

SECOND REGULAR SESSION

SENATE BILL NO. 1019

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BARNITZ.

Read 1st time March 1, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

5286S.011

AN ACT

To repeal sections 348.400, 348.407, and 348.412, RSMo, and to enact in lieu thereof three new sections relating to agricultural business development loans.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 348.400, 348.407, and 348.412, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as sections 348.400,
3 348.407, and 348.412, to read as follows:

348.400. As used in sections 348.400 to 348.415, the following terms
2 mean:

3 (1) "Agricultural business development loan", a loan for the acquisition,
4 construction, improvement, or rehabilitation of agricultural property, **or for the**
5 **marketing, expansion, acquisition, construction, improvement, or**
6 **rehabilitation of a qualifying agribusiness;**

7 (2) "Agricultural product", an agricultural, horticultural, viticultural, or
8 vegetable product, growing of grapes that will be processed into wine, bees, honey,
9 fish or other aquacultural product, planting seed, livestock, a livestock product,
10 a forestry product, poultry or a poultry product, either in its natural or processed
11 state, that has been produced, processed, or otherwise had value added to it in
12 this state;

13 (3) "Agricultural property", any land and easements and real and personal
14 property, including, but not limited to, buildings, structures, improvements, and
15 equipment which is used in Missouri by Missouri residents or Missouri-based
16 businesses for the purpose of processing, manufacturing, marketing, exporting or
17 adding value to an agricultural product. Agricultural property also includes any
18 land and easements and real and personal property, including, but not limited to,

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 buildings, structures, improvements, equipment and plant stock used for the
20 growing of grapes which will be processed into wine;

21 (4) "Authority", the Missouri agricultural and small business development
22 authority;

23 (5) "Eligible borrower", as defined in section 348.015;

24 (6) "Eligible lender", lender as defined in section 348.015;

25 (7) "Fund", the agricultural product utilization and business development
26 loan guarantee fund or the agricultural product utilization grant fund;

27 (8) "Grant fund" the agricultural product utilization grant fund;

28 (9) "Program fund", the agricultural product utilization and business
29 development loan program fund;

30 **(10) "Qualifying agribusiness", any business whose primary**
31 **customer base is producers of agricultural products or any business**
32 **whose function is the support of agricultural production or processing**
33 **by providing goods and services used for producing or processing**
34 **agricultural products.**

348.407. 1. The authority shall develop and implement agricultural
2 products utilization grants as provided in this section.

3 2. The authority may reject any application for grants pursuant to this
4 section.

5 3. The authority shall make grants, and may make loans or guaranteed
6 loans from the grant fund to persons for the creation, development and operation,
7 for up to three years from the time of application approval, of rural agricultural
8 businesses whose projects add value to agricultural products and aid the economy
9 of a rural community.

10 **4. The authority may make loan guarantees to qualified**
11 **agribusinesses for agricultural business development loans for**
12 **businesses that aid in the economy of a rural community and support**
13 **production agriculture or that add value to agricultural products by**
14 **providing necessary goods and services for production or processing.**

15 5. The authority may, upon the provision of a fee by the requesting person
16 in an amount to be determined by the authority, provide for a feasibility study of
17 the person's rural agricultural business concept.

18 [5.] 6. Upon a determination by the authority that such concept is
19 feasible and upon the provision of a fee by the requesting person, in an amount
20 to be determined by the authority, the authority may then provide for a

21 marketing study. Such marketing study shall be designed to determine whether
22 such concept may be operated profitably.

23 [6.] 7. Upon a determination by the authority that the concept may be
24 operated profitably, the authority may provide for legal assistance to set up the
25 business. Such legal assistance shall include, but not be limited to, providing
26 advice and assistance on the form of business entity, the availability of tax credits
27 and other assistance for which the business may qualify as well as helping the
28 person apply for such assistance.

29 [7.] 8. The authority may provide or facilitate loans or guaranteed loans
30 for the business including, but not limited to, loans from the United States
31 Department of Agriculture Rural Development Program, subject to
32 availability. Such financial assistance may only be provided to feasible projects,
33 and for an amount that is the least amount necessary to cause the project to
34 occur, as determined by the authority. The authority may structure the financial
35 assistance in a way that facilitates the project, but also provides for a
36 compensatory return on investment or loan payment to the authority, based on
37 the risk of the project.

38 [8.] 9. The authority may provide for consulting services in the building
39 of the physical facilities of the business.

40 [9.] 10. The authority may provide for consulting services in the
41 operation of the business.

42 [10.] 11. The authority may provide for such services through employees
43 of the state or by contracting with private entities.

44 [11.] 12. The authority may consider the following in making the
45 decision:

- 46 (1) The applicant's commitment to the project through the applicant's risk;
- 47 (2) Community involvement and support;
- 48 (3) The phase the project is in on an annual basis;
- 49 (4) The leaders and consultants chosen to direct the project;
- 50 (5) The amount needed for the project to achieve the bankable stage; and
- 51 (6) The projects planning for long-term success through feasibility studies,
52 marketing plans and business plans.

53 [12.] 13. The department of agriculture, the department of natural
54 resources, the department of economic development and the University of
55 Missouri may provide such assistance as is necessary for the implementation and
56 operation of this section. The authority may consult with other state and federal

57 agencies as is necessary.

58 [13.] 14. The authority may charge fees for the provision of any service
59 pursuant to this section.

60 [14.] 15. The authority may adopt rules to implement the provisions of
61 this section.

62 [15.] 16. Any rule or portion of a rule, as that term is defined in section
63 536.010, RSMo, that is created under the authority delegated in sections 348.005
64 to 348.180 shall become effective only if it complies with and is subject to all of
65 the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo.
66 All rulemaking authority delegated prior to August 28, 1999, is of no force and
67 effect and repealed. Nothing in this section shall be interpreted to repeal or
68 affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully
69 complied with all applicable provisions of law. This section and chapter 536,
70 RSMo, are nonseverable and if any of the powers vested with the general
71 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date
72 or to disapprove and annul a rule are subsequently held unconstitutional, then
73 the grant of rulemaking authority and any rule proposed or adopted after August
74 28, 1999, shall be invalid and void.

348.412. 1. Eligible borrowers:

2 (1) Shall use the proceeds of the agricultural business development loan
3 to acquire agricultural property **or for the marketing, expansion,**
4 **acquisition, construction, improvement, or rehabilitation of a**
5 **qualifying agribusiness;** and

6 (2) May not finance more than ninety percent of the anticipated cost of the
7 project through the agricultural business development loan.

8 2. The project shall have opportunities to succeed in the development,
9 expansion and operation of businesses involved in adding value to, marketing,
10 exporting, processing, or manufacturing agricultural products that will benefit the
11 state economically and socially through direct or indirect job creation or job
12 retention.

13 3. The authority shall promulgate rules establishing eligibility pursuant
14 to the provisions of sections 348.400 to 348.415, taking into consideration:

15 (1) The eligible borrower's ability to repay the agricultural business
16 development loan;

17 (2) The general economic conditions of the area in which the agricultural
18 property will be located;

19 (3) The prospect of success of the particular project for which the loan is
20 sought; and

21 (4) Such other factors as the authority may establish.

22 4. The authority may promulgate rules to provide for:

23 (1) The requirement or nonrequirement of security or endorsement and
24 the nature thereof;

25 (2) The manner and time or repayment of the principal and interest;

26 (3) The maximum rate of interest;

27 (4) The right of the eligible borrower to accelerate payments without
28 penalty;

29 (5) The amount of the guaranty charge;

30 (6) The effective period of the guaranty;

31 (7) The percent of the agricultural business development loan, not to
32 exceed fifty percent, covered by the guaranty;

33 (8) The assignability of agricultural business development loans by the
34 eligible lender;

35 (9) Procedures in the event of default on an agricultural business
36 development loan;

37 (10) The due diligence effort on the part of eligible lenders for collection
38 of guaranteed loans;

39 (11) Collection assistance to be provided to eligible lenders; and

40 (12) The extension of the guaranty in consideration of duty in the armed
41 forces, unemployment, natural disasters, or other hardships.

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