

HOUSE BILL No. 5717

May 31, 2012, Introduced by Reps. Franz, Daley and Pscholka and referred to the Committee on Agriculture.

A bill to establish an agricultural loan origination program; to authorize certain loan guarantees and collateral support mechanisms; to prescribe the powers and duties of certain state agencies and officials; to provide for an appropriation; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "agricultural disaster loan origination program act of 2012".

3 Sec. 2. As used in this act:

4 (a) "Agricultural processing" means the enhancement or
5 improvement of the overall value of an agricultural commodity or of
6 an animal or plant product into a product of higher value,
7 including, but not limited to, marketing, agricultural processing,

1 transforming, or packaging.

2 (b) "Facility" means a plant designed for receiving or storing
3 farm produce, a plant designed for value-added agricultural
4 processing, or a retail sales establishment of a business engaged
5 in making retail sales directly to farmers with 75% or more of its
6 gross retail sales volume exempted from sales tax under section
7 4a(1)(e) of the general sales tax act, 1933 PA 167, MCL 205.54a.

8 (c) "Farm" means that term as it is defined in section 2 of
9 the Michigan right to farm act, 1981 PA 93, MCL 286.472.

10 (d) "Financial institution" means a state or national bank, a
11 state or federally chartered savings and loan association, a state
12 or federally chartered savings bank, a state or federally chartered
13 credit union, or other regulated lending institution that maintains
14 a principal office or branch office in this state under the laws of
15 this state or the United States, including, but not limited to, an
16 entity of the federally chartered farm credit system.

17 (e) "Person" means an individual, partnership, corporation,
18 association, governmental entity, or other legal entity.

19 (f) "Production of agricultural goods" means commercial
20 farming, including, but not limited to, cultivation of the soil;
21 growing and harvesting of an agricultural, horticultural, or
22 floricultural commodity; dairying; raising of livestock, bees,
23 fish, fur-bearing animals, or poultry; or turf or tree farming.

24 (g) "Program" means the qualified agricultural loan
25 origination program established under this act.

26 (h) "Qualified agricultural loan" means 1 or more of the
27 following:

(i) A loan to a person that is engaged in and intending to remain engaged in this state as an owner or operator of a farm in the production of agricultural goods and is experiencing financial stress and difficulty in meeting existing or projected debt obligations owed to financial institutions due to an agricultural disaster recognized by the governor. A loan under this subparagraph shall be at rates commensurate with rates charged by financial institutions for loans of comparable type and terms at the time the loan is to be made, if the person certifies to a qualified financial institution that the person will not have more than \$200,000.00 in outstanding qualified agricultural loans under this subparagraph, including the loan for which the person is applying. If crop insurance was available for a particular crop and the person did not purchase the crop insurance for that crop, the amount of the loan shall be reduced by 30% or \$100,000.00, whichever is less. A qualified agricultural loan under this subparagraph may be made for either or both of the following purposes:

(A) Operating capital including, but not limited to, capital necessary for the rental, lease, and repair of equipment or machinery, crop insurance premiums, and the purchase of seed, feed, livestock, breeding stock, fertilizer, fuel, and chemicals.

(B) Refinancing all or a portion of a loan entered into before December 31, 2012 for a purpose identified in sub-subparagraph (A).

(ii) A loan to a person that is engaged in and intending to remain engaged in this state as an owner or operator of a farm in the production of agricultural goods and has suffered a loss of 25%

1 or more in major enterprises or production loss of 50% or more in
2 any 1 crop on a farm located within this state due to an
3 agricultural disaster recognized by the governor, as certified by
4 the producer in an affidavit demonstrating an accurate and valid
5 production loss.

6 (iii) A loan to a person that is engaged and intending to remain
7 engaged in this state in an agricultural business of buying,
8 exchanging, processing, or selling farm produce, or engaged in and
9 intending to remain engaged in this state in the business of making
10 retail sales directly to farmers with 75% or more of the person's
11 gross retail sales volume exempted from sales tax under section
12 4a(1)(e) of the general sales tax act, 1933 PA 167, MCL 205.54a. A
13 person engaged in the buying, exchanging, processing, or selling of
14 farm produce must have suffered a 50% or greater loss in volume of
15 1 commodity when compared with the average volume of that commodity
16 which the business handled in the prior 3 years to qualify for a
17 loan under this subparagraph. Persons engaged in making retail
18 sales directly to farmers must have suffered a 50% or greater
19 reduction in gross retail sales volume subject to the exemption
20 under section 4a(1)(e) of the general sales tax act, 1933 PA 167,
21 MCL 205.54a, when compared with the person's average retail sales
22 volume subject to that exemption in the prior 3 years to qualify
23 for a loan under this subparagraph. All losses claimed by persons
24 attempting to qualify for a loan under this subparagraph shall be
25 directly attributable to a natural disaster recognized by the
26 governor, occurring after February 15, 2012, as certified by the
27 person in an affidavit demonstrating an accurate and valid loss.

1 (i) "Qualified financial institution" means a financial
2 institution that meets both of the following:

3 (i) The principal office of the financial institution is
4 located in this state, or if the principal office of the financial
5 institution is not located in this state, the financial institution
6 agrees to commit the proceeds of an investment under this section
7 to qualified agricultural loans in this state.

8 (ii) The financial institution provides the state treasurer
9 with proof of financial viability acceptable to the state treasurer
10 under this act to receive deposits or investments of surplus funds.

11 Sec. 3. (1) The state treasurer may establish a qualified
12 agricultural loan origination program as provided in this act.

13 (2) The program shall meet all of the following:

14 (a) A qualified financial institution may make qualified
15 agricultural loans before December 31, 2012.

16 (b) A person receiving a qualified agricultural loan shall pay
17 an interest rate authorized under this act and established by the
18 qualified financial institution.

19 (c) This state will pay loan origination fees for
20 administrative costs incurred by the qualified financial
21 institution equal to 5% of the principal amount of the loan. Loan
22 origination fees may be paid by this state in 5 equal annual
23 installments.

24 (3) A qualified agricultural loan shall comply with all of the
25 following:

26 (a) Interest shall be set by the qualified financial
27 institution at a rate of 1% or at the rate of the 5-year United

1 States treasury note plus 1/4%.

2 (b) The term of the loan shall not be more than 5 years.

3 (c) The first principal payment required under the loan shall
4 not occur before 24 months after the issuance of the loan.

5 (4) A qualified financial institution participating in the
6 program under section 2(h) (i) shall identify all of the following:

7 (a) The qualified agricultural loans funded under section
8 2(h) (i) .

9 (b) The terms and conditions of qualified agricultural loans
10 funded under section 2(h) (i) .

11 (c) Other information required by the state treasurer under
12 this act.

13 (5) A qualified agricultural loan described in section 2(h) (ii)
14 shall be equal to not more than the value of the crop loss as
15 certified by the producer in an affidavit demonstrating an accurate
16 and valid production loss. The qualified agricultural loan shall
17 not exceed the lesser of \$400,000.000 or the value of the crop loss
18 minus insurance proceeds received by the owner or operator as a
19 result of the same crop loss. If crop insurance was available for a
20 particular crop and the producer did not purchase the crop
21 insurance for that crop, the amount of the loan shall be reduced by
22 30% or \$100,000.00, whichever is less.

23 (6) A qualified agricultural loan described in section 2(h) (iii)
24 shall not exceed the lesser of the following:

25 (a) Eight hundred thousand dollars per facility.

26 (b) An amount not to exceed the value of the direct loss of
27 the person applying for the loan, as determined by the department

1 of treasury under section 2(h) (iii) .

2 (c) One million dollars per person applying for the loan.

3 Sec. 4. (1) The state treasurer may take any necessary action
4 to ensure the successful operation of the program, including, but
5 not limited to, entering into agreements with qualified financial
6 institutions related to the operation of the program and the
7 issuance of qualified agricultural loans.

8 (2) The attorney general shall approve as to legal form all
9 documents relating to the payment of a loan origination fee by this
10 state.

11 (3) Annually, each qualified financial institution
12 participating in the program shall do both of the following:

13 (a) Report to the state treasurer the principal amount of
14 loans made under the program in the prior calendar year.

15 (b) File an affidavit with the state treasurer signed by a
16 senior executive officer of the qualified financial institution
17 stating that the qualified financial institution is in compliance
18 with the program and this act.

19 (4) Upon request by the state treasurer, a financial
20 institution shall forward a copy of any affidavits executed and
21 filed under this section to the state treasurer. The financial
22 institution and the state treasurer shall destroy the affidavit or
23 its copy after the qualified agricultural loan is repaid.

24 (5) The program is found and declared to be for a valid public
25 purpose.

26 Sec. 5. An amount sufficient to pay loan origination fees
27 under section 3, or loan guarantee or collateral support mechanisms

1 under section 6, not to exceed \$15,000,000.00, is appropriated to
2 the department of treasury for the 2011-2012 fiscal year. Not more
3 than \$3,000,000.00 of this amount shall be used for loans offered
4 under section 2(h)(iii). The appropriation authorized in this
5 subsection is a work project appropriation, and any unencumbered or
6 unallotted funds are carried forward into the following fiscal
7 year. The following is in compliance with section 451a(1) of the
8 management and budget act, 1984 PA 431, MCL 18.1451a:

9 (a) The purpose of the project is to provide financial
10 assistance to the agricultural sector of this state's economy and
11 to alleviate financial distress caused by crop damage and related
12 economic impacts through the program.

13 (b) The work project will be accomplished through the use of
14 payments to qualified financial institutions for qualified
15 agricultural loan origination fees for administrative costs
16 incurred by qualified financial institutions.

17 (c) The total estimated completion cost of the work project is
18 \$15,000,000.00.

19 (d) The estimated completion date of the work project is
20 September 30, 2016.

21 Sec. 6. To the extent authorized under the Michigan strategic
22 fund act, 1984 PA 270, MCL 125.2001 to 125.2094, and this section,
23 the Michigan strategic fund may support the program by providing a
24 loan guarantee or collateral support mechanism to a qualified
25 financial institution that is providing a loan to a person eligible
26 to participate in the program. The loan guarantee or collateral
27 support mechanism shall ensure that the qualified financial

1 institution does not refinance prior debt and shall include
2 repayment provisions for a loan or a guarantee given for a person
3 that leaves this state within 3 years after the provision of the
4 loan or guarantee or otherwise breaches the terms of an agreement
5 with the Michigan strategic fund.

6 Enacting section 1. This act is repealed effective February
7 15, 2018.