

HOUSE BILL No. 4009

January 25, 2001, Introduced by Rep. Jelinek and referred to the Committee on Appropriations.

A bill to amend 1855 PA 105, entitled

"An act to regulate the disposition of the surplus funds in the state treasury; to provide for the deposit of surplus funds in certain financial institutions; to lend surplus funds pursuant to loan agreements secured by certain commercial, agricultural, or industrial real and personal property; to authorize the loan of surplus funds to certain municipalities; to authorize the participation in certain loan programs; to authorize an appropriation; and to prescribe the duties of certain state agencies,"

by amending section 2a (MCL 21.142a), as amended by 1987 PA 27.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

HOUSE BILL No. 4009

1 Sec. 2a. (1) The state treasurer may invest surplus funds
2 under the state treasurer's control in certificates of deposit or
3 other instruments of a financial institution qualified under this
4 act to receive deposits or investments of surplus funds. In
5 addition to terms that may be prescribed in the investment agree-
6 ment by the state treasurer, an investment under this section

1 shall be subject to all of the following conditions and
2 restrictions:

3 (a) The interest accruing on the investment shall not be
4 more than the interest earned by the financial institution on
5 qualified agricultural loans made after the date of the
6 investment.

7 (b) The financial institution shall provide good and ample
8 security as the state treasurer requires and shall identify the
9 qualified agricultural loans and the terms and conditions of
10 those loans that are made after the date of the investment which
11 are attributable to that investment together with other informa-
12 tion required by this act.

13 (c) As established in the investment agreement by the state
14 treasurer, a qualified agricultural loan shall be made at a rate
15 or rates of interest, if any.

16 (d) To the extent the financial institution has not made
17 qualified agricultural loans as defined by subsection (9)(a)(i)
18 in an amount at least equal to the amount of the investment
19 within 90 days after the investment, the rate of interest payable
20 on that portion of the outstanding investment shall be increased
21 to a rate of interest provided in the investment agreement, with
22 the increase in the rate of interest applied retroactively to the
23 date on which the state treasurer invested the surplus funds.

24 (e) For a qualified agricultural loan as defined by subsec-
25 tion (9)(a)(ii), the investment agreement shall provide that the
26 financial institution does not have to repay any principal within
27 the first 3 years after which the investment is made unless the

1 investment is no longer being used to make a qualified
2 agricultural loan as defined by subsection (9)(a)(ii), or to the
3 extent the qualified agricultural loan has been repaid.

4 (f) For a qualified agricultural loan as defined by subsec-
5 tion (9)(a)(ii), ~~or (iii),~~ the investment agreement may include
6 incentives for the early repayment of the investment and for the
7 acceleration of payments in the event of a state cash shortfall
8 as prescribed by the investment agreement.

9 (2) An investment made under this section is found and
10 declared to be ~~for~~ a valid public purpose.

11 (3) The attorney general shall approve documentation for an
12 investment pursuant to this section as to legal form.

13 (4) Until June 30, 1988, the aggregate amount of investments
14 made pursuant to this section shall not exceed \$349,000,000.00.
15 Beginning July 1, 1988, the aggregate amount of investments made
16 and outstanding pursuant to this section shall not exceed
17 \$210,000,000.00, except that not more than \$10,000,000.00 of that
18 aggregate amount shall be allocated under FORMER subsection
19 (9)(a)(iii). NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION
20 AND BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
21 ADDED THIS SENTENCE AND UNTIL DECEMBER 31, 2007, THE AGGREGATE
22 AMOUNT OF ANY ADDITIONAL INVESTMENTS MADE BY THIS SECTION SHALL
23 NOT EXCEED \$25,000,000.00.

24 (5) Earnings from an investment made pursuant to this sec-
25 tion which are in excess of the average rate of interest earned
26 during the same period on other surplus funds, other than surplus
27 funds invested pursuant to section 1 or 2, shall be credited to

1 the general fund of the state. If interest from an investment
2 made pursuant to this section is below the average rate of inter-
3 est earned during the same period on other surplus funds, other
4 than surplus funds invested pursuant to section 1 or 2, the gen-
5 eral fund shall be reduced by the amount of the deficiency on an
6 amortized basis over the remaining term of the investment. A
7 loss of principal from an investment made pursuant to this sec-
8 tion shall reduce the earnings of the general fund by the amount
9 of that loss on an amortized basis over the remaining term of the
10 investment.

11 (6) A new investment to which a qualified agricultural loan
12 as defined by subsection (9)(a)(ii) is attributed shall not be
13 made pursuant to this section after ~~June 30, 1987~~ OCTOBER 1,
14 2007, and shall not be made with a term which extends beyond
15 January 1, ~~1997~~ 2012. ~~An investment to which a qualified~~
16 ~~agricultural loan as defined by subsection (9)(a)(iii) is~~
17 ~~attributed shall not be made pursuant to this section after~~
18 ~~June 30, 1987, and shall not be made with a term extending beyond~~
19 ~~June 28, 1992.~~ THE TERMS OF THE QUALIFIED AGRICULTURAL LOAN AS
20 DEFINED BY SUBSECTION (9)(A)(ii) SHALL PROVIDE THAT LOW-INTEREST
21 LOANS UNDER THIS SECTION BE ACCOMPANIED BY A PROOF OF LOSS, BE
22 FOR A TERM NOT LESS THAN 5 YEARS BUT NOT MORE THAN 10 YEARS,
23 COVER NOT MORE THAN 65% OF THE PROVEN LOSS, AND BE ACCOMPANIED BY
24 PROOF OF INELIGIBILITY FOR FEDERAL AID. An investment to which a
25 qualified agricultural loan as defined by subsection (9)(a)(i) is
26 attributed shall not be made with a term extending beyond
27 ~~June 28, 1988~~ OCTOBER 1, 2012.

1 (7) The commissioner shall monitor the compliance of a
2 financial institution in which the state treasurer has made an
3 investment pursuant to this section with the terms of the invest-
4 ment agreement and this act. For each investment, the commis-
5 sioner shall certify the extent of compliance with subsection
6 (1)(b) for the purpose of subsection (1)(d) and subsection
7 (9)(a)(ii) and ~~(iii)~~ FORMER SUBSECTION (9)(A)(iii) and shall
8 periodically report those and other findings to the state
9 treasurer.

10 (8) Before October 1, ~~1987~~ 2004, the state treasurer shall
11 prepare separate reports to the legislature regarding the dispo-
12 sition of money invested for purposes of qualified agricultural
13 loans as defined by subsection (9)(a)(i) and for qualified agri-
14 cultural loans as defined by subsection (9)(a)(ii) and ~~(iii)~~
15 FORMER SUBSECTION (9)(A)(iii). The reports for each type of loan
16 shall include all of the following information:

17 (a) The total number of farmers and the total number of
18 agricultural businesses who have received such a loan.

19 (b) By county, the total number and amounts of the loans.

20 (c) The name of each financial institution participating in
21 the loan program and the amount invested in each financial insti-
22 tution for purposes of such loan program.

23 (d) The information reported to the state treasurer by the
24 commissioner under subsection (7).

25 (9) As used in this section:

26 (a) "Qualified agricultural loan" means 1 or more of the
27 following types of loans, as applicable:

1 (i) Until ~~June 30, 1988~~ OCTOBER 1, 2007, a loan to a
2 natural or corporate person who is engaged as an owner-operator
3 of a farm in the production of agricultural goods as defined by
4 section 35(1)(h) of the single business tax act, ~~Act No. 228 of~~
5 ~~the Public Acts of 1975, being section 208.35 of the Michigan~~
6 ~~Compiled Laws~~ 1975 PA 228, MCL 208.35, who is experiencing
7 financial stress and difficulty in meeting existing or projected
8 debt obligations owed to financial institutions DUE TO AN AGRI-
9 CULTURAL DISASTER AS DECLARED BY THE GOVERNOR at rates commensu-
10 rate with rates charged by financial institutions for loans of
11 comparable type and terms at the time the loan is to be made, and
12 who certifies to the financial institution that the
13 owner-operator will not have more than \$100,000.00 in outstanding
14 loans otherwise considered qualified agricultural loans under
15 this subparagraph, including the loan for which the
16 owner-operator is applying. A qualified agricultural loan under
17 this subparagraph may be made for 1 or more of the following
18 purposes:

19 (A) If necessary for the continuance of the operation of the
20 farm through the crop year during which the loan is made, repair
21 of agricultural equipment or machinery.

22 (B) If necessary for the continuance of the operation of the
23 farm through the crop year during which the loan is made, the
24 purchase of used replacement equipment or machinery to the extent
25 the person is not eligible for a loan for this purpose from the
26 Michigan family farm development authority created under the
27 Michigan family farm development act, ~~Act No. 220 of the Public~~

1 ~~Acts of 1982, being sections 285.251 to 285.279 of the Michigan~~
2 ~~Compiled Laws~~ 1982 PA 220, MCL 285.251 TO 285.279.

3 (C) Operating capital FOR A DAIRY OPERATION including, but
4 not limited to, capital necessary for the rental of equipment or
5 machinery and the purchase of seed, feed, livestock, breeding
6 stock, fertilizer, fuel, and chemicals.

7 (D) Refinancing all or a portion of a loan entered into
8 before ~~July 10, 1985~~ OCTOBER 1, 2007 for a purpose identified
9 in SUB-SUBPARAGRAPHS (A) to (C). ~~of this subparagraph.~~

10 (ii) A loan to an individual, sole proprietorship, partner-
11 ship, corporation, or other legal entity that is engaged and
12 intends to remain engaged as an owner-operator of a farm in the
13 production of agricultural goods as defined by section 35(1)(h)
14 of the single business tax act, ~~Act No. 228 of the Public Acts~~
15 ~~of 1975, being section 208.35 of the Michigan Compiled Laws~~ 1975
16 PA 228, MCL 208.35, who has suffered a 25% or more loss in major
17 enterprises or a 50% or more production loss in any 1 crop DUE TO
18 AN AGRICULTURAL DISASTER on a farm located in this state, as
19 DECLARED BY THE GOVERNOR AND AS certified by the ~~agricultural~~
20 ~~stabilization and conservation service or the department of~~
21 ~~treasury~~ MICHIGAN DEPARTMENT OF AGRICULTURE BASED UPON PROOF
22 PRESENTED BY THE OWNER-OPERATOR. If eligible for a grant under
23 the federal ~~payment-in-kind assistance law~~ EMERGENCY LOAN
24 PROGRAM, the owner-operator ~~shall first apply~~ IS INELIGIBLE for
25 a grant ~~in the maximum amount for which the owner-operator may~~
26 ~~be eligible under the federal payment-in-kind assistance law and~~

1 ~~have received a determination as to the grant~~ UNDER THIS
2 SECTION.

3 ~~(iii) A loan to an individual, sole proprietorship, part-~~
4 ~~nership, corporation, or other legal entity that is engaged in an~~
5 ~~agricultural business of buying, exchanging, or selling farm~~
6 ~~produce, or is engaged in the business of making retail sales~~
7 ~~directly to farmers and has 75% or more of its gross retail sales~~
8 ~~volume exempted from sales tax under the Michigan agricultural~~
9 ~~sales tax exemption, as provided in section 4a(f) of the general~~
10 ~~sales tax act, Act No. 167 of the Public Acts of 1933, being~~
11 ~~section 205.54a of the Michigan Compiled Laws. Businesses~~
12 ~~engaged in the buying, exchanging, or selling of farm produce~~
13 ~~must have suffered a 50% or greater loss in volume of 1 commodity~~
14 ~~as compared with the average volume of that commodity which the~~
15 ~~business handled over the last 3 years to qualify for loans under~~
16 ~~this subparagraph. Businesses engaged in making retail sales~~
17 ~~directly to farmers must have suffered a 50% or greater reduction~~
18 ~~in gross retail sales volume subject to the Michigan agricultural~~
19 ~~sales tax exemption as compared with that business's average~~
20 ~~retail sales volume subject to that exemption over the last 3~~
21 ~~years to qualify for loans under this subparagraph. All losses~~
22 ~~claimed by businesses attempting to qualify for loans under this~~
23 ~~subparagraph must be directly attributable to a natural disaster~~
24 ~~occurring after July 1, 1986, and before December 31, 1986, as~~
25 ~~determined by the department of treasury.~~

26 (b) "Surplus funds" means, at any given date, the excess of
27 cash and other recognized assets that are expected to be resolved

1 into cash or its equivalent in the natural course of events and
2 with a reasonable certainty, over the liabilities and necessary
3 reserves at the same date.

4 (c) "Financial institution" includes, but is not limited to,
5 ENTITIES OF THE FARM CREDIT SYSTEM, a production credit associa-
6 tion, a federal land bank association, or a bank for
7 cooperatives. For purposes of this section, ENTITIES OF THE FARM
8 CREDIT SYSTEM, a production credit association, or a bank for
9 cooperatives may be qualified as a financial institution eligible
10 to receive an investment under this section notwithstanding that
11 its principal office is not located in this state if the proceeds
12 of the investment will be committed to qualified agricultural
13 loans in this state.

14 (d) "Corporate person" or "corporation" means ~~, except in~~
15 ~~relation to a qualified agricultural loan under subdivision~~
16 ~~(A)(iii),~~ a corporation in which a majority of the corporate
17 stock is owned by persons operating the farm applying for a
18 loan.

19 ~~(e) "Facility" means a plant designed for receiving or~~
20 ~~storing farm produce or a retail sales establishment of a busi-~~
21 ~~ness engaged in making retail sales directly to farmers, which~~
22 ~~establishment has 75% or more of its gross retail sales volume~~
23 ~~exempted from sales tax under the Michigan agricultural sales tax~~
24 ~~exemption, as provided in section 4a(f) of the general sales tax~~
25 ~~act, Act No. 167 of the Public Acts of 1933, being section~~
26 ~~205.54a of the Michigan Compiled Laws.~~

1 (10) A qualified agricultural loan as defined by subsection
 2 (9)(a)(ii) shall be equal to NOT MORE THAN 65% OF the value of
 3 the crop loss as certified by the ~~agricultural stabilization and~~
 4 ~~conservation service~~ MICHIGAN DEPARTMENT OF AGRICULTURE but
 5 shall not exceed the lesser of \$200,000.00 or the value of the
 6 crop loss. ~~minus the amount of any~~ A PERSON RECEIVING A grant
 7 under the federal ~~payment-in-kind assistance law or insurance~~
 8 ~~proceeds received by the owner-operator as a result of the same~~
 9 ~~crop loss~~ EMERGENCY LOAN PROGRAM IS INELIGIBLE FOR A LOAN UNDER
 10 THIS SECTION.

11 ~~(11) A qualified agricultural loan as defined by~~
 12 ~~subsection 9(a)(iii) shall not exceed the lesser of the~~
 13 ~~following:~~

14 ~~(a) \$200,000.00 per facility.~~

15 ~~(b) An amount equal to 60% of the direct loss of the indi-~~
 16 ~~vidual, sole proprietorship, partnership, corporation, or other~~
 17 ~~legal entity making application for the loan, as determined by~~
 18 ~~the department of treasury under subsection (9)(a)(iii).~~

19 ~~(c) \$400,000.00 per individual, sole proprietorship, part-~~
 20 ~~nership, corporation, or other legal entity making application~~
 21 ~~for the loan.~~

22 (11) ~~(12)~~ The financial institutions participating in the
 23 loan program pursuant to subsection (9)(a)(i) ~~,~~ OR (ii) ~~,~~ or
 24 ~~(iii)~~ shall have the option of making state subsidized loans to
 25 farmers before ~~June 30, 1988, or to businesses described in sub-~~
 26 ~~section (9)(a)(iii) before June 30, 1987~~ OCTOBER 1, 2007, with
 27 terms approved by the state treasurer by using their existing

1 deposits for the loans and receiving from the state treasurer an
2 amount not to exceed the lesser of the following:

3 (a) The interest that would be charged by a financial insti-
4 tution on an amount equal to 100% or more of the qualified agri-
5 cultural loan as determined by the department of treasury if the
6 distribution provided by this subsection is not appropriated.

7 (b) The interest that would have been earned on an amount
8 equal to 100% or more of the qualified agricultural loan as
9 determined by the department of treasury if the rate charged for
10 each quarter the loan is outstanding were equal to the average
11 rate earned by the state during that quarter on surplus funds
12 other than those invested pursuant to sections 1 and 2 and this
13 section.

14 (12) ~~(13)~~ There is hereby appropriated an amount suffi-
15 cient to make the distributions required under subsection ~~(12)~~
16 (11) in the ~~1986-87~~ 2001-02 fiscal year for not to exceed
17 ~~\$210,000.000.00~~ \$25,000,000.00 in qualified agricultural
18 loans. For each qualified agricultural loan for which a distri-
19 bution is made pursuant to subsection ~~(12)~~ (11), the maximum
20 amount of investments authorized by subsection (4) shall be
21 reduced by an amount equal to 100% or more of the qualified agri-
22 cultural loan, as determined by the department of treasury, for
23 which a distribution is made pursuant to subsection ~~(12)~~ (11).

24 (13) ~~(14)~~ Any money for purposes of qualified agricultural
25 loans as defined by subsection (9)(a)(ii) that has not been
26 invested by the state treasurer by ~~June 30, 1987~~ OCTOBER 1,
27 2007, shall increase the maximum amount available under this

1 section for qualified agricultural loans as defined by subsection
2 (9)(a)(i).

3 (14) ~~(15)~~ The state treasurer may take any necessary
4 action to ensure the successful operation of this section,
5 including making investments with financial institutions to cover
6 the administrative and risk-related costs associated with a qual-
7 ified agricultural loan.

8 ~~(16) There is hereby appropriated from the general fund for~~
9 ~~the fiscal year ending September 30, 1987 to Michigan state uni-~~
10 ~~versity, cooperative extension service, \$875,000.00 for the fol-~~
11 ~~lowing purposes:~~

12 ~~(a) Expansion of extension management assistance teams~~
13 ~~(EMATS) - \$500,000.00.~~

14 ~~(b) Grain and feed analysis for nutrition levels and disease~~
15 ~~-\$125,000.00.~~

16 ~~(c) Technical information delivery - \$100,000.00.~~

17 ~~(d) Rural community and small town problems - \$25,000.00.~~

18 ~~(e) Agricultural experiment station for research -~~
19 ~~\$125,000.00.~~

20 (15) AFTER AN AGRICULTURAL DISASTER IS DECLARED BY THE GOV-
21 ERNOR, THE DEPARTMENT OF AGRICULTURE SHALL ESTABLISH A TIME
22 PERIOD DURING WHICH IT WILL CONSIDER AND CERTIFY LOSSES FOR LOANS
23 UNDER THIS SECTION. THE FUNDS SHALL BE DISBURSED NOT LATER THAN
24 6 WEEKS AFTER THE CERTIFICATION DEADLINE HAS PASSED.