

AGRICULTURE CODE (3 PA.C.S.) - AGRICULTURE-LINKED INVESTMENT PROGRAM

Act of Jul. 1, 2019, P.L. 263, No. 37

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Session of 2019

No. 2019-37

HB 1526

AN ACT

Amending Title 3 (Agriculture) of the Pennsylvania Consolidated Statutes, in general provisions, providing for Agriculture-Linked Investment Program; and making related repeals.

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

Section 1. Title 3 of the Pennsylvania Consolidated Statutes is amended by adding a chapter to read:

**CHAPTER 6**

**AGRICULTURE-LINKED INVESTMENT PROGRAM**

**Sec.**

- 601. Scope of chapter.
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- 603. Definitions.
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§ 601. Scope of chapter.

This chapter relates to the Agriculture-Linked Investment Program.

§ 602. Legislative intent.

It is the intent of the General Assembly that farmers be offered an incentive to use agricultural best management practices as part of an approved nutrient or odor management plan, manure management plan, agricultural erosion and sedimentation plan or Federal conservation plan to prevent nutrients from washing off farm fields and animal concentration areas and entering surface water and groundwater, to prevent soil erosion, to reduce or mitigate odor and to conserve land, water and related natural resources. These incentives shall take the form of low-interest capital in exchange for the implementation of such approved practices.

§ 603. Definitions.

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

"Agricultural erosion and sedimentation plan." An erosion and sedimentation plan established under The Clean Streams Law.

"Best management practices." A practice or combination of practices determined by the commission to be effective and practicable, given technological, economic and institutional considerations, to manage and conserve land, water and related resources and to manage nutrients to protect surface water and groundwater, taking into account applicable nutrient requirements for crop utilization. Best management practices shall include, but not be limited to:

- (1) Conservation tillage.
- (2) Crop rotation.

- (3) Soil testing.
- (4) Manure testing.
- (5) Diversions.
- (6) Manure storage facilities.
- (7) Storm water management practices.
- (8) Nutrient application.
- (9) Stream bank fencing.
- (10) Riparian buffers.
- (11) Pasture livestock watering systems where stream bank fencing is installed.
- (12) Odor barriers.
- (13) Development of a voluntary nutrient or odor management plan.
- (14) Manure management plans.
- (15) Agricultural erosion and sedimentation plans.
- (16) Federal conservation plans.

"Commission." The State Conservation Commission established by the Conservation District Law.

"Conservation District Law." The act of May 15, 1945 (P.L.547, No.217), known as the Conservation District Law.

"Eligible borrower." Any person, individual, partnership, corporation or legal entity who has an interest in property in this Commonwealth, who engages in agricultural operation in this Commonwealth, who has legal and financial responsibility for the agricultural operation and who has developed an approved nutrient management plan under Chapter 5 (relating to nutrient management and odor management), a manure management plan or an agricultural erosion and sedimentation plan or other commission- approved Federal or State conservation program or approved best management practices.

"Lending institution." Any financial institution that is authorized to issue commercial loans, is a State depository approved by the Board of Finance and Revenue and enters into an agreement with the State Treasurer for participation in the Agriculture-Linked Investment Program. The term includes any agricultural credit association affiliated with the Farm Credit Bank, a federally chartered instrumentality pursuant to the Farm Credit Act of 1971 (Public Law 92-181, 12 U.S.C. § 2001 et seq.), as amended, that enters into an agreement with the State Treasurer for participation in the Agriculture-Linked Investment Program.

"Manure management plan." A manure management plan established under The Clean Streams Law.

"Nutrient management plan." A written site-specific nutrient plan approved by the commission or its delegated agent which incorporates best management practices to manage the use of plant nutrients for crop production and water quality protection consistent with the criteria established under Chapter 5.

"Odor management plan." A written site-specific plan approved by the commission or its delegated agent which incorporates best management practices to reduce or mitigate odor consistent with the criteria established under Chapter 5.

"The Clean Streams Law." The act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law.  
§ 604 . General authority of commission.

(a) Authority.--The commission shall retain and may utilize the authority established in the Conservation District Law and Chapter 5 (relating to nutrient management and odor management) as well as any other authority delegated or bestowed upon the commission in the administration of this chapter, including money appropriated, given, granted or donated to the commission

for the purposes of this chapter. Nothing in this chapter shall be construed to abrogate or abridge the authority of the commission under any other statute or grant of authority.

(b) Best management practices.--

(1) The commission or the commission's delegated agent may review applications to approve the best management practice for which the applicant is seeking a loan under this chapter.

(2) The commission may vote to expand the list of best management practices to assure new technological, environmental and scientific advances and discoveries. The commission may consider and make available practices established in statute or regulation to further the purposes of this chapter. Upon establishing a new best management practice, the commission shall submit a notice to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin. A new best management practice shall take effect upon publication in the Pennsylvania Bulletin.

§ 605. Agriculture-Linked Investment Program.

(a) Eligibility.--An operator who desires to receive an Agriculture-Linked Investment Loan shall submit a loan application to a lending institution. The application shall contain information demonstrating all of the following:

(1) The applicant is an eligible borrower.

(2) The best management practice for which the applicant is seeking a loan under this chapter has been approved by the commission or the commission's delegated agent for implementation.

(3) Reasonable estimated costs for implementation of the approved best management practices sought to be funded have been provided by a project designer and concurred in by the commission or its delegated agent.

(b) Implementation of program.--The procedures applicable to the Agriculture-Linked Investment Program are as follows:

(1) A lending institution wishing to participate in this program shall enter into an investment agreement with the Commonwealth.

(2) A lending institution shall accept and review applications for loans from eligible borrowers.

(3) A lending institution shall apply all usual lending standards, practices and forms to determine the creditworthiness of each eligible borrower.

(4) Upon the lending institution's approval of an eligible borrower's loan application, the lending institution shall submit to the State Treasurer a request for the transfer of Agriculture-Linked Investment Loan money in an amount equivalent to the amount of the loan approved, along with the application and any supporting documents filed in accordance with subsection (a).

(5) The State Treasurer shall review the submitted request for the transfer of money and any supporting documentation for completeness prior to the transfer of Agriculture-Linked Investment Loan money to the lending institution.

(6) Upon determination of the completeness of the request for money and supporting documentation, the State Treasurer shall transfer to the lending institution money equivalent to the amount of the loan approved as follows:

(i) if the lending institution is a State depository, the State Treasurer shall deposit the money in a collateralized certificate of deposit in the name of the Commonwealth which, except as provided in this

chapter, conforms to the legal requirements for deposits in State depositories; or

(ii) if the lending institution is an agricultural credit association affiliated with the Farm Credit Bank, the State Treasurer shall invest the money in bonds, notes, debentures or other obligations or securities issued by the Farm Credit Bank.

(7) The interest rate payable by lending institutions with respect to Agriculture-Linked Investment Loan money shall be the interest rate on deposits in State depositories as established by the Board of Finance and Revenue from time to time, as otherwise provided by law, reduced by any subsidy that the commission may agree to pay under this chapter.

(8) Principal balances of Agriculture-Linked Investment Loan money with each lending institution shall be adjusted periodically as follows:

(i) If the lending institution is a State depository, the principal amount of the certificate of deposit shall be adjusted not less than semiannually to reflect the reduction of the principal outstanding on the loan. The interest earned plus an amount equal to the principal repaid by the borrower shall be remitted not less than semiannually by the lending institution to the State Treasurer.

(ii) If the lending institution is an agricultural credit association in conjunction with the Farm Credit Bank, the face value of the bonds, notes, debentures or other obligations or securities outstanding shall, at the option of the State Treasurer, be periodically reduced by payment or redemption to match as nearly as possible the amount of principal outstanding on program loans, and the interest earned shall be payable to the State Treasurer as due in accordance with the terms of the bonds, notes, debentures or other obligations or securities.

(c) Terms of loan for borrowers.--The terms of the loans for borrowers shall be:

(1) Loans shall not exceed \$250,000.

(2) Loans shall be amortized over a term not to exceed 12 years.

(3) The interest rate shall be established at or prior to the approval of the eligible borrower's loan application.

(4) The interest rate charged by a lending institution to an eligible borrower shall reflect a percentage rate reduction below the prevailing market loan interest rate otherwise applicable to the borrower that is equal to the percentage rate reduction, if any, below the rate set by the Board of Finance and Revenue at which the certificates of deposit associated with the loan are placed or at which the investment in bonds, notes, debentures or other obligations or securities of the Farm Credit Bank associated with the loan are made.

(5) The interest rate charged by a lending institution to an eligible borrower may be either a fixed rate for the entire term of the loan or a variable rate which shall be adjusted semiannually to reflect changes in the interest rate established by the Board of Finance and Revenue for deposits in State depositories as otherwise provided by law.

(6) Except as modified by the requirements of this chapter, a lending institution may apply its usual policies and practices with respect to the administration, collection and enforcement of loans issued under this chapter.

(d) Interest subsidy.--

(1) The commission, at the commission's discretion, may enter into an agreement with the State Treasurer to subsidize the interest rate charged to eligible borrowers under this program with money provided to the commission under section 4(6) of the Conservation District Law or section 512 (relating to Nutrient Management Fund) .

(2) Under the agreement, the commission may designate from time to time a block of loans of a certain aggregate dollar amount which the commission wishes to subsidize and shall deposit in advance into a restricted escrow account in the State Treasury an amount estimated by the State Treasurer to be sufficient to make the yield over a 12-year term on the Agriculture-Linked Investment Loan money to be transferred to lending institutions in connection with each designated block of subsidized loans equivalent to the yield the money otherwise would have earned at interest rates established from time to time by the Board of Finance and Revenue for deposits in State depositories as otherwise provided by law. Withdrawals from the restricted escrow account shall be made by the State Treasurer at the times when interest becomes due and payable from lending institutions on Agriculture-Linked Investment Loan money associated with subsidized loans.

(3) Among its terms, the agreement shall contain provisions:

(i) To require the deposit of additional money into the restricted escrow account when the parties agree that the account balance has become insufficient to fully fund the subsidy.

(ii) To permit the withdrawal of money from the escrow account when the parties agree that the account balance exceeds the amount needed to fully fund the subsidy.

(4) The amount to be deposited into the restricted escrow account as to each block of loans designated by the commission shall be determined by calculating that the loans will be amortized over 12 years at a fixed rate of interest which is a number of percentage points below the prevailing market interest rate for such loans, to be designated by the commission.

§ 606. Liability.

(a) Immunity.--The Commonwealth, the State Treasurer and the commission shall not be liable to a lending institution in any manner for payment of the principal or interest on the loan made to an eligible borrower.

(b) Loss of subsidy upon default.--A default by an eligible borrower in repayment of an Agriculture-Linked Investment Loan shall result in the loss of the subsidy provided under this chapter, in which case the interest rate payable by the lending institution shall revert to the interest rate on deposits as established by the Board of Finance and Revenue from time to time as otherwise established by law. As used in this subsection, the term "default" means a loan which is more than 90 days in arrears on payments.

(c) Availability of funding.--The subsidy provided by this chapter shall continue only so long as the commission furnishes money to pay for it. In the event funding is exhausted or otherwise unavailable, the interest rate payable by lending institutions shall revert to the interest rate on deposits in State depositories as established from time to time by the Board of Finance and Revenue as otherwise provided by law.

**§ 607. Funding cap.**

**The aggregate amount of Agriculture-Linked Investment loans issued under this chapter shall not exceed \$25,000,000 outstanding at any one time.**

Section 2. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the addition of 3 Pa.C.S. Ch. 6.

(2) The act of December 12, 1994 (P.L.900, No.130), known as the Agriculture-Linked Investment Program Act, is repealed.

Section 3. Continuation is as follows:

(1) The addition of 3 Pa.C.S. Ch. 6 is a continuation of the act of December 12, 1994 (P.L.900, No.130), known as the Agriculture-Linked Investment Program Act. The following apply:

(i) Except as otherwise provided in 3 Pa.C.S. Ch. 6, all activities initiated under the Agriculture-Linked Investment Program Act shall continue and remain in full force and effect and may be completed under 3 Pa.C.S. Ch. 6. Orders, regulations, rules and decisions which were made under the Agriculture-Linked Investment Program Act and which are in effect on the effective date of section 2 of this act shall remain in full force and effect until revoked, vacated or modified under 3 Pa.C.S. Ch. 6. Contracts, obligations and collective bargaining agreements entered into under the Agriculture-Linked Investment Program Act are not affected nor impaired by the repeal of the Agriculture-Linked Investment Program Act.

(ii) Except as set forth in subparagraph (iii), any difference in language between 3 Pa.C.S. Ch. 6 and the Agriculture-Linked Investment Program Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the Agriculture-Linked Investment Program Act.

(iii) Subparagraph (ii) does not apply to the addition of the following provisions:

(A) 3 Pa.C.S. § 602.

(B) The definitions of "agricultural erosion and sedimentation plan," "best management practices," "Conservation District Law," "eligible borrower," "manure management plan," "nutrient management plan," "odor management plan" and "The Clean Streams Law" in 3 Pa.C.S. § 603.

(C) 3 Pa.C.S. § 604.

(D) 3 Pa.C.S. § 605(a)(2) and (3), (c)(1) and (d)(1).

(2) (Reserved).

Section 4. This act shall take effect in 60 days.

APPROVED--The 1st day of July, A.D. 2019.

TOM WOLF