

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1526 Session of 2019

INTRODUCED BY IRVIN, CAUSER, PASHINSKI, BERNSTINE, A. DAVIS, T. DAVIS, DeLISSIO, FEE, FREEMAN, GREINER, HANBIDGE, HERSHEY, HICKERNELL, M. K. KELLER, KINSEY, LONGIETTI, MALAGARI, MILLARD, MOUL, OWLETT, RADER, RYAN, SAPPEY, SAYLOR, SNYDER, STRUZZI, WEBSTER, ZIMMERMAN, BURGOS, RABB AND SAINATO, MAY 29, 2019

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 12, 2019

AN ACT

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

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

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

8 CHAPTER 6

9 AGRICULTURE-LINKED INVESTMENT PROGRAM

10 Sec.

11 601. Scope of chapter.

12 602. Legislative intent.

13 603. Definitions.

14 604. General authority of commission.

15 605. Agriculture-Linked Investment Program.

16 606. Liability.

1 607. Funding cap.

2 § 601. Scope of chapter.

3 This chapter relates to the Agriculture-Linked Investment  
4 Program.

5 § 602. Legislative intent.

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

17 § 603. Definitions.

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

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

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

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

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

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

23           "Eligible borrower." Any person, individual, partnership,  
24 corporation or legal entity who has an interest in property in  
25 this Commonwealth, who engages in agricultural operation in this  
26 Commonwealth, who has legal and financial responsibility for the  
27 agricultural operation and who has developed an approved  
28 nutrient management plan under Chapter 5 (relating to nutrient  
29 management and odor management), a manure management plan or an  
30 agricultural erosion and sedimentation plan or other commission-

1 approved Federal or State conservation program or approved best  
2 management practices.

3 "Lending institution." Any financial institution that is  
4 authorized to issue commercial loans, is a State depository  
5 approved by the Board of Finance and Revenue and enters into an  
6 agreement with the State Treasurer for participation in the  
7 Agriculture-Linked Investment Program. The term includes any  
8 agricultural credit association affiliated with the Farm Credit  
9 Bank, a federally chartered instrumentality pursuant to the Farm  
10 Credit Act of 1971 (Public Law 92-181, 12 U.S.C. §§ 2001-2023),  
11 as amended, that enters into an agreement with the State  
12 Treasurer for participation in the Agriculture-Linked Investment  
13 Program.

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

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

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

26 "The Clean Streams Law." The act of June 22, 1937 (P.L.1987,  
27 No.394), known as The Clean Streams Law.

28 § 604. General authority of commission.

29 (a) Authority.--The commission shall retain and may utilize  
30 the authority established in the Conservation District Law and

1 Chapter 5 (relating to nutrient management and odor management)  
2 as well as any other authority delegated or bestowed upon the  
3 commission in the administration of this chapter, including  
4 money appropriated, given, granted or donated to the commission  
5 for the purposes of this chapter. Nothing in this chapter shall  
6 be construed to abrogate or abridge the authority of the  
7 commission under any other statute or grant of authority.

8 (b) Best management practices.--

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

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

23 § 605. Agriculture-Linked Investment Program.

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

28 (1) The applicant is an eligible borrower.

29 (2) The best management practice for which the applicant  
30 is seeking a loan under this chapter has been approved by the

1 commission or the commission's delegated agent for  
2 implementation.

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

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

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

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

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

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

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

29 (6) Upon determination of the completeness of the  
30 request for money and supporting documentation, the State

1 Treasurer shall transfer to the lending institution money  
2 equivalent to the amount of the loan approved as follows:

3 (i) if the lending institution is a State  
4 depository, the State Treasurer shall deposit the money  
5 in a collateralized certificate of deposit in the name of  
6 the Commonwealth which, except as provided in this  
7 chapter, conforms to the legal requirements for deposits  
8 in State depositories; or

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

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

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

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

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

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

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

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

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

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

28 (5) The interest rate charged by a lending institution  
29 to an eligible borrower may be either a fixed rate for the  
30 entire term of the loan or a variable rate which shall be

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1 adjusted semiannually to reflect changes in the interest rate  
2 established by the Board of Finance and Revenue for deposits  
3 in State depositories as otherwise provided by law.

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

8 (d) Interest subsidy.--

9 (1) The commission, at the commission's discretion, may  
10 enter into an agreement with the State Treasurer to subsidize  
11 the interest rate charged to eligible borrowers under this  
12 program with money provided to the commission under section  
13 4(6) of the Conservation District Law or section 512  
14 (relating to Nutrient Management Fund).

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

1 associated with subsidized loans.

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

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

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

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

19 § 606. Liability.

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

24 (b) Loss of subsidy upon default.--A default by an eligible  
25 borrower in repayment of an Agriculture-Linked Investment Loan  
26 shall result in the loss of the subsidy provided under this  
27 chapter, in which case the interest rate payable by the lending  
28 institution shall revert to the interest rate on deposits as  
29 established by the Board of Finance and Revenue from time to  
30 time as otherwise established by law. As used in this

1 subsection, the term "default" means a loan which is more than  
2 90 days in arrears on payments.

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

10 § 607. Funding cap.

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

14 Section 2. Repeals are as follows:

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

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

21 Section 3. Continuation is as follows:

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

26 (i) Except as otherwise provided in 3 Pa.C.S. Ch. 6,  
27 all activities initiated under the Agriculture-Linked  
28 Investment Program Act shall continue and remain in full  
29 force and effect and may be completed under 3 Pa.C.S. Ch.  
30 6. Orders, regulations, rules and decisions which were

1 made under the Agriculture-Linked Investment Program Act  
2 and which are in effect on the effective date of section  
3 2 of this act shall remain in full force and effect until  
4 revoked, vacated or modified under 3 Pa.C.S. Ch. 6.  
5 Contracts, obligations and collective bargaining  
6 agreements entered into under the Agriculture-Linked  
7 Investment Program Act are not affected nor impaired by  
8 the repeal of the Agriculture-Linked Investment Program  
9 Act.

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

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

20 (A) 3 Pa.C.S. § 602.

21 (B) The definitions of "agricultural erosion and  
22 sedimentation plan," "best management practices,"  
23 "Conservation District Law," "eligible borrower,"  
24 "manure management plan," "nutrient management plan,"  
25 "odor management plan" and "The Clean Streams Law" in  
26 3 Pa.C.S. § 603.

27 (C) 3 Pa.C.S. § 604.

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

29 (d)(1).

30 (2) (Reserved).

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