

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~~ <—

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

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

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

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

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

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

29 (d) Loan limit for acquiring noncapital assets.--The
30 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.