

Co-Application
to Exclude a Mortgage from Home Quarter Protection
 As provided by Part III of *The Saskatchewan Farm Security Act*

Homestead Mortgagor(s)		Creditor	
Name (1)		Creditor Name	
Name (2)		Loans Manager	
Street or Box No.		Street or Box No.	
City / Town	Province	City / Town	Province
Postal Code		Postal Code	
Home Phone		Business Phone	Extension
Cell Phone		Cell Phone	
Fax		Fax	

Documentation requirements:

- ☐ Completed co-application
- ☐ Revolving credit statutory declarations
- ☐ Signed photocopy of the mortgage
- ☐ Signed photocopy of any mortgage amending agreement
- ☐ Recent photocopy of homestead titles
- ☐ (Optional) Other information that may expedite the Board's review – e.g. loan approval form; financial statement

Fees: None applicable.

Allow 2-3 business days for processing.

Questions: See instructions attached. Inquiries are encouraged and may be directed to the Board office at **306-787-5047**.

When issued, the Exclusion Order will be faxed to sender with original to follow by mail. If the Board declines to issue the Exclusion Order, the decision will be provided by letter to all parties.

Submit **ONE** copy of completed co-application and required documentation via mail, fax, or email to:

Farm Land Security Board
 302 – 3085 Albert Street
 REGINA SK S4S 0B1
 Fax: 306-787-8599
 Email: inquiries.ag@gov.sk.ca

A. Qualifying the mortgage

Is the mortgage solely for the purpose of purchasing a homestead ?	<input type="radio"/> Yes	<input type="radio"/> No
Is the mortgage solely for the purpose of improvements to the homestead?	<input type="radio"/> Yes	<input type="radio"/> No
Is the mortgage for the purposes described in both of the above?	<input type="radio"/> Yes	<input type="radio"/> No

*This co-application is **not** required if you answered “yes” to any of the above. Section 44(12.3) of the Act Automatically excludes mortgages for the above purposes. See instructions attached.*

Is the mortgage a new non-agricultural mortgage? (Average annual gross farm income less than \$20,000.)	<input type="radio"/> Yes	<input type="radio"/> No
Is the mortgage solely to secure new funds and/or HQP Excluded debt ? ("New funds" includes funds to refinance debt with other, non-affiliated, creditors.) (Excluded debt: See instructions attached for definition.)	<input type="radio"/> Yes	<input type="radio"/> No

If you answered “yes” to either of the above see instructions attached or go to www.Saskatchewan.ca/farmland and review the Board’s class exclusion orders before submitting this co-application.

B. Qualifying the homestead

Is the homestead situated outside a city, town, village, hamlet or resort village?	<input type="radio"/> Yes	<input type="radio"/> No
Is the homestead the bona fide farm residence of the mortgagor?	<input type="radio"/> Yes	<input type="radio"/> No
Does the mortgage involve a homestead as defined in the Act?	<input type="radio"/> Yes	<input type="radio"/> No

*This co-application is **not** required if you answered “no” to any of these questions. See instructions attached to this co-application or contact the Board office for additional information.*

C. Homestead description

	Homestead 1	Homestead 2*
Number of persons living on the homestead		
Homestead Legal Land Description or Surface Parcel #		
Number of Title Acres		
Bare Land Value**		
Building Value**		
Fair Market Value**		

* When more than one homestead is involved in the mortgage, describe each homestead separately.

** Estimates of values are acceptable. A certified appraisal is not required.

NOTE: A loan approval document and/or farm financial statement may be attached to provide additional detail for the following questions. Attach additional pages if required. Please refer to instructions attached.

D. Function of the homestead: *Describe how the homestead is used by its occupants and by the farming operation.*

E. Describe the loans the subject mortgage will secure: *Include loan identification numbers and amounts.*

Note: If a revolving credit loan is being secured, the Board's creditor and farmer statutory declarations for revolving credit mortgages **must be signed and included** with the application.

F. Describe how existing debt to the subject mortgagee is being refinanced.

G. Describe the new funds being advanced: *New funds include new revolving credit loans and new term loans including advances to refinance debt with any other creditor not affiliated with the mortgagee. See Instructions attached for more detail.*

H. Indicate the subject mortgage face amount:

- I. **Additional security requirements:** *Describe all additional security required for the loan(s) secured by the mortgage – e.g. guarantor and/or collateral mortgages, personal guarantees, promissory notes, general and specific security agreements.*
- J. **Homestead mortgage security:** *Mortgaging the homestead could not be avoided because...*
- K. **Homestead liabilities:** *Describe all debt secured by the homestead, not including the subject mortgage loan(s)*
- L. **Repayment ability:** *Indicate how the farm operation is changing to better enable repayment. A financial statement or other loan documentation may be included. Provide details about the income sources considered to analyze/confirm repayment capacity. Use additional page if necessary.*

M. Signatures:

Home Quarter Protection stays the registration of the court's final order for foreclosure only as it affects the homestead title, and only as long as the farm family continues to occupy the homestead. The Farm Land Security Board is empowered to exclude a mortgage from the Protection if, in the opinion of the Board, doing so is in the best interests of the farmer. The Board must be assured other acceptable security options are not available and the financial strength to repay the loan(s) secured by the mortgage is evident.

With respect to the mortgage(s) and any applicable mortgage amending agreements submitted with this co-application, we – the undersigned mortgagee, the homestead mortgagor(s), and all non-mortgaging spouse(s) – do hereby co-apply to the Farm Land Security Board to exclude the mortgage from Home Quarter Protection.

In making this co-application, we declare that all debts attached to this mortgage are identified in this co-application; that no other debt will be secured to the mortgage without first obtaining anew exclusion order; and, that the mortgagee may provide any additional financial information the Board may request.

*Signature of Loan Manager
or designate (Mortgagee)*

Print name

mm/dd/yyyy

Signature of Homestead Mortgagor

Print name

mm/dd/yyyy

*Signature of Homestead Mortgagor
or non-mortgaging spouse*

Print name

mm/dd/yyyy

*Signature of Homestead Mortgagor
or non-mortgaging spouse*

Print name

mm/dd/yyyy

*Signature of Homestead Mortgagor
or non-mortgaging spouse*

Print name

mm/dd/yyyy

HQP Co-Application Instructions

Farmer/Creditor contact information:

Board staff may need to contact the parties. Ready access to the borrowers and the loan manager will avoid delays. Cell phone and work numbers with extension numbers will help.

- Identify the homestead mortgagor (farm operator) most familiar with the loan and mortgage.
- Creditor/Loans Manager:
 - Provide the loan manager's direct work number and extension.
 - Do not identify the lawyer in charge as Creditor contact.
 - Do not identify creditor administration staff as Creditor contact.

Documentation Required:

- Submit a separate completed co-application for each mortgage.
- The lender and anyone on the homestead title, and their spouse, must sign the co-application.
- Include a signed copy of the original mortgage and any mortgage amendment agreement.
- Submit **creditor and farmer statutory declarations** only if the mortgage secures a revolving credit loan.
 - a) www.publications.gov.sk.ca/redirect.cfm?p=84285&i=97708
 - b) For mortgages to Farm Credit Canada:
www.publications.gov.sk.ca/redirect.cfm?p=84285&i=97948

Purpose of the co-application:

- The co-application is designed for the most complicated debt-restructuring situation. Responses may be adjusted accordingly.
- Information required will increase as the financial situation becomes more difficult.
- Loan approval documents and farm financial statements should be attached in complicated cases.
- The Board must be convinced:
 - the mortgage does not expose the homestead to unjustifiable risk;
 - no other acceptable security options are available; and,
 - the farmer can reliably service the mortgage.

A. Qualifying the mortgage

The Saskatchewan Farm Security Act, section 44(12.3), automatically excludes mortgages made for the following:

- The mortgage is solely for the purpose of purchasing a homestead;
- The mortgage is solely for the purpose of new construction or improvements on the homestead; or
- The mortgage is for both (1) and (2).

The Farm Land Security Board has issued class exclusion orders for:

- *2014 Non-Agricultural Mortgages* - A co-application is not required if the mortgage meets the definition of a non-agricultural mortgage as stated in this class exclusion order, and the

farmer provides the required Statutory Declaration **at the time of signing the mortgage**. This class exclusion typically applies where gross farm income, including lease income, is less than \$20,000.

- *Solely New Funds/Excluded Debt (SNF/ED) Mortgages* – are either:
 - a) mortgages to secure a “solely new funds” advance; or,
 - b) mortgages to secure a “solely new funds” advance together with HQP excluded mortgage debt owed to the subject mortgagee.A co-application is not required if the mortgage matches the SNF/ED definition.

See <http://www.Saskatchewan.ca/farmland> to view a copy of these class exclusion orders and their required statutory declaration precedent forms and guidelines; or, contact the Board office to discuss qualifying a mortgage.

B. Qualifying the homestead

- A co-application is not required if the Homestead is not situated on “farm land”.

Section 2(f) of *The Saskatchewan Farm Security Act* defines “farm land” as:

“... real property in Saskatchewan that is situated outside a city, town, village, hamlet or resort village and that is used for the purposes of farming...”

Section 2(g) of the Act defines “farming” as:

“...livestock raising, poultry raising, dairying, tillage of the soil, bee-keeping, fur farming or any other activity undertaken to produce primary agricultural produce and animals”.

Note 1: A residence located on farmland not used for farming, but the homestead is occupied by a person engaged in farming, remains a homestead and subject to Home Quarter Protection.

- A co-application is not required if the homestead is not the bona fide farm residence of the mortgagor. Section 2(h) of the Act defines “homestead” as:
 - (i) the house and buildings **occupied** by a farmer as his bona fide farm residence; and
 - (ii) the farm land on which the house and buildings mentioned in subclause (i) are situated, not exceeding 160 acres or one quarter section, whichever is greater.

Note 2: The term “the bona fide farm residence” has been interpreted to include scenarios where the farmer also lives off farm for periods of time.

- A co-application is not required if the mortgage involves only bare farm land.
- A homestead made after the mortgage is given does not qualify for HQP.

See section 44(16) & (17) of the Act which state:

(16) This Part (Home Quarter Protection) 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.

Note 3: When a home quarter is subdivided homestead subdivision and the bare land subdivision are subject to HQP as long as both subdivisions are titled to the same person(s).

C. Homestead description

- The co-application must provide the homestead legal land description or its surface parcel # allowing the Board to match the description with one of the parcels secured to the mortgage.
- Provide an abbreviated legal land description or surface parcel number sufficiently matching the homestead parcel mortgage description to allow a match.
- Homestead values provide detail about the equity the homestead provides the mortgage.

CI. Function of the homestead

- The homestead description must satisfy *The Saskatchewan Farm Security Act* definitions for both “homestead” and “farm land” in order for the application to proceed. See Above.
- Provide the Board information about the importance of the homestead to the farm family.
- The information required by the Board increases with the importance of the homestead to the family and the farming operation.

CII. Describe the loan(s) the mortgage will secure:

- **The Exclusion Order is restricted to the loans identified in the co-application;** therefore, it is critical that the co-application clearly identifies each loan to be secured by the mortgage, including the purpose of each loan.
- **Provide the amount and purpose for each loan to be secured by the mortgage;** Mortgages may secure one or many loans. The loans may be for different purposes – e.g. purchase, consolidation, refinance, revolving credit, etc. Include loan identification numbers and amounts.
- Whenever **revolving credit loans** are secured to a mortgage the co-application must include the **creditor and farmer statutory declarations** prescribed by the Board.
 - a) www.publications.gov.sk.ca/redirect.cfm?p=84285&i=97708
 - b) For mortgages to Farm Credit Canada:
www.publications.gov.sk.ca/redirect.cfm?p=84285&i=97948

Note 4: Revolving credit advances, initiated at the sole discretion of the farmer, may be used to pay regularly scheduled loan payments with the mortgage creditor. Revolving credit loan advances **may not be used for** loan prepayments greater than the next regularly scheduled payment, payment of principal outstanding at the end of term or for demand payments with the mortgagee or its affiliates. See the statutory declarations for more detail. This note does not apply to restricted FCC RC loans.

F. Describe how existing debt to the subject mortgagee is being refinanced:

- Separate debts owing to the mortgagee from other debt being refinanced.
- Attach loan approval documents and a farm financial statement to support E, F and G.

- G. Describe the new funds being advanced**
- New funds include purchase, construction, revolving credit, etc. loans.
 - New funds also include paying out debt not owed to the subject mortgagee or its affiliates.
- H. Indicate the subject mortgage face amount**
- This helps ensure the correct mortgage is attached to the co-application.
 - When the mortgage is not yet available, this amount sets out the parties' expectations.
- I. Additional security requirements**
- Describe all security required for the loan(s) the mortgage secures.
 - Include additional mortgages, guarantor mortgages, personal guarantees, and p-notes etc.
 - Security requirements must be in keeping with normal lending practices.
 - When unusual risk results in increased security requirements, identify that risk.
- J. Homestead mortgage security**
- Describe how all security options not involving the home quarter have been examined.
 - Describe how normal lending practices require home quarter security, e.g.; no other security, other security is encumbered, other security has insufficient equity, borrower preferred HQ security because....
 - When optional security is available but not used, provide reasons.
- K. Homestead liabilities**
- Refer to the home quarter title.
 - The Board must understand the obligations attached to the home quarter both before and after the loans identified in E are in place.
 - Describe the debts the homestead will secure after the subject mortgage is in place.
 - Indicate the existing home quarter encumbrances to be discharged.
 - Attach a copy of the homestead title
- L. Repayment ability**
- The Board must be convinced there is long-term repayment ability.
 - Summarize how the mortgagor's ability to pay was qualified.
 - Describe the income amount and source relied upon to determine repayment ability.
 - Stating that the new loan provides lower payments and/or better interest is not sufficient.
 - Describe how the farm operation is changing to afford the debt.
 - Describe the relative strength of the mortgagor's repayment ability.
 - A financial statement or other loan documentation may be included to assist this answer.
- M. Signatures:**
- The mortgagee or the mortgagee's lawyer must sign the co-application.
 - All homestead mortgagors must sign the co-application.
 - All non-mortgaging spouses living on the homestead must sign the co-application.