

1 AN ACT concerning agriculture.

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

4 Section 1. Short title. This Act may be cited as the
5 Illinois AgriFIRST Program Act of 2001.

6 Section 5. Definitions. In this Act:

7 "Agribusiness" means any sole proprietorship, limited
8 partnership, co-partnership, joint venture, corporation, or
9 cooperative that operates or will operate a facility located
10 within the State of Illinois that is related to the
11 processing of agricultural commodities (including, but not
12 limited to, the products of aquaculture, hydroponics, and
13 silviculture) or the manufacturing, production, or
14 construction of agricultural buildings, structures,
15 equipment, implements, and supplies, or any other facilities
16 or processes used in agricultural production. "Agribusiness"
17 includes but is not limited to the following:

18 (1) grain handling and processing, including grain
19 storage, drying, treatment, conditioning, milling, and
20 packaging;

21 (2) seed and feed grain development and processing;

22 (3) fruit and vegetable processing, including
23 preparation, canning, and packaging;

24 (4) processing of livestock and livestock products,
25 dairy products, poultry and poultry products, fish or
26 apiarian products, including slaughter, shearing,
27 collecting, preparation, canning, and packaging;

28 (5) fertilizer and agricultural chemical
29 manufacturing, processing, application and supplying;

30 (6) farm machinery, equipment, and implement
31 manufacturing and supplying;

1 (7) manufacturing and supplying of agricultural
 2 commodity processing machinery and equipment, including
 3 machinery and equipment used in slaughter, treatment,
 4 handling, collecting, preparation, canning, or packaging
 5 of agricultural commodities;

6 (8) farm building and farm structure manufacturing,
 7 construction, and supplying;

8 (9) construction, manufacturing, implementation,
 9 supplying, or servicing of irrigation, drainage, and soil
 10 and water conservation devices or equipment;

11 (10) fuel processing and development facilities
 12 that produce fuel from agricultural commodities or
 13 by-products;

14 (11) facilities and equipment for processing and
 15 packaging agricultural commodities specifically for
 16 export;

17 (12) facilities and equipment for forestry product
 18 processing and supplying, including sawmilling
 19 operations, wood chip operations, timber harvesting
 20 operations, and manufacturing of prefabricated buildings,
 21 paper, furniture, or other goods from forestry products;
 22 and

23 (13) facilities and equipment for research and
 24 development of products, processes, and equipment for the
 25 production, processing, preparation, or packaging of
 26 agricultural commodities and by-products.

27 "Agricultural facility" means land, any building or other
 28 improvement on or to land, and any personal properties deemed
 29 necessary or suitable for use, whether or not now in
 30 existence, in farming, ranching, the production of
 31 agricultural commodities (including, but not limited to, the
 32 products of aquaculture, hydroponics, and silviculture) or
 33 the treating, processing, or storing of agricultural
 34 commodities.

1 "Agricultural land" means land suitable for agriculture
2 production.

3 "Asset" includes, but is not limited to, the following:
4 cash crops or feed on hand; livestock held for sale; breeding
5 stock; marketable bonds and securities; securities not
6 readily marketable; accounts receivable; notes receivable;
7 cash invested in growing crops; net cash value of life
8 insurance; machinery and equipment; cars and trucks; farm and
9 other real estate including life estates and personal
10 residence; value of beneficial interest in trusts; government
11 payments or grants; and any other assets.

12 "Department" means the Department of Agriculture.

13 "Director" means the Director of Agriculture.

14 "Fund" means the Illinois AgriFIRST Program Fund.

15 "Grantee" means the person or entity to whom a grant is
16 made to from the Fund.

17 "Lender" means any federal or State chartered bank,
18 federal land bank, production credit association, bank for
19 cooperatives, federal or state chartered savings and loan
20 association or building and loan association, small business
21 investment company, or any other institution qualified within
22 this State to originate and service loans, including, but not
23 limited to, insurance companies, credit unions, and mortgage
24 loan companies. "Lender" includes a wholly owned subsidiary
25 of a manufacturer, seller or distributor of goods or services
26 that makes loans to businesses or individuals, commonly known
27 as a "captive finance company".

28 "Liability" includes, but is not limited to, the
29 following: accounts payable; notes or other indebtedness owed
30 to any source; taxes; rent; amounts owed on real estate
31 contracts or real estate mortgages; judgments; accrued
32 interest payable; and any other liability.

33 "Person" means, unless limited to a natural person by the
34 context in which it is used, a person, corporation,

1 association, trust, partnership, limited partnership, joint
2 venture, or cooperative.

3 "State" means the State of Illinois.

4 "Value-added" means the processing, packaging, or
5 otherwise enhancing the value of farm and agricultural
6 products or by-products produced in Illinois.

7 Section 10. Legislative findings.

8 (a) The General Assembly finds that in this State the
9 following conditions exist:

10 (1) There exists an inadequate supply of funds at
11 interest rates sufficiently low to enable persons engaged
12 in agriculture in this State to pursue agricultural or
13 agribusiness operations at present levels.

14 (2) The inability to pursue agricultural operations
15 lessens the supply of agricultural commodities available
16 to fulfill the needs of the citizens of this State.

17 (3) The inability to continue operations decreases
18 available employment in the agricultural sector of the
19 State and results in unemployment and its attendant
20 problems.

21 (4) These conditions prevent the acquisition of an
22 adequate capital stock of farm equipment and machinery,
23 much of which is manufactured in this State, therefore
24 impairing the productivity of agricultural land and
25 causing unemployment or lack of appropriate increase in
26 employment in that manufacturing.

27 (5) These conditions are conducive to consolidation
28 of acreage of agricultural land with fewer individuals
29 living and farming on the traditional family farm.

30 (6) These conditions result in a loss in
31 population, unemployment, and movement of persons from
32 rural to urban areas accompanied by added costs to
33 communities for creation of new public facilities and

1 services.

2 (7) There have been recurrent shortages of funds
3 from private market sources at reasonable rates of
4 interest.

5 (8) The ordinary operations of private enterprise
6 have not in the past corrected these conditions.

7 (9) There is a need for value-added products and
8 processing in this State.

9 (10) A stable supply of adequate funds for
10 agricultural financing is required to encourage family
11 farmers and agribusiness in an orderly and sustained
12 manner and to reduce the problems described in this
13 Section.

14 (b) The General Assembly determines and declares that
15 there exist conditions in the State that require the
16 Department to issue grants on behalf of the State for the
17 acquisition and development of agricultural facilities and
18 value-added products and processing.

19 Section 15. Illinois AgriFIRST Program Requirements.

20 (a) The Department shall review grant requests for the
21 Illinois AgriFIRST Grant Program that are submitted to the
22 Department. The Department, in reviewing the applications,
23 must consider, but is not limited to considering the
24 following criteria:

25 (1) The project has a reasonable assurance of
26 enhancing the value of agricultural products or will
27 expand agribusiness in Illinois.

28 (2) Preliminary market and feasibility research has
29 been conducted by the applicant or others and there is a
30 reasonable assurance of a potential market.

31 (3) The applicant has demonstrated the ability to
32 manage the business or commercialize the idea.

33 (4) There is favorable community support for the

1 project.

2 (5) There are favorable recommendations from local
3 economic development groups, university-based technical
4 specialists, or other qualified service providers.

5 (6) The applicant demonstrates a personal
6 commitment and a commercialization development plan.

7 (7) There is an adequate and realistic budget
8 projection.

9 (8) The application meets the eligibility
10 requirements and the project costs are eligible under
11 this Act.

12 (9) The applicant has established a need for the
13 grant.

14 (10) The economic impact of the project on the
15 State's agriculture and agribusiness sector.

16 (b) The Department may impose additional or lesser
17 requirements for the grant. Preference for grants shall be
18 given to, but is not limited to, the following:

19 (1) Proposals for industrial and nonfood production
20 processes using Illinois agricultural products.

21 (2) Proposals for food, feed, and fiber products
22 that use Illinois agricultural products and add to the
23 value of Illinois agricultural products.

24 (3) Research proposals that have not been
25 duplicated by other research efforts.

26 (4) Proposals that demonstrate that the applicant
27 has invested his or her own funds, time, and or other
28 valued consideration in the project.

29 (5) Proposals that are reasonably expected to
30 result in a viable commercial application.

31 (6) Proposals that have a positive economic impact
32 on the State's agriculture and agribusiness sector.

33 Section 20. Report. The Director must file with the

1 Governor, the State Treasurer, the Secretary of the Senate,
2 and the Clerk of the House of Representatives, by March 1 of
3 each year, a written report covering the activities of the
4 Department for the previous calendar year. The report is a
5 public record and must be available for inspection at the
6 offices of the Department during normal business hours. The
7 report must include a complete list of (i) all applications
8 for grants under the Illinois AgriFIRST Grant Program during
9 the calendar year; (ii) all persons that have received any
10 form of financial assistance from the Department during the
11 calendar year; and (iii) the nature and amount of all
12 financial assistance.

13 Section 25. Powers of the Department. The Department
14 has the following powers, together with all powers incidental
15 to or necessary for the discharge of those powers:

16 (1) To grant its moneys to one or more persons to
17 be used by those persons to pay the costs of technical
18 assistance and feasibility studies and acquiring,
19 constructing, reconstructing, or improving agricultural
20 facilities for the purpose of adding value to Illinois
21 agricultural commodities. Grants must be on any terms and
22 conditions that the Department determines.

23 (2) To grant its moneys to any agribusiness which
24 operates or will operate a facility located in Illinois
25 for the purposes of adding value to Illinois agricultural
26 commodities. Grants must be on any terms and conditions
27 as the Department requires.

28 (3) To contract with lenders or others for the
29 origination of or the servicing of the grants made by the
30 Department.

31 (4) To receive and accept, from any source, aid or
32 contributions of money, property, labor, or other items
33 of value for furtherance of any of its purposes, subject

1 to any conditions not inconsistent with this Act or the
2 laws of this State pertaining to the contributions,
3 including, but not limited to, gifts, guarantees, or
4 grants from any department, agency, or instrumentality of
5 the United States of America.

6 (5) To collect any fees and charges in connection
7 with its grants, advances, servicing, and other
8 activities that it determines.

9 (6) To appoint, employ, contract with, and provide
10 for the compensation of any employees and agents,
11 including, but not limited to, engineers, attorneys,
12 management consultants, fiscal advisers, and
13 agricultural, silvicultural, and aquacultural experts,
14 that business of the Department requires.

15 (7) To make, enter into, and execute any contracts,
16 agreements, and other instruments with any person,
17 including but not limited to, any federal, State, or
18 local governmental agency and to take any other actions
19 that may be necessary or convenient to accomplish any
20 purpose for which this authority was granted to the
21 Department or to exercise any power expressly granted
22 under this Act.

23 (8) To establish funds for financial surety and
24 escrow accounts.

25 (9) To adopt any necessary rules that are
26 consistent with this Act.

27 Section 30. Liability. The Director, any Department
28 employee, or any authorized person executing grants is not
29 personally liable on the grants and is not subject to any
30 personal liability or accountability by reason of the
31 issuance of the grants.

32 Section 35. Illinois AgriFIRST Program.

1 (a) The Department must develop and administer an
2 Illinois AgriFIRST Program to enhance the value of Illinois
3 agriculture products or by-products through grants to current
4 and potential processors. Qualifying persons and
5 agribusinesses must be located in Illinois and must process,
6 package, or otherwise enhance the value of farm products or
7 by-products produced in Illinois.

8 The recipient of a grant under this Section must provide
9 a minimum percentage, as determined by the Department, of the
10 total cost of the processing project, with the balance of the
11 project's total cost available from other sources. Other
12 sources include, but are not limited to, commercial and
13 private lenders, leasing companies, and grants. The
14 recipient's match may be in cash, cash-equivalent
15 investments, or bonds, irrevocable letters of credit, or any
16 combination thereof. A grant under this Section may provide
17 (i) up to 75% of the cost for technical assistance to develop
18 a project to enhance the value of agricultural products or to
19 expand agribusiness in Illinois but not to exceed \$25,000,
20 (ii) up to 50% of the cost of undertaking feasibility
21 studies, competitive assessments, and consulting or
22 productivity services that the Department determines may
23 result in the enhancement of value-added agricultural
24 products, and (iii) on and after July 1, 2003, up to 10% of
25 the project's total capital construction cost not to exceed
26 \$5,000,000, including, but not limited to, (A) purchasing
27 land, (B) purchasing, constructing, or refurbishing
28 buildings, (C) purchasing or refurbishing machinery or
29 equipment, (D) installation, (E) repairs, (F) labor, and (G)
30 working capital. Notwithstanding any other provision of this
31 Section, the grant moneys may not be used for the purpose of
32 compliance with the provisions of the Livestock Management
33 Facilities Act.

34 Grant applications must be made on forms provided by and

1 in accordance with procedures established by the Department.
2 At a minimum, an applicant must be an Illinois resident, as
3 defined by Department rule, and must provide the names,
4 addresses, and occupations of all project owners, the project
5 address, relevant credit and financial information
6 (including, but not limited to, assets and liabilities), and
7 any other information deemed necessary by the Department for
8 review of the grant application.

9 (b) All requests for the waiver of any requirements in
10 this Section must be made in writing to the Department. A
11 grant award is subject to modification or alteration under,
12 but is not limited to, the following conditions:

13 (1) The grant award is subject to any modifications
14 that may be required by changes in State law or
15 regulations. The Department shall notify the recipient
16 in writing of any amendment to the regulations and the
17 effective date of those amendments.

18 (2) If either the Department or the recipient
19 requests to modify the terms of the grant award other
20 than as set forth in paragraph (1), written notice of the
21 proposed modification shall be given to the other party.
22 No modification shall take effect unless agreed to in
23 writing by both the Department and the recipient.

24 (c) The Illinois AgriFIRST Program Fund is created as a
25 special appropriated fund within the State treasury.
26 Appropriations and moneys from any public or private source
27 may be deposited into the Fund. The Fund shall be used for
28 the purposes of the Illinois AgriFIRST Program Act of 2001.
29 Repayments of grants made under this Section shall be
30 deposited into the Fund.

31 Section 40. Project reporting. The grantee of a funded
32 project shall submit to the Department periodic reports, as
33 specified in the grant agreement, outlining progress,

1 timeline, and budget compliance. Deviations from the
2 agreement may result in the withholding of further funding or
3 in a grant default. A final written report, describing the
4 work performed, results obtained, and economic impact is
5 required within 30 days after a project is completed. The
6 grantee shall also provide a financial report and return any
7 unused funds to the Department consistent with the Illinois
8 Grant Funds Recovery Act. Grantees may be required to submit
9 to the Department the following information: employment
10 reports, federal tax returns or financial statements, and
11 other information as requested by the Department where
12 economic or business conditions may be necessary to determine
13 conformance with grant conditions. The Department may
14 require the financial statements be compiled, reviewed, or
15 audited by an independent accountant at the expense of the
16 grantee at any time for 3 years following the completion of
17 the grant.

18 Section 45. Certification. The Department may develop
19 and implement organic, identity preserved, and value-added
20 certification processes and programs that guarantee a buyer
21 that the certified Illinois products have traits and
22 qualities that warrant a premium price or an increase in
23 added value. The Department may adopt rules setting
24 certification and licensing standards for persons to certify
25 products under this Section.

26 Section 50. Market access. The Department may (i)
27 identify international and domestic consumer preferences,
28 (ii) identify the new markets those preferences indicate,
29 particularly for value-added products, (iii) identify
30 preserved products, (iv) underwrite demonstrations on foreign
31 soils, and (v) provide market analyses and trend projections
32 to farmers and other interested persons.

1 Section 55. Default or termination of grant agreement.
2 If the recipient of a grant violates any of the terms of the
3 grant agreement, the Department shall send a written notice
4 to the recipient that he or she is in default and be given
5 the opportunity to correct the violations.

6 (a) If the violation is not corrected within 10 days
7 after receipt of the notification, the Director may take, but
8 is not limited to, one or more of the following actions:

9 (1) Declare due and payable the amount of the grant
10 and cease additional grant payments not yet made to the
11 grantee.

12 (2) Take any other action considered appropriate to
13 protect the interest of the project.

14 (b) The Department may determine that a recipient has
15 failed to faithfully perform the terms and conditions of the
16 scope of work of the project when:

17 (1) The Department has notified the recipient in
18 writing of the existence of circumstances such as
19 repeated failure to submit required reports,
20 misapplication of grant funds, failure to match
21 Department funds, evidence of fraud and abuse, repeated
22 failure to meet performance timelines or standards, or
23 failure to resolve negotiated points of the agreement.

24 (2) The recipient fails to develop and implement a
25 corrective action plan within 30 calendar days of the
26 Department's notice.

27 (c) A grant may be terminated under, but termination is
28 not limited to, any of the following circumstances:

29 (1) In the absence of State funding for a specific
30 year, all grants that year will be terminated in full.
31 In the event of a partial loss of State funding, the
32 Department may make proportionate cuts to all recipients.

33 (2) If the Department determines that the recipient
34 has failed to comply with the terms and conditions of the

1 grant agreement, the Department may terminate the grant
2 in whole, or in part, at any time before the date of
3 completion.

4 (3) The Department may terminate the grant in
5 whole, or in part, when the Department determines that
6 the continuation of the project would not produce
7 beneficial results commensurate with the further
8 expenditures of funds.

9 (4) The recipient may refuse or elect not to
10 complete the grant agreement and terminate the grant. The
11 recipient shall notify the Department within 10 days
12 after the date upon which performance ceases. The
13 Department may declare due and payable the amount of the
14 grant and may cease additional grant payments not yet
15 made to the grantee.

16 (d) Any money collected from the default or termination
17 of a grant shall be placed into the Fund and expended for the
18 purposes of this Act.

19 Section 60. State agriculture planning agency. The
20 Department is the State agriculture planning agency. The
21 Department may accept and use planning grants or other
22 financial assistance from the federal government (i) for
23 statewide comprehensive planning work, including research and
24 coordination activity directly related to agriculture needs;
25 and (ii) for State and interstate comprehensive planning and
26 research and coordination activity related to that planning.
27 All such grants shall be subject to the terms and conditions
28 prescribed by the federal government.

29 Section 65. Construction. This Act is necessary for the
30 welfare of this State and must be liberally construed to
31 effect its purposes.

1 Section 805. The State Finance Act is amended by adding
2 Section 5.545 as follows:

3 (30 ILCS 105/5.545 new)

4 Sec. 5.545. The Illinois AgriFIRST Program Fund.

5 (20 ILCS 205/40.43 rep.)

6 Section 810. The Department of Agriculture Law of the
7 Civil Administrative Code of Illinois is amended by repealing
8 Section 40.43 as added by Public Act 91-560.

9 Section 999. Effective date. This Act takes effect upon
10 becoming law.