

State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

400Z0407

SENATE BILL NO. 33

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
Department of Agriculture

1 FOR AN ACT ENTITLED, An Act to repeal certain mediation programs regarding damages
2 from oil and gas development and disputes over drainage of water.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 54-13-1 be amended to read:

5 54-13-1. Terms used in this chapter mean:

- 6 (1) "Agricultural land," a parcel of land larger than forty acres not located in any
7 municipality and used in farming or ranching operations carried on by the owner or
8 operator within the preceding three- year period for the production of farm products
9 as defined in subdivision 57A-9-102(a)(34) and includes wasteland lying within or
10 contiguous to and in common ownership with land used in farming or ranching
11 operations for the production of farming or ranching products;
- 12 (2) "Ag finance counselor," a person who is trained to assist in agricultural credit
13 matters;
- 14 (3) "Agricultural property," agricultural land or personal property or a combination
15 thereof used in the pursuit of, or arising out of, or related to, the occupation of



- 1 farming or ranching;
- 2 (4) "Borrower," an individual, corporation, trust, cooperative, joint venture, or any other
- 3 entity entitled to contract who is engaged in farming or ranching and who derives
- 4 more than sixty percent of total gross income from farming or ranching and who has
- 5 been extended agricultural credit;
- 6 (5) "Creditor," any individual, organization, cooperative, partnership, trust, or state or
- 7 federally chartered corporation to whom is owed agricultural debt by a borrower;
- 8 (6) "Federal land mediation," a process by which individuals or organizations seek to
- 9 resolve disputes with federal land management agencies;
- 10 (7) "Agricultural credit mediation," a process by which creditors and borrowers present,
- 11 discuss, and explore practical and realistic alternatives to the resolution of a
- 12 borrower's debts;
- 13 (8) "Mediator," anyone responsible for and engaged in the performance of mediation
- 14 pursuant to this chapter, who is trained and certified by the Department of
- 15 Agriculture;
- 16 ~~(9) "Oil and gas mediation," a process by which individuals or organizations seek to~~
- 17 ~~resolve disputes with oil and gas developers related to surface damages.~~

18 Section 2. That § 54-13-2 be amended to read:

19 54-13-2. The Department of Agriculture shall administer an agricultural mediation program
20 to:

- 21 (1) Provide mediation to borrowers and creditors seeking to resolve credit disputes; and
- 22 (2) Provide federal land mediation to individuals or organizations seeking to mediate
- 23 disputes with federal land management agencies concerning decisions made by those
- 24 federal agencies; ~~and~~

1 ~~—(3)— Provide oil and gas mediation to individuals or organizations seeking to mediate~~
2 ~~disputes over surface damages related to oil or gas development.~~

3 The secretary of the Department of Agriculture shall promulgate rules, pursuant to chapter
4 1-26, necessary for mediation, ~~federal land mediation, and oil and gas mediation~~ including the
5 establishment of fees, training requirements for mediators and ag finance counselors and their
6 certification, mediation request forms, and any other mediation procedures as may be necessary
7 for the prompt and expeditious mediation of agriculture related disputes, including the receipt
8 of funds pursuant to the Agricultural Credit Act of 1987, as of January 1, 2015.

9 The agricultural mediation program may not, as a condition to mediation, require that any
10 party waive any respective legal or equitable remedies or rights.

11 Section 3. That § 46A-11A-1 be repealed.

12 ~~—46A-11A-1. The Department of Agriculture shall establish and administer a statewide~~
13 ~~mediation program to provide assistance to property owners who seek to use mediation as a~~
14 ~~method to resolve disputes over the surface or subsurface drainage of water.~~

15 ~~—The secretary of the Department of Agriculture shall promulgate rules pursuant to chapter~~
16 ~~1-26 necessary for mediation, including the establishment of fees, training requirements for~~
17 ~~mediators, mediation request forms, mediation timeline, notification and intervention~~
18 ~~procedures, and any other mediation procedures as may be necessary for the mediation of~~
19 ~~drainage disputes. The parties to the mediation created under this chapter shall be limited to the~~
20 ~~person or parties that own or administer real property impacted by the planned drainage or~~
21 ~~drainage dispute.~~

22 Section 4. That §§ 46A-11A-2 to 46A-11A-9, inclusive, be repealed.