**Section 1100.725 Rules and Guidelines Applicable to the State Guarantee Program for Restructuring Agricultural Debt**

a) General Description of Program. The State Guarantee Program (SGP) is intended to provide farmers who are experiencing financial difficulties caused by high interest rates and low commodity prices with a debt restructuring schedule to consolidate and spread out existing debt over a longer term at a reduced interest rate so that farmers will be able to continue existing farming operations. The provisions of this Section are applicable only to the SGP, and the provisions of Sections 1100.705 and 1100.710 of this Part are inapplicable to the SGP and procedures provided for pursuant to this Section.

b) Definitions

Words defined in the Illinois Finance Authority Act and in Section 1100.50 have the same meaning when used in this Subpart unless a more specific definition is prescribed in this Section. This Section establishes additional definitions for use in this Subpart only.

"Applicant" means a farmer whose application for a State Guarantee has been submitted to the Authority by a lender.

"Asset" includes, but is not limited to, the following: crops or feed on hand; livestock held for sale; breeding stock; cash; marketable bonds and securities; securities not readily marketable; accounts receivable; notes receivable; cash invested in growing crops; net cash value of life insurance; machinery and equipment; cars and trucks; farm and other real estate including life estates, personal residence, and value of beneficial interests in trusts; government payments or grants; capitalized leases; retirement accounts; and all other property and assets.

"Current Outstanding" means on the date of the application for any State Guarantee.

"Current Status" means the absence of any arrearages in any previously incurred debt for which a State Guarantee is sought.

"Debt to Asset Ratio" means the *current outstanding liabilities of the farmer divided by the current outstanding assets of the farmer.* [20 ILCS 3501/830-30]

"Farmer" means *a resident of Illinois, who is a principal operator of a farm or land, at least 50% of whose gross annual income is derived from farming and whose debt to asset ratio shall not be less than 40%, except in those cases where the applicant has previously used the Guarantee Program there shall be no debt to asset ratio* *or income* *restriction.* [20 ILCS 3501/830-30]

"Fund" means the *Illinois Agricultural Loan Guarantee Fund,* which is the State's fund to cover losses resulting from defaults on State Guarantee loans. [20 ILCS 3501/830-30]

"Gross Annual Income" means income as defined in Section 61 of the Internal Revenue Code (26 USC 61).

"Liability" *includes, but is not limited to, the following: accounts payable; notes or other indebtedness owed to any source; taxes; rent; amounts owed on real estate contracts or real estate mortgages; judgments;* *accrued* *interest payable;* indebtedness under capitalized leases; *and* all *other* liabilities. [20 ILCS 3501/801-10]

"State Guarantee" means a note for which the State of Illinois shall be liable for 85% of the total principal and interest of the note as determined by the Authority.

c) Eligible Farmers. To qualify for participation in the SGP, each farmer must:

1) maintain his principal residence in the State;

2) be at least 18 years of age at the time of application;

3) be the principal operator of the farming business for which the funds guaranteed by the SGP are contemplated to be used;

4) be able to show, based upon his/her most recent Federal Income Tax Return and current data, that at least 50% of his/her annual gross income is derived from farming, unless the loan is a renewal of an existing guarantee;

5) have a debt to asset ratio of not less than 40% and not greater than 65%, unless the loan is a renewal of an existing guarantee;

6) provide sufficient collateral to secure the State Guarantee and agree to keep the State Guarantee adequately collateralized in the future;

7) certify and agree that he/she will only use the State Guarantee to consolidate and restructure existing farming debts.

d) Limitations

1) No State Guarantee shall exceed *$500,000* *per farmer* or farming operation. [20 ILCS 3501/830-30]

2) Each State Guarantee *shall be set up on a payment schedule* *not to exceed 30 years*, *and* *shall be no longer than* *30* *years in duration.* [20 ILCS 3501/830-30]

3) *Only one State Guarantee shall be* *outstanding per* *farmer* *at any one time*. [20 ILCS 3501/830-30]

4) Only one State Guarantee shall be outstanding at any one time for any one farming operation. If applicants file separate Schedule Fs for their Federal Income Tax Returns, then they will be considered to operate separate farming operations.

e) Application Procedures and Review

1) Lenders interested in the SGP must complete a Letter of Interest and return it to the Authority's office. After the Letter of Interest has been received by the Authority, the lender will be placed on the mailing list for the SGP.

2) *The lenders shall apply* *for State Guarantees on forms* approved and *provided by the Authority. The application shall, at a minimum, contain the farmer's name, address, present credit and financial information, including cash flow statements, financial statements, balance sheets, and any other information pertinent to the State Guarantee.* [20 ILCS 3501/830-30]

3) After approval of the application and receipt of the documentation necessary prior to closing the loan, the Authority shall send a State Guarantee Closing Documents package to the lender containing all the appropriate forms and documents to execute. Upon completion of all such forms and documents by the applicant, lender and Authority, the State Guarantee loan will be considered closed.

4) The lender shall certify that all the information contained on the application and other submitted documents is correct, and shall be liable to the Authority for any damages suffered by any incorrect or untrue statement contained in any certified application.

5) The application period for the SGP shall commence July 15, 1982 and end when the Authority has issued State Guarantees equal to $160,000,000 or at any later time as may be set from time to time by legislative extension.

6) Following submission of the Guarantee application by the lender, the Authority shall review the application. The Authority's review shall include, but will not be limited to, whether the applicant is an eligible farmer and whether the lender has complied with the requirements of subsection (f) of this Section. The Authority will base its evaluation on collateral, percentage of loan, debt to asset ratio, cash flow, etc.

7) When a State Guarantee application is submitted to the Authority, the Executive Director shall review the application to determine whether it is complete and whether it meets the criteria established by the Act and this Part:

A) If the Executive Director determines that the loan application is incomplete, he or she shall, within 14 days of such determination, inform the lender and the applicant of such determination, and detail the information or material that is necessary to complete the application. For the purposes of subsection (j) of this Section, no application shall be deemed complete until the lender or applicant has provided the additional information or material requested by the Executive Director.

B) When the Executive Director has completed his or her review of the Guarantee application, he or she shall present the application, with a statement of recommended action to the Authority at its next regularly scheduled meeting. The Executive Director will base the review on collateral, percentage of loan, debt to asset ratio, cash flow, etc.

8) The Authority shall review each loan application presented by the Executive Director in accordance with the provision of the Act and this Part, and the Authority shall:

A) approve the application and provide the Guarantee, pursuant to the Act and this Part; or

B) deny the application and serve upon the lender and applicant a written statement of the grounds of the denial.

9) Each applicant shall pay a $300 application fee which will be submitted to the lender at the time of the application. At the time the loan is made, the applicant may be required to pay a closing fee not greater than ¾ of 1% of the State Guarantee which may be used to pay for administrative expenses incurred by the lender and the Authority. Of this ¾ of 1% closing fee, the Authority shall receive ½% to cover administrative and legal expenses and the lender shall receive ¼% to cover administrative expenses in completing the application packet and closing documents. The ¾ of 1% closing fee may be included in the State Guarantee Loan amount. The Authority shall credit the $300 application fee against the closing fee. The lender shall charge no fees or points in addition to those outlined herein. *The applicant shall be responsible for paying any fees or charges involved in recording mortgages, releases, financing statements, insurance for secondary market issues and any similar fees* necessary for closing and maintaining the State Guarantee or selling into the secondary market*.* [20 ILCS 3501/830-30]

10) If the application is denied, the applicant and the lender may file a Request for Reconsideration stating reasons why the Authority should withdraw its denial of the application and approve the State Guarantee. This Request for Reconsideration must be filed with the Authority not later than 21 days after such denial. The Request for Reconsideration should be accompanied by supporting documents and/or information not previously considered by the Authority. The Authority shall review the Request for Reconsideration at its next scheduled meeting, and shall either approve the application or deny the Request for Reconsideration. The applicant will have the opportunity to present new relevant facts on his previous denial to the Authority, and if such facts will establish eligibility, the Request will be granted. A denial of a Request for Reconsideration shall be final. While a Request for Reconsideration is pending, the application shall be deemed complete for the purposes of subsection (j) of this Section.

f) Provision or Renewal of State Guarantees. The Authority shall provide or renew a State Guarantee to any lender if, in addition to meeting the other criteria described in the Act and this Part, the lender:

1) *agrees to bring the farmer's debt to a current status at the time the State Guarantee is provided*; [20 ILCS 3501/830-30]

2) *charges a fixed or adjustable interest rate which is below the market rate of interest generally available to the borrower.* The market rate of interest is that rate which would be charged by the same lender for the same project without the State Guarantee. *If both the lender and the applicant agree, the interest rate on the State Guarantee loan can be converted to a fixed interest rate at any time during the term of the loan*; [20 ILCS 3501/830-30]

3) agrees to pay to the Authority an annual fee equal to 25 basis points on the loan and any other necessary and ordinary administrative expenses in excess of the 25 basis points as determined from time to time pursuant to the Act and this Part;

4) agrees to complete and *certify that,* to the best of the lender's knowledge, all information is *true and correct on the application,* balance sheets, security analysis, cash flow projection *and any other documents* that the Authority may request; [20 ILCS 3501/830-30]

5) *identifies collateral acceptable to the Authority* in accordance with subsection (h) *that is at least equal to the State Guarantee* loan request; [20 ILCS 3501/830-30]

6) *assumes all responsibility and costs for pursuing legal action on collecting any loan that is delinquent or in default subject to consulting the Authority*; [20 ILCS 3501/830-30]

7) *is at risk for the first 15% of the outstanding principal of the note for which the State Guarantee is provided*; [20 ILCS 3501/830-30]

8) *assumes responsibility for proceeding with the collecting and disposing of collateral on the State Guarantee within 14 months of the date that the loan is declared delinquent; provided, however, that the lender shall not collect or dispose of collateral on the State Guarantee without the express written prior approval of the Authority*. [20 ILCS 3501/830-30] Approval shall be granted if the collateral is disposed of in a reasonably commercial manner, based on the manner, time and place of the sale, the purchase price and the purchaser. In the event that the lender fails *to dispose of the collateral within 14 months, the lender shall repay to the State interest on the State Guarantee* *equal to* *the same rate* *which* *the lender charges on the* loan*; provided, however, that the Authority* shall *extend the 14-month period for a lender in the case of bankruptcy or extenuating circumstances* which prevent the lender from liquidating the collateral. *The lender shall repay this interest to the State until the collateral for the State Guarantee has been liquidated and the State has been reimbursed*. [20 ILCS 3501/830-30] If the lender fails to repay the State the interest as outlined in this subsection (f), the Authority shall turn the matter over to the Attorney General's office for appropriate legal action;

9) agrees that the Authority has final approval on the sale of all collateral for the State Guarantee. After the sale of collateral, the State shall be reimbursed 85% of the remaining principal amount of the State Guarantee loan. If the funds from the sale of collateral remain after this payment, the lender shall be reimbursed 15% of the remaining principal amount of the loan. If excess funds remain after paying the remaining principal to the State and lender, then the State and lender shall be repaid interest on a prorated basis; 85% of such excess funds shall be allocated to the State's portion and 15% shall be allocated to the lender's portion. If excess funds exist after repaying both the State and the lender, they shall be paid back to the farmer. [20 ILCS 3501/830-45]

g) Annual Review

1) The lender and the Authority shall each, on an annual basis, review State Guarantees for any purpose including, but not limited to, present collateral value; timeliness of payments made by the farmer or any other purposes reasonably calculated to aid in determining the farmer's present and projected repayment capacity. If the Authority determines that the existing collateral is insufficient to cover the State's liability, additional collateral may be required. If the applicant fails to pledge such additional collateral, the State Guarantee loan may be called.

2) *In those cases where the borrower has not previously used the guarantee program, no* *State Guarantee shall be* *called* *by the lender or Authority during the first 3 years of the date on which the application is closed for any reason except defaults on payments or insufficient collateral*. [20 ILCS 3501/830-30]

3) Except as otherwise provided in the Act or this Subpart, a State Guarantee may be called by the lender or Authority upon a 90-day written notice to all parties specifying the reasons for such call (e.g., submission of false documentation, changing loan documents, and change of state residency).

4) *The lender can review and withdraw or continue with the State Guarantee on an annual basis after the first three years of the loan provided a 90 day notice, in writing, to all parties has been given.* [20 ILCS 3501/830-30] Such notification must be provided on or before the date on which payment is due.

5) The applicant must make all payments on the State Guarantee within 90 days of the stated payment date. Failure to make payments on or before their due date shall render the loan delinquent. Notice of this delinquency shall immediately be sent to all parties. If the loan remains delinquent for a period of 90 days, the total outstanding principal and interest shall become due and payable immediately on the entire State Guarantee Loan. The State Guarantee cannot be reinstated after the 90-day delinquency period.

h) Valuation of Collateral. All collateral shall be evaluated by IFA staff or appraised by a qualified appraiser. A qualified appraiser is one who is qualified by virtue of membership in the Illinois Society of Farm Managers and Appraisers, or one whose qualifications have been reviewed by the Authority. The Authority shall have final authority to determine whether the collateral is sufficient to cover the State's liability and may appoint an independent appraiser to aid in its determination on the sufficiency of collateral. The Authority will view real estate as the primary collateral on SGP loans, with machinery and equipment and breeding livestock to be used as secondary collateral, except where no real estate is available. Collateral value may be reviewed each year by the lender or an independent appraiser appointed by the Authority. The Authority may, among other things, take a mortgage or lien on land or other assets to cover the State's liability. Collateral may be transferred only upon written approval by the Authority and the lender.

i) Fund. To implement and carry out the objectives of the SGPAI, the Fund has been created as a special Fund outside of the State Treasury.

1) *The Authority* *is authorized to* *transfer* *no* *more than* $45,000,000 *to the Fund during the* *duration of the State Guarantee program, to secure State Guarantees issued pursuant to this Section.* *Any* *amounts* *transferred from the* *Illinois Agricultural Loan Guarantee* *Fund to the General Revenue Fund under powers granted to the Governor by Public Act 87-14 shall not be considered in determining if the maximum of $45,000,000 has been transferred into the* *Illinois Agricultural Loan Guarantee* *Fund.* [20 ILCS 3501/830-30]

2) *The State shall not* *be liable for more than* $45,000,000 *to secure State Guarantees issued pursuant to this Section*. [20 ILCS 3501/830-30]

3) *In the event of default by the farmer, the lender shall be entitled to, and the Authority shall direct payment on, the State Guarantee after 90 days of delinquency. All payments by the Authority shall be made from the Illinois Agricultural Loan Guarantee Fund to satisfy claims against the State Guarantee. The Illinois Agricultural Loan Guarantee Fund shall guarantee receipt of payment of the 85% of the principal and interest owed on the State Guarantee loan by the farmer to the guarantee holder.* [20 ILCS 3501/830-30] In no event shall the interest amount guaranteed by the Authority include interest accruing beyond 120 days from the date of default.

4) *The Fund shall be reimbursed for any amount paid under* this subsection (i) *upon liquidation of collateral which the lender shall seize and convert to cash in a reasonably commercial manner*. [20 ILCS 3501/830-30]

j) Priority of Applications. Applications shall be processed by the Authority on a first-come, first-served basis, based upon the receipt of all completed documents by the Authority.

k) Guarantors and Additional Collateral. An applicant for a State Guarantee Loan may have a guarantor co-sign the note and/or pledge additional collateral for the State Guarantee Loan if the lender and Authority determine that the applicant alone cannot provide sufficient collateral for the State Guarantee.

l) The State Guarantee. In the event of default, the Authority shall make payment on the State Guarantee of 85% of the outstanding principal and interest owed on the State Guarantee Loan to the holder of the State Guarantee. The payment shall be made by the Authority to the holder of the State Guarantee within 30 days after an appropriate request by a lender certifying that the 90-day delinquency period has elapsed. The payment shall include 85% of past due interest and 85% of the remaining principal.

m) Prepayment of Loans. Each loan shall be paid at least on an annual basis with one payment due each year on the date on which the loan was closed for a period of ten years or until the loan is repaid, whichever occurs first. The State Guarantee Loan may be prepaid in full or in part at any time the loan is outstanding without penalty.

n) Assumption of Loans. No State Guarantee loan may be assumed by any entity unless specifically authorized by the Authority. Such authorization will be granted only in extraordinary cases (e.g., death or serious illness of the applicant with assumption by an immediate family member).

o) Total Obligations through the SGP. The Authority shall have outstanding guarantees in an aggregate principal amount up to $160,000,000 through the SGP. The Illinois Agriculture Loan Guarantee Fund shall be funded with $45,000,000 to cover any losses.

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