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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 793

February 16, 2009

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The bill was read for the first time and referred to the Committee on Agriculture, Rural Economies and Veterans Affairs

March 16, 2009

Committee Recommendation and Adoption of Report:

To Pass and re-referred to the Committee on Finance

1.1 A bill for an act
1.2 relating to agriculture; updating terms of certain loan programs; abolishing the
1.3 family farm security program; amending Minnesota Statutes 2008, sections
1.4 17.115, subdivision 2; 41B.039, subdivision 2; 41B.04, subdivision 8; 41B.042,
1.5 subdivision 4; 41B.043, subdivision 1b; 41B.045, subdivision 2; repealing
1.6 Minnesota Statutes 2008, sections 41.51; 41.52; 41.53; 41.55; 41.56; 41.57;
1.7 41.58; 41.59; 41.60; 41.61; 41.62; 41.63; 41.65.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2008, section 17.115, subdivision 2, is amended to read:

1.10 Subd. 2. **Loan criteria.** (a) The shared savings loan program must provide loans for
1.11 purchase of new or used machinery and installation of equipment for projects that make
1.12 environmental improvements ~~or~~ and enhance farm profitability. Eligible loan uses do not
1.13 include seed, fertilizer, or fuel.

1.14 (b) Loans may not exceed ~~\$25,000~~ \$40,000 per individual applying for a loan and
1.15 may not exceed \$100,000 for loans to four or more individuals on joint projects. The loan
1.16 repayment period may be up to seven years as determined by project cost and energy
1.17 savings. The interest rate on the loans must not exceed six percent. ~~For loans made from~~
1.18 ~~May 1, 2004, to June 30, 2007, the interest rate must not exceed three percent.~~

1.19 (c) Loans may only be made to residents of this state engaged in farming.

1.20 Sec. 2. Minnesota Statutes 2008, section 41B.039, subdivision 2, is amended to read:

1.21 Subd. 2. **State participation.** The state may participate in a new real estate loan
1.22 with an eligible lender to a beginning farmer to the extent of 45 percent of the principal
1.23 amount of the loan or ~~\$200,000~~ \$300,000, whichever is less. The interest rates and

2.1 repayment terms of the authority's participation interest may be different than the interest
2.2 rates and repayment terms of the lender's retained portion of the loan.

2.3 Sec. 3. Minnesota Statutes 2008, section 41B.04, subdivision 8, is amended to read:

2.4 Subd. 8. **State's State participation.** With respect to loans that are eligible for
2.5 restructuring under sections 41B.01 to 41B.23 and upon acceptance by the authority,
2.6 the authority shall enter into a participation agreement or other financial arrangement
2.7 whereby it shall participate in a restructured loan to the extent of 45 percent of the primary
2.8 principal or ~~\$225,000~~ \$400,000, whichever is less. The authority's portion of the loan
2.9 must be protected during the authority's participation by the first mortgage held by the
2.10 eligible lender to the extent of its participation in the loan.

2.11 Sec. 4. Minnesota Statutes 2008, section 41B.042, subdivision 4, is amended to read:

2.12 Subd. 4. **Participation limit; interest.** The authority may participate in new
2.13 seller-sponsored loans to the extent of 45 percent of the principal amount of the loan or
2.14 ~~\$200,000~~ \$300,000, whichever is less. The interest rates and repayment terms of the
2.15 authority's participation interest may be different than the interest rates and repayment
2.16 terms of the seller's retained portion of the loan.

2.17 Sec. 5. Minnesota Statutes 2008, section 41B.043, subdivision 1b, is amended to read:

2.18 Subd. 1b. **Loan participation.** The authority may participate in an agricultural
2.19 improvement loan with an eligible lender to a farmer who meets the requirements of
2.20 section 41B.03, subdivision 1, clauses (1) and (2), and who is actively engaged in farming.
2.21 Participation is limited to 45 percent of the principal amount of the loan or ~~\$200,000~~
2.22 \$300,000, whichever is less. The interest rates and repayment terms of the authority's
2.23 participation interest may be different than the interest rates and repayment terms of
2.24 the lender's retained portion of the loan.

2.25 Sec. 6. Minnesota Statutes 2008, section 41B.045, subdivision 2, is amended to read:

2.26 Subd. 2. **Loan participation.** The authority may participate in a livestock
2.27 expansion loan with an eligible lender to a livestock farmer who meets the requirements
2.28 of section 41B.03, subdivision 1, clauses (1) and (2), and who are actively engaged in
2.29 a livestock operation. A prospective borrower must have a total net worth, including
2.30 assets and liabilities of the borrower's spouse and dependents, of less than \$660,000 in
2.31 2004 and an amount in subsequent years which is adjusted for inflation by multiplying

3.1 that amount by the cumulative inflation rate as determined by the United States All-Items
3.2 Consumer Price Index.

3.3 Participation is limited to 45 percent of the principal amount of the loan or ~~\$275,000~~
3.4 \$400,000, whichever is less. The interest rates and repayment terms of the authority's
3.5 participation interest may be different from the interest rates and repayment terms of
3.6 the lender's retained portion of the loan.

3.7 Sec. 7. **REPEALER.**

3.8 Minnesota Statutes 2008, sections 41.51; 41.52; 41.53; 41.55; 41.56; 41.57; 41.58;
3.9 41.59; 41.60; 41.61; 41.62; 41.63; and 41.65, are repealed.

41.51 PURPOSE.

In order to aid farmers in obtaining credit for the acquisition of farm real estate, there is established a family farm security program to provide state money in guarantee of loans made according to this chapter. The family farm security program established by this chapter, and the issuance of state bonds under section 41.62, is necessary to develop the state's agricultural resources.

41.52 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of Laws 1976, chapter 210 the following terms shall have the meanings given.

Subd. 2. **Applicant.** "Applicant" means a natural person applying for a family farm security loan.

Subd. 3. **Council.** "Council" means the Family Farm Advisory Council.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subd. 5. **Family farm security loan.** "Family farm security loan", except in the case of a seller-sponsored loan, means a loan secured by a first real estate mortgage. In the case of a seller-sponsored loan, it means a loan secured either by a real estate mortgage evidenced by one or more notes or secured by a contract for deed. It shall be used for acquisition of farm land and shall be approved by the commissioner. This loan shall be guaranteed and may qualify for a payment adjustment as defined in subdivision 10 and may be a seller-sponsored loan as defined in subdivision 8.

Subd. 6. **Farm land.** "Farm land" means land in Minnesota that is capable of supporting the commercial production of agricultural crops, livestock or livestock products, poultry products, milk or dairy products, or fruit or other horticultural products.

Subd. 7. **Lender.** "Lender" means any bank, savings bank, mutual savings bank, savings association, organized under the laws of this state or the United States, trust companies, trust companies acting as fiduciaries, and other financial institutions subject to the supervision of the commissioner of commerce; and any foreign or domestic corporation engaged in the business of insurance which is subject to the supervision of the commissioner of commerce as defined in section 60A.02, subdivision 3; and any financial institution operating under the supervision of the farm credit administration. In case of seller-sponsored loans as authorized in section 41.58, "lender" also means the seller of the property.

Subd. 8. **Seller-sponsored loan.** "Seller-sponsored loan" means a loan in which part or all of the purchase price of the farm is financed by a loan from the seller of the property who is a natural person, a partnership or a family farm corporation as defined in section 500.24, and the remainder of the loan, if any, is supplied by a lender as defined in subdivision 7 or other person. This loan shall be secured by a real estate mortgage evidenced by one or more notes that may carry different interest rates, or by a contract for deed.

Subd. 9. **Family farm loan guarantee.** "Family farm loan guarantee" means an agreement that in the event of default the state of Minnesota shall pay the lender 90 percent of the sums due and payable under the first real estate mortgage, or, in the case of a seller-sponsored loan, 90 percent of the sums due and payable under the note and mortgage or contract for deed.

Subd. 10. **Payment adjustment.** "Payment adjustment" means an amount of money equal to four percent interest on the principal balance of the family farm security loan.

Subd. 11. **Cooperating agency.** "Cooperating agency" means any individual, financial institution, state or federal agency, or any other legal entity which executes a memorandum of understanding with the family farm security program.

Subd. 12. **Memorandum of understanding.** "Memorandum of understanding" means an agreement outlining conditions under which a cooperating agency will provide farm real estate loan funds not to be included under a family farm loan guarantee to applicants.

Subd. 13. **Participant.** "Participant" means an applicant who has received final approval for a guarantee which has been fully executed by the state.

41.53 ADMINISTRATION AND RULES.

Subdivision 1. **Commissioner's powers.** The family farm security program shall be administered by the commissioner.

Subd. 2. **Rules.** The commissioner may adopt rules necessary for the efficient administration of sections 41.51 to 41.57; 41.58, subdivisions 1 and 2; 41.59, subdivision 1; and 41.61.

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Subd. 3. **Report.** On or before January 1 of each year the commissioner shall submit a report to the legislature, as provided in section 3.195, concerning the actions of the commissioner and the status of loans granted.

41.55 ELIGIBILITY.

A family farm security loan approval may be granted if the following criteria are satisfied:

- (a) that the applicant is a resident of the state of Minnesota;
- (b) that the applicant has sufficient education, training, or experience in the type of farming for which the loan is desired and participation in a farm management program approved by the commissioner;
- (c) that the applicant and the applicant's dependents and spouse have total net worth valued at less than \$75,000 and have demonstrated a need for the loan;
- (d) that the applicant intends to purchase farm land to be used by the applicant for agricultural purposes;
- (e) that the applicant is credit worthy according to standards prescribed by the commissioner.

41.56 PROCEDURE.

Subdivision 1. **Loan application; denial.** Any person desiring to acquire farm land may make application with a lender for a family farm security loan. Upon completion of the appropriate forms by the applicant and the lender, the applicant shall forward the application to the commissioner for approval. The commissioner shall prescribe a screening process to determine eligibility and may arrange for local lenders to perform this function for the state. The commissioner may approve the application if the criteria of sections 41.55 and 41.57 are satisfied, and shall notify the applicant and the lender of the decision.

If the application is denied, the commissioner shall provide the applicant with a written statement of the reasons for the denial. An applicant who later becomes eligible may reapply.

Subd. 2. **Approved loans.** On approving a loan application, the commissioner shall notify the applicant and lender of the decision. The applicant and the lender may then complete the transaction for the loan.

Subd. 3. **Default, filing claim.** Within 90 days of a default on a guaranteed family farm security loan, the lender shall send notice to the participant stating that the commissioner must be notified if the default continues for 180 days, and the consequences of that default. The lender and the participant may agree to take any steps reasonable to assure the fulfillment of the loan obligation.

If a participant cannot meet scheduled loan payments because of unique or temporary circumstances and the participant proves sufficiently to the commissioner that the necessary cash flow can be generated in the future, the commissioner may use money in the special account in section 41.61, subdivision 1, to meet the participant's loan obligation for up to two consecutive years. This money must be paid back within eight years with interest at an annual percentage rate four percent below the prevailing Federal Land Bank rate.

A contract for deed participant may enter into an agreement with the commissioner whereby the outstanding principal balance of the loan is reduced by a minimum of ten percent, the loan is reamortized for the years remaining, and the commissioner agrees that the state shall pay the lender 100 percent of the sum due and payable if a default occurs during the remaining term of the reamortized loan.

After 180 days from the initial default, if the participant has not made arrangements to meet the obligation, the lender shall file a claim with the commissioner, identifying the loan and the nature of the default, and assigning to the state all of the lender's security and interest in the loan in exchange for payment according to the terms of the family farm security loan guarantee. In the case of a seller-sponsored loan, the seller may elect to pay the commissioner all sums owed the commissioner by the participant and retain title to the property in lieu of payment by the commissioner under the terms of the loan guarantee. If the commissioner determines that the terms of the family farm security loan guarantee have been met, the commissioner shall authorize payment of state funds to the lender, and shall notify the defaulting party. The state of Minnesota shall then succeed to the interest of the mortgagee or the vendor of the contract for deed. Taxes shall be levied and paid on the land as though the owner were a natural person and not a political subdivision of the state. The commissioner may, on behalf of the state, commence foreclosure or termination proceedings in the manner provided by law.

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The commissioner may add any unpaid principal and interest payments on special assistance loans to the interest adjustment obligation balance provided for in section 41.57, subdivision 2. The commissioner and participant may agree to any other terms of repayment that are mutually satisfactory.

Subd. 4. Sale of defaulted property. In the event that title to any property is acquired by the state, upon conveyance of title to the state and expiration of the period of redemption, the commissioner shall undertake to sell the property by publishing a notice of the impending sale at least once each week for four successive weeks in a legal newspaper and also in a newspaper of general distribution in the county in which the property to be sold is situated. The notice must describe the lots or tracts to be offered and the terms of sale. Except as further provided, the terms and method of sale shall be determined by the commissioner.

The commissioner shall first attempt to sell the property to a person who is eligible for a family farm security loan. If the commissioner is unable to effect a sale to an eligible person, the commissioner shall attempt to sell the property for cash as provided in subdivision 4a. If the commissioner is unable to effect a sale to an eligible person or for cash, or if the commissioner finds that sale to an eligible person or for cash would not best protect the interests of the state, the commissioner may sell the property on terms which the commissioner finds will best protect the interests of the state. The commissioner may lease any real property which the commissioner is unable to sell with reasonable promptness. In any event, any acquired farm property must be sold within three years after the conveyance of title to the state or after the expiration of the period of redemption. The commissioner may contract for the services of a licensed real estate agent or broker to assist in selling any property acquired under this section and may pay for the services from the proceeds of the sale before proceeds are distributed under subdivision 4b.

In lieu of selling property under this subdivision, the commissioner may utilize participation under the beginning farmer program under chapter 41B.

In selling property acquired under this section, the commissioner may not sell the property to a relative within the second degree of kindred according to common law of a person who has defaulted.

Subd. 4a. Sale for cash. In selling any farm property for cash, the commissioner shall follow the procedures provided in this subdivision. The commissioner may sell the property to the highest bidder by taking sealed bids, by bids at public auction, or through negotiation. The commissioner may refuse to accept any or all bids. The successful bidder shall submit bid security in the form of a certified check, money order, or bank draft in the amount of five percent of the bid price on the day of selection and shall remit the balance of the purchase price within 90 days of the date of sale. Upon remittance by the purchaser of the balance within 90 days of the date of sale, the commissioner shall transfer title to the property, including any acquired mineral rights, to the purchaser by quitclaim deed. In the event that the purchaser fails to remit all of the balance within 90 days of the date of sale, the purchaser forfeits all rights to the property and any money paid for the property and the commissioner shall recommence the sale process specified in this subdivision.

Subd. 4b. Proceeds of sale. Proceeds from the sale of a parcel of property obtained by the state under this section shall be paid into the state family farm program bond account to the extent that proceeds of bonds issued under section 41.62, have been expended by the commissioner of agriculture for the purposes specified in section 41.62. The balance of the sale proceeds shall be paid into the general fund to the extent that funds were disbursed as payment adjustments by the commissioner and into the special account authorized in section 41.61, subdivision 1, to the extent that funds from the special account were disbursed according to the terms of the family farm security loan guarantee and for any insurance premiums or taxes paid on the property. Proceeds in excess of these amounts shall be paid to the lender to the extent that payment to the lender pursuant to the loan guarantee was less than the money due and payable to the lender under the family farm security loan. Proceeds in excess of these amounts shall be paid to cooperating agencies according to the terms of the family farm memorandum of understanding. Additional proceeds, if any, shall be paid into the special account authorized in section 41.61, subdivision 1.

Subd. 5. Guarantee void. The loan guarantee is void only if the guaranteed loan was obtained or retained by fraud or material misrepresentation of which the original lender or subsequent holder had actual knowledge.

Subd. 6. Secondary market guarantees without recourse. In the case of all family farm loan guarantees, except seller-sponsored loan guarantees, the commissioner is authorized to extend said guarantees to a bona fide purchaser of the guaranteed portion of the note and mortgage executed by an original lender and borrower without recourse by the state of Minnesota against said bona fide purchaser of said guaranteed portion, provided the state of Minnesota is made the named beneficiary of a title insurance policy insuring marketable title to the farm land in question and the state of Minnesota is given the written opinion of original lender's counsel that the original

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loan transaction was fully closed, that disbursements were made correctly, that lender's security was properly perfected and constitutes a valid first lien upon the property, that original borrower's note is a valid and binding obligation, and that all conditions deemed desirable to assure the validity and legal enforceability of the note and mortgage and all agreements delivered to the original lender in connection with the original loan have been complied with satisfactorily. In the event title insurance is, as a practical matter, unavailable or an undue hardship, the commissioner is authorized to provide said guarantee without recourse by the state of Minnesota against said bona fide purchaser provided the state of Minnesota is given the written opinion of competent local counsel concerning marketable title and the written opinion of original lender's counsel that the original loan transaction was fully closed, that disbursements were made correctly, that lender's security was properly perfected and constitutes a valid first lien upon the property, that original borrower's note is a valid and binding obligation, and that all conditions deemed desirable to assure the validity and legal enforceability of the note and mortgage and all agreements delivered to the original lender in connection with the original loan have been complied with satisfactorily. The making of such a guarantee without recourse shall not affect the rights the state of Minnesota may have with respect to the original lender, mortgagor, or any other party.

Subd. 7. **Insurance.** The commissioner may insure the state against loss to farm properties acquired under this section by fire, lightning, windstorm, tornado, flood, or hail, using any insurance company licensed to do business in Minnesota. The insurance may be in an amount the commissioner determines and the commissioner may pay the premiums from the special account created in section 41.61, subdivision 1.

41.57 TERMS OF THE LOAN.

Subdivision 1. **Forms; appraisal procedure; limitations.** A family farm security loan shall be transacted on forms approved by the commissioner with the advice of the attorney general. The commissioner shall establish by rule an appraisal procedure and shall thereby determine the value and income potential of the property before guaranteeing a family farm security loan. No guarantee shall be made if the purchase price of the farm land exceeds the appraisal value as determined under the provisions of this subdivision.

Subd. 2. **Payment adjustment.** To be eligible for payment adjustment a family farm security loan shall have a maximum term of 20 years and shall provide for payments at least annually so that the loan shall be amortized over its term with equal annual payments of principal and interest, adjusted for variable interest rates, except that a loan to be amortized over a term of ten years or less need not provide for equal annual payments of principal and interest. During the first ten years of a family farm security loan, the commissioner shall annually pay to the lender four percent of the outstanding balance due at the beginning of that year and the participant shall pay the remainder of the payment due. After the tenth year, the participant shall make payments according to the stated interest rate. The participant may petition the commissioner for one ten-year renewal of the payment adjustment. If a renewal is granted, in the 21st year the participant shall reimburse the commissioner for the sums paid on the participant's behalf under this subdivision. If no renewal is granted, the participant shall reimburse the commissioner in the 11th year for the sums paid on the participant's behalf under this subdivision. The obligation to repay the payment adjustment is a lien against the property. If the participant does not reimburse the state within the required time period, the commissioner may charge interest at the rate of two percent above the prevailing rate charged by the Federal Land Bank of St. Paul on the net amount owed for the period of delinquency. To recover the adjustment payment due in delinquency cases, the commissioner may proceed to foreclose by advertisement on the lien as if it were a real estate mortgage following the procedures in chapter 580.

Subd. 2a. **Settlements before due date.** The commissioner may settle interest adjustment payment accounts of participants before the contractual due date. These settlements may include receiving partial payments for outstanding obligations if the participant and cooperating lender agree to voluntarily withdraw from the program.

Subd. 2b. **Discounting using present value.** The commissioner may settle interest adjustment payment accounts by discounting the obligation using a present value calculation. The interest rate used in this calculation must be three percent above the current Farm Credit Bank of St. Paul wholesale loan rate to the agricultural credit associations as certified each month by the commissioner.

Subd. 3. **Annual review.** (a) The participant and the participant's dependents and spouse shall annually submit to the commissioner a statement of their net worth. If their net worth in any year exceeds the sum of \$135,000, the participant shall be ineligible for a payment adjustment in that year.

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(b) The participant shall annually submit to the commissioner evidence of participation in an approved farm management program for at least the first ten years of the family farm security loan. The commissioner may waive this requirement if the participant requests a waiver and provides justification.

Subd. 4. **Additional payment; principal reduction.** (a) The commissioner must annually pay to qualified sellers of property, financed by a family farm security loan, an amount approximately equal to the additional state income tax paid as a result of the inclusion in gross income of the interest and payment adjustment earned on a seller sponsored family farm security loan. No payment may be made under this subdivision to a qualified seller, unless the seller agrees to reduce the outstanding principal amount of the loan by three percent effective prior to or beginning the year in which application is made.

(b) The payment amount must be determined as follows: In order to qualify for a payment, the seller must apply to the commissioner by October 1, following the previous tax year. The application must include a copy of the seller's previous tax year state income tax return. The commissioner must recompute the seller's total state income tax liability that would be due if the interest and payment adjustment amounts were not includable in gross income for state income tax purposes. The commissioner may require the seller to compute these amounts as part of the application. For any calendar year the amount of the payment equals the reduction in state income tax liability that would occur if the interest and payment adjustment were not included in gross income for state tax purposes.

(c) If the seller elects to receive payments under this subdivision, the buyer's payments of principal and interest under the loan must be recalculated. The revised payment schedule must reflect the three percent reduction in the outstanding principal required by paragraph (a) and must provide for equal payments over the remaining term of the loan. The interest rate on the loan may not be increased.

(d) The commissioner may make the payments under this subdivision in the same manner provided for the payment adjustment under subdivision 2.

(e) For purposes of this subdivision, the following terms have the meanings given:

(1) "Gross income" means gross income as defined for purposes of chapter 290.

(2) "Qualified seller" means an individual who sold farm land under a seller sponsored loan after April 1, 1978, and before December 31, 1985, and who is a resident of Minnesota during the calendar year and is subject to the payment of Minnesota income taxes.

41.58 SELLER-SPONSORED LOANS.

Subdivision 1. **Authorization.** The commissioner may provide a guarantee to the lenders on seller-sponsored loans when the buyer satisfies the eligibility criteria in section 41.55. The commissioner may also provide a payment adjustment on behalf of the participant in the case of seller-sponsored loans.

Subd. 2. **Negotiability and marketability.** A seller-sponsored loan shall be secured by a purchase money real estate mortgage evidenced by negotiable note or notes as defined in section 336.3-104 or by a contract for deed. The commissioner must be notified in writing within 30 days after a family farm security loan note is sold or exchanged or vendor's interest in a contract for deed is sold, exchanged, assigned or transferred.

41.59 SALE OR CONVEYANCE.

Subdivision 1. **Immediate repayment of loan.** Any participant who sells or conveys the property for which a family farm security loan was issued shall immediately retire the entire indebtedness still owed to the lender and the commissioner. The new owner may negotiate a new family farm security loan, but under no circumstances may the original loan be assumed by the new owner. If the new owner is granted a family farm security loan, the new owner may agree to assume the original participant's responsibility to reimburse the commissioner for a payment adjustment received, as a portion of the total purchase price. That portion of the purchase price may not be included under the guarantee or considered when calculating the payment adjustment for the new owner. This subdivision is not intended to prohibit the participant from granting a security interest in the property for the purposes of securing an additional loan.

Any participant who fails to personally maintain the land covered by a family farm security loan in active agricultural production for a period of time longer than one year is in

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default. The default may be waived by the commissioner in the event of a physical disability or other extenuating circumstances.

41.60 DISCRIMINATION PROHIBITED.

In carrying out their respective duties under Laws 1976, chapter 210, the council and the commissioner shall not discriminate between applicants because of race, color, creed, religion, national origin, sex, marital status, disability, political or ideological persuasion.

41.61 APPROPRIATIONS.

Subdivision 1. **Special account; standing appropriation.** There is created a special account in the state treasury for the purposes of financing the family farm security program.

The amount needed from time to time to pay lenders for defaulted loans and make other payments authorized by this chapter including insurance premiums, taxes, repairs and maintenance costs, advertising, and other sales expenses on defaulted farms is appropriated from the special account to the commissioner. Money is also appropriated to the commissioner from the special account so that the commissioner may purchase the rights of first lienholders at mortgage foreclosure sales and satisfy certain fixture loans. The sum of all outstanding family farm security loans guaranteed by the commissioner at any time may not exceed \$100,000,000. All bond proceeds received in the fund must be used only for the purposes specified in section 41.62.

41.62 GENERAL OBLIGATION BONDS.

Subdivision 1. **Procedure.** Upon request of the commissioner of agriculture, the commissioner of finance is authorized to issue general obligation bonds of the state in a principal amount not exceeding \$20,000,000 to acquire public lands by providing money to be paid by the commissioner of agriculture from the special account established by section 41.61 to pay lenders for defaulted loans and to purchase the rights of first lienholders at mortgage foreclosure sales. The bonds shall be secured as provided in the Minnesota Constitution, article XI, section 7, and, except as provided in this section, shall be issued and secured as provided in section 16A.641. The proceeds of the bonds, except any premium and accrued interest, shall be deposited in the special account established in section 41.61 and used solely for the purposes specified above and in section 16A.641, subdivision 8. The premium and accrued interest, if any, shall be deposited in the state family farm security program bond account in the state bond fund. The commissioner shall issue only the amount of bonds as from time to time the commissioner determines are necessary for the purposes specified in this section.

Subd. 2. **Terms of bonds.** The commissioner of finance may fix the terms of the bonds in any manner permitted for bonds of a municipality under chapter 475, and may enter into, on behalf of the state, all agreements deemed necessary for this purpose, including those authorized to be entered into by municipalities in chapter 475.

Subd. 3. **Sale of bonds.** If determined by the commissioner of finance to be necessary in order to reduce costs of issuance, to secure a favorable prevailing interest rate, or to receive the bond proceeds by a specified date, or if the terms of the bonds are fixed as provided in sections 475.54, subdivision 5a, and 475.56, paragraph (b), the bonds may be sold by negotiation and without solicitation of sealed bids.

Subd. 4. **Bond fund account.** The commissioner of finance shall maintain in the state bond fund a separate bookkeeping account that shall be designated as the state family farm security program bond account, to record receipts and disbursements of money transferred to the fund to pay bonds issued under this section and to record income from the investment of the money. The income shall be credited to the account in each fiscal year in an amount equal to the approximate average return that year on all funds invested by the commissioner of finance, as determined by the commissioner of finance, times the average balance in the account that year.

Subd. 5. **Transfers, appropriation.** In addition to the money required to be transferred to the state family farm security program bond account under section 41.56, subdivision 4b, and in order to reduce the amount of taxes otherwise required by the Minnesota Constitution to be levied for the state bond fund, the commissioner of finance shall transfer from the general fund to the state family farm security program bond account, on December 1 in each year, a sum of money sufficient in amount, when added to the balance then on hand in that account, to pay all bonds issued under this section and the interest on them due and to become due to and including July 1 in the second ensuing year. All money to be so credited and all income from its investment is annually appropriated for the payment of the bonds and interest on them, and shall be available in the state family farm security program bond account before the levy of the tax in any year

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required by the Minnesota Constitution, article XI, section 7. The legislature may also appropriate to the state family farm security program bond account any other money in the state treasury not otherwise appropriated, for the security of bonds issued under this section in the event that sufficient money should not be available in the account from the appropriation in this section, before the levy of the tax in any year. The commissioner of finance shall make the appropriate entries in the accounts of the respective funds.

Subd. 6. Constitutional levy. On or before December 1 in each year the state auditor shall levy on all taxable property within the state whatever tax may be necessary to produce an amount sufficient, with all money then in the state family farm security program bond account, to pay the entire amount of principal and interest due then or earlier and principal and interest to become due on or before July 1 in the second year thereafter on bonds issued under this section. This tax shall be levied upon all real property used for a homestead, as well as other taxable property, notwithstanding section 273.13, subdivisions 6 and 7. The tax must not be limited in rate or amount until all the bonds and interest on them are fully paid. The proceeds of this tax are appropriated and shall be credited to the state bond fund, and the principal and interest on the bonds are payable from all the proceeds. As much of the proceeds as is necessary, is appropriated for the payments. If at any time there is insufficient money from the proceeds of the taxes to pay the principal and interest when due on the bonds, the principal and interest must be paid out of the general fund in the state treasury, and the amount necessary for the payment is appropriated.

Subd. 7. Compliance with federal law. The commissioner of finance is authorized to covenant and agree with the holders of the bonds issued under this section that the state will comply, insofar as possible, with the provisions of the United States Internal Revenue Code now or hereafter enacted that are applicable to the bonds and that establish conditions under which the interest to be paid on the bonds will not be includable in gross income for federal tax purposes.

Subd. 8. Taxability of interest. The bonds authorized by this section may be issued without regard to whether the interest to be paid on them is includable in gross income for federal tax purposes.

41.63 DATA PRIVACY.

Personal financial information, credit reports, financial statements, tax refund calculations, and net worth statements, received or prepared by the commissioner regarding any family farm security loans, are private data on individuals under chapter 13.

41.65 USE AND DISPOSITION OF PROPERTY.

Subdivision 1. Commissioner may sell or lease property. The commissioner may sell or lease property acquired by the state in a manner that protects the interests of the state. Persons desiring to purchase or lease property must apply to the commissioner.

Subd. 2. Managing and selling property. (a) The commissioner must attempt to sell agricultural property to persons entering farming and farmers that need additional property to continue their farming operations.

(b) The commissioner must give priority to applicants desiring to purchase or lease property who:

- (1) are residents of the state of Minnesota;
- (2) have sufficient education, training, or experience in the type of farming for which the property is desired and agree to continued participation in a farm management program, approved by the commissioner for at least the first ten years;
- (3) have, including the applicant's dependents and spouse, a total net worth valued at less than \$100,000 and have demonstrated a need for acquiring property from the commissioner;
- (4) intend to purchase farm land to be used by the applicant for agricultural purposes; and
- (5) are credit worthy according to standards prescribed by the commissioner.

(c) The commissioner must attempt to sell the property by a cash sale. Agricultural property may be leased with an option to purchase to accommodate a sale. The commissioner should avoid long-term leasing of property.

Subd. 3. Restricted agricultural use. (a) Acquired property that has marginal land as defined in section 103F.511, subdivision 7, or wetlands must be restricted from agricultural use on the marginal land or wetlands.

(b) If the commissioner determines that all or a portion of acquired property should be taken out of agricultural use or particular agricultural uses should be restricted, the commissioner shall have the attorney general prepare an easement restricting the agricultural use and record the easement with the county recorder where the property is located.

APPENDIX

Repealed Minnesota Statutes: 09-0649

Subd. 4. **Exclusive agricultural use.** The commissioner may place easements on acquired property restricting development and allowing only agricultural or conservation use.