

1983-84

## CHAPTER F-9.1

An Act to provide Counselling Assistance and Loan  
Guarantees to Farmers

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(Assented to April 19, 1984)

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 Farmers' Counselling and Assistance Act*.

Interpretation

**2** In this Act:

“applicant”

(a) “applicant” means a farmer who applies for counselling assistance or a guaranteed operating loan and counselling assistance pursuant to section 6;

“committee”

(b) “committee” means the Provincial Farmers' Counselling and Assistance Program Committee appointed pursuant to section 3;

“counselling assistance”

(c) “counselling assistance” means assistance provided by a panel to an applicant pursuant to subsection 8(2);

“designated lending institution”

(d) “designated lending institution” means the bank, credit union or other prescribed lending institution designated by an applicant as the lending institution from which he intends to obtain an operating loan;

“farm plan”

(e) “farm plan” means the information initially provided to the program chairman pursuant to subsection 7(3) as approved or changed pursuant to section 10;

"farmer"

(f) "farmer" means an individual whose present or intended principal occupation is farming and includes a corporation, co-operative and partnership of which at least one member or shareholder is principally occupied in farming;

"guaranteed operating loan"

(g) "guaranteed operating loan" means an operating loan with respect to which a payment may be made by the minister pursuant to section 11;

"minister"

(h) "minister" means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

"net worth"

(i) "net worth" means the amount by which the value of an applicant's assets exceeds the value of his liabilities;

"operating loan"

(j) "operating loan" means a loan for the purpose of purchasing goods and services of a kind normally consumed in the production of farm commodities;

"panel"

(k) "panel" means a panel established pursuant to subsection 7(1);

"prescribed"

(l) "prescribed" means prescribed in the regulations;

"program chairman"

(m) "program chairman" means the person appointed as the program chairman pursuant to section 4.

Committee established

**3** The Provincial Farmers' Counselling and Assistance Program Committee is established consisting of any number of active or recently retired farmers who have a demonstrated high level of farm management capability that the minister may appoint.

Program chairman

**4** The minister may appoint a member of the committee as program chairman.

Staff and advisors, etc.

**5** The program chairman may engage the services of or retain any clerical or other staff or any technical, professional or other advisors, specialists or consultants that he considers necessary to assist him or a panel in performing his or its duties and exercising his or its powers.

Application for assistance

**6(1)** Any farmer may apply to the program chairman, in the form required by him, for counselling assistance.

(2) A farmer whose financial situation has deteriorated to the point that he is unable to obtain sufficient operating funds and who:

- (a) is a resident of Saskatchewan; and
- (b) has a net worth that is less than:
  - (i) \$500,000; and
  - (ii) 50% of the value of his assets;

may apply to the program chairman, in the form required by him, for counselling assistance or a guaranteed operating loan and counselling assistance.

## Establishment of panel

- 7(1)** If the program chairman is satisfied that an applicant is eligible for counselling assistance or a guaranteed operating loan and counselling assistance, he shall, taking into account the applicant's specific situation and geographical location, designate any three or more members of the committee to sit as a panel to review the application, one of whom he shall designate as chairman of the panel.
- (2) The program chairman shall advise the applicant in writing of the name, address and phone number of the chairman of the panel established to review his application.
- (3) The applicant shall complete an initial farm plan in the form required by the program chairman and forward it to the panel chairman and the applicant's designated lending institution, if any.
- (4) The panel may determine its own procedure in reviewing an application.

## Counselling assistance

- 8(1)** When the chairman of a panel has received an application and initial farm plan, the panel shall meet with the applicant and may meet with a representative of his designated lending institution, if any.
- (2) The panel may provide advice and suggestions and recommend solutions to the applicant on financial and production matters.

## Panel report

- 9** The panel shall provide a written, confidential report to the applicant, his designated lending institution, if any, and the program chairman, containing:
- (a) its assessment and recommendations relating to the applicant's production practices and financial management;
  - (b) if the applicant has applied for a guaranteed operating loan, its recommendations concerning the advisability of authorizing a guaranteed operating loan for the applicant, together with the reasons for its recommendations and any conditions attached to its recommendations; and
  - (c) a farm plan approved in accordance with section 10.

## Farm plan

- 10(1)** If an applicant has applied for a guaranteed operating loan, the panel reviewing the application, the applicant and his designated lending institution shall develop and approve a farm plan specifying the amounts to be expended with respect to:
- (a) the expenses associated with the applicant's farming operation;
  - (b) regularly scheduled principal and interest payments payable by the applicant on term loans relating to the applicant's farming operation;
  - (c) amounts of interest on principal and interest outstanding and payable by the applicant on operating loans and term loans relating to the applicant's farming operation;
  - (d) capital purchases not included in the applicant's farm plan to a maximum of 5% of the maximum amount that would be payable with respect to a loss sustained as a result of the guaranteed operating loan pursuant to subsection 11(2); and
  - (e) the applicant's living expenses.

- (2) A farm plan may be changed at any time if the program chairman, the applicant and his designated lending institution authorize the change in writing.

Guaranteed operating loans

- 11(1) When the program chairman receives a report from a panel pursuant to section 9, he may:

- (a) authorize the making of a guaranteed operating loan in accordance with the panel's report; or
  - (b) request the panel to reconsider or re-assess any assessments, recommendations or conditions contained in its report or to submit a new report after further inquiry.
- (2) Subject to the other provisions of this section, if the program chairman authorizes the making of a guaranteed operating loan to an applicant by the applicant's designated lending institution, the minister shall, on the request of the program chairman, pay to the designated lending institution that portion of the amount of loss sustained by the designated lending institution as a result of making that loan to the applicant that is equal to the lesser of:
- (a) 100% of the amount of the guaranteed operating loan that is authorized by the program chairman; and
  - (b) \$100,000.
- (3) The minister may only make a payment to a designated lending institution pursuant to subsection (2) with respect to a guaranteed operating loan if:
- (a) the guaranteed operating loan was made on or after the coming into force of this Act and prior to April 1, 1987;
  - (b) the proceeds of the guaranteed operating loan were expended in the manner specified in the farm plan;
  - (c) the guaranteed operating loan was made subject to the prescribed terms and conditions;
  - (d) the making and the status of the guaranteed operating loan was reported to the program chairman by the designated lending institution within the prescribed time and substantially in the prescribed manner;
  - (e) the amount of the guaranteed operating loan did not exceed the prescribed maximum amount;
  - (f) the rate of interest charged by the designated lending institution on the guaranteed operating loan is not more than the prescribed maximum rate;
  - (g) the term of the guaranteed operating loan did not exceed one year;
  - (h) the designated lending institution had obtained:
    - (i) any security for the loan that the lender is able to obtain pursuant to the *Bank Act* (Canada), as amended from time to time, and *The Personal Property Security Act*; and
    - (ii) any additional security for the loan that the panel, the designated lending institution and the applicant had agreed to; and

(i) the designated lending institution has taken any action required by the program chairman to enforce payment of the guaranteed operating loan and follows the procedures set out by the program chairman for making claims for losses sustained as a result of making the guaranteed operating loan.

(4) The maximum amount payable to any one lending institution pursuant to subsection (2) is the proportion of the total amount of all guaranteed operating loans made by that lending institution that is determined in the manner specified in the regulations.

Fund established

**12(1)** The Farmers' Counselling and Assistance Program Fund is established consisting of any moneys transferred to the fund pursuant to subsection (2).

(2) The Minister of Finance shall transfer to the fund out of the consolidated fund any amounts that are appropriated by the Legislature for the purpose of the fund and requested by the minister at any times that are determined by the minister.

(3) Sums required for the purposes of section 11 are to be paid out of the fund.

(4) Moneys in the fund not presently required for expenditure may be invested in securities authorized for investment of moneys in the consolidated fund pursuant to *The Department of Finance Act, 1983*.

Information confidential

**13** Each member of the committee shall hold all information received by him pursuant to this Act and the regulations in confidence.

Immunity from liability

**14** No member of the committee is liable for any losses incurred by an applicant in acting on the advice provided by a member or a panel pursuant to this Act in good faith.

Minister subrogated

**15** If the minister makes a payment pursuant to section 11 to a designated lending institution in respect of a guaranteed operating loan:

(a) the minister is subrogated as against the applicant to all the rights, powers, remedies and securities of the designated lending institution in respect of the guaranteed operating loan;

(b) the payment does not affect any liability of the applicant or release any securities given by the applicant in respect of the guaranteed operating loan; and

(c) notwithstanding any such payment, the liability and security remains and continues in full force and effect and may be enforced by the minister against the applicant.

Annual report

**16(1)** The program chairman shall, in accordance with *The Tabling of Documents Act*, prepare and submit to the minister a report with respect to the administration of this Act for each fiscal year.

(2) The minister shall, in accordance with *The Tabling Document Act*, lay before the Legislative Assembly each report received by him pursuant to subsection (1).

Offence and penalty

**17** Any person who contravenes this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000.

Regulations

**18** For the purpose of carrying out this Act according to its intent, the Lieutenant Governor in Council may make regulations prescribing any matter or thing that is required or authorized by this Act to be prescribed in the regulations.