

N.D.A.G. Letter to Sinner (Feb. 24, 1987)

February 24, 1987

Honorable George A. Sinner
Governor of North Dakota
State Capitol
Bismarck, ND 58505

Dear Governor Sinner:

Thank you for your letter dated January 19, 1987, in which you raise two questions concerning the Farm Operating Loan Program established by N.D.C.C. Ch. 6-09.9.

The two questions you raise are as follows:

1. Whether the program may continue beyond June 30, 1987, the date on which the appropriation for the interest rate buydown fund expires and on which funds remaining in the interest rate buydown fund are to be returned to the fire and tornado fund.
2. Whether the Industrial Commission may, before the expiration of the appropriation for the interest rate buydown fund, June 30, 1987, buy down the interest on an operating loan which has a maturity date after the expiration of the appropriation for the interest rate buydown fund. In other words, can the Industrial Commission prepay, prior to June 30, 1987, the interest buydown portion of the interest on the 1987 farm operation loan made under this program?

In response to your first question, it is my opinion that this program may continue beyond June 30, 1987, and that the only portion of the program which does not continue is the appropriation to the interest rate buydown fund. N.D.C.C. § 6-09.9-05(2) provides as follows:

The industrial commission may buydown or reduce the interest paid by a farmer or agribusiness on the Bank's portion of the participation operating loans by up to an additional five percentage points a year below the amount provided in section 6-09.9-03.

It is clear from the use of the word "may" that the Commission is not required to buy down the interest on a loan made under this program even during the current biennium while the appropriation to the interest rate buydown fund is in effect. Therefore, in the absence of any language terminating the program, it is my opinion that the Bank of North Dakota is required to continue to make funds available to purchase participation interests in operating loans under this program.

In response to your second question, it is my opinion that the Commission may buy down the interest due on a loan made under this program which has a maturity date after June 30, 1987, the expiration of the appropriation to the interest rate buydown fund, by prepaying the interest rate buydown portion of the interest on the loan prior to June 30, 1987.

Sincerely,

Nicholas J. Spaeth

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