

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 1323 Session of  
2011

INTRODUCED BY YAW, VOGEL, GORDNER, BRUBAKER, SCHWANK, FONTANA,  
ALLOWAY, RAFFERTY, ARGALL, SOLOBAY, WAUGH AND BREWSTER,  
OCTOBER 31, 2011

SENATOR VOGEL, AGRICULTURE AND RURAL AFFAIRS, AS AMENDED,  
NOVEMBER 1, 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.

1 § 4801. Short title of chapter.

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

4 § 4802. Purpose of chapter.

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

8 § 4803. Definitions.

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

12 "Adjusted loss." The difference between:

13 (1) eligible loss; and

14 (2) covered loss.

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

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

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

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

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

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

30 (2) A United States Department of Agriculture

1 secretarial declaration for certain counties or the State as  
2 a whole.

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

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

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

9 "FLOODWAY." THE CHANNEL OF A WATERCOURSE AND PORTIONS OF THE ←  
10 ADJOINING FLOODPLAINS WHICH ARE REASONABLY REQUIRED TO CARRY AND  
11 DISCHARGE THE 100-YEAR FREQUENCY FLOOD. IN AN AREA WHERE THE  
12 100-YEAR FREQUENCY FLOODWAY IS NOT DELINEATED BY THE FEDERAL  
13 EMERGENCY MANAGEMENT AGENCY, THE FLOODWAY IS ASSUMED TO EXTEND  
14 TO 50 FEET FROM THE TOP OF THE STREAM BANK.

15 "FLOODWAY RESTORATION." THE REMOVAL OF OBSTRUCTIONS,  
16 CONSISTING OF MAN-MADE OR NATURAL MATERIALS SUCH AS BUILDING  
17 MATERIALS, HOUSEHOLD MATERIALS, FUEL TANKS, HAZARDOUS MATERIALS  
18 AND CONTAINERS, TREES, VEGETATION, ROCK, GRAVEL, SAND OR OTHER  
19 NATURAL MATERIALS, DEPOSITED WITHIN A FLOODWAY OR STREAM CHANNEL  
20 BY A NATURAL FLOODING EVENT, IN ORDER TO STABILIZE AND RESTORE  
21 THE INTEGRITY OF THE FLOODWAY, STREAM CHANNEL AND STREAM BANK,  
22 AND TO PREVENT ANY FURTHER LONG-TERM EROSION OR DETERIORATION OF  
23 THE FLOODWAY, STREAM CHANNEL OR STREAM BANK, AND MINIMIZE ANY  
24 FURTHER OBSTRUCTION OF WATER FLOW IN THE FLOODWAY OR STREAM  
25 CHANNEL.

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

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

30 (1) The production of:

1           (i) agricultural, horticultural, aquacultural,  
2           vegetable, fruit or floricultural products of the soil;  
3           (ii) livestock or livestock products;  
4           (iii) milk or dairy products; or  
5           (iv) poultry or poultry products.

6           (2) Any other practices approved by the Department of  
7           Agriculture.

8           "Program." The Agriculture Disaster Recovery Program  
9           established under section 4806 (relating to Agriculture Disaster  
10          Recovery Program).

11          "Working capital." Funds used for the disposal of  
12          contaminated material and the acquisition of fertilizer, seed,  
13          livestock feed and other supplies for the purpose of production  
14          agriculture.

15          \$ 4804. Powers and duties of department.

16          The department shall adopt regulations to administer the  
17          program.

18          \$ 4805. Restricted account.

19          When funds are made available, a restricted revolving account  
20          shall be established in the State Treasury to be known as the  
21          Agriculture Disaster Recovery Account. The account shall be for  
22          the purpose of making ~~loans~~ INTEREST PAYMENTS to eligible ←  
23          farmers for assistance under the program established in section  
24          4806 (relating to Agriculture Disaster Recovery Program). Any  
25          funds appropriated to or transferred to fund the program and ~~any~~ ←  
26          ~~moneys received as loan repayments under the program or moneys~~  
27          otherwise made available to the program shall be deposited in  
28          the account and made available for additional agriculture  
29          ~~disaster recovery loans~~ INTEREST PAYMENTS for the purposes of ←  
30          the program.

1 § 4806. Agriculture Disaster Recovery Program.

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

8 (b) Eligibility.--To be eligible for a ~~loan~~ DISASTER ←  
9 ASSISTANCE, an applicant must ~~meet~~ CERTIFY TO THE DEPARTMENT ←  
10 THAT THE APPLICANT MEETS all of the following:

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

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

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

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

20 (2) Suffer an eligible loss.

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

22 (4) Be currently engaged in production agriculture and  
23 intend to continue in production agriculture.

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

25 (c) Procedure.--

26 (1) An applicant shall apply for a ~~loan~~ ASSISTANCE under ←  
27 this section on a form furnished by the department which sets  
28 forth the facts establishing eligibility. An application  
29 under this subsection is subject to 18 Pa.C.S. § 4904  
30 (relating to unsworn falsification to authorities).

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

4       (3) The department shall investigate REVIEW the ←  
5       application to determine eligibility.

6       (4) Within 30 days of receipt of the application, the  
7       department shall make an eligibility determination and a loan ←  
8       AN ASSISTANCE determination. ←

9       ~~(d) Loans.~~ ←

10       ~~(1) The minimum loan amount to be awarded under the~~  
11       ~~program is \$10,000, and the maximum loan amount to be awarded~~  
12       ~~under the program is \$100,000. The amount of the loan cannot~~  
13       ~~exceed the adjusted loss, or \$100,000, whichever is less.~~

14       ~~(2) Loan proceeds may be used for working capital, land~~  
15       ~~restoration or other eligible commodity losses as determined~~  
16       ~~by the department but may not be used for land purchases,~~  
17       ~~equipment purchases, refinancing existing debt or outstanding~~  
18       ~~debt payments. Commodity losses shall include, but not be~~  
19       ~~limited to, milk loss.~~

20       ~~(3) Loan proceeds must be drawn within 60 days of the~~  
21       ~~loan approval date. Failure to draw funds within the required~~  
22       ~~time period will result in revocation of the loan.~~

23       ~~(4) Loan applications will be reviewed and loans~~  
24       ~~approved on a first come first served basis until available~~  
25       ~~funds are exhausted.~~

26       ~~(e) Loan terms. A loan shall be made at an interest rate of~~  
27       ~~0% for the term of the loan. The repayment period shall not~~  
28       ~~exceed two years.~~

29       \$ 4807. Loan guarantees and interest payments.

30       (a) Requests.--If the department approves an application for

1 a loan guarantee under the program, the department may request  
2 that the authority provide the loan guarantee.

3 (b) Loan guarantees.--

4 (1) An applicant may request a guarantee for a loan to  
5 assist with agriculture disaster recovery to be made by a  
6 commercial lending institution or community development  
7 financial institution for working capital, land restoration, ←  
8 FLOODWAY RESTORATION or production agriculture. The applicant  
9 may be the farmer or the commercial lending institution or  
10 community development financial institution applying on  
11 behalf of a borrower.

12 (2) The application must be on the form required by the  
13 department and provide any information required by the  
14 department.

15 (3) Upon the borrower's meeting the eligibility  
16 requirements, the board may approve the guarantee and, if  
17 approved, the authority shall execute a guarantee agreement  
18 in favor of the commercial lending institution or community  
19 development financial institution stating the terms and  
20 amounts of the guarantee within the following limitations:

21 (i) The amount of the loan guarantee cannot exceed  
22 the adjusted loss or \$100,000, whichever is less.

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

25 (4) Upon approval of the loan guarantee agreement, the  
26 board shall enter into a contract with the commercial lending  
27 institution or community development financial institution to  
28 reduce the interest rate paid by the applicant on the loan by  
29 a maximum of 4%. In return, the board shall make payments to  
30 the lender in an amount equal to not more than 100% of the

cost of reducing the applicant's annual rate of interest  
payable on the loan.

Section 2. Section 1552(e) of Title 64, amended June 30,  
2011 (P.L.193, No.27), is amended AND THE SECTION IS AMENDED BY  
ADDING A SUBSECTION to read:

§ 1552. First Industries Program.

\* \* \*

(e) Loan guarantees.--

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

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

(ii) A description of the project.

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

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

(v) A copy of the applicant's last two years of



1 financial statements prepared or reported on by an  
2 independent certified public accountant. If the applicant  
3 is a commercial lending institution or a community  
4 development financial institution, a copy of the  
5 borrower's last two years of financial statements  
6 prepared or reported on by an independent certified  
7 public accountant.

8 (vi) The amount of the loan guarantee that is being  
9 requested.

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

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

13 ~~(1.1) An applicant may request a guarantee for a loan~~ ←  
14 ~~and paid interest from the authority if the applicant~~  
15 ~~satisfies the requirements of 3 Pa.C.S. Ch. 48 (relating to~~  
16 ~~Agriculture Disaster Recovery Program).~~

17 (2) The board shall review the application to determine  
18 all of the following:

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

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

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

30 (iii) That the applicant complied with all other

1 criteria established by the board.

2 (3) Upon being satisfied that all requirements have been  
3 met, the board may approve the guarantee, and, if approved,  
4 the authority shall execute a guarantee agreement in favor of  
5 the commercial lending institution or community development  
6 financial institution stating the terms and amounts of the  
7 guarantee. Except as provided in paragraph (3.1) AND ←  
8 SUBSECTION (E.1), the guarantee may not exceed 50% of the  
9 outstanding principal amount of the loan or \$2,500,000 at any  
10 point in time, whichever is less. In addition to any other  
11 terms and conditions required by the board, the guarantee  
12 agreement shall provide for all of the following:

13 (i) The procedure for the submission by the  
14 commercial lending institution or community development  
15 financial institution of a claim for payment. This  
16 procedure shall require that the commercial lending  
17 institution or community development financial  
18 institution demonstrate that it has exhausted all  
19 available remedies against the borrower, other guarantors  
20 and collateral before seeking payment under the  
21 agreement.

22 (ii) A requirement that a percentage of any moneys  
23 recovered subsequent to the payment of a claim by the  
24 authority be remitted to the authority.

25 (iii) Periodic reporting requirements by the  
26 commercial lending institution or community development  
27 financial institution regarding itself and regarding the  
28 loans which have been awarded guarantees under this  
29 section.

30 (3.1) Beginning on the effective date of this paragraph

1 through July 15, 2015, a guarantee of 51% to 90% of the  
2 principal amount of the loan to assist with the financing of  
3 a project related to agriculture may be awarded by the board.  
4 The guarantee shall be subject to a one-time fee of 2% of the  
5 amount of the loan multiplied by the percentage of the  
6 guarantee.

7 ~~+(3.2) Eligible disaster guarantees shall not be subject~~ ←  
8 ~~to the 2% fee. A guarantee of 100% shall be available in the~~  
9 ~~event of a disaster.~~

10 ~~+(3.2)+ (3.3)~~ The amount of a guarantee under this ←  
11 subsection, if any, shall be set at the discretion of the  
12 board based upon its determination of the potential financial  
13 risk to the Commonwealth.

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

18 (E.1) AGRICULTURE DISASTER LOAN GUARANTEES.--AN APPLICANT ←  
19 MAY REQUEST A GUARANTEE FOR A LOAN AND PAID INTEREST FROM THE  
20 AUTHORITY IF THE APPLICANT SATISFIES THE REQUIREMENTS OF 3  
21 PA.C.S. CH. 48 (RELATING TO AGRICULTURE DISASTER RECOVERY  
22 PROGRAM). ELIGIBLE DISASTER GUARANTEES SHALL NOT BE SUBJECT TO  
23 THE 2% FEE. A GUARANTEE OF 100% SHALL BE AVAILABLE IN THE EVENT  
24 OF A DISASTER.

25 \* \* \*

26 Section 3. This act shall take effect immediately.