

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 50% of whose annual gross income is derived from  
13 farming and whose debt to asset ratio shall not be less than  
14 40%, except in those cases where the applicant has previously  
15 used the guarantee program there shall be no debt to asset  
16 ratio or income restriction. For the purposes of this  
17 Section, debt to asset ratio shall mean the current  
18 outstanding liabilities of the farmer divided by the current  
19 outstanding assets of the farmer. The Authority shall  
20 establish the maximum permissible debt to asset ratio based  
21 on criteria established by the Authority.

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

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

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

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

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

33 (ii) The application provides collateral acceptable  
34 to the Authority that-is-at-least-equal--to--the--State's

1 ~~portion-of-the-Guarantee-to-be-provided.~~

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

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

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

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

33 Within 30 days after November 15, 1985, the Authority may  
34 transfer up to \$7,000,000 from available appropriations into

1 the Illinois Agricultural Loan Guarantee Fund for the  
2 purposes of this Act. Thereafter, the Authority may transfer  
3 additional amounts into the Illinois Agricultural Loan  
4 Guarantee Fund to secure guarantees for defaults as defaults  
5 occur.

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

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

1 State Guarantee in a secondary market as may be deemed  
2 reasonable and necessary by the Authority.

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

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

13 (20 ILCS 3605/12.2) (from Ch. 5, par. 1212.2)

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

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

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

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

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

26 Any State Guarantees provided under this Section (i)  
27 shall not exceed \$500,000 per farmer or an amount as  
28 determined by the Authority on a case-by-case basis for an  
29 agribusiness, (ii) shall not exceed a term of 15 years, and  
30 (iii) shall be subject to an annual review and renewal by the  
31 lender and the Authority; provided that only one such State  
32 Guarantee shall be made per farmer or agribusiness, except  
33 that additional State Guarantees may be made for purposes of  
34 expansion of projects financed in part by a previously issued

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

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

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

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

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

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

25 (c) There is hereby created outside of the State  
26 Treasury a special fund to be known as the Illinois Farmer  
27 and Agribusiness Loan Guarantee Fund. The State Treasurer  
28 shall be custodian of this Fund. Any amounts in the Fund not  
29 currently needed to meet the obligations of the Fund shall be  
30 invested as provided by law, and all interest earned from  
31 these investments shall be deposited into the Fund until the  
32 Fund reaches the maximum amounts authorized in this Act;  
33 thereafter, interest earned shall be deposited into the  
34 General Revenue Fund. After September 1, 1989, annual

1 investment earnings equal to 1.5% of the Fund shall remain in  
2 the Fund to be used for the purposes established in Section  
3 12.3 of this Act.

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

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

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



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

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

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

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

26 (20 ILCS 3605/12.4) (from Ch. 5, par. 1212.4)

27 Sec. 12.4. Young Farmer Loan Guarantee Program.

28 (a) The Authority is authorized to issue State  
29 Guarantees to lenders for loans to finance or refinance debts  
30 of young farmers. For the purposes of this Section, a young  
31 farmer is a resident of Illinois who is at least 18 years of  
32 age and who is a principal operator of a farm or land, who  
33 derives at least 50% of annual gross income from farming,

1 whose net worth is not less than \$10,000 and whose debt to  
2 asset ratio is not less than 40%. For the purposes of this  
3 Section, debt to asset ratio means current outstanding  
4 liabilities, including any debt to be financed or refinanced  
5 under this Section, divided by current outstanding assets.  
6 The Authority shall establish the maximum permissible debt to  
7 asset ratio based on criteria established by the Authority.

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

32 State Guarantees provided under this Section (i) shall  
33 not exceed \$500,000 per young farmer, (ii) shall be set up on  
34 a payment schedule not to exceed 30 years, but shall be no

1 longer than 15 years in duration, and (iii) shall be subject  
2 to an annual review and renewal by the lender and the  
3 Authority. A young farmer may use this program more than once  
4 provided the aggregate principal amount of State Guarantees  
5 under this Section to that young farmer does not exceed  
6 \$500,000. No State Guarantee shall be revoked by the  
7 Authority without a 90 day notice, in writing, to all  
8 parties.

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

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

13 (ii) The application provides collateral acceptable  
14 to the Authority ~~that is at least equal to the State~~  
15 Guarantee.

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

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

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

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

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

2 (20 ILCS 3605/12.5)

3 Sec. 12.5. Specialized Livestock Guarantee Program.

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

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

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

11 (d) 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--State~~  
17 ~~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 (e) 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 (f) Notwithstanding the provisions of this Section 12.5  
28 with respect to the specialized livestock operations and  
29 lenders who may obtain State Guarantees, the Authority may  
30 promulgate rules establishing the eligibility of specialized  
31 livestock operations and lenders to participate in the State  
32 Guarantee program and the terms, standards, and procedures  
33 that will apply, when the Authority finds that emergency  
34 conditions in Illinois agriculture have created the need for

1 State Guarantees pursuant to terms, standards, and procedures  
2 other than those specified in this Section.  
3 (Source: P.A. 91-386, eff. 1-1-00.)