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### § 5101. Qualifying States

#### (a) In general

A State is a qualifying State if the Secretary of Agriculture (hereinafter in this chapter referred to as the “Secretary”) determines that the State has in effect a mediation program that meets the requirements of subsection (c).

#### (b) Determination by Secretary

Within 15 days after the Secretary receives from the Governor of a State a description of the mediation program of the State and a statement certifying that the State has met all of the requirements of subsection (c), the Secretary shall determine whether the State is a qualifying State.

#### (c) Requirements of State mediation programs

##### (1) Issues covered

###### (A) In general

To be certified as a qualifying State, the mediation program of the State must provide mediation services to persons described in paragraph (2) that are involved in agricultural loans (regardless of whether the loans are made or guaranteed by the Secretary or made by a third party).

###### (B) Other issues

The mediation program of a qualifying State may provide mediation services to persons described in paragraph (2) that are involved in one or more of the following issues:

- (i) Wetlands determinations.
- (ii) Compliance with farm programs, including conservation programs and the national organic program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).
- (iii) Agricultural credit.
- (iv) Rural water loan programs.
- (v) Grazing on National Forest System land.
- (vi) Pesticides.
- (vii) Lease issues, including land leases and equipment leases.
- (viii) Family farm transition.
- (ix) Farmer-neighbor disputes.
- (x) Such other issues as the Secretary or the head of the department of agriculture of each participating State considers appropriate for better serving the agricultural community and persons eligible for mediation.

###### (C) Mediation services

Funding provided for the mediation program of a qualifying State may also be used to provide credit counseling to persons described in paragraph (2)—

- (i) prior to the initiation of any mediation involving the Department of Agriculture; or
- (ii) unrelated to any ongoing dispute or mediation in which the Department of Agriculture is a party.

#### (2) Persons eligible for mediation

##### (A) In general

Subject to subparagraph (B), the persons referred to in paragraph (1) include—

- (i) agricultural producers;
- (ii) creditors of producers (as applicable);
- (iii) persons directly affected by actions of the Department of Agriculture; and
- (iv) any other persons involved in an issue for which mediation services are provided by a mediation program described in paragraph (1)(B).

##### (B) Voluntary participation

###### (i) In general

Subject to clause (ii) and section 5103 of this title, a person may not be compelled to participate in mediation services provided under this Act.

###### (ii) State laws

Clause (i) shall not affect a State law requiring mediation before foreclosure on agricultural land or property.

##### (3) Certification conditions

The Secretary shall certify a State as a qualifying State with respect to the issues proposed to be covered by the mediation program of the State if the mediation program—

- (A) provides for mediation services that, if decisions are reached, result in mediated, mutually agreeable decisions between the parties to the mediation;
- (B) is authorized or administered by an agency of the State government or by the Governor of the State;
- (C) provides for the training of mediators;
- (D) provides that the mediation sessions shall be confidential;
- (E) ensures, in the case of agricultural loans, that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program; and
- (F) ensures, in the case of other issues covered by the mediation program, that—
  - (i) the Department of Agriculture receives adequate notification of those issues; and
  - (ii) persons directly affected by actions of the Department of Agriculture receive adequate notification of the mediation program.

##### (d) Definition of mediation services

In this section, the term “mediation services”, with respect to mediation or a request for mediation, may include all activities related to—

- (1) the intake and scheduling of cases;
- (2) the provision of background and selected information regarding the mediation process;
- (3) financial advisory and counseling services (as appropriate) performed by a person other than a State mediation program mediator; and
- (4) the mediation session.

(Pub. L. 100-233, title V, §501, Jan. 6, 1988, 101 Stat. 1662; Pub. L. 100-399, title V, §501, Aug. 17, 1988, 102 Stat. 1005; Pub. L. 103-354, title II, §282(a), Oct. 13, 1994, 108 Stat. 3233; Pub. L. 106-472, title III, §306(a), Nov. 9, 2000, 114 Stat.

2072; Pub. L. 115-334, title V, §5402(a), Dec. 20, 2018, 132 Stat. 4674.)

### Editorial Notes

#### REFERENCES IN TEXT

The Organic Foods Production Act of 1990, referred to in subsec. (c)(1)(B)(ii), is title XXI of Pub. L. 101-624, Nov. 28, 1990, 104 Stat. 3935, which is classified generally to chapter 94 (§6501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6501 of this title and Tables.

This Act, referred to in subsec. (c)(2)(B)(i), is Pub. L. 100-233, Jan. 6, 1988, 101 Stat. 1568, known as the Agricultural Credit Act of 1987. Provisions relating to mediation services are contained in title V of the Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

2018—Subsec. (c)(1)(B). Pub. L. 115-334, §5402(a)(1)(A)(i), struck out “under the jurisdiction of the Department of Agriculture” after “the following issues” in introductory provisions.

Subsec. (c)(1)(B)(ii). Pub. L. 115-334, §5402(a)(1)(A)(ii), inserted “and the national organic program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.)” before period at end.

Subsec. (c)(1)(B)(vii) to (x). Pub. L. 115-334, §5402(a)(1)(A)(iii), added cls. (vii) to (x) and struck out former cl. (vii) which read as follows: “Such other issues as the Secretary considers appropriate.”

Subsec. (c)(1)(C). Pub. L. 115-334, §5402(a)(1)(B), added subpar. (C).

Subsec. (c)(2)(A)(iv). Pub. L. 115-334, §5402(a)(2), added cl. (iv).

Subsec. (c)(3)(F). Pub. L. 115-334, §5402(a)(3), inserted dash after “program, that” and cl. (ii) designation before “persons” and added cl. (i).

2000—Subsec. (c)(1), (2). Pub. L. 106-472, §306(a)(1), added pars. (1) and (2) and struck out former pars. (1) and (2), which required State mediation program to provide services for producers, their creditors, and other persons involved in agricultural loans, or involved in agricultural loans and such issues as wetlands determinations, compliance with farm programs, agricultural credit, rural water loan programs, grazing on National Forest System lands, pesticides, or such other issues considered appropriate.

Subsec. (d). Pub. L. 106-472, §306(a)(2), added subsec. (d).

1994—Subsec. (a). Pub. L. 103-354, §282(a)(1), substituted “a mediation program” for “an agricultural loan mediation program”.

Subsec. (b). Pub. L. 103-354, §282(a)(2), struck out “agricultural loan” before “mediation program”.

Subsec. (c). Pub. L. 103-354, §282(a)(3), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: “Within 15 days after the Secretary receives a description of a State agricultural loan mediation program, the Secretary shall certify the State as a qualifying State if the State program—

“(1) provides for mediation services to be provided to producers, and their creditors, that, if decisions are reached, result in mediated, mutually agreeable decisions between parties under an agricultural loan mediation program;

“(2) is authorized or administered by an agency of the State government or by the Governor of the State;

“(3) provides for the training of mediators;

“(4) provides that the mediation sessions shall be confidential; and

“(5) ensures that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program.”

1988—Subsec. (b). Pub. L. 100-399 struck out comma after “Governor of a State”.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-399 effective as if enacted immediately after enactment of Pub. L. 100-233, which was approved Jan. 6, 1988, see section 1001(a) of Pub. L. 100-399, set out as a note under section 2002 of Title 12, Banks and Banking.

#### SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111-233, §1, Aug. 16, 2010, 124 Stat. 2493, provided that: “This Act [amending section 5106 of this title] may be cited as the ‘Agricultural Credit Act of 2010.’”

## § 5102. Matching grants to States

### (a) Matching grants

Within 60 days after the Secretary certifies the State as a qualifying State under section 5101(b) of this title, the Secretary shall provide financial assistance to the State, in accordance with subsection (b), for the operation and administration of the mediation program.

### (b) Amount of grant

#### (1) In general

Subject to paragraph (2), the Secretary shall pay to a State under subsection (a) not more than 70 percent of the cost of the operation and administration of the mediation program within the State.

#### (2) Maximum amount

The Secretary shall not pay more than \$500,000 per year to a single State under subsection (a).

### (c) Use of grant

#### (1) In general

Each State that receives an amount paid under subsection (a) shall use that amount only for the operation and administration of the mediation program of the State with respect to which the amount was paid.

#### (2) Operation and administration expenses

For purposes of paragraph (1), operation and administration expenses for which a grant may be used include—

- (A) salaries;
- (B) reasonable fees and costs of mediators;
- (C) office rent and expenses, such as utilities and equipment rental;
- (D) office supplies;
- (E) administrative costs, such as workers’ compensation, liability insurance, the employer’s share of Social Security, and necessary travel;
- (F) education and training;
- (G) security systems necessary to ensure the confidentiality of mediation sessions and records of mediation sessions;
- (H) costs associated with publicity and promotion of the mediation program;
- (I) preparation of the parties for mediation; and
- (J) financial advisory and counseling services for parties requesting mediation.

### (d) Penalty

If the Secretary determines that a State has not complied with subsection (c), such State