lender may appeal to the Court of Appeal against an order of the board or the court on a question of law:

(a) within 30 days after the day on which the order is made; or

(b) within any further period not exceeding 30 days that a judge of the Court of Appeal may allow on an application that is made within 30 days after the day on which the order is made.

Application of section 27.2 to existing leases

"27.61(1) A lender shall comply with subsection 27.2(1) where:

(a) on the coming into force of this section:

(i) farm land has been transferred from a mortgagor to a lender by voluntary transfer, quit claim or otherwise or by final order of foreclosure; or

(ii) there has been a cancellation of an agreement for sale between a lender and a mortgagor;

(b) the mortgagor is leasing the farm land from the lender during the 1992 growing season; and

(c) the lease-back arrangement mentioned in clause (b) expires while this section is in force.

(2) Subject to subsections 27.2(13) and (14), where, in compliance with subsection (1), a lender and a farmer enter into a lease pursuant to sections 27.1 to 27.9, the rights and obligations pursuant to sections 27.1 to 27.9 apply to the farmer and the lender:

(a) where 1992 is the first year of a one-year lease-back arrangement between the lender and a mortgagor mentioned in subsection (1) who is a farmer, for a period of five years from the expiry of that one-year lease-back arrangement; or

(b) where 1992 is the second or subsequent year of a lease-back arrangement between the lender and a mortgagor mentioned in subsection (1) who is a farmer, for a period of four years from the expiry of that lease-back arrangement.

(3) Subject to subsections 27.2(13) and (14), where 1992 is the first year of a multi-year lease-back arrangement between the lender and a mortgagor mentioned in subsection (1) who is a farmer:

(a) the lease is deemed to have been entered into pursuant to subsection 27.2(1); and

(b) the rights and obligations pursuant to sections 27.1 to 27.9 apply to the farmer and the lender for a period of five years commencing on the expiry of the first year of the multi-year lease-back arrangement.

- (4) Subject to subsections 27.2(13) and (14), where a notice has been served on a mortgagor by a lender pursuant to subsection 12(1) but no cancellation of an agreement for sale between the lender and the mortgagor and no transfer of the farm land from the mortgagor to the lender has occurred prior to the coming into force of this subsection, the rights created and obligations imposed pursuant to sections 27.1 to 27.9 apply to that mortgagor and continue to apply to a mortgagor who is a farmer and to the lender for a period of six years from the later of the following dates:
- (a) April 1, 1990; and
 - (b) the date of service of the notice.
- (5) A lender shall comply with subsection 27.2(1) within 60 days after this subsection comes into force where:
- (a) between January 8, 1992 and the coming into force of this section:
 - (i) farm land has been transferred from a mortgagor to the lender by voluntary transfer, quit claim or otherwise or by final order of foreclosure; or
 - (ii) there has been a cancellation of an agreement for sale between a lender and a mortgagor; and
 - (b) the lender has not leased, sold or agreed in writing to lease or sell the farm land prior to the coming into force of this section.
- (6) Subject to subsections 27.2(13) and (14), where, in compliance with subsection (5), a lender and a farmer enter into a lease pursuant to sections 27.1 to 27.9, the rights and obligations pursuant to sections 27.1 to 27.9 apply to the farmer and the lender for a period of six years from the later of:
- (a) April 1, 1990; and
 - (b) the date of service of a notice pursuant to subsection 12(1) or, where no notice was served:
 - (i) the date on which the farm land was transferred to the lender by the farmer; or
 - (ii) the date of the cancellation of the agreement for sale between the farmer and the lender.
- (7) Notwithstanding anything in this section, where a lender has been leasing farm land to a farmer prior to the coming into force of this section and, as a result of the operation of sections 27.1 to 27.9, must continue to lease that farm land to that farmer, the lender is not required to lease that farm land to the farmer for more than eight years.

Termination of obligation to lease

“27.7 A lender is not required to comply with sections 27.1 to 27.9, other than for farm land that is already subject to a lease pursuant to those sections, after June 1, 1997.

Financial assistance

“27.71(1) The Minister of Agriculture and Food shall, in accordance with the regulations, provide financial assistance for the purpose of assisting farmers with a lease of farm land pursuant to sections 27.1 to 27.9.

(2) Notwithstanding subsection 27.2(7), a purchaser of farm land pursuant to a judicial sale who is not a prescribed lender is not entitled to financial assistance pursuant to this section.

Certain farm lands exempted

“27.8 Sections 27.1 to 27.9 do not apply to farm land with respect to which a mortgage is entered into after this section comes into force if the mortgage is made:

- (a) solely for the purpose of purchasing farm land;
- (b) solely for the purpose of new construction or improvements on farm land;
- (c) solely for the purpose of securing new operating moneys;
- (d) solely for the purpose of purchasing assets other than farm land;
- (e) solely for the purpose of refinancing the debt obligations of a farmer by a lender other than the original lender; or
- (f) for any combination of purposes set out in clauses (a) to (e).

Certain farm lands exempted

"27.9(1) In this section:

- (a) **'family unit'** means spouses who are not living separate and apart and their children, and includes any agricultural corporation of which the majority of issued voting shares are legally or beneficially owned by any or all of them and any co-operative that is legally owned by any or all of them;
 - (b) **'transferred farm land'** means farm land that is:
 - (i) transferred from a farmer to a lender by way of voluntary transfer, quit claim or otherwise or by a final order of foreclosure;
 - (ii) the subject of a cancellation of an agreement for sale between a farmer and a lender; or
 - (iii) transferred to a purchaser, including a purchaser who is the original lender, pursuant to a judicial sale.
- (2) Where the area of transferred farm land exceeds the greater of:
- (a) 1280 acres; and
 - (b) an area with an assessment of \$36,000, as of April 1, 1992, based on the 1961-1970 assessment pursuant to section 284 of *The Rural Municipality Act, 1989*;
- sections 27.1 to 27.8 do not apply to the area of farm land in excess of the greater of the areas described in clauses (a) and (b).
- (3) Where the total area of the farm land legally or beneficially owned by the farmer and the transferred farm land exceeds the greater of:
- (a) 2560 acres; and
 - (b) an area with an assessment of \$72,000, as of April 1, 1992, based on the 1961-1970 assessment pursuant to section 284 of *The Rural Municipality Act, 1989*;
- sections 27.1 to 27.8 do not apply to the area of farm land in excess of the greater of the areas described in clauses (a) and (b).
- (4) A farmer to whom subsection (2) or (3) applies may select the farm land to which sections 27.1 to 27.8 shall apply.
- (5) Where the lender or a purchaser pursuant to a judicial sale is of the opinion that the selection of farm land by the farmer pursuant to subsection (4) creates a problem of access or unreasonably diminishes the value of any of the transferred farm land, the lender or the purchaser may apply to the board pursuant to clause 27.31(1)(b) to determine whether or in what form a lease is to be granted.
- (6) Notwithstanding subsections (2) and (3) but subject to the regulations, where two or more farmers are members of the same family unit, the limits set out in subsections (2) and (3) apply to the family unit and not to each farmer.
- (7) Subject to the regulations, where the farmer is an agricultural corporation of which the majority of issued voting shares are legally or beneficially owned by more than one family unit, the limits set out in subsections (2) and (3) apply as follows:
- (a) where there are two family units, the limits are doubled; and
 - (b) where there are three or more family units, the limits are tripled".

New section 42.1

9 The following section is added after section 42:

Voluntary mediation

"42.1(1) A farmer or a recognized financial institution may make a request for voluntary mediation to the manager of mediation services.

- (2) On receiving a request pursuant to subsection (1) and the written consent of the farmer and the recognized financial institution, the manager of mediation services shall:
- (a) designate a mediator; and
 - (b) supply the mediator with a copy of the request.
- (3) On receiving a copy of a request pursuant to subsection (2), the mediator shall attempt to mediate between the farmer and the recognized financial institution.
- (4) The manager may charge the farmer and the recognized financial institution the prescribed fee for mediation services provided pursuant to this section”.

Section 44 amended

10(1) The following subsection is added after subsection 44(12.2):

“(12.3) This Part does not apply to a mortgage that is made:

- (a) solely for the purpose of purchasing a homestead;
- (b) solely for the purpose of new construction or improvements on the homestead; or
- (c) for the purposes described in both clauses (a) and (b)”.

(2) The following subsections are added after subsection 44(15):

“(16) This Part does not apply to a mortgage where:

- (a) the mortgage is executed after the coming into force of this subsection; and
- (b) at the time when the mortgage is executed, the farm land that is subject to the mortgage is not a homestead.

“(17) Where farm land that is the subject of a mortgage is not a homestead when this subsection comes into force, this Part does not apply to the mortgage”.

Section 68 amended

11 The following subsection is added after subsection 68(2):

“(3) Subsection (1) does not apply with respect to a security agreement that is executed by a farmer after the coming into force of this subsection as security for a specific debt stated as a maximum sum certain plus interest and costs if:

- (a) the farmer has executed a waiver, in the prescribed form, of exemptions for specific chattels described in clauses 66(c), (d), (e) or (j) for the purpose of securing that maximum sum certain plus interest;
- (b) the security agreement does not secure debt incurred prior to the execution of the waiver; and
- (c) a certificate of independent legal advice in the prescribed form has been executed with respect to the waiver”.

Section 70 amended

12 Subsection 70(2) is repealed and the following substituted:

“(2) Except in the case of food, clothing and bedding of the farmer and the farmer's family, this Part does not exempt from seizure and sale goods that are covered by:

- (a) a security agreement that creates a purchase-money security interest as defined in *The Personal Property Security Act*; or
- (b) a security agreement that describes a security interest described in subsection 34(6) or (7) of *The Personal Property Security Act*”.

Section 77 amended

13 Subsection 77(4) is amended:

- (a) by striking out “and” after clause (b);
- (b) by adding “and” after clause (c); and
- (c) by adding the following clause after clause (c):

“(d) delegate to any officer or employee mentioned in clause (a) any of its powers in connection with the carrying out of its duties”.

Section 85 amended

14 **Subsection 85(2) is amended by striking out “legally and” and substituting “legally or”.**

Section 89 amended

15 **The following subsection is added after subsection 89(2):**

“(2.1) Notwithstanding subsection (2), where farm land is the subject of a lease pursuant to sections 27.1 to 27.9, the period mentioned in subsection (2) does not commence until the lease expires or is terminated”.

Section 101 amended

16 **Section 101 is amended by adding “, the Farm Tenure Arbitration Board, an officer, employee or adviser of the Farm Tenure Arbitration Board” after “adviser of the ownership board”.**

Section 105 amended

17 **Subsection 105(2) is amended by striking out “Every” and substituting “Except as otherwise provided in this Act, every”.**

Section 107 amended

18 **Section 107 is amended by adding “, the Farm Tenure Arbitration Board” after “the board”.**

New section 108

19 **Section 108 is repealed and the following substituted:**

Tabling of annual reports

“108(1) In each year, the Farm Land Security Board, in accordance with *The Tabling of Documents Act, 1991*, shall prepare and submit to the minister an annual report respecting the work performed by the Farm Land Security Board.

(2) In each year, the Saskatchewan Farm Ownership Board, in accordance with *The Tabling of Documents Act, 1991*, shall prepare and submit to the minister an annual report respecting the work performed by the Saskatchewan Farm Ownership Board.

(3) In each year, the Farm Tenure Arbitration Board, in accordance with *The Tabling of Documents Act, 1991*, shall prepare and submit to the minister an annual report respecting the work performed by the Farm Tenure Arbitration Board.

(4) In accordance with *The Tabling of Documents Act, 1991*, the minister shall lay before the Assembly each annual report received by the minister pursuant to subsections (1) to (3)”.

Section 109 amended

20 **Section 109 is amended:**

(a) by repealing subclause (b)(i) and substituting the following:

“(i) any farmer, farm land or mortgagee or any class of farmers, farm lands or mortgagees”;

(b) by adding the following clauses after clause (c):

“(c.1) prescribing guidelines for the consideration of the Farm Tenure Arbitration Board in the conduct of its business;

“(c.2) governing the provision of financial assistance pursuant to section 27.71:

(i) to prescribed lenders;

(ii) for prescribed purposes;

(iii) in amounts determined in accordance with prescribed formulas; and

(iv) in accordance with prescribed terms and conditions;

“(c.3) modifying the limits set out in section 27.9 or modifying the application of those limits to any farmer or family unit or any class of farmers or family units”; **and**

(c) by adding the following clause after clause (d):

“(d.1) for the purposes of section 42.1:

- (i) establishing classes of mediation services;
- (ii) prescribing fees to be paid for mediation services or any class of mediation services”.

Coming into force

21 This Act or any provision of this Act comes into force on a day or days to be fixed by proclamation of the Lieutenant Governor.