

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 1438 Session of  
1984

INTRODUCED BY JUBELIRER, ZEMPRELLI, WENGER, STAPLETON, CORMAN,  
BRIGHTBILL, BODACK, ANDREZESKI, FISHER, HANKINS, HELFRICK,  
HESS, HOPPER, HOWARD, KRATZER, KUSSE, LINCOLN, LLOYD, LYNCH,  
MELLOW, MOORE, MUSTO, O'CONNELL, O'PAKE, REIBMAN, RHOADES,  
ROCKS, ROMANELLI, ROSS, SCANLON, SHAFFER, SHUMAKER, SINGEL,  
STOUT, STREET, WILLIAMS, WILT AND HAGER, JUNE 15, 1984

AS AMENDED ON THIRD CONSIDERATION, JUNE 25, 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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9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 Section 1. Short title.

12 This act shall be known and may be cited as the Agricultural  
13 Development Act.

14 Section 2. Definitions.

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

18 "Agricultural activity" or "farming." The commercial  
19 production of agricultural crops, livestock or livestock  
20 products, poultry products, milk or dairy products, or fruits  
21 and other horticultural products.

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

24 "Area loan organization." A local development district of  
25 the Appalachian Regional Commission, an industrial development  
26 corporation organized and existing under the act of May 17, 1956  
27 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial  
28 Development Authority Act, or any other nonprofit economic  
29 development organization certified by the Secretary of  
30 Agriculture and the Secretary of Commerce as possessing an

1 acceptable loan review committee, professional staff support and  
2 such other qualifications as are necessary to evaluate and  
3 administer loan guarantees and interest deferrals made under the  
4 provisions of this act.

5 "Committee." The Agricultural Development Advisory  
6 Committee.

7 "Department." The Department of Agriculture.

8 "ELIGIBLE AGRICULTURAL PURPOSES." ACQUISITION, CONSTRUCTION <—  
9 OR REHABILITATION OF FARMLAND AND FARM STRUCTURES LOCATED ON  
10 FARMLAND OWNED OR LEASED BY A FAMILY FARM ENTERPRISE;  
11 ACQUISITION, REPAIR OR REPLACEMENT OF CAPITAL ASSETS, INCLUDING,  
12 BUT NOT LIMITED TO, EQUIPMENT AND LIVESTOCK TO BE USED ON  
13 FARMLAND BY A FAMILY FARM ENTERPRISE; AND WORKING CAPITAL FOR  
14 THE ACQUISITION OF FERTILIZER, SEED, LIVESTOCK FEED AND OTHER  
15 SUPPLIES TO BE USED ON FARMLAND BY A FAMILY FARM ENTERPRISE.

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

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

29 "Family farm partnership." A general partnership entered  
30 into for the purpose of farming having no more than three

1 unrelated members and having at least one member residing on or  
2 actively operating or managing the farm.

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

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

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

28 "Secretary." The Secretary of Agriculture.

29 Section 3. The Agricultural Development Advisory Committee.

30 (a) Establishment.--There is hereby created the Agricultural

1 Development Advisory Committee.

2 (b) Composition.--The committee shall be composed of the  
3 following:

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

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

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

10 (i) one officer from a commercial lending  
11 institution experienced in agricultural financing;

12 (ii) three farmers;

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

14 and

15 (iv) one agricultural economist.

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

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

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

<—

1 (e) Expenses of committee members.--The members of the  
2 committee shall be entitled to no compensation for their  
3 services as members, but shall be entitled to reimbursement for  
4 all necessary expenses incurred in connection with the  
5 performance of their duties as members of the committee.

6 Section 4. Reports to General Assembly.

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

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

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

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

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

29 (3) To determine, after consideration of the  
30 recommendations of the Secretary of Commerce and the

1 committee, the ~~scope and operation~~ CRITERIA AND PROCEDURES of <—  
2 the interest deferral and loan guarantee programs.

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

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

9 (ii) the determination of the economic viability of  
10 the interest deferral or loan guarantee; and

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

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

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

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

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

27 ~~(9)~~ (5) In determining eligibility for an interest  
28 deferral or a loan guarantee, to consult with the ~~committee~~ <—  
29 BOARD and staff of any local farm credit association or <—  
30 agricultural stabilization and conservation service office in

1 the area where an applicant resides or where the family farm  
2 enterprise is located or proposed to be located.

3 ~~(10) To prescribe the form and manner for the submission~~ <—  
4 ~~of applications for interest deferrals and loan guarantees~~  
5 ~~and the information to be included in those applications.~~

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

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

12 (6) TO DETERMINE THE INFORMATION TO BE PROVIDED BY THE <—  
13 APPLICANT, THE LENDER AND THE COMMITTEE.

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

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

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

30 (1) The ability of the applicant to meet and satisfy all



1 debt service as it becomes due and payable.

2 (2) The sufficiency of available collateral., ~~including~~ <—  
3 ~~satisfactory lien positions on real and personal property~~  
4 ~~which shall consist of no less than second lien positions on~~  
5 ~~such real and personal property.~~

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

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

11 (5) The capital needs of the applicant.

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

15 (7) EVIDENCE THAT INSUFFICIENT PRIVATE FUNDS ARE <—  
16 AVAILABLE AT REASONABLE RATES AND TERMS WITHIN THE NECESSARY  
17 TIME WITHOUT THE REQUESTED ASSISTANCE.

18 (c) Transmittal to the Secretary of Agriculture.--Following  
19 the review and recommendation, the Secretary of Commerce shall  
20 transmit the application and the recommendation on that  
21 application to the Secretary of Agriculture together with the  
22 rationale for that recommendation and any other information  
23 requested by the Secretary of Agriculture AND THE SECRETARY OF <—  
24 COMMERCE.

25 (d) Use of area loan organizations.--In carrying out his  
26 duties and responsibilities under this section, the Secretary of  
27 Commerce may utilize area loan organizations which have been  
28 certified by the Secretary of Agriculture and the Secretary of  
29 Commerce. In determining if an area loan organization should be  
30 certified for the purposes of this act, the secretaries shall

1 consider, in addition to other relevant factors, the expertise  
2 of that area loan organization IN MATTERS RELATING TO <—  
3 AGRICULTURE. THE SECRETARIES MAY CERTIFY AN AREA LOAN  
4 ORGANIZATION for the purposes of performing some duties and  
5 responsibilities under this section but deny certification for  
6 the purpose of performing other duties and responsibilities for  
7 which the organization is determined not to have sufficient  
8 expertise or personnel. AREA LOAN ORGANIZATIONS MAY ESTABLISH <—  
9 AND CHARGE REASONABLE FEES FOR PROCESSING LOAN GUARANTEES AND  
10 INTEREST DEFERRALS UNDER THIS ACT WITH THE APPROVAL OF THE  
11 SECRETARY.

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

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

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

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

30 (d) Recommendation to secretary.--The committee shall

1 forward its recommendation of the approval or rejection of any  
2 interest deferral or loan guarantee to the secretary together  
3 with the rationale for the committee's decision, any other  
4 information requested by the secretary and any recommendation of  
5 special conditions to be placed on an approved interest deferral  
6 or loan guarantee. IF THE COMMITTEE DOES NOT SUBMIT ITS  
7 RECOMMENDATION TO THE SECRETARY WITHIN 90 DAYS, THE COMMITTEE  
8 SHALL BE DEEMED TO HAVE RECOMMENDED APPROVAL OF THE APPLICATION.

<—

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

13 (f) Action by the secretary.--The secretary shall grant an  
14 interest deferral or a loan guarantee to an applicant only after  
15 consideration of the recommendation of the committee and the  
16 recommendation of the Secretary of Commerce and only in  
17 accordance with the eligibility criteria and loan limits  
18 prescribed by section 8. The secretary may grant an interest  
19 deferral or a loan guarantee in a lesser amount and on less  
20 favorable terms than recommended by the committee or the  
21 Secretary of Commerce and may impose conditions not recommended  
22 by the committee or the Secretary of Commerce.

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

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

27 (1) That he is a resident of the Commonwealth, or that  
28 its principal operating or managing members or shareholders  
29 in the case of either a family farm partnership or a family  
30 farm corporation are Pennsylvania residents or show

1 sufficient evidence that he or they intend to become a  
2 resident or residents. If the applicant is a corporation, it  
3 must be a Pennsylvania corporation in order to be eligible.

4 (2) That the applicant or the principal operating or  
5 managing members or shareholders thereof have sufficient  
6 education, training or experience in the type of farming for  
7 which he or they wish the interest deferral or loan guarantee  
8 and will participate in a farm management program, approved  
9 by the secretary, for the duration of the loan on which the  
10 interest will be deferred or for the duration of the loan  
11 guarantee.

12 (3) That the applicant has been processed by a lender  
13 for the loan on which the interest deferral or loan guarantee  
14 is sought and that the lender will make and service such  
15 loan. THE LENDER SHALL BE REQUIRED TO ADEQUATELY SECURE THE <—  
16 LOAN.

17 (4) That the applicant will use the loan proceeds for  
18 the ELIGIBLE agricultural purposes ~~set forth in the~~ <—  
19 ~~application~~ AS DEFINED IN SECTION 2 and that the farmland or <—  
20 family farm enterprise is located in Pennsylvania.

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

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

29 (7) That the loan guarantee or interest deferral would: <—  
30 ~~facilitate the~~ <—

~~continued operation or transfer of a farm in Pennsylvania  
which is currently active, would help the~~

(I) FACILITATE THE CONTINUED OPERATION OR TRANSFER  
OF A FARM IN THIS COMMONWEALTH WHICH IS CURRENTLY ACTIVE;

(II) HELP THE APPLICANT TO REPLACE ALL OR PART OF  
ITS PRODUCTION WITH PRODUCTION OF A COMMODITY OR  
COMMODITIES FOR WHICH THERE IS MORE LIKELY TO BE AN  
ADEQUATE MARKET; OR

(III) HELP THE ~~applicant to replace all or part of~~  
~~its production with production of a commodity or~~  
~~commodities for which there is more likely to be an~~  
~~adequate market, or would help the~~ family farm enterprise  
to process or market directly a commodity or commodities  
produced on the farm for which financial assistance is  
sought.

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

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

(d) Loan limit for acquiring noncapital assets.--The  
secretary may guarantee a loan or loans not to exceed the lesser

1 of 90% of the amount of the loan or loans or \$50,000 for each  
2 family farm enterprise for a term not to exceed one year if the  
3 loan guaranteed is for the purchase of fertilizer, seed,  
4 livestock feed or other supplies normally used for agricultural  
5 activity or farming.

6 (e) Interest deferrals.--The secretary may make the interest  
7 payments for an applicant for up to the first three years of a  
8 loan if the loan is guaranteed in accordance with this section  
9 or is in the amount and for the purposes for which a loan may be  
10 guaranteed in accordance with this section. The secretary, IN <—  
11 CONJUNCTION WITH THE SECRETARY OF COMMERCE, shall prescribe the  
12 period during which, and the terms under which, the applicant  
13 shall reimburse the Commonwealth for the interest which the  
14 secretary paid to the lender on the applicant's behalf and the  
15 security which the applicant must provide to assure  
16 reimbursement to the Commonwealth.

17 Section 9. Sale or conveyance by applicant.

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

28 (b) Default.--Any applicant who fails to maintain the land  
29 covered by an interest deferral or a loan guarantee for a period  
30 of time longer than one year shall be in default. Such a default

1 may be waived by the secretary, after consultation with the  
2 committee and the Secretary of Commerce, in the event of a  
3 physical disability or other extenuating circumstances.

4 Section 10. Rules and regulations AND GUIDELINES. <—

5 The secretary may, in the manner provided by law, promulgate  
6 the rules and regulations ~~and forms~~, GUIDELINES OR PROCEDURES <—  
7 AND STANDARDS necessary to carry out this act.

8 Section 11. Limitation on amount of interest deferrals and  
9 loan guarantees.

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

16 Section 12. Conflict of interest prohibited.

17 No member of the committee or officer or employee of the  
18 Department of Agriculture or the Department of Commerce or  
19 member or employee of an area loan organization shall either  
20 directly or indirectly be a party to or be in any manner  
21 interested in any contract or agreement under this act for any  
22 matter, cause or thing whatsoever by reason whereof any  
23 liability or indebtedness shall in any way be created against  
24 the Commonwealth, provided that nothing herein shall prohibit a  
25 commercial lending institution or a farm credit association from  
26 either directly or indirectly being a party to or being in any  
27 manner interested in any such contract or agreement if one of  
28 its officers is a member of the committee as long as such  
29 officer declares his conflict of interest and refrains from  
30 participating in any deliberation or vote on, or other action

1 regarding, such contract or agreement. If any contract or  
2 agreement shall be made in violation of this section, the same  
3 shall be null and void and no action shall be maintained thereon  
4 against the Commonwealth.

5 Section 13. Appropriation.

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

10 Section 14. Limitation.

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

13 Section 15. Effective date.

14 This act shall take effect immediately.