

10 October 2017

Senator Malcolm Roberts
The Senate
Select Committee on Lending to Primary Production Customers

Via email: primaryproductionlending.sen@aph.gov.au

Dear Senator Roberts

I refer to your correspondence dated 5 October 2017 seeking further information on what happens if a farmer requests mediation, but the creditor declines to mediate.

The Farm Business Debt Mediation Program is enabled under the *Farm Business Debt Mediation Act 2017* (Qld) (the Act)¹ which refers to a creditor as the mortgagee under the farm mortgage that secures the farm business debt.

A farmer may request mediation² for a farm business debt by giving a notice, not necessarily in the approved form, to a mortgagee. The mortgagee on receiving the notice may then either agree or refuse the request for mediation³.

If the farmer requesting mediation is not in default under the farm mortgage and the mortgagee refuses the mediation, there are no consequences under the Act. However, if the farmer requesting mediation is in default under the farm mortgage, the mortgagee's refusal may be grounds for the farmer to apply for an enforcement action suspension certificate⁴. This stops the mortgagee taking enforcement action under the farm mortgage.

In deciding an application⁵, the Queensland Rural and Industry Development Authority (QRIDA) considers the farmer's application and all representations made by the mortgagee. The grounds usually considered for approving a suspension certificate are:

- (a) the farmer is in default under the farm mortgage; and
- (b) the farmer has given the mortgagee a request for mediation notice; and
- (c) an exemption certificate is not in force for the farm mortgage; and
- (d) the mortgagee has failed to, and does not intend to, mediate in relation to the farm mortgage.

If a suspension certificate is approved, both parties to mediation are provided a notice for the decision which the mortgagee can then apply for an internal review of the original decision. Hence, approval is not effective⁶ until any application for an internal review of the original decision is made or at the expiry of the timeframe for a request for an internal review.

¹ *Farm Business Debt Mediation Act 2017* (QLD) - Section 8 – Particular references

² *Farm Business Debt Mediation Act 2017* (QLD) - Section 15 - Asking for mediation

³ *Farm Business Debt Mediation Act 2017* (QLD) - Section 16 - Agreeing to or refusing mediation

⁴ *Farm Business Debt Mediation Act 2017* (QLD) - Section 40 - Suspending enforcement action

⁵ *Farm Business Debt Mediation Act 2017* (QLD) - Section 43 - Deciding application

⁶ *Farm Business Debt Mediation Act 2017* (QLD) - Section 77 – When original decision takes effect

If an enforcement action suspension certificate is issued under the above circumstances, it remains in force for six (6) months⁷ after the mortgagee gave the farmer a notice refusing the mediation.

Further information relating to the program is available at www.qrida.qld.gov.au/fbdm.

I hope this response meets your requirements.

Yours sincerely

John Simpson
Manager, Farm Business Debt Mediation

⁷ *Farm Business Debt Mediation Act 2017* (QLD) - Section 47 - Duration