

CHAPTER 1058
LINKED INVESTMENTS
H.F. 2397

AN ACT relating to linked investments and establishing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 12.32, Code 1995, is amended to read as follows:

12.32 DEFINITIONS.

As used in this division, unless the context otherwise requires:

1. "Eligible borrower" means any person who is in the business or is entering the business of producing, processing, or marketing horticultural crops or nontraditional crops in this state or any person in this state who is qualified to participate in one of the programs in this division.

2. "Eligible lending institution" means a financial institution that is empowered to make commercial loans, and is eligible pursuant to chapter 12C to be a depository of state funds, and agrees to participate in the linked investments for tomorrow program.

3. "Linked investment" means a certificate of deposit placed pursuant to this division by the treasurer of state with an eligible lending institution, at an interest rate not more than three percent below current market rates on the condition that the institution agrees to lend the value of the deposit, according to the investment agreement provided in section ~~12-37~~ 12.35, to an eligible borrower at a rate not to exceed four percent above the rate paid on the certificate of deposit.

Sec. 2. Section 12.34, subsection 2, Code 1995, is amended to read as follows:

2. The treasurer shall adopt rules pursuant to chapter 17A to ~~implement~~ administer this division ~~including, but not limited to, rules identifying horticultural crops and nontraditional crops for which the linked investments may be loaned.~~

Sec. 3. Section 12.34, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Certificates of deposit placed by the treasurer on or after July 1, 1996, pursuant to this division may be renewed at the option of the treasurer. The initial certificate of deposit for a given borrower shall have a maturity of one year and may be renewed for eight additional one-year periods.

Sec. 4. Section 12.35, Code 1995, is amended to read as follows:

12.35 APPLICATION.

1. An eligible lending institution that desires to receive a linked investment shall enter into an agreement with the treasurer of state, which shall include requirements necessary for the eligible lending institution to comply with this division.

~~2. An eligible lending institution that desires to receive a linked investment shall accept and review applications for loans from eligible borrowers. The lending institution shall apply all usual lending standards to determine the credit worthiness of each eligible borrower. Loan applications shall be for the purchase or lease of land, machinery, equipment, seed, fertilizer, direct marketing facilities, or new or expanding processing facilities for horticultural crops or nontraditional crops. The maximum size of a loan is two hundred thousand dollars per borrower for a production loan and five hundred thousand dollars for processing or marketing facilities.~~

~~3. The eligible financial lending institution shall forward to the state treasurer of state a linked investment loan package in the form and manner as prescribed by the treasurer of state. The package shall include information required by the treasurer of state, including but not limited to the amount of the loan requested and the purpose of the loan. The institution shall certify that the applicant is an eligible borrower and shall certify the present borrowing rate applicable to the specific eligible borrower.~~

Sec. 5. Section 12.36, Code 1995, is amended to read as follows:

12.36 ACTIONS BY TREASURER — AGREEMENT.

1. The treasurer of state shall accept or reject a linked investment loan package or any portion of the package based on the type or terms of the loan involved, the availability of state funds, or the compliance of the eligible borrower or eligible lending institution.

2. Upon acceptance of the linked investment loan package or any portion of the package, the treasurer of state shall place certificates of deposit with the eligible lending institution at a rate not more than three percent below the current market rate. ~~After July 1, 1992, the~~ The treasurer of state shall not place a certificate of deposit with an eligible lending institution pursuant to this division, unless the certificate of deposit earns a rate of interest of at least two percent. ~~When necessary, the treasurer may place certificates of deposit prior to acceptance of a linked investment loan package. Interest earned on the certificate of deposit and principal not renewed shall be remitted to the treasurer of state at the time the certificate of deposit matures. Certificates of deposit placed pursuant to this division are not subject to a penalty for early withdrawal.~~

~~3. The eligible lending institution shall enter into an investment agreement with the treasurer of state, which shall include requirements necessary to carry out this division. The requirements shall reflect the market conditions prevailing in the eligible lending institution's lending area. The agreement may include a specification of the period of time in which the lending institution is to lend funds upon the placement of a linked investment, and shall include provisions for the certificates of deposit to be placed for one year maturities that may be renewed for eight additional one year periods. Interest shall be paid at the times determined by the treasurer of state.~~

Sec. 6. Section 12.38, Code 1995, is amended to read as follows:

12.38 REPORTS.

By February 1 of each year, the treasurer of state shall report on the linked investments for tomorrow ~~program, the rural small business transfer linked investment loan program, the targeted small business linked investments program, and the main street linked investments loan program~~ programs for the preceding calendar year to the governor, the department of economic development, the speaker of the house of representatives, and the president of the senate. The speaker of the house shall transmit copies of this report to the house co-chair of the joint economic development appropriations subcommittee and the chairs of the standing committees in the house which customarily consider legislation regarding agriculture and commerce, and the president of the senate shall transmit copies of this report to the senate co-chair of the joint economic development appropriations subcommittee and the chairs of the standing committees in the senate which customarily consider legislation regarding agriculture and commerce. The report shall set forth the linked investments made by the treasurer of state under the program during the year, the total amount deposited, the number of deposits, and an estimate of foregone interest, and shall include information regarding the nature, terms, and amounts of the loans upon which the linked investments were based and the eligible borrowers to which the loans were made.

Sec. 7. Section 12.40, Code 1995, is amended to read as follows:

12.40 RURAL SMALL BUSINESS TRANSFER LINKED INVESTMENT LOAN PROGRAM.

1. As used in this section, "rural small business" means an existing rural small business, for which local competition does not exist in the principal realm of business activity of that business, and the loss of which will work a hardship on the rural community. A rural small business may include a grocery store, drug store, gasoline station, convenience store, hardware business, or farm supply store. A rural small business does not include a new business.

2. The treasurer of state shall adopt rules consistent with this division to implement a rural small business transfer linked investment loan program to ~~further the following purposes:~~

~~a. To promote the business prosperity and economic welfare of Iowa through promoting the prosperity and economic welfare of rural Iowa.~~

~~b. To maintain and expand existing employment opportunities and the provision of retail goods on a local level in small rural communities by assisting in the transfer of ownership of retail-oriented businesses where, in the absence of sufficient financial assistance, the businesses may close.~~

~~3. Upon the placement of linked investment moneys with an eligible lending institution, the institution is required to lend money to a person pursuant to rules adopted by the treasurer of state for the transfer of a rural small business. The In order to qualify as an eligible borrower, the rural small business must be located in a city with a population of five thousand or less. A city located in a county with a population in excess of three hundred thousand, if the city is contiguous to another city in the county and that other city is contiguous to the largest city in that county, shall be ~~considered as having a population in excess of five thousand~~ ineligible to qualify as a borrower.~~

~~4. The In order to qualify as an eligible borrower, the transfer of the rural small business must be by purchase, lease-purchase, or contract of sale. The purchase must be for a portion of the business which is essential to its continued viability, including real estate where the business is located, fixtures attached to the real estate, equipment relied upon by the business, and inventory for sale by the business.~~

~~5. The eligible lending institution shall apply all usual lending standards to determine the creditworthiness of each eligible borrower. The lending institution shall forward to the treasurer of state all information or any certification relating to the loan required and in a manner prescribed by this division and rules which shall be adopted by the treasurer of state.~~

~~6. 5. A In order to qualify as an eligible borrower, a borrower and the seller of the rural small business shall not be within the third degree of consanguinity or affinity.~~

~~6. Loan proceeds shall not be used to refinance existing debt, including credit card debt. However, proceeds may be used to refinance a short-term bridge loan made in anticipation of the treasurer's approval of the linked investment loan package.~~

~~7. The maximum loan amount that a borrower may receive under this program shall not be more than be fifty thousand dollars.~~

~~8. Not more than one-third of the amount of the percentage authorized in section 12.34 may be used for purposes of supporting this program and the main street linked investment loan program under section 12.51.~~

Sec. 8. **NEW SECTION. 12.41 HORTICULTURAL AND NONTRADITIONAL CROPS LINKED INVESTMENT LOAN PROGRAM.**

The treasurer of state shall adopt rules to implement a horticultural and nontraditional crops linked investment loan program to provide statewide availability of lower cost funds for lending that will stimulate existing or encourage new businesses in the areas of producing, processing, or marketing horticultural or nontraditional crops. The rules shall be in accordance with the following:

1. In order to qualify as an eligible borrower, the loan application shall be for the purchase or lease of land, machinery, equipment, or the purchase of other inputs used in the business of producing, processing, or marketing horticultural or nontraditional crops as defined by the treasurer.

2. Loan proceeds shall not be used to refinance existing debt, including credit card debt. However, proceeds may be used to refinance a short-term bridge loan made in anticipation of the treasurer's approval of the linked investment loan package.

3. The maximum loan amount that an eligible borrower may receive under this program is two hundred thousand dollars for a production loan and five hundred thousand dollars for processing or marketing facilities.

Sec. 9. The treasurer of state shall not place any new certificates of deposit for linked investments for the targeted small business linked investments program under section

12.43 between the effective date of this Act and June 30, 1997, unless the person for whom the linked investment is to be made has been certified by the department of inspections and appeals under section 10A.302 and has submitted to the treasurer of state a targeted small business borrower application by the effective date of this Act. Certificates of deposit placed prior to, or following the submission of a borrower application by a certified targeted small business by the effective date of this Act may be renewed in accordance with section 12.34.

Sec. 10. Certificates of deposit placed prior to the effective date of this Act or certificates of deposit placed on or after the effective date of this Act for persons who were certified under section 12.52 and who have submitted to the treasurer of state a main-street borrower application by the effective date of this Act, under the main street linked investments program may be renewed in accordance with section 12.34.

Sec. 11. Sections 12.51 and 12.52, Code 1995, are repealed.

Sec. 12. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 4, 1996

CHAPTER 1059

WORKERS' COMPENSATION - LIMITED LIABILITY COMPANY MEMBERS

H.F. 308

AN ACT relating to the election of workers' compensation coverage by a limited liability company member.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 85.1, subsection 3, paragraph b, subparagraph (3), Code 1995, is amended to read as follows:

(3) Officers of a family farm corporation or members of a limited liability company, spouses of the officers or members, the parents, brothers, sisters, children and stepchildren of either the officers or members, or the spouses of the officers or members, and the spouses of the brothers, sisters, children, and stepchildren of either the officers or members, or the spouses of the officers or members who are employed by the corporation or limited liability company, the primary purpose of which, although not necessarily the stated purpose, is farming or ownership of agricultural land, and who are actually engaged in agricultural pursuits or operations immediately connected with the agricultural pursuits either on or off the premises of the corporation or limited liability company.

Sec. 2. Section 85.1A, Code 1995, is amended to read as follows:

85.1A PROPRIETORS, LIMITED LIABILITY COMPANY MEMBERS, AND PARTNERS.

A proprietor, limited liability company member, or partner who is actively engaged in the proprietor's, limited liability company member's, or partner's business on a substantially full-time basis, may elect to be covered by the workers' compensation law of this state by purchasing valid workers' compensation insurance specifically including the proprietor, limited liability company member, or partner. The election constitutes an assumption by the employer of workers' compensation liability for the proprietor, limited liability company member, or partner for the time period in which the insurance contract is in force. The proprietor, limited liability company member, or partner shall accept compensation in the manner provided by the workers' compensation law and the employer is