

2015

CHAPTER 32

An Act to amend *The Saskatchewan Farm Security Act*

(Assented to November 19, 2015)

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, 2015*.

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) in the portion of clause (a) preceding subclause (i) by striking out “, except in Part VI,”;

(b) by repealing clause (d) and substituting the following:

“(d) ‘**court**’ means the Court of Queen’s Bench”;

(c) in subclause (h)(i) by adding “or her” after “his”;

(d) by repealing clause (o) and substituting the following:

“(o) ‘**mortgage**’ means any mortgage of farm land, including:

(i) a mortgage granted to:

(A) the Agricultural Credit Corporation of Saskatchewan pursuant to *The Agricultural Credit Corporation of Saskatchewan Act*; or

(B) Farm Credit Canada continued pursuant to the *Farm Credit Canada Act* or any other corporation created by or pursuant to any other Act of the Parliament of Canada;

(ii) an agreement for the sale of land;

(iii) an agreement renewing or extending a mortgage or agreement for sale; and

(iv) any other mortgage or agreement that is prescribed in the regulations”;

- (e) in clause (w):
 - (i) in subclause (i) by striking out “, as amended from time to time”;
 - (ii) in subclause (ii) by adding “or that is required to be registered pursuant to an Act” after “*The Credit Union Act, 1998*”; and
 - (iii) by repealing subclause (v) and substituting the following:
 - “(v) Farm Credit Canada continued pursuant to the *Farm Credit Canada Act*”; and
- (f) in subclause (bb)(ii) by adding “or her” after “his”.

Section 12 amended

4(1) Subsection 12(7) is amended:

- (a) in clause (a) by adding “or her” after “his”; and
- (b) in clause (b) by adding “or her” after “his”.

(2) Subsection 12(12) is amended:

- (a) in clause (a):
 - (i) in subclause (ii) by adding “or her” after “his”;
 - (ii) in subclause (iii) by adding “or her” after “his”; and
 - (iii) in subclause (v) by adding “or her” after “his”; and
- (b) in clause (b):
 - (i) in subclause (iii) by adding “or her” after “his”;
 - (ii) in subclause (iv) by adding “or her” after “his” wherever it appears;
 - (iii) in subclause (vi) by adding “or her” after “his”; and
 - (iv) in subclause (ix) by adding “or her” after “his”.

Section 13 amended

5 Clause 13(a) is amended:

- (a) in subclause (i) by adding “or her” after “his”; and
- (b) in subclause (ii) by adding “or her” after “his”.

Section 17 amended

6(1) Subclause 17(1)(b)(iii) is amended by adding “or her” after “his”.

(2) Clause 17(4)(c) is amended by adding “or her” after “his”.

Section 18 amended

7(1) Subsection 18(1) is amended:

- (a) in clause (a) by adding “or her” after “his”; and
- (b) in clause (b) by adding “or her” after “his”.

(2) Subsection 18(2) is amended by adding “or her” after “his”.

(3) Clause 18(3)(c) is amended by adding “or her” after “his”.

Section 21 amended

8(1) Subsection 21(2) is amended by striking out “*mutatis mutandis*” and substituting “with any necessary modification”.

(2) Subsection 21(5) is amended by striking out “*mutatis mutandis*” and substituting “with any necessary modification”.

Section 24 amended

9 Clause 24(2)(a) is repealed and the following substituted:

“(a) an administrator appointed pursuant to the *Farm Debt Mediation Act* (Canada)”.

Section 27 amended

10(1) Subsection 27(1) is amended:

(a) by striking out “his” wherever it appears and in each case substituting “his or her”; and

(b) by striking out “he” and substituting “he or she”.

(2) Subsection 27(2) is repealed and the following substituted:

“(2) A farmer described in subsection (1):

(a) is deemed to have the first right for a period of 15 days after the written notice has been received by the farmer to notify the mortgagee of his or her intention to exercise his or her right to purchase all the farm land that is the subject of the offer and for the purchase price stated in the offer; and

(b) if the farmer notifies the mortgagee of his or her intention to exercise his or her right and on the expiry of the 15-day period mentioned in clause (a), shall provide within a further 15 days either:

(i) the purchase price; or

(ii) an unconditional and unequivocal letter of commitment from a recognized financial institution to the mortgagee to finance within a reasonable period the farmer’s purchase of the farm land that is the subject of the offer and for the price stated in the offer”.

(3) Subsection 27(4) is amended in the portion preceding clause (a) by adding “or her” after “his”.

Section 27.1 amended

11 Subclause 27.1(d)(i) is amended by striking out “the Farm Credit Corporation as constituted pursuant to the *Farm Credit Act* (Canada), as amended from time to time” and substituting “Farm Credit Canada continued pursuant to the *Farm Credit Canada Act*”.

Section 31 amended

12(1) Clause 31(2)(b) is amended by adding “or she” after “he”.

(2) Subsection 31(3) is amended by adding “or she” after “he”.

(3) Subsection 31(4) is repealed and the following substituted:

“(4) If a notary public issues a certificate pursuant to subsection (3), the notary public shall do so under his or her hand and seal”.

Section 38 amended

13 Clause 38(3)(b) is amended by adding “or her” after “his”.

Section 40 amended

14(1) Subsection 40(1) is amended in the portion following clause (b) by adding “or her” after “his”.

(2) Subsection 40(3) is amended in the portion following clause (b) by adding “or her” after “his”.

Section 43 amended

15 Subclause 43(b)(ii) is amended by striking out “the Farm Credit Corporation constituted by the *Farm Credit Act* (Canada), as amended from time to time” and substituting “Farm Credit Canada continued pursuant to the *Farm Credit Canada Act*”.

Section 45 amended

16 Clause 45(a) is amended by adding “, she” after “he”.

Section 46 amended

17 Subsection 46(2) is repealed and the following substituted:

“(2) Notwithstanding any other Act or any agreement or contract between a vendor and farmer but subject to subsection (3), the vendor’s right to recover the unpaid purchase money on an article that is sold is restricted to the vendor’s lien on the article sold and to the vendor’s right to repossession and sale if the vendor, after delivery, has a lien for all or part of the purchase price of the article”.

Section 50 amended

18 Clause 50(2)(a) is amended by adding “or her” after “his”.

Section 53 amended

19 Subsection 53(7) is amended by striking out “section 20 of the *Farm Debt Review Act* (Canada), as amended from time to time,” and substituting “the *Farm Debt Mediation Act* (Canada)”.

Section 57 amended

20 Section 57 is amended in the portion preceding clause (a) by adding “or she” after “he”.

Section 58 amended

21 Subsection 58(2) is repealed and the following substituted:

“(2) Subsections 50(2) and (3) and 53(4), (6) and (7) and sections 51, 54 and 59 apply with any necessary modification to an application for a hearing made pursuant to subsection (1)”.

Section 59 amended

22 Clause 59(b) is amended by adding “or her” after “his”.

Section 60 amended

23(1) Clause 60(1)(b) is amended by striking out “the *Farm Debt Review Act* (Canada), as amended from time to time” and substituting “the *Farm Debt Mediation Act* (Canada)”.

(2) Subsection 60(4) is repealed and the following substituted:

“(4) Section 49 applies with any necessary modification to an application pursuant to subsection (2)”.

Section 62 amended

24 Section 62 is amended:

(a) in clause (a) by adding “or her” after “his”; and

(b) in clause (b) by adding “or she” after “he”.

Section 66 amended

25 Section 66 is amended:

(a) in the portion preceding clause (a) by adding “or her” after “his”;

(b) in clause (c) by adding “or her” after “his”;

(c) in clause (g) by adding “or her” after “his”;

(d) in clause (h) by adding “or her” after “his”; and

(e) by repealing clause (j) and substituting the following:

“(j) the crop of the farmer to the extent that is sufficient, when converted into cash, along with any other means that he or she may have, to:

(i) pay all unpaid legitimate costs of harvesting the crop;

(ii) provide a necessary living allowance for the support of the farmer and his or her family until the crop of the following year is about to be harvested; and

(iii) provide necessary costs of his or her farming operations until that time”.

Section 68 amended

26 Subsection 68(2) is amended:

(a) in clause (a) by striking out “, as amended from time to time”; and

(b) by repealing clause (b) and substituting the following:

“(b) a guaranteed farm improvement loan within the meaning of the *Canadian Agricultural Loans Act*”.

Section 70 amended

27 Subsection 70(1) is amended by striking out “his” and substituting “the farmer’s”.

Section 71 amended

28 Section 71 is amended in the portion preceding clause (a) by adding “or her” after “his” wherever it appears.

Section 75 amended

29(1) Clause 75(1)(a) is amended in the portion following subclause (ii) by striking out “, as amended from time to time”.

(2) Subsection 75(2) is amended by striking out “, as amended from time to time”.

Section 76 amended

30 Section 76 is amended:

(a) by repealing clause (a.1);

(b) by repealing clause (a.2) and substituting the following:

“(a.2) ‘Canadian-owned entity’ means:

(i) a corporation or any other entity in which all the shares or interests are legally and beneficially owned, and all the memberships are held, by resident persons or other Canadian-owned entities; or

(ii) any other corporation or entity or class of corporations or entities prescribed in the regulations;

but does not include any person or class of persons prescribed in the regulations”;

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

“(c.1) ‘entity’ includes:

(i) a partnership;

(ii) a syndicate;

(iii) a joint venture;

(iv) a co-operative;

(v) an association;

(vi) a pension plan;

(vii) a trust; and

(viii) any other body that is prescribed in the regulations”;

(d) in clause (d):

(i) by striking out “and” after subclause (i);

(ii) by adding “and” after subclause (ii); and

(iii) by adding the following subclause after subclause (ii):

“(iii) land used primarily for sand and gravel extraction”;

(e) in clause (e):

(i) by repealing subclauses (iii) to (v) and substituting the following:

“(iii) any interest in farm land held under any agreement that may directly or indirectly:

- (A) result in vesting of title to farm land;
- (B) confer the right to possession of farm land;
- (C) confer any right or control ordinarily accruing to the owner of farm land;
- (D) confer the right of obtaining the right of capital appreciation in the farm land; or
- (E) confer any other right that is prescribed in the regulations;

“(iv) those kinds and types of shares that are prescribed in the regulations and that are legally or beneficially owned in a corporation having a land holding;

“(v) any interest in a limited partnership if that limited partnership has a land holding”; **and**

(ii) by striking out the portion following subclause (vii) and substituting the following:

“but does not include farm land or any interest in farm land held by way of security for a debt or other obligation unless the debt or other obligation is of a class prescribed in the regulations”;

(f) by repealing clause (g) and substituting the following:

“(g) ‘**non-Canadian-owned entity**’ means:

- (i) a person or other entity or class of persons or entities prescribed in the regulations that is not a Canadian-owned entity; or
- (ii) a person or entity or class of persons or entities that have shares listed on an exchange”; **and**

(g) by repealing clauses (i) and (j) and substituting the following:

“(i) ‘**person**’ includes a corporation and an entity;

“(j) ‘**resident person**’ means a person prescribed in the regulations”.

Section 84 amended**31 Subsections 84(1) and (2) are repealed and the following substituted:**

“(1) Subject to sections 85 and 88, no non-Canadian-owned entity shall have or acquire an aggregate land holding in excess of 10 acres.

“(2) Notwithstanding subsection (1), the board may:

(a) grant an order to a non-Canadian-owned entity to have or acquire a land holding in excess of that permitted by subsection (1); and

(b) if the board grants an order pursuant to clause (a), impose any terms and conditions on that order that the board considers appropriate”.

Sections 85.1 to 87 repealed**32 Sections 85.1 to 87 are repealed.****New sections 89 and 90****33 Sections 89 and 90 are repealed and the following substituted:****“Acquisition by certain persons prohibited**

89(1) No person shall acquire a land holding on behalf of a non-resident person or a non-Canadian-owned entity if that acquisition of the land holding by the non-resident person or non-Canadian-owned entity would be in contravention of this Part.

(2) None of the following persons shall acquire a land holding in Saskatchewan:

(a) a pension plan;

(b) the administrator of a pension plan while that person is acting in that person’s capacity as an administrator;

(c) a trust other than a trust that, in the trust instrument creating the trust, lists 10 or fewer individuals, all of whom are resident persons, as beneficiaries of the trust;

(d) a person or class of persons prescribed in the regulations.

(3) If, in the opinion of the board, a person is in contravention of subsection (1) or (2), the board may issue an order pursuant to section 94 to that person.

(4) For the purposes of this section, **‘land holding’** includes farm land or any interest in farm land held by way of security for a debt or other obligation.

“Statutory declaration re land holdings

90(1) The board may direct, in writing, any person who acquires or proposes to acquire a land holding to complete a statutory declaration setting out any matter or information that is prescribed in the regulations or that the board may reasonably require for the purposes of this Act.

(2) No person to whom a direction has been served pursuant to subsection (1) shall fail to provide the statutory declaration within 60 days after being served with the direction.

(3) A person who contravenes this section is guilty of an offence and is liable on summary conviction to a fine of not more than \$1,000”.

New sections 92 to 93

34 Sections 92 and 93 are repealed and the following substituted:

“Compliance required

92 No person to whom an order has been granted or directed pursuant to this Part shall fail to comply with the order and any terms and conditions imposed on the order.

“Burden of proof

92.1 In any investigation pursuant to this Part and in a proceeding before the board pursuant to this Part respecting whether or not a person has obtained or intends to obtain a land holding in contravention of this Part, the person has the burden of proving that the person is in compliance with this Part.

“Offences and penalties

93(1) An individual who contravenes any provision of this Part or the regulations for which no penalty is provided is guilty of an offence and is liable on summary conviction to:

- (a) a fine of not more than \$50,000;
- (b) imprisonment for a term of not more than six months; or
- (c) both the fine mentioned in clause (a) and imprisonment mentioned in clause (b).

(2) A person other than an individual that contravenes any provision of this Part or the regulations for which no penalty is prescribed is guilty of an offence and is liable on summary conviction to a fine of not more than \$500,000.

(3) Every director, officer or agent of a person other than an individual who directed, authorized, assented to, acquiesced in or participated in an act or omission of the person that would constitute an offence by the person is guilty of that offence and is liable on summary conviction to the penalties provided for that offence whether or not the person has been prosecuted or convicted.

(4) No prosecution for an offence pursuant to this Part is to be commenced after two years from the day of the commission of the alleged offence”.

New section 93.1

35 The following section is added after section 93:

“Administrative penalties

93.1(1) If the board is satisfied that a person has contravened a provision of this Part or the regulations that is prescribed in the regulations, the board may make an order imposing an administrative penalty of up to \$10,000.

(2) Before assessing a penalty against a person, the board shall provide written notice to the person:

- (a) setting out the facts and circumstances that, in the board’s opinion, render the person liable to a penalty;
- (b) specifying the amount of the penalty that the board considers appropriate in the circumstances; and
- (c) informing the person of the person’s right to make representations to the board.

- (3) No penalty is to be assessed by the board more than three years after the act or omission that renders the person liable to a penalty first came to the knowledge of the board.
- (4) A person to whom notice is sent pursuant to subsection (2) may make representations to the board respecting whether a penalty should be assessed and the amount of any penalty.
- (5) Representations pursuant to subsection (4) must be made within 30 days after the person received the notice pursuant to subsection (2).
- (6) After considering any representations, the board may:
- (a) assess a penalty and set a date by which the penalty is to be paid in full; or
 - (b) determine that no penalty should be assessed.
- (7) The board shall serve a copy of its decision pursuant to subsection (6) on the person.
- (8) The board may file in the court a certificate signed by the board and setting out:
- (a) the amount of the penalty assessed pursuant to subsection (6); and
 - (b) the person from whom the penalty is to be recovered.
- (9) A certificate filed pursuant to this section has the same force and effect as if it were a judgment obtained in the court for the recovery of a debt in the amount set out in the certificate, together with reasonable costs and charges with respect to its filing.
- (10) A penalty payable pursuant to this section is a debt due to and recoverable by the Crown in right of Saskatchewan and may be recovered in the manner authorized by *The Financial Administration Act, 1993* or in any other manner authorized by law.
- (11) The board may assess a penalty pursuant to this section notwithstanding that the facts and circumstances giving rise to the penalty arose due to the actions of an employee, contractor or agent of the person required to pay the penalty”.

Section 95 amended

36 The following subsection is added after subsection 95(2):

“(2.1) For the purposes of conducting an investigation pursuant to this section, the board or a person authorized by the board may conduct hearings at any times and any places within Saskatchewan that the board or the person considers appropriate”.

Section 97 amended

37(1) Clause 97(1)(g) is repealed and the following substituted:

“(g) make any other order that the judge considers just, necessary or appropriate”.

(2) Subsection 97(2) is repealed and the following substituted:

“(2) An appeal pursuant to this section is to be commenced by an originating application”.

Section 100 amended

38 Section 100 is amended:

(a) by repealing clause (c); and

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

“(g) for the purposes of clause 76(a.2):

(i) prescribing corporations or entities or classes of corporations or entities that are Canadian-owned entities; and

(ii) prescribing persons or classes of persons that are not Canadian-owned entities;

“(h) for the purposes of clause 76(c.1), prescribing other bodies that are entities;

“(i) for the purposes of clause 76(e):

(i) respecting what is or is not an interest in farm land;

(ii) prescribing rights that are land holdings;

(iii) prescribing kinds and types of shares the holding of which constitutes land holdings; and

(iv) prescribing classes of debts or obligations the holding of which constitutes land holdings;

“(j) for the purposes of clause 76(j), prescribing persons who are resident persons, including prescribing persons who are not resident persons;

“(k) for the purposes of clause 89(2)(d), prescribing persons or classes of persons;

“(l) for the purposes of subsection 90(1):

(i) prescribing a form of statutory declaration; and

(ii) respecting matters or information to be set out in a statutory declaration;

“(m) for the purposes of section 93.1, prescribing provisions of this Part or the regulations for which an administrative penalty may be imposed;

“(n) prescribing any matter or thing that is required or authorized by this Part to be prescribed in the regulations;

“(o) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Part”.

Section 103 amended**39(1) Subsection 103(1) is amended:**

- (a) by striking out “or” after clause (a);
- (b) in clause (b) by adding “or ordinary mail” after “registered mail”;
- (c) by adding “or” after clause (b); and
- (d) by adding the following clause after clause (b):
 - “(c) by any other means prescribed in the regulations”.

(2) Subsections 103(2) to (4) are repealed and the following substituted:

“(2) Notwithstanding subsection (1), a notice or document may be served on a person by leaving a copy with that person’s lawyer if the lawyer accepts service by signing the lawyer’s name on a true copy of the document indicating that he or she is the solicitor for that person.

“(3) A notice or document sent by ordinary mail or registered mail is deemed to have been served on the seventh day following the date of its mailing unless the person to whom it was mailed establishes that, through no fault of his or her own, the person did not receive the notice or document or received it at a later date”.

Section 104 amended**40 Subsection 104(3) is repealed and the following substituted:**

“(3) Farm Credit Canada continued pursuant to the *Farm Credit Canada Act* is bound by this Act”.

Section 109 amended**41 Section 109 is amended:**

- (a) by adding the following clause after clause (a):
 - “(a.1) for the purposes of clause 2(1)(o), prescribing mortgages or agreements”;
- (b) by adding the following clause after clause (e):
 - “(e.1) for the purposes of section 103, respecting the service of notices and documents”; and
- (c) by repealing clause (f) and substituting the following:
 - “(f) prescribing any matter or thing that is required or authorized by this Act to be prescribed in the regulations;
 - “(g) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act”.

Coming into force**42 This Act comes into force on proclamation.**