



Province of Alberta

## FARM CREDIT STABILITY ACT

# FARM CREDIT STABILITY FUND REGULATION

### **Alberta Regulation 339/1986**

With amendments up to and including Alberta Regulation 62/2013

### Office Consolidation

© Published by Alberta Queen's Printer

Alberta Queen's Printer  
7<sup>th</sup> Floor, Park Plaza  
10611 - 98 Avenue  
Edmonton, AB T5K 2P7  
Phone: 780-427-4952  
Fax: 780-452-0668

E-mail: [qp@gov.ab.ca](mailto:qp@gov.ab.ca)  
Shop on-line at [www.qp.alberta.ca](http://www.qp.alberta.ca)

### **Copyright and Permission Statement**

Alberta Queen's Printer holds copyright on behalf of the Government of Alberta in right of Her Majesty the Queen for all Government of Alberta legislation. Alberta Queen's Printer permits any person to reproduce Alberta's statutes and regulations without seeking permission and without charge, provided due diligence is exercised to ensure the accuracy of the materials produced, and Crown copyright is acknowledged in the following format:

© Alberta Queen's Printer, 20\_\_.\*

\*The year of first publication of the legal materials is to be completed.

### **Note**

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

(Consolidated up to 62/2013)

**ALBERTA REGULATION 339/86**

**Farm Credit Stability Act**

**FARM CREDIT STABILITY FUND REGULATION**

*Table of Contents*

- 1 Definitions
- 2 Eligible loans
- 3 Applicants
- 4 Qualifications of applicant
- 5 Purposes of loan
- 6 Loan limits
- 7 Terms and conditions
- 8 Agreements
- 9 Guarantees
- 10 Collection of loans
- 11 Claim for loss
- 12 Program limit
- 13 Coming into force

Schedule

**Definitions**

**1** In this Regulation,

- (a) “Act” means the *Farm Credit Stability Fund Act*;
- (b) “Category A loan” means an eligible loan referred to in section 5(1)(a) and (a.1) all of the proceeds of which are to be used for the refinancing or consolidation of existing debt owed to the same lending institution that is making the eligible loan;
- (c) “Category B loan” means an eligible loan referred to in section 5(1)(a) and (a.1) all of the proceeds of which are to be used for the refinancing or consolidation of existing debt owed to a creditor other than the lending institution that is making the eligible loan;
- (d) “Category C loan” means an eligible loan referred to in section 5(1)(b) or (c);

- (e) “eligible loan” means a loan that is certified by the Minister under section 2;
- (f) “farm household” means the applicant and
  - (i) the applicant’s spouse, including an adult interdependent partner, and
  - (ii) the applicant’s dependent children, if any, under 18 years of age,  
  
but does not include a spouse who, at the time of application,
  - (iii) is living apart from the applicant pursuant to a court order or a legally enforceable separation agreement, or
  - (iv) has been living apart from the applicant for at least 6 months other than pursuant to a court order or legally enforceable separation agreement;
- (g) “Minister” means the Minister of Agriculture and Rural Development.

AR 339/86 s1;169/88;236/89;109/2003;35/2007;68/2008

### **Eligible loans**

**2(1)** The Minister may certify a loan made or to be made by the lending institution to be an eligible loan by issuing to the lending institution an Alberta Verification Number in respect of the loan.

**(2)** The Minister may delegate to any employee of the Government the power to certify loans under subsection (1).

AR 339/86 s2

### **Applicants**

**3** An individual, a partnership or a corporation may apply for an eligible loan.

AR 339/86 s3

### **Qualifications of applicant**

**4(1)** An applicant for an eligible loan shall establish to the satisfaction of the Minister that, after the loan is made,

- (a) he will be a primary producer of agricultural products,
- (b) he will hold leasehold or freehold farm land in Alberta, and

- (c) he will be actively and directly carrying on a farming operation with a reasonable expectation of profit.

**(2)** An applicant who is an individual shall, in addition to the requirements of subsection (1), establish to the satisfaction of the Minister that he is

- (a) a Canadian citizen or a permanent resident within the meaning of the *Immigration Act, 1976* (Canada), and
- (b) ordinarily resident in Alberta.

**(3)** An applicant that is a partnership shall, in addition to the requirements of subsection (1), establish to the satisfaction of the Minister that

- (a) its farming operations are directed and managed in Alberta, and
- (b) the partners who hold in the aggregate
  - (i) at least 2/3 of the votes attaching to units of the partnership, and
  - (ii) the right to at least 2/3 of the net assets of the partnership on dissolution

meet the requirements of subsections (1)(a) and (c) and (2).

**(4)** An applicant that is a corporation shall, in addition to the requirements of subsection (1), establish to the satisfaction of the Minister that

- (a) its farming operations are directed and managed in Alberta,
- (b) the voting shares of the corporation, including shares carrying the right to vote only on the occurrence of a certain event, to which are attached at least 2/3 of the total votes attached to all voting shares of the corporation, are beneficially held by individuals who meet the requirements of subsections (1)(a) and (c) and (2), and
- (c) the shares carrying the right to at least a 2/3 share in the net assets of the corporation on dissolution are beneficially held by individuals who meet the requirements of subsections (1)(a) and (c) and (2).

AR 339/86 s4

**Purposes of loan**

**5(1)** A loan qualifies as an eligible loan if the proceeds of the loan will be used

- (a) to refinance or consolidate existing debt, other than an operating line of credit, including interest and principal in arrears, that was incurred on or before August 5, 1986 in respect of the farming operations to which the application relates,
- (a.1) to refinance or consolidate existing debt in the form of an operating line of credit, including interest and principal in arrears, that relates to the farming operations to which the application relates and that existed on August 5, 1986,
- (b) to
  - (i) acquire land or make permanent improvements to land,
  - (ii) acquire, construct or make permanent improvements to farm buildings,
  - (iii) acquire, construct or make permanent improvements to fixed machinery or equipment,
  - (iv) acquire livestock, excluding poultry, for breeding purposes,
  - (v) acquire farm machinery or farm implements,
  - (vi) acquire a quota under the *Dairy Board Act* and the regulations under that Act, or
  - (vii) acquire a quota under the *Marketing of Agricultural Products Act* and the regulations under that Actfor the purposes of the farming operation to which the application relates, or
- (c) to refinance or consolidate existing debt, including principal and interest in arrears, that
  - (i) was incurred after August 5, 1986, and
  - (ii) was incurred for any of the purposes referred to in clause (b),

and the loan is made with a view to enhancing or maintaining income from the farming operation to which the application relates.

**(1.1)** Subject to section 6, the maximum amount of an eligible loan under subsection (1)(a.1) shall be calculated in accordance with the following:

- (a) in the case of an eligible loan made before July 1, 1988, the aggregate of that loan and all previous loans to the applicant under subsection (1)(a.1) shall not exceed the outstanding balance of the operating line of credit, including principal and interest in arrears, on August 5, 1986;
- (b) in the case of an eligible loan made on or after July 1, 1988, the maximum amount of that loan shall not exceed the lesser of
  - (i) the outstanding balance of the operating line of credit, including the principal and interest in arrears, on the date of execution of the application by the applicant, and
  - (ii) the outstanding balance of the operating line of credit, including the principal and interest in arrears, on August 5, 1986,

and the aggregate of that loan and all previous loans to the applicant under subsection (1)(a.1) shall not exceed the outstanding balance of the operating line of credit, including the principal and interest on arrears, on August 5, 1986.

**(2)** A loan does not qualify as an eligible loan if it is made for any of the following purposes:

- (a) to construct or improve a residential building or a mobile home;
- (b) to acquire a residential building, including a mobile home, except where the building is attached to land that is being acquired under the loan to carry on a farming operation with a reasonable expectation of profit;
- (c) to acquire a private passenger vehicle or recreational vehicle, or a truck that is rated as 3/4 ton or smaller;
- (d) to refinance a loan
  - (i) from a shareholder of an applicant corporation to the applicant corporation, or
  - (ii) from a partner in an applicant partnership to the applicant partnership.

AR 339/86 s5;47/87;169/88;179/89

**Loan limits**

**6(1)** Subject to this section a loan qualifies as an eligible loan only if,

- (a) in a case where only 1 farm household is actively involved in the farming operation, the loan, if made, together with the aggregate of
  - (i) the original principal amounts of eligible loans that were previously made to the farm household,
  - (ii) that portion of the original principal amounts of any eligible loans previously made to a partnership or corporation that is attributable to the farm household,
  - (iii) the outstanding balance on the amount of any loans previously made to the farm household by the Alberta Agricultural Development Corporation, and
  - (iv) the outstanding balance on that portion of any loans previously made to a partnership or corporation by the Alberta Agricultural Development Corporation that is attributable to the farm household

would not exceed \$250 000, or

- (b) in a case where more than 1 farm household is actively involved in the farming operation through a partnership, corporation or communal arrangement,
  - (i) the portion of the loan attributable to any of the farm households plus the aggregate of
    - (A) the original principal amounts of eligible loans that were previously made to that farm household,
    - (B) that portion of the original principal amounts of any eligible loans previously made to the partnership or corporation, or any other partnership or corporation, that is attributable to that farm household,
    - (C) the outstanding balance on the amount of any loans previously made to that farm household by the Alberta Agricultural Development Corporation, and
    - (D) the outstanding balance on that portion of any loans previously made to the partnership or corporation, or any other partnership or

corporation, by the Alberta Agricultural Development Corporation that is attributable to that farm household

would not exceed \$250 000,

(ii) the portion of the loan attributable to any of the farm households plus the aggregate of that portion of

(A) the original principal amounts of eligible loans, and

(B) the outstanding balance of loans by the Alberta Agricultural Development Corporation

previously made to the partnership or corporation that is attributable to any of the farm households does not exceed the value of that farm household's interest in the gross assets of the partnership or corporation, and

(iii) the amount of the loan plus the aggregate of

(A) the original principal amounts of eligible loans that were previously made in respect of that farming operation, and

(B) the outstanding balance of loans previously made in respect of that farming operation by the Alberta Agricultural Development Corporation

would not exceed the lesser of the value of the gross assets of the partnership or corporation and \$750 000.

**(1.1)** The outstanding balance of direct loans by the Alberta Agricultural Development Corporation in the form of disaster assistance loans shall not be included in the calculation of the outstanding balance of loans made by the Corporation for the purposes of subsection (1).

**(2)** In determining whether a loan qualifies as an eligible loan under subsection (1), no regard shall be taken of clauses (a)(iii) or (iv), (b)(i)(C) or (D), (b)(ii)(B) or (b)(iii)(B) of that subsection, as the case may be, to the extent that the purpose of the eligible loan is to refinance or consolidate the loan or portion of the loan from the Alberta Agricultural Development Corporation.

**(2.1)** Where the person to whom a loan was made under the Act dies, subsection (1) does not apply to

(a) the assumption of that loan by, or

- (b) a new loan to

another person, where

- (c) that other person acquires the assets to which the loan relates by operation of law resulting from the death of the person to whom the loan was made, and
- (d) the purpose of the assumption or the new loan is to continue or transfer to that other person the benefit of the loan made under the Act.

**(2.2)** Subsection (1) does not apply to the assumption of a loan made under the Act or to a new loan made under the Act where the purpose of the assumption or new loan is to continue or transfer to another person the benefit of a loan made under the Act, and the assumption or new loan occurs after the applicable date referred to in section 14(2) of the Act.

**(2.3)** Where a loan made under the Act is assumed or a new loan is made under the Act and the purpose of the assumption or new loan is to continue or transfer to another person the benefit of a loan made under the Act, if

- (a) the assumption or new loan occurs after June 30, 1989 and before the applicable date referred to in section 14(2) of the Act, and
- (b) the Minister is satisfied that by not later than April 13, 1989 a binding agreement existed, or substantial steps had been taken towards a binding agreement, providing for the assumption or new loan,

the references in subsection (1) to \$250 000 and \$750 000 shall be read as \$400 000 and \$1 200 000 respectively.

**(3)** The calculation of the portion of a loan that is attributable to a farm household and the calculation of value of gross assets for the purposes of subsection (1) shall be made in a manner acceptable to the Minister.

AR 339/86 s6;169/88;62/89;179/89;236/89;109/2003

### **Terms and conditions**

**7(1)** An eligible loan is subject to the following terms and conditions:

- (a) the interest payable shall be at an effective annual rate of 9% calculated annually;
- (b) interest on any amount in arrears, except on that portion of principal due as a result of acceleration of the repayment

of the loan shall be payable at an annual rate not exceeding the greater of

- (i) 9%, and
  - (ii) the prime rate of the lending institution from time to time plus 2%;
- (c) the term of the loan shall be 20 years unless the borrower declares that a shorter term would be advantageous to him and requests a shorter term, but in no case shall the term be less than 10 years;
- (d) the loan shall be repayable in monthly, quarterly, semi-annual or annual installments;
- (e) the loan shall be repayable by
- (i) equal blended payments of principal and interest on each payment date over the term of the loan, or
  - (ii) equal payments of principal payable at least once annually, with interest payments on the declining principal balance over the term of the loan;
- (f) no penalty or fee for prepayment of any or all of the principal under the loan is chargeable by the lending institution.

(2) Subject to subsection (1) and to the agreement between the President of Treasury Board and Minister of Finance and a lending institution, the terms of repayment of an eligible loan may be amended during the term of the loan.

AR 339/86 s7;27/2002;68/2008;31/2012;62/2013

### **Agreements**

**8** An agreement between the President of Treasury Board and Minister of Finance and a lending institution

- (a) shall contain terms and conditions respecting
    - (i) a borrower's ability to repay an eligible loan, and
    - (ii) the security to be taken by the lending institution on the eligible loan,
- and
- (b) may contain any other terms and conditions respecting the making and repayment and the guarantee of eligible loans

that the President of Treasury Board and Minister of Finance considers appropriate.

AR 339/86 s8;27/2002;68/2008;31/2012;62/2013

### **Guarantees**

**9(1)** Subject to this Regulation and to the terms of any agreement between the President of Treasury Board and Minister of Finance and a lending institution, the President of Treasury Board and Minister of Finance may guarantee eligible loans on behalf of the Government.

**(2)** A guarantee may be executed by the President of Treasury Board and Minister of Finance, the Deputy Minister of Treasury Board and Finance or any employee who is authorized for that purpose by the President of Treasury Board and Minister of Finance.

AR 339/86 s9;27/2002;68/2008;31/2012;62/2013

### **Collection of loans**

**10** A lending institution shall, in accordance with its prudent banking practice, take all reasonable steps to collect eligible loans, including

- (a) reasonable realization of security, and
- (b) where appropriate, legal action to recover any deficiency

before submitting a claim for loss to the President of Treasury Board and Minister of Finance.

AR 339/86 s10;169/88;27/2002;68/2008;31/2012;62/2013

### **Claim for loss**

**11(1)** A claim for loss in respect of a guarantee may be made for

- (a) the unpaid principal amount of the eligible loan,
- (b) the uncollected earned interest until the claim is paid,
- (c) legal fees and disbursements incurred by the lending institution in the collection process, and
- (d) any other necessary disbursements incurred by the lending institution in collecting or endeavouring to collect an eligible loan or in protecting the interests of the Crown and the lending institution,

less any amount recovered by any means referred to in section 10.

(2) Where a claim for loss is submitted, the President of Treasury Board and Minister of Finance shall pay the loss on the eligible loan up to a maximum amount calculated in accordance with the Schedule.

(3) If

- (a) a borrower under an eligible loan provides to the lending institution false or misleading information in connection with the application and the correct information would have rendered the borrower ineligible for the loan, and
- (b) the lending institution on the request of the Minister demands repayment in full of the loan,

notwithstanding subsection (2), 100% of the loss is payable under the guarantee unless the President of Treasury Board and Minister of Finance determines that, at any time prior to making the final advance under the loan, the lending institution was aware of the false or misleading information, in which case the guarantee extends only to that portion of the loan that was advanced before the date on which the lending institution became aware of the false or misleading information.

AR 339/86 s11;47/87;27/2002;68/2008;31/2012;62/2013

#### Program limit

**12** The amount prescribed for the purposes of section 14 of the Act is \$2 500 000 000.

AR 339/86 s12;179/89

#### Coming into force

**13** This Regulation is deemed to have come into force on August 6, 1986.

AR 339/86 s13

#### Schedule

Year in which demand for repayment in full is made of borrower	Category A loan	Category B loan	Category C loan
Year 1	0%	30%	30%
Year 2	20%	50%	40%
Year 3	40%	70%	50%
Year 4	60%	80%	50%

Year 5 and subsequent years	80%	80%	50%
--------------------------------	-----	-----	-----

**NOTE:** The amount payable under the guarantee is the amount obtained by multiplying the applicable percentage rate for the year in which demand for repayment in full is made of the borrower times the original principal amount of the eligible loan. For the purposes of determining the year in which demand for repayment is made, time runs from the date of the final advance or the most recent advance before the date of demand for repayment.

AR 339/86 Sched.





Printed on Recycled Paper 