
FEDERAL GOVERNMENT LEGISLATION - *FARM DEBT MEDIATION ACT* AS APPLICABLE TO THE PROVINCIAL TAX RECOVERY PROCESS

Municipalities should be aware of the provisions of federal legislation, the *Farm Debt Mediation Act*, when tax recovery proceedings are undertaken under the authority of the *Municipal Government Act* (specifically Division 8, 8.1, or 9) involving land, designated manufactured home(s) and/or other property owned by a farmer.

The *Farm Debt Mediation Act* is Government of Canada legislation that provides for mediation between insolvent farmers and their secured creditors. It amended the *Agriculture and Agri-Food Administrative Monetary Penalties Act* and repealed the *Farm Debt Review Act*.

Municipalities should be taking particular note of Section 21 of the federal *Farm Debt Mediation Act*, which provides as follows:

- (1) *Every secured creditor who intends to:*

 - (a) *enforce any remedy against the property of a farmer, or*
 - (b) *commence any proceedings or any action, execution or other proceedings, judicial or extra-judicial, of the recovery of a debt, the realization of any security or taking of any property of a farmer shall give the farmer written notice of the creditor's intention to do so, and in the notice shall advise the farmer of the right to make application under Section 5.*

- (2) *The notice referred to in subsection (1) must be given to the farmer in the prescribed manner at least fifteen business days before the doing of any act described in paragraph (1) (a) or (b)."*

An insolvent farmer may apply to the administrator appointed under the *Farm Debt Mediation Act* for a stay of proceedings or assistance with mediation. Where an insolvent farmer has applied for and received a stay of proceedings, no action can be taken by the secured creditor. When section 21 has not been complied with, section 22 declares any acts taken by the creditor against the property of the farmer to be null and void.

The logo for the province of Alberta, featuring the word "Alberta" in a stylized, cursive font with a small square symbol at the end.

The *Farm Debt Mediation Act* has been the subject of considerable litigation much of which is highly dependent on the specific factual circumstances of the particular case. Accordingly, municipalities are strongly encouraged to consult with their legal counsel regarding the application of the *Farm Debt Mediation Act* and especially prior to taking any action that may involve the property of a farmer and require notice under section 21 of that Act.

Information may also be obtained by contacting the following:

Regional Office responsible for Saskatchewan, Manitoba, British Columbia, Alberta, Nunavut, Northwest Territories and Yukon Territories

Agriculture and Agri-Food Canada
Farm Debt Mediation Service
301-2010 12th Avenue
Regina, SK S4P 0M3

Toll Free Number: 1-866-452-5556

Telephone: 306-780-5544

TDD/TTY: 613-773-2600

Fax: 306-780-7353

The *Farm Debt Mediation Act* can be viewed at <http://laws-lois.justice.gc.ca/eng/acts/F-2.27/page-1.html>.