AGRICULTURAL DISASTER LOAN ORIGINATION PROGRAM ACT

Act 111 of 2018

AN ACT to establish an agricultural loan origination program; to authorize certain loan guarantees; to prescribe the powers and duties of certain state agencies and officials; and to provide for an appropriation.

History: 2018, Act 111, Imd. Eff. Apr. 25, 2018

The People of the State of Michigan enact:

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286.431 Short title.

Sec. 1.

This act shall be known and may be cited as the "agricultural disaster loan origination program act".

History: 2018, Act 111, Imd. Eff. Apr. 25, 2018

286.432 Definitions.

Sec. 2.

As used in this act:

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

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

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

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

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

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

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

(h) "Qualified agricultural loan" means a loan that is issued under the program and that meets all of the following conditions:

(i) The loan is made to 1 of the following:

(A) 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 that suffered a qualified loss of 25% or more in major enterprises or a qualified loss of 50% or more in production of any 1 crop on a farm located within this state.

(B) A person that is engaged and intending to remain engaged in this state in an agricultural business of buying, exchanging, processing, storing, or selling farm produce that suffered a 50% or greater qualified loss in volume of 1 commodity when compared with the average volume of that commodity that the business handled in the prior 3 years.

(C) The person is engaged in and intending to remain engaged in this state in the business of making retail sales directly to farmers with 75% or more of the person's gross retail sales volume exempted from sales tax under section 4a(1)(e), (f), (g), and (h) of the general sales tax act, 1933 PA 167, MCL 205.54a, that suffered a 50% or greater reduction in gross retail sales volume subject to the exemption under section 4a(1)(e), (f), (g), and (h) of the general sales tax act, 1933 PA 167, MCL 205.54a, when compared with the person's average retail sales volume subject to that exemption in the prior 3 years.

(ii) The loss described in subparagraph (i) is due to an agricultural disaster recognized by the governor.

(iii) The person receiving the loan under subparagraph (i) certifies in an affidavit that that person's loss satisfies the relevant requirements of subparagraph (i).

(i) "Qualified financial institution" means a financial institution that has a physical location in this state or whose principal office is located in this state, or both.

(j) "Qualified loss" means a reduction of gross revenue from any agricultural commodity after receipt of any insurance proceeds and other reimbursements as a result of the same crop loss.

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History: 2018, Act 111, Imd. Eff. Apr. 25, 2018 ;-- Am. 2020, Act 52, Imd. Eff. Mar. 3, 2020

286.433 Qualified agricultural loan origination program; establishment; requirements; use of work project funds appropriated.

Sec. 3.

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

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

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

(b) This state shall pay loan origination fees for administrative costs incurred by the qualified financial institution equal to 5% of the original principal amount of the loan. Loan origination fees may be paid by this state in equal installments over the term of the work project appropriation or in a lump-sum payment for the entire term of the work project appropriation.

(3) A qualified agricultural loan shall comply with both of the following:

(a) Interest shall be set by the qualified financial institution at the rate of the 5-year United States treasury note plus 2.0%, unless otherwise provided in an appropriation act.

(b) The term of the loan shall not be more than 7 years, unless otherwise provided in an appropriation act.

(4) A qualified agricultural loan described in section 2(h)(i)(A) shall be equal to not more than the value of the crop loss as certified by the producer in an affidavit demonstrating an accurate and valid qualified loss of production. The qualified agricultural loan shall not exceed the lesser of $400,000.00 or the value of the qualified loss. If crop insurance was available for a particular crop and the producer did not purchase the crop insurance for that crop, the amount of the loan shall be reduced by 30% or reduced by $100,000.00, whichever is less.

(5) A qualified agricultural loan described in section 2(h)(i)(B) or (C) shall not exceed the lesser of the following:

(a) Eight hundred thousand dollars per facility.

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

(6) From the work project funds appropriated by 2019 PA 45, a qualified financial institution shall make qualified agricultural loans after March 1, 2020 and before June 1, 2020. For any additional work project funds subsequently appropriated for this program, a qualified financial institution shall not make qualified agricultural loans before March 1 of the immediately succeeding calendar year or as otherwise provided in an appropriation act.

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History: 2018, Act 111, Imd. Eff. Apr. 25, 2018 ;-- Am. 2020, Act 52, Imd. Eff. Mar. 3, 2020

286.434 Actions by state treasurer; approval of legal form of documents by attorney general; duties of qualified institution; forwarding and destruction of affidavits; program as valid public purpose.

Sec. 4.

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

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

(3) Each qualified financial institution participating in the program shall do both of the following:

(a) Report to the state treasurer the principal amount of loans made under the program by June 30, 2020 and June 30 for each year after any subsequent appropriation.

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

(4) Upon request by the state treasurer, a qualified financial institution shall forward a copy of any affidavits executed by a person receiving a loan under this act to the state treasurer. The qualified financial institution and the state treasurer shall destroy the affidavit or its copy after the qualified agricultural loan is repaid.

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

History: 2018, Act 111, Imd. Eff. Apr. 25, 2018 ;-- Am. 2020, Act 52, Imd. Eff. Mar. 3, 2020

286.435 Appropriation.

Sec. 5.

(1) From the work project funds appropriated by 2019 PA 45, an amount sufficient to pay loan origination fees under section 3, not to exceed $15,000,000.00, shall be expended if it is appropriated to the department of treasury. Not more than $3,000,000.00 of the amount appropriated by 2019 PA 45 shall be used for loans offered under section 2(h)(i)(B) or (C). The appropriation authorized in this subsection is a work project appropriation, and any unencumbered or unallotted funds are carried forward into the following fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

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

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

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

(d) The estimated completion date of the work project is September 30, 2023.

(2) Subject to appropriation, any subsequent funds appropriated for this program shall be expended solely to pay loan origination fees under section 3 and subject to any other limitations as provided in the appropriation. Any subsequent work project appropriation for this program shall be in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a.

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