

1 AN ACT concerning economic 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 Section 12.2 as follows:

6 (20 ILCS 3605/12.2) (from Ch. 5, par. 1212.2)

7 Sec. 12.2. State Guarantees for loans to farmers and
8 agribusiness; eligibility.

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

20 The Authority may approve applications by farmers and
21 agribusinesses that promote diversification of the farm
22 economy of this State through the growth and development of
23 new crops or livestock not customarily grown or produced in
24 this State or that emphasize a vertical integration of grain
25 or livestock produced or raised in this State into a finished
26 agricultural product for consumption or use. "New crops or
27 livestock not customarily grown or produced in this State"
28 shall not include corn, soybeans, wheat, swine, or beef or
29 dairy cattle. "Vertical integration of grain or livestock
30 produced or raised in this State" shall include any new or
31 existing grain or livestock grown or produced in this State.

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

21 Any State Guarantees provided under this Section (i)
22 shall not exceed \$1,000,000 ~~\$500,000~~ per farmer or an amount
23 as determined by the Authority on a case-by-case basis for an
24 agribusiness, (ii) shall not exceed a term of 15 years, and
25 (iii) shall be subject to an annual review and renewal by the
26 lender and the Authority; provided that only one such State
27 Guarantee shall be made per farmer or agribusiness, except
28 that additional State Guarantees may be made for purposes of
29 expansion of projects financed in part by a previously issued
30 State Guarantee. No State Guarantee shall be revoked by the
31 Authority without a 90 day notice, in writing, to all
32 parties. The lender shall not call due any loan for any
33 reason except for lack of performance, insufficient
34 collateral, or maturity. A lender may review and withdraw or

1 continue with a State Guarantee on an annual basis after the
2 first 5 years following closing of the loan application if
3 the loan contract provides for an interest rate that shall
4 not vary. A lender shall not withdraw a State Guarantee if
5 the loan contract provides for an interest rate that may
6 vary, except for reasons set forth herein.

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

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

11 ii. The application provides collateral acceptable
12 to the Authority that is at least equal to the State's
13 portion of the Guarantee to be provided.

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

17 iv. The lender is responsible for the first 15% of
18 the outstanding principal of the note for which the State
19 Guarantee has been applied.

20 (c) There is hereby created outside of the State
21 Treasury a special fund to be known as the Illinois Farmer
22 and Agribusiness Loan Guarantee Fund. The State Treasurer
23 shall be custodian of this Fund. Any amounts in the Fund not
24 currently needed to meet the obligations of the Fund shall be
25 invested as provided by law, and all interest earned from
26 these investments shall be deposited into the Fund until the
27 Fund reaches the maximum amounts authorized in this Act;
28 thereafter, interest earned shall be deposited into the
29 General Revenue Fund. After September 1, 1989, annual
30 investment earnings equal to 1.5% of the Fund shall remain in
31 the Fund to be used for the purposes established in Section
32 12.3 of this Act.

33 The Authority is authorized to transfer such amounts as
34 are necessary to satisfy claims from available appropriations

1 and from fund balances of the Farm Emergency Assistance Fund
2 as of June 30 of each year to the Illinois Farmer and
3 Agribusiness Loan Guarantee Fund to secure State Guarantees
4 issued under this Section and Sections 12.4 and 12.5. If for
5 any reason the General Assembly fails to make an
6 appropriation sufficient to meet these obligations, this Act
7 shall constitute an irrevocable and continuing appropriation
8 of an amount necessary to secure guarantees as defaults occur
9 and the irrevocable and continuing authority for, and
10 direction to, the State Treasurer and the Comptroller to make
11 the necessary transfers to the Illinois Farmer and
12 Agribusiness Loan Guarantee Fund, as directed by the
13 Governor, out of the General Revenue Fund.

14 In the event of default by the borrower on State
15 Guarantee Loans under this Section, Section 12.4, or Section
16 12.5, the lender shall be entitled to, and the Authority
17 shall direct payment on, the State Guarantee after 90 days of
18 delinquency. All payments by the Authority shall be made
19 from the Illinois Farmer and Agribusiness Loan Guarantee Fund
20 to satisfy claims against the State Guarantee.

21 It shall be the responsibility of the lender to proceed
22 with the collecting and disposing of collateral on the State
23 Guarantee under this Section, Section 12.4, or Section 12.5
24 within 14 months of the time the State Guarantee is declared
25 delinquent. If the lender does not dispose of the collateral
26 within 14 months, the lender shall be liable to repay to the
27 State interest on the State Guarantee equal to the same rate
28 that the lender charges on the State Guarantee, provided that
29 the Authority shall have the authority to extend the 14 month
30 period for a lender in the case of bankruptcy or extenuating
31 circumstances. The Fund shall be reimbursed for any amounts
32 paid under this Section, Section 12.4, or Section 12.5 upon
33 liquidation of the collateral.

34 The Authority, by resolution of the Board, may borrow

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

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

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

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.