

1 AN ACT concerning farm development.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Illinois Farm Development Act is amended
5 by changing Sections 12.1, 12.2, 12.4, and 12.5 as follows:

6 (20 ILCS 3605/12.1) (from Ch. 5, par. 1212.1)

7 Sec. 12.1. State Guarantees for existing debt.

8 (a) The Authority is authorized to issue State
9 Guarantees for farmers' existing debts held by a lender. For
10 the purposes of this Section, a farmer shall be a resident of
11 Illinois, who is a principal operator of a farm or land, at
12 least ~~30%~~ 50% of whose annual gross income is derived from
13 farming and whose debt to asset ratio shall not exceed the
14 maximum established by the Authority ~~be less than 40%~~, except
15 in those cases where the applicant has previously used the
16 guarantee program there shall be no debt to asset ratio or
17 income restriction. For the purposes of this Section, debt
18 to asset ratio shall mean the current outstanding liabilities
19 of the farmer divided by the current outstanding assets of
20 the farmer. The Authority shall establish the maximum
21 permissible debt to asset ratio based on criteria established
22 by the Authority.

23 Lenders shall apply for the State Guarantees on forms
24 provided by the Authority and certify that the application
25 and any other documents submitted are true and correct. The
26 lender or borrower, or both in combination, shall pay an
27 administrative fee as determined by the Authority. The
28 applicant shall be responsible for paying any fees or charges
29 involved in recording mortgages, releases, financing
30 statements, insurance for secondary market issues and any
31 other similar fees or charges as the Authority may require.

1 The application shall at a minimum contain the farmer's name,
 2 address, present credit and financial information, including
 3 cash flow statements, financial statements, balance sheets,
 4 and any other information pertinent to the application, and
 5 the collateral to be used to secure the State Guarantee. In
 6 addition, the lender must agree to bring the farmer's debt to
 7 a current status at the time the State Guarantee is provided
 8 and must also agree to charge a fixed or adjustable interest
 9 rate which the Authority determines to be below the market
 10 rate of interest generally available to the borrower. If
 11 both the lender and applicant agree, the interest rate on the
 12 State Guarantee Loan can be converted to a fixed interest
 13 rate at any time during the term of the loan.

14 Any State Guarantees provided under this Section (i)
 15 shall not exceed \$1,000,000 \$500,000 per farmer, (ii) shall
 16 ~~be--set--up--on--a--payment--schedule--not--to--exceed--30--years,~~ and
 17 shall be no longer than 30 years in duration, and (iii) shall
 18 be subject to an annual review and renewal by the lender and
 19 the Authority; provided that only one such State Guarantee
 20 shall be outstanding per farmer at any one time. No State
 21 Guarantee shall be revoked by the Authority without a 90 day
 22 notice, in writing, to all parties. ~~In--these--cases--were--the~~
 23 ~~borrower--has--not--previously--used--the--guarantee--program,~~ the
 24 ~~lender--shall--not--call--due--any--loan--during--the--first--3--years~~
 25 ~~for--any--reason--except--for--lack--of--performance--or--insufficient~~
 26 ~~collateral.~~ The lender can review and withdraw or continue
 27 with the State Guarantee on an annual basis ~~after--the--first--3~~
 28 ~~years--of--the--loan,~~ provided a 90 day notice, in writing, to
 29 all parties has been given.

30 (b) The Authority shall provide or renew a State
 31 Guarantee to a lender if:

32 (i) A fee equal to 25 basis points on the loan is
 33 paid to the Authority on an annual basis by the lender.

34 (ii) The application provides collateral acceptable

1 to the Authority that is at least equal to the gross loan
2 amount ~~State's portion of the Guarantee to be provided.~~

3 (iii) The lender assumes all responsibility and
4 costs for pursuing legal action on collecting any loan
5 that is delinquent or in default.

6 (iv) The lender is responsible for the first 15% of
7 the outstanding principal of the note for which the State
8 Guarantee has been applied.

9 (c) There is hereby created outside of the State
10 Treasury a special fund to be known as the Illinois
11 Agricultural Loan Guarantee Fund. The State Treasurer shall
12 be custodian of this Fund. Any amounts in the Illinois
13 Agricultural Loan Guarantee Fund not currently needed to meet
14 the obligations of the Fund shall be invested as provided by
15 law, and all interest earned from these investments shall be
16 deposited into the Fund until the Fund reaches the maximum
17 amount authorized in this Act; thereafter, interest earned
18 shall be deposited into the General Revenue Fund. After
19 September 1, 1989, annual investment earnings equal to 1.5%
20 of the Fund shall remain in the Fund to be used for the
21 purposes established in Section 12.3 of this Act.

22 The Authority is authorized to transfer to the Fund such
23 amounts as are necessary to satisfy claims during the
24 duration of the State Guarantee program to secure State
25 Guarantees issued under this Section. If for any reason the
26 General Assembly fails to make an appropriation sufficient to
27 meet these obligations, this Act shall constitute an
28 irrevocable and continuing appropriation of an amount
29 necessary to secure guarantees as defaults occur and the
30 irrevocable and continuing authority for, and direction to,
31 the State Treasurer and the Comptroller to make the necessary
32 transfers to the Illinois Agricultural Loan Guarantee Fund,
33 as directed by the Governor, out of the General Revenue Fund.

34 Within 30 days after November 15, 1985, the Authority may

1 transfer up to \$7,000,000 from available appropriations into
2 the Illinois Agricultural Loan Guarantee Fund for the
3 purposes of this Act. Thereafter, the Authority may transfer
4 additional amounts into the Illinois Agricultural Loan
5 Guarantee Fund to secure guarantees for defaults as defaults
6 occur.

7 In the event of default by the farmer, the lender shall
8 be entitled to, and the Authority shall direct payment on,
9 the State Guarantee after 90 days of delinquency. All
10 payments by the Authority shall be made from the Illinois
11 Agricultural Loan Guarantee Fund to satisfy claims against
12 the State Guarantee. The Illinois Agricultural Loan
13 Guarantee Fund shall guarantee receipt of payment of the 85%
14 of the principal and interest owed on the State Guarantee
15 Loan by the farmer to the guarantee holder.

16 It shall be the responsibility of the lender to proceed
17 with the collecting and disposing of collateral on the State
18 Guarantee within 14 months of the time the State Guarantee is
19 declared delinquent; provided, however, that the lender shall
20 not collect or dispose of collateral on the State Guarantee
21 without the express written prior approval of the Authority.
22 If the lender does not dispose of the collateral within 14
23 months, the lender shall be liable to repay to the State
24 interest on the State Guarantee equal to the same rate which
25 the lender charges on the State Guarantee; provided, however,
26 that the Authority may extend the 14 month period for a
27 lender in the case of bankruptcy or extenuating
28 circumstances. The Fund shall be reimbursed for any amounts
29 paid under this Section upon liquidation of the collateral.
30 The Authority, by resolution of the Board, may borrow sums
31 from the Fund and provide for repayment as soon as may be
32 practical upon receipt of payments of principal and interest
33 by a farmer. Money may be borrowed from the Fund by the
34 Authority for the sole purpose of paying certain interest

1 costs for farmers associated with selling a loan subject to a
2 State Guarantee in a secondary market as may be deemed
3 reasonable and necessary by the Authority.

4 (d) Notwithstanding the provisions of this Section 12.1
5 with respect to the farmers and lenders who may obtain State
6 Guarantees, the Authority may promulgate rules establishing
7 the eligibility of farmers and lenders to participate in the
8 State guarantee program and the terms, standards, and
9 procedures that will apply, when the Authority finds that
10 emergency conditions in Illinois agriculture have created the
11 need for State Guarantees pursuant to terms, standards, and
12 procedures other than those specified in this Section.

13 (Source: P.A. 90-325, eff. 8-8-97; 91-386, eff. 1-1-00.)

14 (20 ILCS 3605/12.2) (from Ch. 5, par. 1212.2)

15 Sec. 12.2. State Guarantees for loans to farmers and
16 agribusiness; eligibility.

17 (a) The Authority is authorized to issue State
18 Guarantees to lenders for loans to eligible farmers and
19 agribusinesses for purposes set forth in this Section. For
20 purposes of this Section, an eligible farmer shall be a
21 resident of Illinois (i) who is principal operator of a farm
22 or land, at least 30% 50% of whose annual gross income is
23 derived from farming, and (ii) whose annual total sales of
24 agricultural products, commodities, or livestock exceeds
25 \$20,000, ~~and (iii) whose net worth does not exceed \$500,000.~~
26 An eligible agribusiness shall be that as defined in Section
27 2 of this Act.

28 The Authority may approve applications by farmers and
29 agribusinesses that promote diversification of the farm
30 economy of this State through the growth and development of
31 new crops or livestock not customarily grown or produced in
32 this State or that emphasize a vertical integration of grain
33 or livestock produced or raised in this State into a finished

1 agricultural product for consumption or use. "New crops or
2 livestock not customarily grown or produced in this State"
3 shall not include corn, soybeans, wheat, swine, or beef or
4 dairy cattle. "Vertical integration of grain or livestock
5 produced or raised in this State" shall include any new or
6 existing grain or livestock grown or produced in this State.

7 Lenders shall apply for the State Guarantees on forms
8 provided by the Authority, certify that the application and
9 any other documents submitted are true and correct, and pay
10 an administrative fee as determined by the Authority. The
11 applicant shall be responsible for paying any fees or charges
12 involved in recording mortgages, releases, financing
13 statements, insurance for secondary market issues and any
14 other similar fees or charges as the Authority may require.
15 The application shall at a minimum contain the farmer's or
16 agribusiness' name, address, present credit and financial
17 information, including cash flow statements, financial
18 statements, balance sheets, and any other information
19 pertinent to the application, and the collateral to be used
20 to secure the State Guarantee. In addition, the lender must
21 agree to charge an interest rate, which may vary, on the loan
22 that the Authority determines to be below the market rate of
23 interest generally available to the borrower. If both the
24 lender and applicant agree, the interest rate on the State
25 Guarantee Loan can be converted to a fixed interest rate at
26 any time during the term of the loan.

27 Any State Guarantees provided under this Section (i)
28 shall not exceed \$500,000--per--farmer--or an amount as
29 determined by the Authority on a case-by-case basis for--an
30 agribusiness, (ii) shall not exceed a term of 30 ±5 years,
31 and (iii) shall be subject to an annual review and renewal by
32 the lender and the Authority; provided that only one such
33 State Guarantee shall be made per farmer or agribusiness,
34 except that additional State Guarantees may be made for

1 purposes of expansion of projects financed in part by a
2 previously issued State Guarantee. No State Guarantee shall
3 be revoked by the Authority without a 90 day notice, in
4 writing, to all parties. The lender shall not call due any
5 loan for any reason except for lack of performance,
6 insufficient collateral, or maturity. A lender may review
7 and withdraw or continue with a State Guarantee on an annual
8 basis ~~after the first 5 years following closing of the loan~~
9 ~~application if the loan contract provides for an interest~~
10 ~~rate that shall not vary. A lender shall not withdraw a~~
11 ~~State Guarantee if the loan contract provides for an interest~~
12 ~~rate that may vary, except for reasons set forth herein.~~

13 (b) The Authority shall provide or renew a State
14 Guarantee to a lender if:

15 i. A fee equal to 25 basis points on the loan is
16 paid to the Authority on an annual basis by the lender.

17 ii. The application provides collateral acceptable
18 to the Authority that is at least equal to the gross loan
19 amount ~~State's portion of the Guarantee to be provided.~~

20 iii. The lender assumes all responsibility and
21 costs for pursuing legal action on collecting any loan
22 that is delinquent or in default.

23 iv. The lender is responsible for the first 15% of
24 the outstanding principal of the note for which the State
25 Guarantee has been applied.

26 (c) There is hereby created outside of the State
27 Treasury a special fund to be known as the Illinois Farmer
28 and Agribusiness Loan Guarantee Fund. The State Treasurer
29 shall be custodian of this Fund. Any amounts in the Fund not
30 currently needed to meet the obligations of the Fund shall be
31 invested as provided by law, and all interest earned from
32 these investments shall be deposited into the Fund until the
33 Fund reaches the maximum amounts authorized in this Act;
34 thereafter, interest earned shall be deposited into the

1 General Revenue Fund. After September 1, 1989, annual
2 investment earnings equal to 1.5% of the Fund shall remain in
3 the Fund to be used for the purposes established in Section
4 12.3 of this Act.

5 The Authority is authorized to transfer such amounts as
6 are necessary to satisfy claims from available appropriations
7 and from fund balances of the Farm Emergency Assistance Fund
8 as of June 30 of each year to the Illinois Farmer and
9 Agribusiness Loan Guarantee Fund to secure State Guarantees
10 issued under this Section and Sections 12.4 and 12.5. If for
11 any reason the General Assembly fails to make an
12 appropriation sufficient to meet these obligations, this Act
13 shall constitute an irrevocable and continuing appropriation
14 of an amount necessary to secure guarantees as defaults occur
15 and the irrevocable and continuing authority for, and
16 direction to, the State Treasurer and the Comptroller to make
17 the necessary transfers to the Illinois Farmer and
18 Agribusiness Loan Guarantee Fund, as directed by the
19 Governor, out of the General Revenue Fund.

20 In the event of default by the borrower on State
21 Guarantee Loans under this Section, Section 12.4, or Section
22 12.5, the lender shall be entitled to, and the Authority
23 shall direct payment on, the State Guarantee after 90 days of
24 delinquency. All payments by the Authority shall be made
25 from the Illinois Farmer and Agribusiness Loan Guarantee Fund
26 to satisfy claims against the State Guarantee.

27 It shall be the responsibility of the lender to proceed
28 with the collecting and disposing of collateral on the State
29 Guarantee under this Section, Section 12.4, or Section 12.5
30 within 14 months of the time the State Guarantee is declared
31 delinquent. If the lender does not dispose of the collateral
32 within 14 months, the lender shall be liable to repay to the
33 State interest on the State Guarantee equal to the same rate
34 that the lender charges on the State Guarantee, provided that

1 the Authority shall have the authority to extend the 14 month
2 period for a lender in the case of bankruptcy or extenuating
3 circumstances. The Fund shall be reimbursed for any amounts
4 paid under this Section, Section 12.4, or Section 12.5 upon
5 liquidation of the collateral.

6 The Authority, by resolution of the Board, may borrow
7 sums from the Fund and provide for repayment as soon as may
8 be practical upon receipt of payments of principal and
9 interest by a borrower on State Guarantee Loans under this
10 Section, Section 12.4, or Section 12.5. Money may be borrowed
11 from the Fund by the Authority for the sole purpose of paying
12 certain interest costs for borrowers associated with selling
13 a loan subject to a State Guarantee under this Section,
14 Section 12.4, or Section 12.5 in a secondary market as may be
15 deemed reasonable and necessary by the Authority.

16 (d) Notwithstanding the provisions of this Section 12.2
17 with respect to the farmers, agribusinesses, and lenders who
18 may obtain State Guarantees, the Authority may promulgate
19 rules establishing the eligibility of farmers,
20 agribusinesses, and lenders to participate in the State
21 Guarantee program and the terms, standards, and procedures
22 that will apply, when the Authority finds that emergency
23 conditions in Illinois agriculture have created the need for
24 State Guarantees pursuant to terms, standards, and procedures
25 other than those specified in this Section.

26 (Source: P.A. 90-325, eff. 8-8-97; 91-386, eff. 1-1-00.)

27 (20 ILCS 3605/12.4) (from Ch. 5, par. 1212.4)

28 Sec. 12.4. Illinois Young Farmer Loan Guarantee Program.

29 (a) The Authority is authorized to issue State
30 Guarantees to lenders for loans to finance or refinance debts
31 of young farmers. For the purposes of this Section, a young
32 farmer is a resident of Illinois who is at least 18 years of
33 age and who is a principal operator of a farm or land, who

1 derives at least 30% 50% of annual gross income from farming,
2 whose net worth is not less than \$10,000 and whose debt to
3 asset ratio does not exceed the maximum limit established by
4 the Authority is-not-less-than-40%. For the purposes of this
5 Section, debt to asset ratio means current outstanding
6 liabilities, including any debt to be financed or refinanced
7 under this Section, divided by current outstanding assets.
8 The Authority shall establish the maximum permissible debt to
9 asset ratio based on criteria established by the Authority.

10 Lenders shall apply for the State Guarantees on forms
11 provided by the Authority and certify that the application
12 and any other documents submitted are true and correct. The
13 lender or borrower, or both in combination, shall pay an
14 administrative fee as determined by the Authority. The
15 applicant shall be responsible for paying any fee or charge
16 involved in recording mortgages, releases, financing
17 statements, insurance for secondary market issues, and any
18 other similar fee or charge that the Authority may require.
19 The application shall at a minimum contain the young farmer's
20 name, address, present credit and financial information,
21 including cash flow statements, financial statements, balance
22 sheets, and any other information pertinent to the
23 application, and the collateral to be used to secure the
24 State Guarantee. In addition, the borrower must certify to
25 the Authority that, at the time the State Guarantee is
26 provided, the borrower will not be delinquent in the
27 repayment of any debt. The lender must agree to charge a
28 fixed or adjustable interest rate that the Authority
29 determines to be below the market rate of interest generally
30 available to the borrower. If both the lender and applicant
31 agree, the interest rate on the State guaranteed loan can be
32 converted to a fixed interest rate at any time during the
33 term of the loan.

34 State Guarantees provided under this Section (i) shall

1 not exceed \$1,000,000 ~~\$500,000~~ per young farmer, (ii) shall
2 ~~be--set--up--on--a--payment--schedule--not--to--exceed--30--years,~~ but
3 shall be no longer than 30 ~~±5~~ years in duration, and (iii)
4 shall be subject to an annual review and renewal by the
5 lender and the Authority. A young farmer may use this program
6 more than once ~~provided--the--aggregate--principal--amount--of~~
7 ~~State-Guarantees--under--this--Section--to--that--young--farmer--does~~
8 ~~not--exceed--\$500,000.~~ No State Guarantee shall be revoked by
9 the Authority without a 90 day notice, in writing, to all
10 parties.

11 (b) The Authority shall provide or renew a State
12 Guarantee to a lender if:

13 (i) The lender pays a fee equal to 25 basis points
14 on the loan to the Authority on an annual basis.

15 (ii) The application provides collateral acceptable
16 to the Authority that is at least equal to the gross loan
17 amount State-Guarantee.

18 (iii) The lender assumes all responsibility and
19 costs for pursuing legal action on collecting any loan
20 that is delinquent or in default.

21 (iv) The lender is at risk for the first 15% of the
22 outstanding principal of the note for which the State
23 Guarantee is provided.

24 (c) The Illinois Farmer and Agribusiness Loan Guarantee
25 Fund may be used to secure State Guarantees issued under this
26 Section as provided in Section 12.2.

27 (d) Notwithstanding the provisions of this Section 12.4
28 with respect to the young farmers and lenders who may obtain
29 State Guarantees, the Authority may promulgate rules
30 establishing the eligibility of young farmers and lenders to
31 participate in the State Guarantee program and the terms,
32 standards, and procedures that will apply, when the Authority
33 finds that emergency conditions in Illinois agriculture have
34 created the need for State Guarantees pursuant to terms,

1 standards, and procedures other than those specified in this
2 Section.

3 (Source: P.A. 90-325, eff. 8-8-97; 91-386, eff. 1-1-00.)

4 (20 ILCS 3605/12.5)

5 Sec. 12.5. Specialized Livestock Guarantee Program.

6 (a) The Authority is authorized to issue State
7 Guarantees to lenders for loans to finance or refinance debts
8 for specialized livestock operations that are or will be
9 located in Illinois. For purposes of this Section, a
10 "specialized livestock operation" includes, but is not
11 limited to, dairy, beef, and swine enterprises.

12 (b) Lenders shall apply for the State Guarantees on
13 forms provided by the Authority and certify that the
14 application and any other documents submitted are true and
15 correct. The lender or borrower, or both in combination,
16 shall pay an administrative fee as determined by the
17 Authority. The applicant shall be responsible for paying any
18 fee or charge involved in recording mortgages, releases,
19 financing statements, insurance for secondary market issues,
20 and any other similar fee or charge that the Authority may
21 require. The application shall, at a minimum, contain the
22 farmer's name, address, present credit and financial
23 information, including cash flow statements, financial
24 statements, balance sheets, and any other information
25 pertinent to the application, and the collateral to be used
26 to secure the State Guarantee. In addition, the borrower
27 must certify to the Authority that, at the time the State
28 Guarantee is provided, the borrower will not be delinquent in
29 the repayment of any debt. The lender must agree to charge a
30 fixed or adjustable interest rate that the Authority
31 determines to be below the market rate of interest generally
32 available to the borrower. If both the lender and applicant
33 agree, the interest rate on the State guaranteed loan can be

1 converted to a fixed interest rate at any time during the
2 term of the loan.

3 (c) State Guarantees provided under this Section (i)
4 shall not exceed \$1,000,000 per applicant, (ii) shall be no
5 longer than 30 15 years in duration, and (iii) shall be
6 subject to an annual review and renewal by the lender and the
7 Authority. An applicant may use this program more than once,
8 ~~provided that the aggregate principal amount of State~~
9 ~~Guarantees under this Section to that applicant does not~~
10 ~~exceed \$1,000,000.~~ A State Guarantee shall not be revoked by
11 the Authority without a 90-day notice, in writing, to all
12 parties.

13 (d) The Authority shall provide or renew a State
14 Guarantee to a lender if:

15 (i) The lender pays a fee equal to 25 basis points
16 on the loan to the Authority on an annual basis.

17 (ii) The application provides collateral acceptable
18 to the Authority that is at least equal to the gross loan
19 amount State-Guarantee.

20 (iii) The lender assumes all responsibility and
21 costs for pursuing legal action on collecting any loan
22 that is delinquent or in default.

23 (iv) The lender is at risk for the first 15% of the
24 outstanding principal of the note for which the State
25 Guarantee is provided.

26 (e) The Illinois Farmer and Agribusiness Loan Guarantee
27 Fund may be used to secure State Guarantees issued under this
28 Section as provided in Section 12.2.

29 (f) Notwithstanding the provisions of this Section 12.5
30 with respect to the specialized livestock operations and
31 lenders who may obtain State Guarantees, the Authority may
32 promulgate rules establishing the eligibility of specialized
33 livestock operations and lenders to participate in the State
34 Guarantee program and the terms, standards, and procedures

1 that will apply, when the Authority finds that emergency
2 conditions in Illinois agriculture have created the need for
3 State Guarantees pursuant to terms, standards, and procedures
4 other than those specified in this Section.

5 (Source: P.A. 91-386, eff. 1-1-00.)