

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2294 Session of
1984

INTRODUCED BY MANDERINO, RYAN, MORRIS, GRIECO, IRVIS, RUDY, WASS, HONAMAN, PIEVSKY, DeVERTER, HAYES, HOFFEL, BOWSER, LLOYD, JOHNSON, AFFLERBACH, FARGO, FREEMAN, MERRY, PUNT, ITKIN, BURD, DOMBROWSKI, GANNON, TRELLO, KOSINSKI, McHALE, PRATT, MAYERNIK, STEWART, WOZNIAK, CORDISCO, DeLUCA, STEIGHNER, GALLAGHER, KASUNIC, DALEY, COHEN, CESSAR, WAMBACH, PETRARCA, COY, D. R. WRIGHT, NOYE, DORR, RUDY, B. SMITH, HERSHEY, SALOOM, MADIGAN, SEMMEL, WARGO, SIRIANNI, PITTS, BELFANTI, VROON, GRUPPO, STUBAN, DeWEESE, KENNEDY, MURPHY, COLE, SERAFINI, GREENWOOD, COSLETT, SCHULER, GEORGE, STAIRS, WACHOB, MICHLOVIC, COWELL, E. Z. TAYLOR, FEE, CALTAGIRONE, RYBAK, PISTELLA, KUKOVICH, SHOWERS, BALDWIN, CAPPABIANCA, McCALL, PRESTON, BATTISTO, DEAL, RAPPAPORT, OLIVER, SEVENTY, CLARK, DUFFY, MRKONIC, HERMAN, LEVI, KLINGAMAN, MANMILLER, BUNT, SAURMAN, MOWERY, CLYMER, REINARD, TELEK, LEHR AND DAVIES, JUNE 13, 1984

REFERRED TO COMMITTEE ON APPROPRIATIONS, JUNE 13, 1984

AN ACT

1 Providing for agricultural development; establishing the
2 Agricultural Development Advisory Committee and providing for
3 its powers and duties; providing for certain guaranteed loans
4 and interest deferral; providing further duties of the
5 Secretary and Department of Agriculture and the Secretary and
6 Department of Commerce; and making an appropriation.

TABLE OF CONTENTS

7
8 Section 1. Short title.
9 Section 2. Definitions.
10 Section 3. The Agricultural Development Advisory Committee.
11 Section 4. Reports to General Assembly.
12 Section 5. General powers and duties of the secretary.
13 Section 6. Review of applications by the Secretary of

1 Commerce.

2 Section 7. Review of applications by the committee and the

3 secretary.

4 Section 8. Eligibility for interest deferrals and loan

5 guarantees and limitations thereon.

6 Section 9. Sale or conveyance by applicant.

7 Section 10. Rules and regulations.

8 Section 11. Limitation on amount of interest deferrals

9 and loan guarantees.

10 Section 12. Conflict of interest prohibited.

11 Section 13. Appropriation.

12 Section 14. Limitation.

13 Section 15. Effective date.

14 The General Assembly of the Commonwealth of Pennsylvania

15 hereby enacts as follows:

16 Section 1. Short title.

17 This act shall be known and may be cited as the Agricultural

18 Development Act.

19 Section 2. Definitions.

20 The following words and phrases when used in this act shall

21 have the meanings given to them in this section unless the

22 context clearly indicates otherwise:

23 "Agricultural activity" or "farming." The commercial

24 production of agricultural crops, livestock or livestock

25 products, poultry products, milk or dairy products, or fruits

26 and other horticultural products.

27 "Applicant." Any family farm enterprise applying for a

28 family farm loan guarantee or an interest deferral.

29 "Area loan organization." A local development district of

30 the Appalachian Regional Commission, an industrial development

1 corporation organized and existing under the act of May 17, 1956
2 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial
3 Development Authority Act, or any other nonprofit economic
4 development organization certified by the Secretary of
5 Agriculture and the Secretary of Commerce as possessing an
6 acceptable loan review committee, professional staff support and
7 such other qualifications as are necessary to evaluate and
8 administer loan guarantees and interest deferrals made under the
9 provisions of this act.

10 "Committee." The Agricultural Development Advisory
11 Committee.

12 "Department." The Department of Agriculture.

13 "Family farm corporation." A corporation formed for the
14 purpose of farming in which the majority of the voting stock is
15 held by and the majority of the stockholders are natural
16 persons, or the spouses of such persons or other persons related
17 to such persons or spouses and at least one of such majority
18 stockholders is residing on or actively operating or managing
19 the farm and none of the stockholders of which are corporations.

20 "Family farm enterprise." A natural person, family farm
21 corporation or family farm partnership engaged in farming,
22 including the processing and marketing of its agricultural
23 commodities directly, provided that those agricultural
24 commodities are or would be produced on the farm for which
25 financial assistance is sought.

26 "Family farm partnership." A general partnership entered
27 into for the purpose of farming having no more than three
28 unrelated members and having at least one member residing on or
29 actively operating or managing the farm.

30 "Farmland." Land in the Commonwealth that is capable of

1 supporting the commercial production of agricultural crops,
2 livestock or livestock products, poultry products, milk or dairy
3 products, fruit or other horticultural products and land in the
4 Commonwealth on which a family farm enterprise would process or
5 market its agricultural commodities directly, provided that
6 those agricultural commodities are or would be produced on the
7 farm for which financial assistance is sought.

8 "Federal agency." Includes the United States of America, the
9 President of the United States of America and any department or
10 corporation, agency or instrumentality heretofore or hereafter
11 created, designated or established by the United States of
12 America.

13 "Lender." Any bank, savings bank, mutual savings bank,
14 building and loan association and savings and loan association
15 organized under the laws of this Commonwealth or the United
16 States, trust companies, trust companies acting as fiduciaries
17 and other financial institutions subject to the supervision of
18 the Department of Banking; and any foreign or domestic
19 corporation engaged in the business of insurance which is
20 subject to the supervision of the Insurance Commissioner; and
21 any financial institutions operating under the supervision of
22 the Federal farm credit administration. The term shall also mean
23 the seller of the property in cases of seller-sponsored loan or
24 purchase money loan.

25 "Secretary." The Secretary of Agriculture.

26 Section 3. The Agricultural Development Advisory Committee.

27 (a) Establishment.--There is hereby created the Agricultural
28 Development Advisory Committee.

29 (b) Composition.--The committee shall be composed of the
30 following:

1 (1) The Secretary of Agriculture, who will serve as
2 chairman.

3 (2) The chairmen of the Senate and House Agriculture and
4 Rural Affairs Committees or their respective designees.

5 (3) Six members to be appointed by the Secretary of
6 Agriculture as follows:

7 (i) one officer from a commercial lending
8 institution experienced in agricultural financing;

9 (ii) three farmers;

10 (iii) one officer from a farm credit association;

11 and

12 (iv) one agricultural economist.

13 A majority of the committee shall constitute a quorum. In
14 appointing the three farmers to the committee, the Secretary of
15 Agriculture may consider farmers recommended by the Statewide
16 general farm organizations.

17 (c) Appointment, terms and vacancies.--The members of the
18 committee initially appointed by the Secretary of Agriculture
19 and any person appointed by the secretary to fill a vacancy
20 shall serve until June 30, 1987.

21 (d) Staff services.--The Department of Agriculture shall
22 provide staff services for carrying out its powers and duties
23 under this act, including liaison between the committee and
24 lenders, the Department of Agriculture, the Department of
25 Commerce, and other agencies of the Commonwealth whose
26 facilities and services may be useful to the committee in its
27 work.

28 (e) Expenses of committee members.--The members of the
29 committee shall be entitled to no compensation for their
30 services as members, but shall be entitled to reimbursement for

1 all necessary expenses incurred in connection with the
2 performance of their duties as members of the committee.

3 Section 4. Reports to General Assembly.

4 On or before March 1 of each year in which loan guarantees or
5 interest deferrals are outstanding, the secretary shall submit a
6 report to the Secretary of the Senate and the Chief Clerk of the
7 House of Representatives detailing each loan guarantee and
8 interest deferral accepted or rejected by type, amount, interest
9 rate, lending institution, location, dates of application and
10 final decision, type of farm, and acreage of farm. The secretary
11 shall also estimate the amount of farmland preserved and the
12 increase in the amount of farm receipts in the Commonwealth due
13 to this program.

14 Section 5. General powers and duties of the secretary.

15 The secretary may exercise all powers necessary or
16 appropriate to carry out this act, including the following
17 powers, in addition to others herein granted:

18 (1) To review all applications for interest deferrals
19 and loan guarantees under this act.

20 (2) To determine, after consideration of the
21 recommendations of the Secretary of Commerce and the
22 committee, which applications for interest deferrals and loan
23 guarantees should be rejected, which applications should be
24 approved, and which applications should be approved subject
25 to special conditions.

26 (3) To determine, after consideration of the
27 recommendations of the Secretary of Commerce and the
28 committee, the scope and operation of the interest deferral
29 and loan guarantee programs.

30 (4) To conduct examinations and investigations and to

1 hear testimony and take proof, under oath or affirmation, at
2 public or private hearings, on any matter material for its
3 information and necessary to:

4 (i) the determination of an applicant's eligibility
5 to receive an interest deferral or loan guarantee;

6 (ii) the determination of the economic viability of
7 the interest deferral or loan guarantee; and

8 (iii) the power to review the operation of any
9 family farm enterprise that has received an interest
10 deferral or loan guarantee.

11 (5) To issue subpoenas requiring the attendance of
12 witnesses and the production of books and papers pertinent to
13 any hearing before the secretary or the committee.

14 (6) To apply to any court, having jurisdiction of the
15 offense, to have punished for contempt any witness who
16 refuses to obey a subpoena, or who refuses to be sworn or
17 affirmed or to testify, or who is guilty of any contempt
18 after summons to appear.

19 (7) To conduct hearings and to administer oaths, take
20 affidavits and issue subpoenas.

21 (8) To authorize any member or members of the committee
22 to conduct hearings and to administer oaths, take affidavits
23 and issue subpoenas.

24 (9) In determining eligibility for an interest deferral
25 or a loan guarantee, to consult with the committee and staff
26 of any local farm credit association or agricultural
27 stabilization and conservation service office in the area
28 where an applicant resides or where the family farm
29 enterprise is located or proposed to be located.

30 (10) To prescribe the form and manner for the submission

1 of applications for interest deferrals and loan guarantees
2 and the information to be included in those applications.

3 (11) To determine the information to be provided by the
4 applicant, the lender, the Secretary of Commerce and the
5 committee.

6 (12) To do all other acts and things necessary or
7 convenient to carry out the powers granted to him by this act
8 or any other acts.

9 Section 6. Review of applications by the Secretary of Commerce.

10 (a) Form of application.--Prior to recommending the approval
11 or rejection of any interest deferral or loan guarantee
12 authorized by this act, the Secretary of Commerce shall receive
13 from the prospective borrower an application in the form and
14 manner prescribed by the Secretary of Agriculture together with
15 any other information as the Secretary of Agriculture shall
16 require the prospective borrower and the prospective lender to
17 provide.

18 (b) Review of application.--Upon receipt of a properly
19 submitted and documented application, the Secretary of Commerce
20 shall conduct a financial review of the application and
21 recommend approval, approval with special conditions, or
22 rejection of the application on the basis of the following
23 criteria and the eligibility criteria and loan limits prescribed
24 by section 8:

25 (1) The ability of the applicant to meet and satisfy all
26 debt service as it becomes due and payable.

27 (2) The sufficiency of available collateral, including
28 satisfactory lien positions on real and personal property
29 which shall consist of no less than second lien positions on
30 such real and personal property.

1 (3) The relevant criminal and credit history and ratings
2 of the applicant as determined from credit reporting services
3 and other sources.

4 (4) The eligibility of the applicant and the project for
5 the guarantee or interest deferral which is being sought.

6 (5) The capital needs of the applicant.

7 (6) The payment to date of all tax obligations due and
8 owing by the applicant to the Commonwealth or any political
9 subdivision thereof.

10 (c) Transmittal to the Secretary of Agriculture.--Following
11 the review and recommendation, the Secretary of Commerce shall
12 transmit the application and the recommendation on that
13 application to the Secretary of Agriculture together with the
14 rationale for that recommendation and any other information
15 requested by the Secretary of Agriculture.

16 (d) Use of area loan organizations.--In carrying out his
17 duties and responsibilities under this section, the Secretary of
18 Commerce may utilize area loan organizations which have been
19 certified by the Secretary of Agriculture and the Secretary of
20 Commerce. In determining if an area loan organization should be
21 certified for the purposes of this act, the secretaries shall
22 consider, in addition to other relevant factors, the expertise
23 of that area loan organization for the purposes of performing
24 some duties and responsibilities under this section but deny
25 certification for the purpose of performing other duties and
26 responsibilities for which the organization is determined not to
27 have sufficient expertise or personnel.

28 Section 7. Review of applications by the committee and the
29 Secretary of Agriculture.

30 (a) Application form.--Prior to recommending the approval or

1 rejection of any interest deferral or loan guarantee authorized
2 by this act, the committee shall receive from the prospective
3 borrower an application in the form and manner prescribed by the
4 secretary together with any such other information as the
5 secretary shall require the prospective borrower and the
6 prospective lender to provide.

7 (b) Majority required.--The committee shall not recommend
8 the approval of an application for an interest deferral or a
9 loan guarantee unless a majority of the quorum present at a
10 meeting vote in favor of the action.

11 (c) Financial status of borrower.--In determining whether to
12 recommend any interest deferral or loan guarantee in accordance
13 with this act, the committee shall give primary consideration to
14 the borrower's ability to repay and secondary consideration to
15 the security available.

16 (d) Recommendation to secretary.--The committee shall
17 forward its recommendation of the approval or rejection of any
18 interest deferral or loan guarantee to the secretary together
19 with the rationale for the committee's decision, any other
20 information requested by the secretary and any recommendation of
21 special conditions to be placed on an approved interest deferral
22 or loan guarantee.

23 (e) Criteria for committee recommendations.--In determining
24 whether to recommend the approval or rejection of any interest
25 deferral or loan guarantee, the committee shall adhere to the
26 eligibility criteria and loan limits prescribed by section 8.

27 (f) Action by the secretary.--The secretary shall grant an
28 interest deferral or a loan guarantee to an applicant only after
29 consideration of the recommendation of the committee and the
30 recommendation of the Secretary of Commerce and only in

1 accordance with the eligibility criteria and loan limits
2 prescribed by section 8. The secretary may grant an interest
3 deferral or a loan guarantee in a lesser amount and on less
4 favorable terms than recommended by the committee or the
5 Secretary of Commerce and may impose conditions not recommended
6 by the committee or the Secretary of Commerce.

7 Section 8. Eligibility for interest deferrals and loan
8 guarantees and limitations thereon.

9 (a) Eligibility criteria.--To be eligible for an interest
10 deferral or a loan guarantee, an applicant must demonstrate:

11 (1) That he is a resident of the Commonwealth, or that
12 its principal operating or managing members or shareholders
13 in the case of either a family farm partnership or a family
14 farm corporation are Pennsylvania residents or show
15 sufficient evidence that he or they intend to become a
16 resident or residents. If the applicant is a corporation, it
17 must be a Pennsylvania corporation in order to be eligible.

18 (2) That the applicant or the principal operating or
19 managing members or shareholders thereof have sufficient
20 education, training or experience in the type of farming for
21 which he or they wish the interest deferral or loan guarantee
22 and will participate in a farm management program, approved
23 by the secretary, for the duration of the loan on which the
24 interest will be deferred or for the duration of the loan
25 guarantee.

26 (3) That the applicant has been processed by a lender
27 for the loan on which the interest deferral or loan guarantee
28 is sought and that the lender will make and service such
29 loan.

30 (4) That the applicant will use the loan proceeds for

1 the agricultural purposes set forth in the application and
2 that the farmland or family farm enterprise is located in
3 Pennsylvania.

4 (5) That the applicant is credit worthy, based on the
5 applicant's net worth, cash flow projections, and credit
6 rating and on the type of farmland or family farm enterprise
7 involved.

8 (6) That the terms offered by the lender without an
9 interest deferral or loan guarantee are not adequate to
10 permit the applicant to carry out the agricultural purposes
11 for which he is seeking the loan.

12 (7) That the loan guarantee or interest deferral would
13 facilitate the continued operation or transfer of a farm in
14 Pennsylvania which is currently active, would help the
15 applicant to replace all or part of its production with
16 production of a commodity or commodities for which there is
17 more likely to be an adequate market, or would help the
18 family farm enterprise to process or market directly a
19 commodity or commodities produced on the farm for which
20 financial assistance is sought.

21 (b) Loan limit for acquiring farmland and farm structures.--
22 The secretary may guarantee a loan or loans not to exceed the
23 lesser of 90% of the amount of the loan or loans or \$200,000 for
24 each family farm enterprise for a term not to exceed 20 years if
25 the loan is guaranteed for the purpose of acquiring farmland,
26 farm structures or a combination thereof.

27 (c) Loan limit for acquiring equipment, livestock and other
28 capital assets.--The secretary may guarantee a loan or loans not
29 to exceed the lesser of 90% of the amount of the loan or loans
30 or \$150,000 for each family farm enterprise for a term not to

1 exceed seven years if the loan guaranteed is for the purchase of
2 capital assets, such as, but not limited to, equipment or
3 livestock and horticultural assets.

4 (d) Loan limit for acquiring noncapital assets.--The
5 secretary may guarantee a loan or loans not to exceed the lesser
6 of 90% of the amount of the loan or loans or \$50,000 for each
7 family farm enterprise for a term not to exceed one year if the
8 loan guaranteed is for the purchase of fertilizer, seed,
9 livestock feed or other supplies normally used for agricultural
10 activity or farming.

11 (e) Interest deferrals.--The secretary may make the interest
12 payments for an applicant for up to the first three years of a
13 loan if the loan is guaranteed in accordance with this section
14 or is in the amount and for the purposes for which a loan may be
15 guaranteed in accordance with this section. The secretary shall
16 prescribe the period during which, and the terms under which,
17 the applicant shall reimburse the Commonwealth for the interest
18 which the secretary paid to the lender on the applicant's behalf
19 and the security which the applicant must provide to assure
20 reimbursement to the Commonwealth.

21 Section 9. Sale or conveyance by applicant.

22 (a) Obligation due on sale.--Any applicant who sells or
23 conveys the property for which an interest deferral or loan
24 guarantee was granted shall immediately return the entire
25 indebtedness still owed to the Commonwealth or to the lender, if
26 any. The new owner may negotiate an interest deferral or loan
27 guarantee in his own right, but under no circumstances may the
28 original loan be assumed by the new owner. This subsection is
29 not intended to prohibit an applicant from granting a security
30 interest in the property for the purposes of securing an

1 additional loan.

2 (b) Default.--Any applicant who fails to maintain the land
3 covered by an interest deferral or a loan guarantee for a period
4 of time longer than one year shall be in default. Such a default
5 may be waived by the secretary, after consultation with the
6 committee and the Secretary of Commerce, in the event of a
7 physical disability or other extenuating circumstances.

8 Section 10. Rules and regulations.

9 The secretary may, in the manner provided by law, promulgate
10 the rules and regulations and forms necessary to carry out this
11 act.

12 Section 11. Limitation on amount of interest deferrals and
13 loan guarantees.

14 The sum of all outstanding interest deferrals and loan
15 guarantees at any time shall not exceed the amount of money
16 appropriated for such purposes. Under no circumstances shall the
17 the Secretary of Agriculture, the Secretary of Commerce or the
18 committee have power to pledge the credit or taxing power of the
19 Commonwealth.

20 Section 12. Conflict of interest prohibited.

21 No member of the committee or officer or employee of the
22 Department of Agriculture or the Department of Commerce or
23 member or employee of an area loan organization shall either
24 directly or indirectly be a party to or be in any manner
25 interested in any contract or agreement under this act for any
26 matter, cause or thing whatsoever by reason whereof any
27 liability or indebtedness shall in any way be created against
28 the Commonwealth, provided that nothing herein shall prohibit a
29 commercial lending institution or a farm credit association from
30 either directly or indirectly being a party to or being in any

1 manner interested in any such contract or agreement if one of
2 its officers is a member of the committee as long as such
3 officer declares his conflict of interest and refrains from
4 participating in any deliberation or vote on, or other action
5 regarding, such contract or agreement. If any contract or
6 agreement shall be made in violation of this section, the same
7 shall be null and void and no action shall be maintained thereon
8 against the Commonwealth.

9 Section 13. Appropriation.

10 The sum of \$10,000,000 is hereby appropriated from the
11 Pennsylvania Economic Revitalization Fund for the purposes set
12 forth in this act. The appropriation made hereby shall be a
13 continuing appropriation.

14 Section 14. Limitation.

15 No loan guarantees or interest deferrals pursuant to this act
16 shall be approved after June 30, 1987.

17 Section 15. Effective date.

18 This act shall take effect immediately.