

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1323 Session of
2011

INTRODUCED BY YAW, VOGEL, GORDNER, BRUBAKER, SCHWANK, FONTANA,
ALLOWAY AND RAFFERTY, OCTOBER 31, 2011

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, OCTOBER 31, 2011

AN ACT

1 Amending Titles 3 (Agriculture) and 64 (Public Authorities and
2 Quasi-Public Corporations) of the Pennsylvania Consolidated
3 Statutes, providing for the Agriculture Disaster Recovery
4 Program; and further providing for First Industries Program.

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

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

9 CHAPTER 48

10 AGRICULTURE DISASTER RECOVERY PROGRAM

11 Sec.

12 4801. Short title of chapter.

13 4802. Purpose of chapter.

14 4803. Definitions.

15 4804. Powers and duties of department.

16 4805. Restricted account.

17 4806. Agriculture Disaster Recovery Program.

18 4807. Loan guarantees and interest payments.

19 § 4801. Short title of chapter.

This chapter shall be known and may be cited as the
Agriculture Disaster Recovery Program Act.

§ 4802. Purpose of chapter.

The purpose of this chapter is to establish a program within
the Department of Agriculture to provide financial assistance to
production agriculture.

§ 4803. 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:

"Adjusted loss." The difference between:

(1) eligible loss; and

(2) covered loss.

"Authority." The Commonwealth Financing Authority
established in 64 Pa.C.S. § 1511 (relating to authority).

"Board." The board of the Commonwealth Financing Authority
under 64 Pa.C.S. § 1512 (relating to board).

"Covered loss." Any amount received by or due the recipient
from Federal insurance, grants and loans and private insurance
on account of an eligible loss. The term does not include an
insurance deductible paid by the recipient.

"Department." The Department of Agriculture of the
Commonwealth.

"Eligible loss." Damage to production agriculture caused by
a disaster which results in a county being declared a disaster
area by any of the following:

(1) A presidential declaration for certain counties or
the State as a whole.

(2) A United States Department of Agriculture
secretarial declaration for certain counties or the State as

1 a whole.

2 (3) A gubernatorial declaration for certain counties or
3 the State as a whole.

4 The term does not include damaged or destroyed farm structures
5 or equipment.

6 "Farmer." A person engaged in the business of production
7 agriculture.

8 "Land restoration." Debris removal, regrading of land and
9 preservation of soil against deterioration or erosion.

10 "Production agriculture." The management and use of farming
11 resources for any of the following:

12 (1) The production of:

13 (i) agricultural, horticultural, aquacultural,
14 vegetable, fruit or floricultural products of the soil;

15 (ii) livestock or livestock products;

16 (iii) milk or dairy products; or

17 (iv) poultry or poultry products.

18 (2) Any other practices approved by the Department of
19 Agriculture.

20 "Program." The Agriculture Disaster Recovery Program
21 established under section 4806 (relating to Agriculture Disaster
22 Recovery Program).

23 "Working capital." Funds used for the disposal of
24 contaminated material and the acquisition of fertilizer, seed,
25 livestock feed and other supplies for the purpose of production
26 agriculture.

27 § 4804. Powers and duties of department.

28 The department shall adopt regulations to administer the
29 program.

30 § 4805. Restricted account.

When funds are made available, a restricted revolving account shall be established in the State Treasury to be known as the Agriculture Disaster Recovery Account. The account shall be for the purpose of making loans to eligible farmers for assistance under the program established in section 4806 (relating to Agriculture Disaster Recovery Program). Any funds appropriated to or transferred to fund the program and any moneys received as loan repayments under the program or moneys otherwise made available to the program shall be deposited in the account and made available for additional agriculture disaster recovery loans for the purposes of the program.

§ 4806. Agriculture Disaster Recovery Program.

(a) Establishment.--There is established within the department the Agriculture Disaster Recovery Program. The program shall provide financial assistance for a farmer, as defined in section 4803 (relating to definitions), located within this Commonwealth, who is eligible for disaster recovery assistance.

(b) Eligibility.--To be eligible for a loan, an applicant must meet all of the following:

(1) Be located in a county that has been declared a disaster area by any of the following:

(i) A presidential declaration for certain counties or the State as a whole.

(ii) A United States Department of Agriculture secretarial declaration for certain counties or the State as a whole.

(iii) A gubernatorial declaration for certain counties or the State as a whole.

(2) Suffer an eligible loss.

1 (3) Meet the definition of farmer in section 4803.

2 (4) Be currently engaged in production agriculture and
3 intend to continue in production agriculture.

4 (5) Not be delinquent on any State or local taxes.

5 (c) Procedure.--

6 (1) An applicant shall apply for a loan under this
7 section on a form furnished by the department which sets
8 forth the facts establishing eligibility. An application
9 under this subsection is subject to 18 Pa.C.S. § 4904
10 (relating to unsworn falsification to authorities).

11 (2) An applicant shall have 180 days from the date of
12 declaration of disaster to submit an application to the
13 department.

14 (3) The department shall investigate the application to
15 determine eligibility.

16 (4) Within 30 days of receipt of the application, the
17 department shall make an eligibility determination and a loan
18 determination.

19 (d) Loans.--

20 (1) The minimum loan amount to be awarded under the
21 program is \$10,000, and the maximum loan amount to be awarded
22 under the program is \$100,000. The amount of the loan cannot
23 exceed the adjusted loss, or \$100,000, whichever is less.

24 (2) Loan proceeds may be used for working capital, land
25 restoration or other eligible commodity losses as determined
26 by the department but may not be used for land purchases,
27 equipment purchases, refinancing existing debt or outstanding
28 debt payments. Commodity losses shall include, but not be
29 limited to, milk loss.

30 (3) Loan proceeds must be drawn within 60 days of the

1 loan approval date. Failure to draw funds within the required
2 time period will result in revocation of the loan.

3 (4) Loan applications will be reviewed and loans
4 approved on a first-come-first-served basis until available
5 funds are exhausted.

6 (e) Loan terms.--A loan shall be made at an interest rate of
7 0% for the term of the loan. The repayment period shall not
8 exceed two years.

9 \$ 4807. Loan guarantees and interest payments.

10 (a) Requests.--If the department approves an application for
11 a loan guarantee under the program, the department may request
12 that the authority provide the loan guarantee.

13 (b) Loan guarantees.--

14 (1) An applicant may request a guarantee for a loan to
15 assist with agriculture disaster recovery to be made by a
16 commercial lending institution or community development
17 financial institution for working capital, land restoration
18 or production agriculture. The applicant may be the farmer or
19 the commercial lending institution or community development
20 financial institution applying on behalf of a borrower.

21 (2) The application must be on the form required by the
22 department and provide any information required by the
23 department.

24 (3) Upon the borrower's meeting the eligibility
25 requirements, the board may approve the guarantee and, if
26 approved, the authority shall execute a guarantee agreement
27 in favor of the commercial lending institution or community
28 development financial institution stating the terms and
29 amounts of the guarantee within the following limitations:

30 (i) The amount of the loan guarantee cannot exceed

1 the adjusted loss or \$100,000, whichever is less.

2 (ii) The term of the loan cannot exceed 24 months,
3 and the interest rate paid by the board cannot exceed 4%.

4 (4) Upon approval of the loan guarantee agreement, the
5 board shall enter into a contract with the commercial lending
6 institution or community development financial institution to
7 reduce the interest rate paid by the applicant on the loan by
8 a maximum of 4%. In return, the board shall make payments to
9 the lender in an amount equal to not more than 100% of the
10 cost of reducing the applicant's annual rate of interest
11 payable on the loan.

12 Section 2. Section 1552(e) of Title 64, amended June 30,
13 2011 (P.L.193, No.27), is amended to read:

14 § 1552. First Industries Program.

15 * * *

16 (e) Loan guarantees.--

17 (1) An applicant may request a guarantee for a loan to
18 be made by a commercial lending institution or community
19 development financial institution to assist with the
20 financing of a project related to tourism or agriculture. The
21 applicant may be the commercial lending institution or
22 community development financial institution applying on
23 behalf of a borrower. The application must be on the form
24 required by the board and must include or demonstrate all of
25 the following:

26 (i) The applicant's name and address. If the
27 applicant is a commercial lending institution or
28 community development financial institution, the
29 borrower's name and address.

30 (ii) A description of the project.

1 (iii) A statement describing the anticipated
2 economic impact to the Commonwealth and the host
3 municipality as a result of the project.

4 (iv) A description of the proposed project
5 financing, including terms, conditions and the collateral
6 or security required for the loan for which the guarantee
7 is being requested.

8 (v) A copy of the applicant's last two years of
9 financial statements prepared or reported on by an
10 independent certified public accountant. If the applicant
11 is a commercial lending institution or a community
12 development financial institution, a copy of the
13 borrower's last two years of financial statements
14 prepared or reported on by an independent certified
15 public accountant.

16 (vi) The amount of the loan guarantee that is being
17 requested.

18 (vii) The total project cost and the identification
19 of all sources of capital for the project.

20 (viii) Any other information required by the board.

21 (1.1) An applicant may request a guarantee for a loan
22 and paid interest from the authority if the applicant
23 satisfies the requirements of 3 Pa.C.S. Ch. 48 (relating to
24 Agriculture Disaster Recovery Program).

25 (2) The board shall review the application to determine
26 all of the following:

27 (i) (A) Except as set forth in clause (B), that the
28 project has been awarded a planning grant under this
29 section or that at least \$1,000,000 of private funds
30 are being invested in the project.

1 (B) Beginning on the effective date of this
2 paragraph through July 15, 2015, that the project has
3 been awarded a planning grant under this section or
4 that at least \$500,000 of private funds are being
5 invested in the project.

6 (ii) That the value of the proposed collateral is
7 sufficient to cover the full amount of the loan.

8 (iii) That the applicant complied with all other
9 criteria established by the board.

10 (3) Upon being satisfied that all requirements have been
11 met, the board may approve the guarantee, and, if approved,
12 the authority shall execute a guarantee agreement in favor of
13 the commercial lending institution or community development
14 financial institution stating the terms and amounts of the
15 guarantee. Except as provided in paragraph (3.1), the
16 guarantee may not exceed 50% of the outstanding principal
17 amount of the loan or \$2,500,000 at any point in time,
18 whichever is less. In addition to any other terms and
19 conditions required by the board, the guarantee agreement
20 shall provide for all of the following:

21 (i) The procedure for the submission by the
22 commercial lending institution or community development
23 financial institution of a claim for payment. This
24 procedure shall require that the commercial lending
25 institution or community development financial
26 institution demonstrate that it has exhausted all
27 available remedies against the borrower, other guarantors
28 and collateral before seeking payment under the
29 agreement.

30 (ii) A requirement that a percentage of any moneys

1 recovered subsequent to the payment of a claim by the
2 authority be remitted to the authority.

3 (iii) Periodic reporting requirements by the
4 commercial lending institution or community development
5 financial institution regarding itself and regarding the
6 loans which have been awarded guarantees under this
7 section.

8 (3.1) Beginning on the effective date of this paragraph
9 through July 15, 2015, a guarantee of 51% to 90% of the
10 principal amount of the loan to assist with the financing of
11 a project related to agriculture may be awarded by the board.
12 The guarantee shall be subject to a one-time fee of 2% of the
13 amount of the loan multiplied by the percentage of the
14 guarantee.

15 (3.2) Eligible disaster guarantees shall not be subject
16 to the 2% fee. A guarantee of 100% shall be available in the
17 event of a disaster.

18 [(3.2)] (3.3) The amount of a guarantee under this
19 subsection, if any, shall be set at the discretion of the
20 board based upon its determination of the potential financial
21 risk to the Commonwealth.

22 (4) The board may establish a subcommittee composed of
23 one or more board members and department staff to supervise
24 the progress of projects for which loan guarantees have been
25 awarded under this section.

26 * * *

27 Section 3. This act shall take effect immediately.