

Act No. 193
Public Acts of 2012
Approved by the Governor
June 26, 2012
Filed with the Secretary of State
June 26, 2012
EFFECTIVE DATE: June 26, 2012

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Reps. Franz, Daley, Pscholka, Ananich, Brunner, Bumstead, Byrum, Crawford, Denby, Dillon, Durhal, Geiss, Glardon, Haugh, Haveman, Horn, Hovey-Wright, Hughes, Huuki, Jackson, Jacobsen, Jenkins, Johnson, Kurtz, Liss, Lyons, MacGregor, McBroom, McCann, Muxlow, O'Brien, Oakes, Opsommer, Outman, Potvin, Price, Rendon, Roy Schmidt, Wayne Schmidt, Segal, Shaughnessy, Smiley, Stallworth, Stamas, Stanley, Talabi, Tlaib, Tyler, Yonker and Zorn

ENROLLED HOUSE BILL No. 5717

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; to provide for an appropriation; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

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

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) 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 loss of 25% or more in major enterprises or production loss of 50% or more in 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 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) 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) 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, occurring after January 1, 2012.

(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.

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 qualified financial institution shall make qualified agricultural loans before March 31, 2013.

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

(c) 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 shall be paid by this state in 5 equal installments by September 30, 2017.

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

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

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

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

(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 production loss. The qualified agricultural loan shall not exceed the lesser of \$400,000.00 or the value of the crop loss minus insurance proceeds received by the owner or operator as a result of the same crop 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 \$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.

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 March 31, 2013.

(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.

Sec. 5. 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 this amount 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.

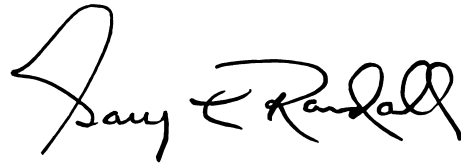
(b) The work project will be accomplished through the use of payments to qualified financial institutions for qualified agricultural loan origination fees for administrative costs incurred by qualified financial institutions.

(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, 2017.

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

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved

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Governor