

SENATE BILL NO. 693

December 11, 2019, Introduced by Senators LAUWERS, THEIS, BIZON, BARRETT, ANANICH, HORN, OUTMAN, VANDERWALL and HOLLIER and referred to the Committee on Appropriations.

A bill to amend 2018 PA 111, entitled
"Agricultural disaster loan origination program act,"
by amending sections 2, 3, 4, and 5 (MCL 286.432, 286.433, 286.434,
and 286.435).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2. As used in this act:
- 2 (a) "Agricultural processing" means the enhancement or
- 3 improvement of the overall value of an agricultural commodity or of
- 4 an animal or plant product into a product of higher value,
- 5 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), (f), (g), and (h) of the general sales tax act, 1933 PA
8 167, MCL 205.54a.

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

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

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

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

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

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

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

1 (A) A person that is engaged in and intending to remain
2 engaged in this state as an owner or operator of a farm in the
3 production of agricultural goods that suffered a **qualified** loss of
4 25% or more in major enterprises or ~~production~~ a **qualified** loss of
5 50% or more in **production of** any 1 crop on a farm located within
6 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 **qualified** loss in volume of 1 commodity when compared with
11 the average volume of that commodity that the business handled in
12 the 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), (f), (g), and (h)
17 of the general sales tax act, 1933 PA 167, MCL 205.54a, that
18 suffered a 50% or greater reduction in gross retail sales volume
19 subject to the exemption under section 4a(1)(e), (f), (g), and (h)
20 of the general sales tax act, 1933 PA 167, MCL 205.54a, when
21 compared with the person's average retail sales volume subject to
22 that exemption in the prior 3 years.

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

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

29 (i) "Qualified financial institution" means a financial

1 institution that has a physical location in this state or whose
2 principal office is located in this state, or both.

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

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

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

9 (a) 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 (b) This state shall 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~~ **may** be paid by this state in 5
16 equal installments **over the term of the work project appropriation**
17 **or in a lump-sum payment for the entire term of the work project**
18 **appropriation.**

19 (3) A qualified agricultural loan shall comply with ~~all both~~
20 of the following:

21 (a) Interest shall be set by the qualified financial
22 institution ~~at a rate of 1% or at the rate of the 5-year United~~
23 ~~States treasury note plus 1/4%.~~ **2.0%, unless otherwise provided in**
24 **an appropriation act.**

25 (b) The term of the loan shall not be more than ~~5~~ **7** years,
26 **unless otherwise provided in an appropriation act.**

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

29 (4) A qualified agricultural loan described in section

1 2(h) (i) (A) shall be equal to not more than the value of the crop
 2 loss as certified by the producer in an affidavit demonstrating an
 3 accurate and valid ~~production~~ **qualified loss of production**. The
 4 qualified agricultural loan shall not exceed the lesser of
 5 \$400,000.00 or the value of the ~~crop~~ **qualified loss**. ~~minus~~
 6 ~~insurance proceeds received by the owner or operator as a result of~~
 7 ~~the same crop loss~~. If crop insurance was available for a
 8 particular crop and the producer did not purchase the crop
 9 insurance for that crop, the amount of the loan shall be reduced by
 10 30% or **reduced by** \$100,000.00, whichever is less.

11 (5) A qualified agricultural loan described in section
 12 2(h) (i) (B) or (C) shall not exceed the lesser of the following:

- 13 (a) Eight hundred thousand dollars per facility.
- 14 (b) One million dollars per person applying for the loan.

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

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

27 (2) The attorney general shall approve, as to legal form, all
 28 documents relating to the payment of a loan origination fee by this
 29 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~~ **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.

Sec. 5. **(1) An** ~~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 ~~this~~ **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

1 assistance to the agricultural sector of this state's economy and
2 to alleviate financial distress caused by crop damage and related
3 economic impacts through the program.

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

8 (c) The total estimated completion cost of the work project is
9 \$15,000,000.00.

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

12 (2) Subject to appropriation, any subsequent funds
13 appropriated for this program shall be expended solely to pay loan
14 origination fees under section 3 and subject to any other
15 limitations as provided in the appropriation. Any subsequent work
16 project appropriation for this program shall be in compliance with
17 section 451a(1) of the management and budget act, 1984 PA 431, MCL
18 18.1451a.