



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4817

Introduced 01/18/06, by Rep. Jim Sacia

SYNOPSIS AS INTRODUCED:

20 ILCS 3501/830-35
20 ILCS 3501/830-55 new

Amends the Illinois Finance Authority Act. Creates the Manure Management Guarantee Program. Provides that the Illinois Finance Authority is authorized to issue State Guarantees, secured by the Illinois Farmer and Agribusiness Loan Guarantee Fund, to lenders for loans to finance or refinance certain manure management programs for farmers who do not qualify for the federal Environmental Quality Initiatives Program. Provides that the Guarantees may not exceed \$15,000 per applicant and may be no longer than 5 years in duration. Contains provisions for the administration of the the program. Effective immediately.

LRB094 16800 HLH 52075 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning State government.

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

4 Section 5. The Illinois Finance Authority Act is amended by
5 changing Section 830-35 and by adding Section 830-55 as
6 follows:

7 (20 ILCS 3501/830-35)

8 Sec. 830-35. State Guarantees for loans to farmers and
9 agribusiness; eligibility.

10 (a) The Authority is authorized to issue State Guarantees
11 to lenders for loans to eligible farmers and agribusinesses for
12 purposes set forth in this Section. For purposes of this
13 Section, an eligible farmer shall be a resident of Illinois (i)
14 who is principal operator of a farm or land, at least 50% of
15 whose annual gross income is derived from farming, (ii) whose
16 annual total sales of agricultural products, commodities, or
17 livestock exceeds \$20,000, and (iii) whose net worth does not
18 exceed \$500,000. An eligible agribusiness shall be that as
19 defined in Section 801-10 of this Act. The Authority may
20 approve applications by farmers and agribusinesses that
21 promote diversification of the farm economy of this State
22 through the growth and development of new crops or livestock
23 not customarily grown or produced in this State or that
24 emphasize a vertical integration of grain or livestock produced
25 or raised in this State into a finished agricultural product
26 for consumption or use. "New crops or livestock not customarily
27 grown or produced in this State" shall not include corn,
28 soybeans, wheat, swine, or beef or dairy cattle. "Vertical
29 integration of grain or livestock produced or raised in this
30 State" shall include any new or existing grain or livestock
31 grown or produced in this State. Lenders shall apply for the
32 State Guarantees on forms provided by the Authority, certify

1 that the application and any other documents submitted are true
2 and correct, and pay an administrative fee as determined by the
3 Authority. The applicant shall be responsible for paying any
4 fees or charges involved in recording mortgages, releases,
5 financing statements, insurance for secondary market issues
6 and any other similar fees or charges as the Authority may
7 require. The application shall at a minimum contain the
8 farmer's or agribusiness' name, address, present credit and
9 financial information, including cash flow statements,
10 financial statements, balance sheets, and any other
11 information pertinent to the application, and the collateral to
12 be used to secure the State Guarantee. In addition, the lender
13 must agree to charge an interest rate, which may vary, on the
14 loan that the Authority determines to be below the market rate
15 of interest generally available to the borrower. If both the
16 lender and applicant agree, the interest rate on the State
17 Guarantee Loan can be converted to a fixed interest rate at any
18 time during the term of the loan. Any State Guarantees provided
19 under this Section (i) shall not exceed \$500,000 per farmer or
20 an amount as determined by the Authority on a case-by-case
21 basis for an agribusiness, (ii) shall not exceed a term of 15
22 years, and (iii) shall be subject to an annual review and
23 renewal by the lender and the Authority; provided that only one
24 such State Guarantee shall be made per farmer or agribusiness,
25 except that additional State Guarantees may be made for
26 purposes of expansion of projects financed in part by a
27 previously issued State Guarantee. No State Guarantee shall be
28 revoked by the Authority without a 90-day notice, in writing,
29 to all parties. The lender shall not call due any loan for any
30 reason except for lack of performance, insufficient
31 collateral, or maturity. A lender may review and withdraw or
32 continue with a State Guarantee on an annual basis after the
33 first 5 years following closing of the loan application if the
34 loan contract provides for an interest rate that shall not
35 vary. A lender shall not withdraw a State Guarantee if the loan
36 contract provides for an interest rate that may vary, except

1 for reasons set forth herein.

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

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

6 (ii) The application provides collateral acceptable to
7 the Authority that is at least equal to the State's portion
8 of the Guarantee to be provided.

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

12 (iv) The lender is responsible for the first 15% of the
13 outstanding principal of the note for which the State
14 Guarantee has been applied.

15 (c) There is hereby created outside of the State treasury a
16 special fund to be known as the Illinois Farmer and
17 Agribusiness Loan Guarantee Fund. The State Treasurer shall be
18 custodian of this Fund. Any amounts in the Fund not currently
19 needed to meet the obligations of the Fund shall be invested as
20 provided by law, and all interest earned from these investments
21 shall be deposited into the Fund until the Fund reaches the
22 maximum amounts authorized in this Act; thereafter, interest
23 earned shall be deposited into the General Revenue Fund. After
24 September 1, 1989, annual investment earnings equal to 1.5% of
25 the Fund shall remain in the Fund to be used for the purposes
26 established in Section 830-40 of this Act. The Authority is
27 authorized to transfer such amounts as are necessary to satisfy
28 claims from available appropriations and from fund balances of
29 the Farm Emergency Assistance Fund as of June 30 of each year
30 to the Illinois Farmer and Agribusiness Loan Guarantee Fund to
31 secure State Guarantees issued under this Section and Sections
32 830-45, ~~and~~ 830-50, and 830-55. If for any reason the General
33 Assembly fails to make an appropriation sufficient to meet
34 these obligations, this Act shall constitute an irrevocable and
35 continuing appropriation of an amount necessary to secure
36 guarantees as defaults occur and the irrevocable and continuing

1 authority for, and direction to, the State Treasurer and the
2 Comptroller to make the necessary transfers to the Illinois
3 Farmer and Agribusiness Loan Guarantee Fund, as directed by the
4 Governor, out of the General Revenue Fund. In the event of
5 default by the borrower on State Guarantee Loans under this
6 Section, Section 830-45, ~~or~~ Section 830-50, or Section 830-55,
7 the lender shall be entitled to, and the Authority shall direct
8 payment on, the State Guarantee after 90 days of delinquency.
9 All payments by the Authority shall be made from the Illinois
10 Farmer and Agribusiness Loan Guarantee Fund to satisfy claims
11 against the State Guarantee. It shall be the responsibility of
12 the lender to proceed with the collecting and disposing of
13 collateral on the State Guarantee under this Section, Section
14 830-45, ~~or~~ Section 830-50, or Section 830-55 within 14 months
15 of the time the State Guarantee is declared delinquent. If the
16 lender does not dispose of the collateral within 14 months, the
17 lender shall be liable to repay to the State interest on the
18 State Guarantee equal to the same rate that the lender charges
19 on the State Guarantee, provided that the Authority shall have
20 the authority to extend the 14-month period for a lender in the
21 case of bankruptcy or extenuating circumstances. The Fund shall
22 be reimbursed for any amounts paid under this Section, Section
23 830-45, ~~or~~ Section 830-50, or Section 830-55 upon liquidation
24 of the collateral. The Authority, by resolution of the Board,
25 may borrow sums from the Fund and provide for repayment as soon
26 as may be practical upon receipt of payments of principal and
27 interest by a borrower on State Guarantee Loans under this
28 Section, Section 830-45, ~~or~~ Section 830-50, or Section 830-55.
29 Money may be borrowed from the Fund by the Authority for the
30 sole purpose of paying certain interest costs for borrowers
31 associated with selling a loan subject to a State Guarantee
32 under this Section, Section 830-45, ~~or~~ Section 830-50, or
33 Section 830-55 in a secondary market as may be deemed
34 reasonable and necessary by the Authority.

35 (d) Notwithstanding the provisions of this Section 830-35
36 with respect to the farmers, agribusinesses, and lenders who

1 may obtain State Guarantees, the Authority may promulgate rules
2 establishing the eligibility of farmers, agribusinesses, and
3 lenders to participate in the State Guarantee program and the
4 terms, standards, and procedures that will apply, when the
5 Authority finds that emergency conditions in Illinois
6 agriculture have created the need for State Guarantees pursuant
7 to terms, standards, and procedures other than those specified
8 in this Section.

9 (Source: P.A. 93-205, eff. 1-1-04.)

10 (20 ILCS 3501/830-55 new)

11 Sec. 830-55. Manure Management Guarantee Program.

12 (a) The Authority is authorized to issue State Guarantees
13 to lenders for loans to finance or refinance debts for
14 qualified manure management programs that are or will be
15 located in Illinois. For purposes of this Section, "qualified
16 manure management program" means a program to correct manure
17 run-off for livestock facilities, including, but not limited to
18 dairy, beef, and swine, but excludes farmers who qualify for
19 the federal Environmental Quality Initiatives Program.

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

1 be delinquent in the repayment of any debt. The lender must
2 agree to charge a fixed or adjustable interest rate that the
3 Authority determines to be below the market rate of interest
4 generally available to the borrower. If both the lender and
5 applicant agree, the interest rate on the State guaranteed loan
6 may be converted to a fixed interest rate at any time during
7 the term of the loan.

8 (c) State Guarantees provided under this Section (i) shall
9 not exceed \$15,000 per applicant, (ii) shall be no longer than
10 5 years in duration, and (iii) shall be subject to an annual
11 review and renewal by the lender and the Authority. An
12 applicant may use this program more than once, provided that
13 the aggregate principal amount of State Guarantees under this
14 Section to that applicant does not exceed \$15,000. A State
15 Guarantee shall not be revoked by the Authority without a
16 90-day notice, in writing, to all parties.

17 (d) The Authority shall provide or renew a State Guarantee
18 to a lender if: (i) the lender pays a fee equal to 25 basis
19 points on the loan to the Authority on an annual basis; (ii)
20 the application provides collateral acceptable to the
21 Authority that is at least equal to the State Guarantee; (iii)
22 the lender assumes all responsibility and costs for pursuing
23 legal action on collecting any loan that is delinquent or in
24 default; and (iv) the lender is at risk for the first 15% of
25 the outstanding principal of the note for which the State
26 Guarantee is provided.

27 (e) The Illinois Farmer and Agribusiness Loan Guarantee
28 Fund may be used to secure State Guarantees issued under this
29 Section as provided in Section 830-35.

30 Section 99. Effective date. This Act takes effect upon
31 becoming law.