

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

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 18, 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.

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15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Short title.

18 This act shall be known and may be cited as the Agricultural
19 Development Act.

20 Section 2. Definitions.

21 The following words and phrases when used in this act shall
22 have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

24 "Agricultural activity" or "farming." The commercial
25 production of agricultural crops, livestock or livestock
26 products, poultry products, milk or dairy products, or fruits
27 and other horticultural products.

28 "Applicant." Any family farm enterprise applying for a
29 family farm loan guarantee or an interest deferral.

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

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

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

13 "Department." The Department of Agriculture.

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

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

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

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

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

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

26 "Secretary." The Secretary of Agriculture.

27 Section 3. The Agricultural Development Advisory Committee.

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

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

1 following:

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

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

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

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

10 (ii) three farmers;

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

12 and

13 (iv) one agricultural economist.

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

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

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

29 (e) Expenses of committee members.--The members of the
30 committee shall be entitled to no compensation for their

1 services as members, but shall be entitled to reimbursement for
2 all necessary expenses incurred in connection with the
3 performance of their duties as members of the committee.

4 Section 4. Reports to General Assembly.

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

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

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

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

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

27 (3) To determine, after consideration of the
28 recommendations of the Secretary of Commerce and the
29 committee, the ~~scope and operation~~ CRITERIA AND PROCEDURES of <—
30 the interest deferral and loan guarantee programs.

1 (4) ~~To conduct examinations and investigations and to~~ <—
2 ~~hear testimony and take proof, under oath or affirmation, at~~
3 ~~public or private hearings, on any matter material for its~~
4 ~~information and necessary to:~~

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

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

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

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

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

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

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

25 ~~(9)~~ (5) In determining eligibility for an interest
26 deferral or a loan guarantee, to consult with the committee
27 and staff of any local farm credit association or
28 agricultural stabilization and conservation service office in
29 the area where an applicant resides or where the family farm
30 enterprise is located or proposed to be located.

1 ~~(10)~~ (6) To prescribe, IN CONJUNCTION WITH THE SECRETARY <—
2 OF COMMERCE, the form and manner for the submission of
3 applications for interest deferrals and loan guarantees and
4 the information to be included in those applications.

5 ~~(11)~~ (7) To determine the information to be provided by <—
6 the applicant, the lender, ~~the Secretary of Commerce~~ and the <—
7 committee.

8 ~~(12)~~ (8) To do all other acts and things necessary or <—
9 convenient to carry out the powers granted to him by this act
10 or any other acts.

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

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

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

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

29 (2) The sufficiency of available collateral, including
30 satisfactory lien positions on real and personal property

1 which shall consist of no less than second lien positions on
2 such real and personal property.

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

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

8 (5) The capital needs of the applicant.

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

12 (7) THE AVAILABILITY OF EVIDENCE THAT INSUFFICIENT
13 PRIVATE FUNDS ARE AVAILABLE AT REASONABLE RATES AND TERMS
14 WITHIN THE NECESSARY TIME WITHOUT THE REQUESTED ASSISTANCE.

<—

15 (c) Transmittal to the Secretary of Agriculture.--Following
16 the review and recommendation, the Secretary of Commerce shall
17 transmit the application and the recommendation on that
18 application to the Secretary of Agriculture together with the
19 rationale for that recommendation and any other information
20 requested by the Secretary of Agriculture.

21 (d) Use of area loan organizations.--In carrying out his
22 duties and responsibilities under this section, the Secretary of
23 Commerce may utilize area loan organizations which have been
24 certified by the Secretary of Agriculture and the Secretary of
25 Commerce. In determining if an area loan organization should be
26 certified for the purposes of this act, the secretaries shall
27 consider, in addition to other relevant factors, the expertise
28 of that area loan organization for the purposes of performing
29 some duties and responsibilities under this section but deny
30 certification for the purpose of performing other duties and

1 responsibilities for which the organization is determined not to
2 have sufficient expertise or personnel. AREA LOAN ORGANIZATIONS <—
3 MAY ESTABLISH AND CHARGE REASONABLE FEES FOR PROCESSING LOAN
4 GUARANTEES AND INTEREST DEFERRALS UNDER THIS ACT WITH THE
5 APPROVAL OF THE SECRETARY AND THE COMMITTEE.

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

8 (a) Application form.--Prior to recommending the approval or
9 rejection of any interest deferral or loan guarantee authorized
10 by this act, the committee shall receive from the prospective
11 borrower an application in the form and manner prescribed by the
12 secretary together with any such other information as the
13 secretary shall require the prospective borrower and the
14 prospective lender to provide.

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

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

24 (d) Recommendation to secretary.--The committee shall
25 forward its recommendation of the approval or rejection of any
26 interest deferral or loan guarantee to the secretary together
27 with the rationale for the committee's decision, any other
28 information requested by the secretary and any recommendation of
29 special conditions to be placed on an approved interest deferral
30 or loan guarantee.

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

5 (f) Action by the secretary.--The secretary shall grant an
6 interest deferral or a loan guarantee to an applicant only after
7 consideration of the recommendation of the committee and the
8 recommendation of the Secretary of Commerce and only in
9 accordance with the eligibility criteria and loan limits
10 prescribed by section 8. The secretary may grant an interest
11 deferral or a loan guarantee in a lesser amount and on less
12 favorable terms than recommended by the committee or the
13 Secretary of Commerce and may impose conditions not recommended
14 by the committee or the Secretary of Commerce.

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

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

19 (1) That he is a resident of the Commonwealth, or that
20 its principal operating or managing members or shareholders
21 in the case of either a family farm partnership or a family
22 farm corporation are Pennsylvania residents or show
23 sufficient evidence that he or they intend to become a
24 resident or residents. If the applicant is a corporation, it
25 must be a Pennsylvania corporation in order to be eligible.

26 (2) That the applicant or the principal operating or
27 managing members or shareholders thereof have sufficient
28 education, training or experience in the type of farming for
29 which he or they wish the interest deferral or loan guarantee
30 and will participate in a farm management program, approved

1 by the secretary, for the duration of the loan on which the
2 interest will be deferred or for the duration of the loan
3 guarantee.

4 (3) That the applicant has been processed by a lender
5 for the loan on which the interest deferral or loan guarantee
6 is sought and that the lender will make and service such
7 loan.

8 (4) That the applicant will use the loan proceeds for
9 the agricultural purposes set forth in the application and
10 that the farmland or family farm enterprise is located in
11 Pennsylvania.

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

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

20 (7) That the loan guarantee or interest deferral would
21 facilitate the continued operation or transfer of a farm in
22 Pennsylvania which is currently active, would help the
23 applicant to replace all or part of its production with
24 production of a commodity or commodities for which there is
25 more likely to be an adequate market, or would help the
26 family farm enterprise to process or market directly a
27 commodity or commodities produced on the farm for which
28 financial assistance is sought.

29 (b) Loan limit for acquiring farmland and farm structures.--

30 The secretary may guarantee a loan or loans not to exceed the

1 lesser of 90% of the amount of the loan or loans or \$200,000 for
2 each family farm enterprise for a term not to exceed 20 years if
3 the loan is guaranteed for the purpose of acquiring farmland,
4 farm structures or a combination thereof.

5 (c) Loan limit for acquiring equipment, livestock and other
6 capital assets.--The secretary may guarantee a loan or loans not
7 to exceed the lesser of 90% of the amount of the loan or loans
8 or \$150,000 for each family farm enterprise for a term not to
9 exceed seven years if the loan guaranteed is for the purchase of
10 capital assets, such as, but not limited to, equipment or
11 livestock and horticultural assets.

12 (d) Loan limit for acquiring noncapital assets.--The
13 secretary may guarantee a loan or loans not to exceed the lesser
14 of 90% of the amount of the loan or loans or \$50,000 for each
15 family farm enterprise for a term not to exceed one year if the
16 loan guaranteed is for the purchase of fertilizer, seed,
17 livestock feed or other supplies normally used for agricultural
18 activity or farming.

19 (e) Interest deferrals.--The secretary may make the interest
20 payments for an applicant for up to the first three years of a
21 loan if the loan is guaranteed in accordance with this section
22 or is in the amount and for the purposes for which a loan may be
23 guaranteed in accordance with this section. The secretary shall
24 prescribe the period during which, and the terms under which,
25 the applicant shall reimburse the Commonwealth for the interest
26 which the secretary paid to the lender on the applicant's behalf
27 and the security which the applicant must provide to assure
28 reimbursement to the Commonwealth.

29 Section 9. Sale or conveyance by applicant.

30 (a) Obligation due on sale.--Any applicant who sells or

1 conveys the property for which an interest deferral or loan
2 guarantee was granted shall immediately return the entire
3 indebtedness still owed to the Commonwealth or to the lender, if
4 any. The new owner may negotiate an interest deferral or loan
5 guarantee in his own right, but under no circumstances may the
6 original loan be assumed by the new owner OR THE PROPERTY BE <—
7 SOLD SUBJECT TO THE LOAN. This subsection is not intended to
8 prohibit an applicant from granting a security interest in the
9 property for the purposes of securing an additional loan.

10 (b) Default.--Any applicant who fails to maintain the land
11 covered by an interest deferral or a loan guarantee for a period
12 of time longer than one year shall be in default. Such a default
13 may be waived by the secretary, after consultation with the
14 committee and the Secretary of Commerce, in the event of a
15 physical disability or other extenuating circumstances.
16 Section 10. Rules and regulations.

17 The secretary may, in the manner provided by law, promulgate
18 the rules and regulations and forms necessary to carry out this
19 act.

20 Section 11. Limitation on amount of interest deferrals and
21 loan guarantees.

22 The sum of all outstanding interest deferrals and loan
23 guarantees at any time shall not exceed ~~the amount of money~~ <—
24 ~~appropriated for such purposes~~ \$25,000,000. Under no
25 circumstances shall the the Secretary of Agriculture, the
26 Secretary of Commerce or the committee have power to pledge the
27 credit or taxing power of the Commonwealth.

28 Section 12. Conflict of interest prohibited.

29 No member of the committee or officer or employee of the
30 Department of Agriculture or the Department of Commerce or

1 member or employee of an area loan organization shall either
2 directly or indirectly be a party to or be in any manner
3 interested in any contract or agreement under this act for any
4 matter, cause or thing whatsoever by reason whereof any
5 liability or indebtedness shall in any way be created against
6 the Commonwealth, provided that nothing herein shall prohibit a
7 commercial lending institution or a farm credit association from
8 either directly or indirectly being a party to or being in any
9 manner interested in any such contract or agreement if one of
10 its officers is a member of the committee as long as such
11 officer declares his conflict of interest and refrains from
12 participating in any deliberation or vote on, or other action
13 regarding, such contract or agreement. If any contract or
14 agreement shall be made in violation of this section, the same
15 shall be null and void and no action shall be maintained thereon
16 against the Commonwealth.

17 Section 13. Appropriation.

18 The sum of \$10,000,000 is hereby appropriated TO THE <—
19 DEPARTMENT OF AGRICULTURE from the Pennsylvania Economic
20 Revitalization Fund for the purposes set forth in this act. The
21 appropriation made hereby shall be a continuing appropriation.

22 Section 14. Limitation.

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

25 Section 15. Effective date.

26 This act shall take effect immediately.