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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**  
**No. 1438** Session of  
1984

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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

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AS REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 26, 1984

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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.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Agricultural  
11 Development Act.

12 Section 2. Definitions.

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

16 "Agricultural activity" or "farming." The commercial  
17 production of agricultural crops, livestock or livestock

1 products, poultry products, milk or dairy products, or fruits  
2 and other horticultural products.

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

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

16 "Committee." The Agricultural Development Advisory  
17 Committee.

18 "Department." The Department of Agriculture.

19 "Eligible agricultural purposes." Acquisition, construction  
20 or rehabilitation of farmland and farm structures located on  
21 farmland owned or leased by a family farm enterprise;  
22 acquisition, repair or replacement of capital assets, including,  
23 but not limited to, equipment and livestock to be used on  
24 farmland by a family farm enterprise; and working capital for  
25 the acquisition of fertilizer, seed, livestock feed and other  
26 supplies to be used on farmland by a family farm enterprise.

27 "Family farm corporation." A corporation formed for the  
28 purpose of farming in which the majority of the voting stock is  
29 held by and the majority of the stockholders are natural  
30 persons, or the spouses of such persons or other persons related

1 to such persons or spouses and at least one of such majority  
2 stockholders is residing on or actively operating or managing  
3 the farm and none of the stockholders of which are corporations.

4 "Family farm enterprise." A natural person, family farm  
5 corporation or family farm partnership engaged in farming,  
6 including the processing and marketing of its agricultural  
7 commodities directly, provided that those agricultural  
8 commodities are or would be produced on the farm for which  
9 financial assistance is sought.

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

14 "Farmland." Land in the Commonwealth that is capable of  
15 supporting the commercial production of agricultural crops,  
16 livestock or livestock products, poultry products, milk or dairy  
17 products, fruit or other horticultural products and land in the  
18 Commonwealth on which a family farm enterprise would process or  
19 market its agricultural commodities directly, provided that  
20 those agricultural commodities are or would be produced on the  
21 farm for which financial assistance is sought.

22 "Federal agency." Includes the United States of America, the  
23 President of the United States of America and any department or  
24 corporation, agency or instrumentality heretofore or hereafter  
25 created, designated or established by the United States of  
26 America.

27 "Lender." Any bank, savings bank, mutual savings bank,  
28 building and loan association and savings and loan association  
29 organized under the laws of this Commonwealth or the United  
30 States, trust companies, trust companies acting as fiduciaries

1 and other financial institutions subject to the supervision of  
2 the Department of Banking; and any foreign or domestic  
3 corporation engaged in the business of insurance which is  
4 subject to the supervision of the Insurance Commissioner; and  
5 any financial institutions operating under the supervision of  
6 the Federal farm credit administration. The term shall also mean  
7 the seller of the property in cases of seller-sponsored loan or  
8 purchase money loan.

9 "Secretary." The Secretary of Agriculture.

10 Section 3. The Agricultural Development Advisory Committee.

11 (a) Establishment.--There is hereby created the Agricultural  
12 Development Advisory Committee.

13 (b) Composition.--The committee shall be composed of the  
14 following:

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

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

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

21 (i) one officer from a commercial lending  
22 institution experienced in agricultural financing;

23 (ii) three farmers;

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

25 and

26 (iv) one agricultural economist.

27 A majority of the committee shall constitute a quorum. In  
28 appointing the three farmers to the committee, the Secretary of  
29 Agriculture may consider farmers recommended by the Statewide  
30 general farm organizations.

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

5 (d) Staff services.--The Department of Agriculture shall  
6 provide staff services for carrying out the committee's powers  
7 and duties under this act, including liaison between the  
8 committee and lenders, the Department of Agriculture, the  
9 Department of Commerce, and other agencies of the Commonwealth  
10 whose facilities and services may be useful to the committee in  
11 its work.

12 (e) Expenses of committee members.--The members of the  
13 committee shall be entitled to no compensation for their  
14 services as members, but shall be entitled to reimbursement for  
15 all necessary expenses incurred in connection with the  
16 performance of their duties as members of the committee.

17 Section 4. Reports to General Assembly.

18 On or before March 1 of each year in which loan guarantees or  
19 interest deferrals are outstanding, the secretary shall submit a  
20 report to the Secretary of the Senate and the Chief Clerk of the  
21 House of Representatives detailing each loan guarantee and  
22 interest deferral accepted or rejected by type, amount, interest  
23 rate, lending institution, location, dates of application and  
24 final decision, type of farm, and acreage of farm. The secretary  
25 shall also estimate the amount of farmland preserved and the  
26 increase in the amount of farm receipts in the Commonwealth due  
27 to this program.

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

29 The secretary may exercise all powers necessary or  
30 appropriate to carry out this act, including the following

1 powers, in addition to others herein granted:

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

4 (2) To determine, after consideration of the  
5 recommendations of the Secretary of Commerce and the  
6 committee, which applications for interest deferrals and loan  
7 guarantees should be rejected, which applications should be  
8 approved, and which applications should be approved subject  
9 to special conditions.

10 (3) To determine, after consideration of the  
11 recommendations of the Secretary of Commerce and the  
12 committee, the criteria and procedures of the interest  
13 deferral and loan guarantee programs.

14 (4) To conduct examinations necessary to:

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

17 (ii) the determination of the economic viability of  
18 the interest deferral or loan guarantee; and

19 (iii) the power to review the operation of any  
20 family farm enterprise that has received an interest  
21 deferral or loan guarantee.

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

28 (6) To determine the information to be provided by the  
29 applicant, the lender and the committee.

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

1 (a) Form of application.--Prior to recommending the approval  
2 or rejection of any interest deferral or loan guarantee  
3 authorized by this act, the Secretary of Commerce shall receive  
4 from the prospective lender an application in the form and  
5 manner prescribed by the Secretary of Agriculture and the  
6 Secretary of Commerce together with any other information as  
7 they shall require the prospective borrower and the prospective  
8 lender to provide.

9 (b) Review of application.--Upon receipt of a properly  
10 submitted and documented application, the Secretary of Commerce  
11 shall conduct a financial review of the application and  
12 recommend approval, approval with special conditions, or  
13 rejection of the application on the basis of the following  
14 criteria and the eligibility criteria and loan limits prescribed  
15 by section 8:

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

18 (2) The sufficiency of available collateral.

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

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

24 (5) The capital needs of the applicant.

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

28 (7) Evidence that insufficient private funds are  
29 available at reasonable rates and terms within the necessary  
30 time without the requested assistance.

1 (c) Transmittal to the Secretary of Agriculture.--Following  
2 the review and recommendation, the Secretary of Commerce shall  
3 transmit the application and the recommendation on that  
4 application to the Secretary of Agriculture together with the  
5 rationale for that recommendation and any other information  
6 requested by the Secretary of Agriculture and the Secretary of  
7 Commerce.

8 (d) Use of area loan organizations.--In carrying out his  
9 duties and responsibilities under this section, the Secretary of  
10 Commerce may utilize area loan organizations which have been  
11 certified by the Secretary of Agriculture and the Secretary of  
12 Commerce. In determining if an area loan organization should be  
13 certified for the purposes of this act, the secretaries shall  
14 consider, in addition to other relevant factors, the expertise  
15 of that area loan organization in matters relating to  
16 agriculture. The secretaries may certify an area loan  
17 organization for the purposes of performing some duties and  
18 responsibilities under this section but deny certification for  
19 the purpose of performing other duties and responsibilities for  
20 which the organization is determined not to have sufficient  
21 expertise or personnel. Area loan organizations may establish  
22 and charge reasonable fees for processing loan guarantees and  
23 interest deferrals under this act with the approval of the  
24 secretary.

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

27 (a) Application form.--Prior to recommending the approval or  
28 rejection of any interest deferral or loan guarantee authorized  
29 by this act, the committee shall receive from the prospective  
30 borrower an application in the form and manner prescribed by the



1 secretary together with any such other information as the  
2 secretary shall require the prospective borrower and the  
3 prospective lender to provide.

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

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

13 (d) Recommendation to secretary.--The committee shall  
14 forward its recommendation of the approval or rejection of any  
15 interest deferral or loan guarantee to the secretary together  
16 with the rationale for the committee's decision, any other  
17 information requested by the secretary and any recommendation of  
18 special conditions to be placed on an approved interest deferral  
19 or loan guarantee. If the committee does not submit its  
20 recommendation to the secretary within 90 days, the committee  
21 shall be deemed to have recommended approval of the application.

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

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

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

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

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

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

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

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

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

1 the eligible agricultural purposes as defined in section 2  
2 and 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 (i) facilitate the continued operation or transfer  
14 of a farm in this Commonwealth which is currently active;

15 (ii) help the applicant to replace all or part of  
16 its production with production of a commodity or  
17 commodities for which there is more likely to be an  
18 adequate market; or

19 (iii) help the family farm enterprise to process or  
20 market directly a commodity or commodities produced on  
21 the farm for which financial assistance is sought.

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

28 (c) Loan limit for acquiring equipment, livestock and other  
29 capital assets.--The secretary may guarantee a loan or loans not  
30 to exceed the lesser of 90% of the amount of the loan or loans

1 or \$150,000 for each family farm enterprise for a term not to  
2 exceed seven years if the loan guaranteed is for the purchase of  
3 capital assets, such as, but not limited to, equipment or  
4 livestock and horticultural assets.

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

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

23 Section 9. Sale or conveyance by applicant.

24 (a) Obligation due on sale.--Any applicant who sells or  
25 conveys the property for which an interest deferral or loan  
26 guarantee was granted shall immediately return the entire  
27 indebtedness still owed to the lender, if any.

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, guidelines or procedures and~~  
7 ~~standards necessary to carry out this act.~~

8 SECTION 10. GUIDELINES AND REGULATIONS. <—

9 (A) GENERAL RULE.--THE SECRETARY AND SECRETARY OF COMMERCE  
10 SHALL PROMULGATE SUCH RULES, REGULATIONS, GUIDELINES, FORMS OR  
11 PROCEDURES AND STANDARDS NECESSARY TO CARRY OUT THIS ACT.

12 (B) ONE-YEAR EXEMPTION FROM REVIEW.--IN ORDER TO FACILITATE  
13 THE SPEEDY IMPLEMENTATION OF THIS PROGRAM, THE SECRETARY AND THE  
14 SECRETARY OF COMMERCE SHALL HAVE THE POWER AND AUTHORITY TO  
15 PROMULGATE, ADOPT AND USE GUIDELINES WHICH SHALL BE PUBLISHED IN  
16 THE PENNSYLVANIA BULLETIN. THE GUIDELINES SHALL NOT BE SUBJECT  
17 TO REVIEW PURSUANT TO SECTION 205 OF THE ACT OF JULY 31, 1968  
18 (P.L.769, NO.240), REFERRED TO AS THE COMMONWEALTH DOCUMENTS  
19 LAW, SECTIONS 204(B) AND 301(10) OF THE ACT OF OCTOBER 15, 1980  
20 (P.L.950, NO.164), KNOWN AS THE COMMONWEALTH ATTORNEYS ACT, OR  
21 THE ACT OF JUNE 25, 1982 (P.L.633, NO.181), KNOWN AS THE  
22 REGULATORY REVIEW ACT, AND EXCEPT AS PROVIDED IN SUBSECTION (D),  
23 SHALL BE EFFECTIVE FOR A PERIOD NOT TO EXCEED ONE YEAR FROM THE  
24 EFFECTIVE DATE OF THIS ACT.

25 (C) EXPIRATION OF EXEMPTION.--EXCEPT AS PROVIDED IN  
26 SUBSECTION (D), AFTER THE EXPIRATION OF THE ONE-YEAR PERIOD, ALL  
27 GUIDELINES SHALL EXPIRE AND SHALL BE REPLACED BY REGULATIONS  
28 WHICH SHALL HAVE BEEN PROMULGATED, ADOPTED AND PUBLISHED AS  
29 PROVIDED BY LAW.

30 (D) EXCEPTION.--THE GENERAL ASSEMBLY MAY PROVIDE FOR AN

1 EXTENSION OF THE GUIDELINES ADOPTED PURSUANT TO SUBSECTION (B),  
2 IF THE LEADERSHIP COMMITTEE CREATED PURSUANT TO SECTIONS 3 AND 4  
3 OF THE ACT OF DECEMBER 22, 1981 (P.L.508, NO.142), KNOWN AS THE  
4 SUNSET ACT, EXTENDS THE GUIDELINES ADOPTED PURSUANT TO  
5 SUBSECTION (B).

6 Section 11. Limitation on amount of interest deferrals and  
7 loan guarantees.

8 The sum of all outstanding interest deferrals and loan  
9 guarantees at any time shall not exceed \$25,000,000. Under no  
10 circumstances shall the Secretary of Agriculture, the Secretary  
11 of Commerce or the committee have power to pledge the credit or  
12 taxing power of the Commonwealth.

13 Section 12. Conflict of interest prohibited.

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

1 against the Commonwealth.

2 Section 13. Appropriation.

3 The sum of \$10,000,000 is hereby appropriated to the  
4 Department of Agriculture from the Pennsylvania Economic  
5 Revitalization Fund for the purposes set forth in this act. The  
6 appropriation made hereby shall be a continuing appropriation.

7 Section 14. Limitation.

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

10 Section 15. Effective date.

11 This act shall take effect immediately.