

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 12.1 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 \$1,000,000 \$500,000 per farmer, (ii) shall  
15 be set up on a payment schedule not to exceed 30 years, and  
16 shall be no longer than 30 years in duration, and (iii) shall  
17 be subject to an annual review and renewal by the lender and  
18 the Authority; provided that only one such State Guarantee  
19 shall 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 Section 99. Effective date. This Act takes effect upon  
14 becoming law.