

SUBSTITUTE FOR
HOUSE BILL NO. 5717

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 a loan that meets all
27 of the following conditions:

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

2 (A) A person that is engaged in and intending to remain
3 engaged in this state as an owner or operator of a farm in the
4 production of agricultural goods that suffered a loss of 25% or
5 more in major enterprises or production loss of 50% or more in any
6 1 crop on a farm located within this state.

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

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

22 (ii) The loss described in subparagraph (i) is due to an
23 agricultural disaster recognized by the governor, occurring after
24 January 1, 2012.

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

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

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

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

7 (a) A qualified financial institution shall make qualified
8 agricultural loans before March 31, 2013.

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

12 (c) This state will pay loan origination fees for
13 administrative costs incurred by the qualified financial
14 institution equal to 5% of the original principal amount of the
15 loan. Loan origination fees shall be paid by this state in 5 equal
16 installments by September 30, 2017.

17 (3) A qualified agricultural loan shall comply with all of the
18 following:

19 (a) Interest shall be set by the qualified financial
20 institution at a rate of 1% or at the rate of the 5-year United
21 States treasury note plus 1/4%.

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

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

25 (4) A qualified agricultural loan described in section
26 2(h) (i) (A) shall be equal to not more than the value of the crop
27 loss as certified by the producer in an affidavit demonstrating an

1 accurate and valid production loss. The qualified agricultural loan
2 shall not exceed the lesser of \$400,000.000 or the value of the
3 crop loss minus insurance proceeds received by the owner or
4 operator as a result of the same crop loss. If crop insurance was
5 available for a particular crop and the producer did not purchase
6 the crop insurance for that crop, the amount of the loan shall be
7 reduced by 30% or \$100,000.00, whichever is less.

8 (5) A qualified agricultural loan described in section
9 2(h) (i) (B) or (C) shall not exceed the lesser of the following:

10 (a) Eight hundred thousand dollars per facility.

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

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

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

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

22 (a) Report to the state treasurer the principal amount of
23 loans made under the program by March 31, 2013.

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

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

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

9 Sec. 5. An amount sufficient to pay loan origination fees
10 under section 3, or loan guarantee or collateral support mechanisms
11 under section 6, not to exceed \$15,000,000.00, [shall be expended if it]
12 is appropriated to
13 the department of treasury for the [2011-2012] fiscal year. Not more
14 than \$3,000,000.00 of this amount shall be used for loans offered
15 under section 2(h) (i) (B) or (C). The appropriation authorized in
16 this subsection is a work project appropriation, and any
17 unencumbered or unallotted funds are carried forward into the
18 following fiscal year. The following is in compliance with section
19 451a(1) of the management and budget act, 1984 PA 431, MCL
20 18.1451a:

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

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

1 (c) The total estimated completion cost of the work project is
2 \$15,000,000.00.

3 (d) The estimated completion date of the work project is
4 September 30, 2017.

5 Sec. 6. To the extent authorized under the Michigan strategic
6 fund act, 1984 PA 270, MCL 125.2001 to 125.2094, and this section,
7 the Michigan strategic fund may support the program by providing a
8 loan guarantee or collateral support mechanism to a qualified
9 financial institution that is providing a loan to a person eligible
10 to participate in the program. The loan guarantee or collateral
11 support mechanism shall ensure that the qualified financial
12 institution does not refinance prior debt and shall include
13 repayment provisions for a loan or a guarantee given for a person
14 that leaves this state within 3 years after the provision of the
15 loan or guarantee or otherwise breaches the terms of an agreement
16 with the Michigan strategic fund.

17 Enacting section 1. This act is repealed effective February
18 15, 2018.