



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3713/1
AJM:jld&amn

2015 SENATE BILL 549

January 12, 2016 - Introduced by Senators MOULTON, HARSDORF, HARRIS DODD, LEMAHIEU, OLSEN, PETROWSKI, SHILLING, L. TAYLOR, VINEHOUT and MARKLEIN, cosponsored by Representatives NERISON, NOVAK, BALLWEG, LOUDENBECK, QUINN and RIPP. Referred to Committee on Agriculture, Small Business, and Tourism.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to repeal** 234.905 (2) (e), 234.905 (3m) and 234.905 (4) (b); **to renumber**
2 **and amend** 234.90 (4); **to amend** 234.90 (2) (b), 234.90 (3) (b), 234.90 (3) (c),
3 234.90 (3g) (b), 234.90 (3n) (b), 234.90 (5), 234.905 (title), 234.905 (1) (b) (intro.),
4 234.905 (1) (b) 1., 234.905 (1) (b) 2., 234.905 (1) (b) 3., 234.905 (1) (e), 234.905
5 (1) (f), 234.905 (2) (intro.), (a), (b), (c), (d), (f) and (g), 234.905 (3) (a), 234.905 (3)
6 (b), 234.905 (3) (e), 234.905 (4) (a), 234.905 (5), 234.907 (2) (c), 234.907 (2) (cm),
7 234.907 (2) (f), 234.907 (3), 234.91 (2) (c), 234.91 (3) (a) (intro.), 234.91 (3) (b),
8 234.91 (4), 234.91 (5) (a), 234.91 (5) (b) and 234.93 (1) (d); and **to create** 234.90
9 (4) (b), 234.905 (1) (cm), 234.905 (4) (bn) and 234.91 (3) (a) 3. of the statutes;
10 **relating to:** agricultural loan guarantee programs administered by the
11 Wisconsin Housing and Economic Development Authority.

Analysis by the Legislative Reference Bureau

The Wisconsin Housing and Economic Development Authority (WHEDA) administers a number of loan guarantee programs. This bill makes various changes to several of the agricultural loan guarantee programs administered by WHEDA.

SENATE BILL 549**AGRICULTURAL PRODUCTION LOAN GUARANTEE PROGRAM**

WHEDA operates a program under which it provides guarantees for certain agricultural production loans (agricultural production loan guarantee program). Under the agricultural production loan guarantee program, WHEDA is prohibited from guaranteeing a loan if the total outstanding principal of all loans to a borrower under the program is more than a maximum amount set annually by WHEDA that is not more than \$150,000. Under the bill, WHEDA is prohibited from guaranteeing a loan if the total guarantee, rather than the total outstanding principal, of all loans to the borrower is more than \$250,000. This limitation also applies to a guaranteed loan that is used to refinance a loan guaranteed under the agricultural production loan guarantee program. The bill also allows WHEDA to extend an agricultural production loan guarantee beyond the original term of the guaranteed loan if the loan is part of a loan workout agreement.

Under current law, a farmer is eligible for a loan guarantee under the agricultural production loan guarantee program if the farmer's debts total at least 40 percent of the farmer's assets. This bill restricts the farmer's debts and assets that are compared to only those that are related to the agricultural production that is the subject of the loan. Current law also requires that to be eligible for a guaranteed loan, it must be reasonably likely that, if the farmer receives a guaranteed loan, the farmer will not be subject to voluntary or involuntary liquidation before April 1 of the following calendar year. This bill changes the April 1 date to the end of the loan term.

Under current law, WHEDA is required under the agricultural production loan guarantee program to guarantee repayment of 80 or 90 percent of the principal of an eligible loan, depending on the total principal of the loan. Additionally, under current law, when commercial interest rates exceed a certain amount, WHEDA must make interest reduction payments equal to 2 percent of the principal amount of a guaranteed loan to participating lenders. This bill makes both of these requirements permissive rather than mandatory. Additionally, the bill changes the amount of a guarantee under the program to no more than 90 percent, regardless of the principal amount of a loan, and changes the amount of the interest reduction payments to an amount not to exceed 2 percent of the principal amount of the guaranteed loan.

FARM ASSETS REINVESTMENT MANAGEMENT LOAN GUARANTEE PROGRAM

WHEDA operates the farm assets reinvestment management loan guarantee program (FARM program) under which WHEDA guarantees loans to farmers for the acquisition of agricultural assets or the cost of improvements to facilities or land. Under current law, a farmer is eligible for a loan under the FARM program if, among other things, the person is currently operating farm premises or if the person intends to operate farm premises and has at least three years of farming experience, including managing the day-to-day operations of a farm. The bill expands eligibility for loan guarantees under the program to include a person who intends to operate farm premises and maintain the family farmstead on the farm premises and who has experience farming the specific farm.

Current law requires WHEDA to charge an origination fee on every loan guaranteed under the FARM program in an amount that is 1 percent of the loan. Current law also requires that all collected origination fees must be deposited in the

SENATE BILL 549

Wisconsin development reserve fund and must be used for the FARM program. This bill allows WHEDA to charge origination fees but does not require it to do so and, if collected, origination fees must be deposited in the Wisconsin development reserve fund but do not have to be used for the FARM program.

Additionally, similar to the changes made to the agricultural production loan guarantee program, this bill changes the current limitation on the amount extended to the borrower under the FARM program from the total outstanding principal amount of all loans to the borrower to the total guarantee amount of all the loans made to the borrower under the program. The bill also limits the debt to asset comparison for purposes of farmer eligibility to refer to the debts and assets related to the agricultural assets that are the subject of the eligible loan.

AGRICULTURAL PRODUCTION DROUGHT ASSISTANCE LOAN GUARANTEE PROGRAM

Current law provides that, prior to July 1, 1989, WHEDA was authorized to guarantee collection of 90 percent of eligible loans made to farmers for certain extraordinary drought-related costs (agricultural production drought assistance loan guarantees). This bill reinstates WHEDA's authority to guarantee agricultural production drought assistance loan guarantees and expands the program to include loans for certain extraordinary costs related to any act of nature for which the governor issues a declaration of disaster. Under the bill, agricultural production drought assistance loan guarantees are renamed agricultural production disaster assistance loan guarantees.

Under current law, if WHEDA guarantees an agricultural production drought assistance loan, WHEDA is also required to pay an amount equal to 3.5 percent of the loan to the participating lender to reduce the interest rate charged to the farmer receiving the loan. Under the bill, WHEDA is authorized, but not required, to make an interest reduction payment in an amount up to 3.5 percent of the loan. The bill also increases the maximum amount of guarantee that WHEDA may extend to a borrower from the amount guaranteed on \$15,000 of total principal to \$25,000 of total guarantee and eliminates the existing limitation on the term of a loan that is eligible to be guaranteed under the program. However, the bill restricts the period of time that WHEDA may guarantee a loan under the program to no more than three years.

Under current law, WHEDA is required to guarantee 90 percent of the principal of a loan under the agricultural production drought assistance loan guarantee program. Under the bill, WHEDA is authorized, but not required, to guarantee a loan under the program in an amount that is up to 90 percent of an eligible loan. The bill also makes similar changes that are made to the agricultural production loan guarantee program and the FARM program, related to an eligible farmer's debt to asset ratio.

AGRICULTURAL DEVELOPMENT LOAN GUARANTEE PROGRAM

WHEDA operates a program under which it provides guarantees for loans for working capital or to finance certain items, if the working capital or item is necessary to, or used to, process or market a product from a raw agricultural commodity produced in this state or to commercially harvest whitefish from Lake Superior (agricultural development loan guarantee program). Under the agricultural

SENATE BILL 549

development loan guarantee program, WHEDA is prohibited from guaranteeing a loan if the total principal of all loans to the borrower under the program is more than \$750,000 or the total principal amount of loans to the borrower under the program for commercially harvesting whitefish in Lake Superior is more than \$100,000. This bill changes these maximum amounts from the total principal amount of the loans to the borrower to the total amount guaranteed under the program to the borrower. The bill also creates an exception for loans that are included in a loan workout agreement from the current limitation on the term of a loan that may be guaranteed under the agricultural development loan guarantee program. Current law requires WHEDA to guarantee an eligible loan under the agricultural development loan guarantee program. This bill makes WHEDA's authority to make guarantees under the program permissive instead of mandatory.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 234.90 (2) (b) of the statutes is amended to read:

2 234.90 (2) (b) ~~In order to maximize the benefits of the program under this~~
3 ~~section, the~~ The total outstanding principal amount guarantee of all loans to the
4 borrower ~~that are guaranteed under this section will not exceed an amount set~~
5 ~~annually, no later than December 1, by the authority that is not less than \$2,000 nor~~
6 ~~more than \$150,000. For purposes of adjusting the total outstanding principal~~
7 ~~amount of all loans to a borrower under this paragraph, the authority shall consider~~
8 ~~changes in the index of prices paid by farmers published by the federal department~~
9 ~~of agriculture~~ \$250,000.

10 **SECTION 2.** 234.90 (3) (b) of the statutes is amended to read:

11 234.90 (3) (b) The amount of the farmer's debts related to the production of the
12 agricultural commodity that is the subject of the guaranteed loan totals at least 40%
13 40 percent of the amount of the farmer's assets related to the production of the
14 agricultural commodity that is the subject of the guaranteed loan.

15 **SECTION 3.** 234.90 (3) (c) of the statutes is amended to read:

SENATE BILL 549

1 234.90 (3) (c) In the judgment of the participating lender, it is reasonably likely
2 that if the farmer receives a guaranteed loan the farmer's assets, cash flow, and
3 managerial ability are sufficient to preclude voluntary or involuntary liquidation
4 before ~~April 1 of the calendar year following the calendar year in which the~~
5 ~~participating lender granted the~~ end of the loan term.

6 **SECTION 4.** 234.90 (3g) (b) of the statutes is amended to read:

7 234.90 (3g) (b) In the judgment of the participating lender, it is reasonably
8 likely that if the farmer receives a guaranteed loan the farmer's assets, cash flow, and
9 managerial ability are sufficient to preclude voluntary or involuntary liquidation
10 before ~~April 1 of the calendar year following the calendar year in which the~~
11 ~~participating lender granted the~~ end of the loan term.

12 **SECTION 5.** 234.90 (3n) (b) of the statutes is amended to read:

13 234.90 (3n) (b) The proceeds of a guaranteed loan may be used to refinance a
14 guaranteed loan that has been refinanced one time if at least ~~60%~~ 60 percent of the
15 principal amount of the refinanced guaranteed loan has been repaid and the total
16 guarantee amount to the borrower under this section after the refinancing is no more
17 than the amount permitted under sub. (2) (b).

18 **SECTION 6.** 234.90 (4) of the statutes is renumbered 234.90 (4) (a) and amended
19 to read:

20 234.90 (4) (a) The authority shall ~~may~~ guarantee repayment collection of a
21 percentage, not exceeding 90 percent, of the principal, ~~if less than \$50,000, or 80~~
22 ~~percent of the principal, if \$50,000 or more,~~ of any agricultural production loan
23 eligible for guarantee under sub. (2) made to a farmer eligible for a guaranteed loan
24 under sub. (3) or (3g).

25 **SECTION 7.** 234.90 (4) (b) of the statutes is created to read:

SENATE BILL 549

1 234.90 (4) (b) The authority may extend a guarantee under this section beyond
2 the original term of the guaranteed loan if the guaranteed loan is part of a loan
3 workout agreement.

4 **SECTION 8.** 234.90 (5) of the statutes is amended to read:

5 234.90 (5) INTEREST REDUCTION. If at the time of origination or extension the
6 interest rate on a guaranteed loan and the prime lending rate as reported by the
7 federal reserve board in federal reserve statistical release H. 15 each equals or
8 exceeds ~~10%~~ 10 percent, the authority ~~shall~~ may pay, from the moneys in the
9 Wisconsin development reserve fund, to the participating lender making the loan,
10 an amount equal to ~~2%~~ that is no more than 2 percent of the principal amount of the
11 loan.

12 **SECTION 9.** 234.905 (title) of the statutes is amended to read:

13 **234.905 (title) Agricultural production drought disaster assistance**
14 **loan guarantees.**

15 **SECTION 10.** 234.905 (1) (b) (intro.) of the statutes is amended to read:

16 234.905 (1) (b) (intro.) “Agricultural production ~~drought~~ disaster assistance
17 loan” means a loan to a farmer to finance extraordinary ~~drought-related~~
18 disaster-related costs, including the cost of any of the following:

19 **SECTION 11.** 234.905 (1) (b) 1. of the statutes is amended to read:

20 234.905 (1) (b) 1. Fertilizer, seed, fuel, pesticides, tillage services, crop
21 insurance, or any other service or consumable good necessary to produce an
22 agricultural commodity to replace or supplement an agricultural commodity
23 adversely affected by ~~drought~~ disaster conditions.

24 **SECTION 12.** 234.905 (1) (b) 2. of the statutes is amended to read:

SENATE BILL 549

1 234.905 (1) (b) 2. Water delivery in connection with agricultural commodities
2 adversely affected by drought disaster conditions.

3 **SECTION 13.** 234.905 (1) (b) 3. of the statutes is amended to read:

4 234.905 (1) (b) 3. Feed and associated expenses for animals to supplement feed
5 supplies adversely affected by drought disaster conditions.

6 **SECTION 14.** 234.905 (1) (cm) of the statutes is created to read:

7 234.905 (1) (cm) “Disaster” means an act of nature for which the governor
8 issues an executive order declaring a state of emergency for the state or any portion
9 of the state under s. 323.10.

10 **SECTION 15.** 234.905 (1) (e) of the statutes is amended to read:

11 234.905 (1) (e) “Guaranteed loan” means an agricultural production drought
12 disaster assistance loan on which the authority guarantees collection.

13 **SECTION 16.** 234.905 (1) (f) of the statutes is amended to read:

14 234.905 (1) (f) “Participating lender” means a bank, production credit
15 association, credit union, savings bank, savings and loan association or other person
16 who makes agricultural production drought disaster assistance loans and who has
17 entered into an agreement with the authority under s. 234.93 (2) (a).

18 **SECTION 17.** 234.905 (2) (intro.), (a), (b), (c), (d), (f) and (g) of the statutes are
19 amended to read:

20 234.905 (2) ELIGIBLE LOANS. (intro.) An agricultural production drought
21 disaster assistance loan made by a participating lender is eligible for guarantee of
22 collection from the Wisconsin development reserve fund under s. 234.93 if all of the
23 following apply:

SENATE BILL 549**SECTION 17**

1 (a) The total of the ~~principal amounts~~ guarantee amount of all guaranteed
2 loans extended to the borrower that are guaranteed under this section will not exceed
3 \$~~15,000~~ \$25,000.

4 (b) The rate of interest on the agricultural production ~~drought~~ disaster
5 assistance loan, including any origination fees or other charges relating to the
6 agricultural production ~~drought~~ disaster assistance loan, does not exceed a rate
7 determined by the authority after considering the conditions of the financial market.

8 (c) The participating lender shall pay directly any supplier of fertilizer, seed,
9 fuel, pesticides, tillage services, crop insurance, animal feed, water or other service
10 or consumable good necessary to produce an agricultural commodity, if the borrower
11 obtains the agricultural production ~~drought~~ disaster assistance loan to pay that
12 supplier.

13 (d) The participating lender obtains security for repayment of the agricultural
14 production ~~drought~~ disaster assistance loan or follows other procedures required by
15 the authority to secure repayment of the agricultural production ~~drought~~ disaster
16 assistance loan.

17 (f) The proceeds of the agricultural production ~~drought~~ disaster assistance loan
18 may not be applied to the outstanding balance of any other loan.

19 (g) The proceeds of the agricultural production ~~drought~~ disaster assistance
20 loan may not be used to refinance a loan made under this section.

21 **SECTION 18.** 234.905 (2) (e) of the statutes is repealed.

22 **SECTION 19.** 234.905 (3) (a) of the statutes is amended to read:

23 234.905 (3) (a) The farmer does not meet the participating lender's minimum
24 standards of creditworthiness to receive an agricultural production ~~drought~~ disaster
25 assistance loan in the normal course of the participating lender's business.

SENATE BILL 549

1 **SECTION 20.** 234.905 (3) (b) of the statutes is amended to read:

2 234.905 (3) (b) The participating lender projects the amount of the farmer's
3 debts ~~to be approximately 40% or more~~ related to the agricultural production that
4 is the subject of the loan totals at least 40 percent of the amount of the farmer's assets
5 related to the agricultural production that is the subject of the loan.

6 **SECTION 21.** 234.905 (3) (e) of the statutes is amended to read:

7 234.905 (3) (e) The participating lender projects that the farmer will lose
8 approximately ~~40%~~ 40 percent or more of the farmer's ~~crops~~ agricultural
9 commodities because of ~~drought conditions~~ a disaster.

10 **SECTION 22.** 234.905 (3m) of the statutes is repealed.

11 **SECTION 23.** 234.905 (4) (a) of the statutes is amended to read:

12 234.905 (4) (a) ~~Except as provided in par. (b), on or before June 30, 1989, the~~
13 The authority shall may guarantee collection of ~~90%~~ up to 90 percent of the principal
14 of any agricultural production ~~drought~~ disaster assistance loan eligible for
15 guarantee under sub. (2) made to a farmer eligible for a guaranteed loan under sub.
16 (3).

17 **SECTION 24.** 234.905 (4) (b) of the statutes is repealed.

18 **SECTION 25.** 234.905 (4) (bn) of the statutes is created to read:

19 234.905 (4) (bn) The term of the authority's loan guarantee under this section
20 may not exceed 3 years, unless the guaranteed loan is included in a loan workout
21 agreement.

22 **SECTION 26.** 234.905 (5) of the statutes is amended to read:

23 234.905 (5) INTEREST REDUCTION. The authority shall ~~shall~~ may pay, from the moneys
24 in the Wisconsin development reserve fund, to each participating lender an amount
25 ~~equal to 3.5%~~ that is no more than 3.5 percent of the principal amount of any

SENATE BILL 549**SECTION 26**

1 guaranteed loan to reduce interest payments on the guaranteed loan paid by a
2 farmer, ~~except that the authority shall make interest reduction payments for no more~~
3 ~~than 3 years of the repayment term of any guaranteed loan.~~

4 **SECTION 27.** 234.907 (2) (c) of the statutes is amended to read:

5 234.907 (2) (c) Subject to par. (cm), the total principal guarantee amount of all
6 loans to the borrower that are guaranteed under this section will not exceed
7 \$750,000.

8 **SECTION 28.** 234.907 (2) (cm) of the statutes is amended to read:

9 234.907 (2) (cm) The total principal guarantee amount extended of all loans to
10 the borrower for loans that are guaranteed under this section and that are made for
11 working capital or an item necessary to, or used to, commercially harvest whitefish
12 from Lake Superior will not exceed \$100,000.

13 **SECTION 29.** 234.907 (2) (f) of the statutes is amended to read:

14 234.907 (2) (f) The loan term ~~does not extend beyond~~ of the authority's
15 guarantee under this section is not longer than 15 years after the date that the
16 ~~participating lender disburses the loan unless the loan is extended by the authority.~~
17 This paragraph does not apply to a loan that is part of a loan workout agreement.

18 **SECTION 30.** 234.907 (3) of the statutes is amended to read:

19 234.907 (3) GUARANTEE OF COLLECTION. The authority shall may guarantee
20 collection of ~~a percentage, not exceeding 90%, up to 90 percent~~ of the principal of any
21 loan eligible for a guarantee under sub. (2). The authority shall establish the
22 percentage of the unpaid principal of an eligible loan that will be guaranteed, using
23 the procedures described in the guarantee agreement under s. 234.93 (2) (a). The
24 authority may establish a single percentage for all guaranteed loans or establish
25 different percentages for eligible loans on an individual basis.

SENATE BILL 549

1 **SECTION 31.** 234.91 (2) (c) of the statutes is amended to read:

2 234.91 (2) (c) The total ~~outstanding guaranteed principal guarantee~~ amount
3 of all loans made to the borrower that are guaranteed under this section will not
4 exceed \$200,000, or \$100,000 if any of the loans is affected by any other state or
5 federal credit assistance program.

6 **SECTION 32.** 234.91 (3) (a) (intro.) of the statutes is amended to read:

7 234.91 (3) (a) (intro.) The farmer is ~~either~~ any of the following:

8 **SECTION 33.** 234.91 (3) (a) 3. of the statutes is created to read:

9 234.91 (3) (a) 3. A person who intends to operate farm premises and maintain
10 the family farmstead on the farm premises and who has previous experience with the
11 operation of the specific farm premises.

12 **SECTION 34.** 234.91 (3) (b) of the statutes is amended to read:

13 234.91 (3) (b) The amount of the farmer's debts related to the agricultural
14 assets, including the loan, is at least 40 percent and does not exceed 85% 85 percent
15 of the farmer's assets, including the value of the agricultural assets to be acquired,
16 or the improvements to be made, with the proceeds of the loan. The authority shall
17 consider only the farmer's debts and assets that are related to the agricultural assets
18 that are the subject of the loan.

19 **SECTION 35.** 234.91 (4) of the statutes is amended to read:

20 234.91 (4) ORIGINATION FEES. The authority ~~shall~~ may charge a guarantee
21 origination fee on every loan guaranteed under this section. The amount of the fee
22 ~~shall be 1%~~ may not exceed 1.5 percent of a loan's guaranteed principal. The
23 participating lender shall collect the fee and remit it to the authority. The authority
24 shall deposit all fees received under this subsection in the Wisconsin development
25 reserve fund ~~to be used to guarantee loans under this section.~~

SENATE BILL 549**SECTION 36**

1 **SECTION 36.** 234.91 (5) (a) of the statutes is amended to read:

2 234.91 (5) (a) The authority ~~shall~~ may guarantee collection of a percentage of
3 the principal of a loan eligible for a guarantee under sub. (2). The ~~principal total~~
4 guarantee amount of an eligible loan that the authority may guarantee all loans to
5 the farmer that are guaranteed under this section may not exceed the borrower's net
6 worth or ~~25%~~ 25 percent of the total loan amount, whichever is less, calculated at the
7 time the loan is made.

8 **SECTION 37.** 234.91 (5) (b) of the statutes is amended to read:

9 234.91 (5) (b) The term of ~~a~~ the authority's loan guarantee under this section
10 ~~may not exceed~~ is not longer than 10 years. This paragraph does not apply to a
11 guarantee of a loan that is part of a loan workout agreement.

12 **SECTION 38.** 234.93 (1) (d) of the statutes is amended to read:

13 234.93 (1) (d) ~~To be used for guaranteeing loans under s. 234.91, fees~~ Fees
14 collected under s. 234.91 (4).

15 **SECTION 39. Initial applicability.**

16 (1) AGRICULTURAL PRODUCTION DISASTER ASSISTANCE LOAN GUARANTEES. The
17 treatment of section 234.905 (title), (1) (b) (intro.), 1., 2., and 3., (cm), (e), and (f), (2)
18 (intro.), (a), (b), (c), (d), (e), (f), and (g), (3) (a), (b), and (e), (3m), (4) (a), (b), and (bn),
19 and (5) of the statutes first applies to a loan guarantee for which an application is
20 made under section 234.905 of the statutes on the effective date of this subsection.

21 (2) AGRICULTURAL PRODUCTION, AGRICULTURAL DEVELOPMENT, AND FARM ASSETS
22 REINVESTMENT MANAGEMENT LOAN GUARANTEES. The treatment of sections 234.90 (2)
23 (b) and (h), (3) (b) and (c), (3g) (b), (3n) (b), (4), and (5), 234.907 (2) (c), (cm), and (f)
24 and (3), 234.91 (2) (c), (3) (a) (intro.) and 3. and (b), (4), and (5) (a) and (b), and 234.93
25 (1) (d) of the statutes first applies to a loan guarantee for which an application is

