

YOUNG FARMERS LOAN PROGRAMS SUBCOMMITTEE
OF THE
SENATE AND HOUSE STANDING COMMITTEES ON AGRICULTURE

Report to the Legislative Council
of the First Session of the Sixty-eighth General Assembly

State of Iowa
1979

F I N A L R E P O R T

YOUNG FARMERS LOAN PROGRAMS SUBCOMMITTEE OF THE SENATE AND HOUSE STANDING COMMITTEES ON AGRICULTURE

December, 1978

The Young Farmers Loan Programs Subcommittee of the Senate and House Standing Committees on Agriculture was established by the Legislative Council at its August 9, 1978 meeting. The charge of this Joint Subcommittee was to study the need in Iowa for loan programs to aid persons wishing to begin farming operations and to consider the provisions of these programs.

The members of this Joint Subcommittee are the following:

Senator John Scott, Co-chairperson
Representative Lyle Scheelhaase, Co-chairperson
Senator C. W. Hutchins
Senator Dale L. Tieden
Representative Herbert C. Hinkhouse
Representative Wendell C. Pellett

The Legislative Council originally granted the Joint Subcommittee two meetings and subsequently authorized two additional meetings.

At the first meeting held on September 15, 1978, the Subcommittee heard presentations by federal loan officials, representatives from interested farm organizations and others on the impediments to and the availability of federal loan programs and other funds for the entry of an individual into farming.

The second meeting held on October 4, 1978 had Mr. D. Daniel Garry, the Administrator of the Minnesota Family Farm Security Program, as a speaker. The Minnesota program is designed to aid individuals who want to enter into farming operations but who are not able to borrow the necessary funds without some type of loan guarantee and repayment assistance. Mr. Garry explained the structure and operations of the Minnesota program and answered the questions and comments of Subcommittee members. The Legislative Service Bureau was requested to draft a study bill based on the Minnesota law, but also to make additions and alterations as necessary to allow the guaranteeing of loans made to individuals for entry into small business ventures.

The third and fourth meetings held on December 11, 1978 and December 18, 1978 involved an explanation and discussion of the study bill draft.

This Joint Subcommittee recommends that the attached proposed bill draft be considered for passage by the Senate and House Standing Committees on Agriculture of the Sixty-eighth

General Assembly. This proposed bill is a bill for "An Act establishing a family enterprise loan assistance program to aid qualified individuals in obtaining credit to purchase farm or business real property, establishing a tax and making an appropriation."

PROPOSED HOUSE FILE _____

By (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY YOUNG
FARMERS LOAN PROGRAMS
JOINT SUBCOMMITTEE -
1978 INTERIM)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act establishing a family enterprise loan assistance pro-
2 gram to aid qualified individuals in obtaining credit to
3 purchase farm or business real property, establishing a
4 tax and making an appropriation.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. PROGRAM ESTABLISHED. The family
2 enterprise loan assistance program is established for the
3 purpose of giving assistance in the form of loan guarantees
4 and reimbursable interest payments to natural persons who
5 acquire property for the commencement of farming or certain
6 other enterprises.

7 Sec. 2. NEW SECTION. DEFINITIONS. As used in this sec-
8 tion unless the context otherwise requires:

9 1. "Authority" means the loan assistance authority created
10 by section thirteen (13) of this Act.

11 2. "Business property" means real property within this
12 state which is suitable for use as the principle place of
13 business of a community enterprise and includes fixtures,
14 machinery and equipment which are or will be attached to the
15 real property and which are suitable for use in the community
16 enterprise.

17 3. "Community enterprise" means a retail, occupational
18 or professional business which is determined by the authority
19 to be qualified under section three (3), subsection four (4)
20 of this Act for loan assistance.

21 4. "Farm enterprise" means the commercial production of
22 agricultural crops, livestock or livestock products, poultry
23 products, milk or dairy products, or fruit or other horti-
24 cultural products which is determined by the authority to
25 be qualified under section three (3), subsection four (4)
26 of this Act for loan assistance.

27 5. "Farm land" means real property within this state which
28 is capable of supporting a farm enterprise.

29 6. "Guaranteed loan" means a loan which has been guaranteed
30 by the authority.

31 7. "Interest adjustment" means reimbursable interest pay-
32 ments made by the authority under section seven (7) of this
33 Act.

34 8. "Lender" means a bank, credit union, or savings and
35 loan association organized under the laws of this state or

1 the United States, a person whose principal business in this
2 state is making real property purchase money loans, or a
3 foreign or domestic corporation engaged in this state in the
4 business of writing insurance. With respect to a seller-
5 participation loan, "lender" includes the seller of the
6 property and any other lender making a purchase money loan
7 which is secured by the property.

8 9. "Loan" means an agreement by which the purchase price
9 of property is financed. With respect to a seller-partici-
10 pation loan, "loan" includes the obligations of the borrower
11 to the seller and to other participating lenders.

12 10. "Loan assistance" means the loan guarantee defined
13 in section six (6) of this Act, or both the loan guarantee
14 and the interest adjustment provided for in section seven
15 (7) of this Act.

16 11. "Property" means farm land or business property.

17 12. "Seller-participation loan" means the financing of
18 a sale of property in which part or all of the purchase price
19 is financed by the seller and the remainder, if any, is fi-
20 nanced by one or more lenders other than the seller.

21 Sec. 3. NEW SECTION. ELIGIBILITY FOR ASSISTANCE. Loan
22 assistance shall not be granted by the authority except upon
23 the verified written application of an applicant, and shall
24 not be granted unless all of the following criteria are
25 satisfied:

26 1. The applicant is a natural person who is a resident
27 of this state.

28 2. The applicant, and his or her spouse and dependents,
29 if any, have an aggregate net worth of less than fifty thou-
30 sand dollars. The amount of any decrease in the value of
31 assets resulting from a transfer of property within one year
32 prior to the date of application shall be added to the value
33 of other assets in computing net worth under this subsection
34 if the authority finds that a purpose of the transfer was
35 the avoidance of the limitation contained in this subsection.

1 3. The applicant demonstrates credit worthiness, according
2 to standards established by rule of the authority.

3 4. a. The applicant proposes to commence the operation
4 of a farm or community enterprise, and demonstrates that there
5 exists a reasonable likelihood, according to standards
6 established by the authority, that the applicant can operate
7 the proposed enterprise successfully.

8 b. The authority shall promulgate separate standards for
9 evaluating proposed enterprises. The standards shall include
10 but need not be limited to the following factors:

11 (1) The geographic location.

12 (2) The successfulness of similar enterprises.

13 (3) The need for the enterprise within the relevant com-
14 munity or trade area.

15 (4) The adaptability to the proposed enterprise of the
16 property to be purchased.

17 (5) The projected financial soundness of the proposed
18 enterprise.

19 (6) The sufficiency of the applicant's education, training
20 and experience.

21 (7) The ability of the applicant to obtain financial and
22 other resources needed to operate the proposed enterprise.

23 5. The applicant demonstrates that the property to be
24 purchased will be a functional part of the operation of the
25 proposed enterprise.

26 6. The applicant demonstrates intent and ability to main-
27 tain continuous operation of the enterprise as required by
28 section nine (9) of this Act.

29 7. The applicant has negotiated an agreement for the pur-
30 chase of the property, and has obtained one or more commit-
31 ments which will enable the applicant to finance the purchase
32 price. A promise to provide financing is a commitment for
33 purposes of this subsection even though conditioned upon the
34 granting of loan assistance under this Act.

35 8. The applicant demonstrates need for a loan guarantee,

1 and if applied for, demonstrates need for interest adjust-
2 ment payments.

3 Sec. 4. NEW SECTION. LOAN REQUIREMENTS. The authority
4 shall not guarantee a loan except one which meets all of the
5 following requirements:

6 1. The loan is in a form approved by the authority.

7 2. All terms of the purchase have been agreed to prior
8 to submission of the application for loan assistance.

9 3. The purchase price of the property does not exceed
10 the appraised value, as determined by the appraisal required
11 by section eight (8), subsection three (3) of this Act.

12 4. The financial obligation of the borrower with respect
13 to each lender participating in the loan is evidenced by one
14 or more negotiable notes.

15 5. The loan is secured by a real estate mortgage which
16 is a first lien on the property. If the loan is for the
17 purchase of business property consisting of fixtures, machinery
18 and equipment then it shall be secured by a purchase money
19 security interest. If the loan is for the purchase of farmland
20 and is a seller-participation loan, the loan also must meet
21 the requirements of section five (5) of this Act.

22 6. All loan documents which relate to the obligations
23 of the borrower must disclose that the loan is guaranteed
24 by the authority, that the authority has a lien against the
25 property to secure repayment of any interest adjustment
26 payments, and that the guarantee does not extend to a
27 subsequent holder of a note executed by the borrower unless
28 the holder gives written notice to the authority within thirty
29 days after the note is acquired by the holder.

30 7. The loan agreement provides that in the event of de-
31 fault by the borrower all debtor's rights of redemption are
32 forfeited.

33 8. The loan transaction complies with requirements con-
34 tained in rules promulgated by the authority.

35 Sec. 5. NEW SECTION. SELLER-PARTICIPATION LOAN. A seller-

1 participation loan which finances the purchase of farm land
2 is not eligible for loan assistance under this Act unless
3 the seller is a natural person, a partnership whose partners
4 are natural persons, or a family farm corporation as defined
5 in section one hundred seventy-two C point one (172C.1),
6 subsection eight (8) of the Code.

7 Sec. 6. NEW SECTION. TERMS OF GUARANTEE. The guarantee
8 executed by the authority shall be in the form prescribed
9 by the authority, and shall contain terms which are consistent
10 with this Act. The guarantee shall include but not be limited
11 to the following terms:

12 1. In the event of default of the borrower and satis-
13 faction of all conditions set forth in this Act or applicable
14 rules, the authority shall pay to the creditor ninety percent
15 of the amount due under the loan agreement.

16 2. In consideration of payment by the authority to the
17 creditor of the amount specified in subsection one (1) of
18 this section, the creditor shall assign to the authority all
19 right, title and interest in the loan and in the property
20 given as security.

21 3. With respect to the original lender or a subsequent
22 holder of the obligation, the authority shall not have any
23 legal or equitable defense to the guarantee except fraud or
24 material misrepresentation of which the original lender or
25 the holder had actual knowledge. However, the guarantee does
26 not extend to any holder of the obligation of the borrower
27 other than the original lender or seller unless the holder
28 gives written notice of the transfer to the authority within
29 thirty days after the holder acquires interest in the obli-
30 gation.

31 Sec. 7. NEW SECTION. INTEREST ADJUSTMENT CONTRACT.

32 1. The authority may contract for interest adjustment
33 with a borrower who has been granted a loan guarantee. The
34 contract shall be in the form prescribed by the authority.

35 2. The authority shall not contract for interest ad-

1 justment unless the guaranteed loan has a term of twenty years
2 or less, and unless the guaranteed loan requires payments
3 at least annually such that the loan and interest is amortized
4 over its term by equal annual payments. However, if the term
5 of the guaranteed loan is ten years or less, the annual
6 payments need not be equal.

7 3. The term of the interest adjustment agreement shall
8 commence with the term of the guaranteed loan and shall not
9 exceed ten years.

10 4. Each year during the term of the interest adjustment
11 agreement the authority shall, subject to the limitation
12 contained in subsection eight (8) of this section, pay to
13 the lender on behalf of the borrower four percent of the
14 principal balance of the loan which is outstanding as of the
15 beginning of that year. Payments by the authority to the
16 lender shall be made at the same intervals as payments are
17 required by the loan agreement to be made by the borrower
18 to the lender.

19 5. The borrower may apply to the authority for one re-
20 newal of the interest adjustment agreement. The term of the
21 renewal shall not exceed ten years. Application for renewal
22 shall be made as prescribed by the authority.

23 6. The borrower shall reimburse the authority for the
24 amount paid on his or her behalf under the interest adjustment
25 agreement. Repayment must be completed within one year after
26 the expiration date of the agreement; provided that if a
27 renewal is granted then reimbursement for the sum paid by
28 the authority under both the original agreement and the renewal
29 must be completed within one year after the expiration date
30 of the renewal. The reimbursement obligation shall not bear
31 interest until the expiration of the year during which
32 repayment is required by this subsection to be made.

33 7. The authority has a lien against the property securing
34 a guaranteed loan for amounts paid by the authority under
35 the interest adjustment agreement. This lien is subordinate

1 to the interests of the lenders who financed the purchase
2 price.

3 8. The borrower shall submit to the authority within
4 thirty days prior to each anniversary of the interest adjust-
5 ment agreement a verified statement of the aggregate net worth
6 of the borrower, and his or her spouse and dependents, if
7 any. If the net worth for a year exceeds one hundred thousand
8 dollars, the borrower is ineligible to receive interest adjust-
9 ment for the ensuing year. The amount of any decrease in
10 value of assets resulting from a transfer of property within
11 one year prior to the date of the statement shall be added
12 to the value of other assets in computing net worth under
13 this subsection if the authority finds that a purpose of the
14 transfer was the avoidance of the limitation contained in
15 this subsection.

16 Sec. 8. NEW SECTION. APPLICATION PROCEDURE.

17 1. A person desiring loan assistance under this Act shall
18 make application jointly with the lender. A completed applica-
19 tion shall be submitted to the authority as provided in its
20 rules.

21 2. The authority shall establish procedures for consider-
22 ing applications, and may authorize lenders to perform
23 preliminary examination of applicants for eligibility according
24 to rules promulgated by the authority.

25 3. The authority shall provide for verified appraisal
26 of the property to be purchased to ensure compliance with
27 section four (4), subsection three (3) of this Act. The au-
28 thority shall not pay for the cost of an appraisal.

29 4. The authority may approve an application and execute
30 a guarantee if the requirements of this Act and applicable
31 rules are met. If a loan guarantee is granted, the authority
32 also may grant interest adjustment as provided in section
33 seven (7) of this Act. The authority may grant a loan
34 guarantee but deny interest adjustment.

35 5. The authority shall notify the applicant and the lender

1 by certified mail of the disposition of the application.
2 The authority shall retain a copy of each application for
3 its files. If a loan guarantee is granted the authority shall
4 return the original of the application to the lender, and
5 the lender and the applicant may then complete the loan
6 transaction. If the authority denies a loan guarantee the
7 authority shall return the original of the application to
8 the lender and shall provide the lender and the applicant
9 with a written statement of the reasons for the denial. If
10 the authority grants a loan guarantee but denies interest
11 adjustment the authority shall provide the lender and the
12 applicant with a written statement of the reasons for the
13 denial.

14 6. If an application for loan assistance is denied the
15 applicant may reapply in the event of a material change in
16 the circumstances of the applicant. An applicant may reapply
17 for loan assistance at any time if the reason for the previous
18 denial was the unavailability of authority funds.

19 Sec. 9. NEW SECTION. CONTINUATION OF ENTERPRISE.

20 1. As a condition of applying for farm enterprise loan
21 assistance the applicant agrees that if assistance is granted
22 he or she will maintain the land securing the loan in active
23 production according to the proposal contained in the loan
24 assistance application during the entire term of the loan.
25 If a borrower fails to comply with this condition for one
26 or more periods of time which exceed one year in the aggregate,
27 the borrower is in default. A default under this subsection
28 may be waived by the authority in the manner and subject to
29 the terms provided in its rules if the default is the result
30 of physical disability or other extenuating circumstances
31 which do not permanently disable the borrower from complying
32 with the condition.

33 2. As a condition of applying for community enterprise
34 loan assistance the applicant agrees that if assistance is
35 granted he or she will maintain the business property securing

1 the loan in active production according to the proposal con-
2 tained in the loan assistance application during the entire
3 term of the loan. If a borrower fails to comply with this
4 condition for one or more periods of time which exceed six
5 months in the aggregate, the borrower is in default. A default
6 under this subsection may be waived by the authority in the
7 manner and subject to the terms provided in its rules if the
8 default is the result of physical disability or other
9 extenuating circumstances which do not permanently disable
10 the borrower from complying with the condition.

11 3. The authority may require periodic reporting by the
12 borrower to ensure compliance with subsection one (1) or two
13 (2) of this section.

14 4. If the authority finds after notice and opportunity
15 for hearing that a default has occurred under this section
16 and that a waiver is not warranted, the authority shall cause
17 the loan guarantee to be performed and shall foreclose upon
18 the property which secures the loan.

19 5. An express or implied waiver by the authority of the
20 default defined in this section does not impair the rights
21 of the authority with respect to a subsequent failure of the
22 borrower to comply with the applicable condition specified
23 in this section.

24 Sec. 10. NEW SECTION. TRANSFER OF PROPERTY.

25 1. During the term of a guaranteed loan a voluntary or
26 involuntary transfer of the borrower's interest in the property
27 which secures the loan constitutes a default of the loan,
28 and the remaining indebtedness to the lender and any
29 obligations of the borrower to the authority are due in full
30 as of the date of the transfer. However, the transfer of
31 the borrower's interest in fixtures, machinery, or equipment
32 of a business enterprise, or any combination thereof, shall
33 not constitute a default of the loan if prior approval of
34 the authority has been granted. The authority may approve
35 a transfer of the borrower's interest in fixtures, machinery

1 and equipment when the transfer occurs in the course of
2 maintaining or improving the enterprise. A guaranteed loan
3 shall not be assumed by a transferee, but a transferee may
4 apply for loan assistance in his or her own right. This
5 section does not prohibit a borrower from granting a security
6 interest in the property for the purpose of obtaining another
7 loan.

8 2. If after notice and opportunity for hearing the au-
9 thority determines that a default as defined in this section
10 has occurred, the authority shall cause the loan guarantee
11 to be performed and shall foreclose upon the property which
12 secures the loan.

13 3. If a transfer of interest constituting a default under
14 this section is to the spouse or a lineal descendent of the
15 borrower and results from the death of the borrower, the
16 transferee has the right to apply to the authority to acquire
17 the property for continued use in the farm or community enter-
18 prise. The authority shall give written notice of the rights
19 of the transferee under this subsection at the time notice
20 of hearing is given under subsection two (2) of this section.
21 The transferee must submit an application to acquire the
22 property within ninety days or the right to acquire the
23 property is forfeited. The authority may transfer its interest
24 to the transferee under this subsection by quitclaim deed
25 upon reasonable terms, and may grant loan assistance to the
26 transferee if eligible.

27 Sec. 11. NEW SECTION. DEFAULT TO CREDITOR.

28 1. Not later than thirty days after a default by the
29 borrower under the terms of the loan agreement the creditor
30 shall send notice of the default to the authority. The
31 authority may negotiate with the creditor and the borrower
32 and may approve any reasonable agreement between them which
33 assures fulfillment of the borrower's obligations.

34 2. With respect to a farm enterprise loan, if the borrower
35 fails to make satisfactory arrangements to remedy the default

1 within one hundred eighty days from the date of initial de-
2 fault, or within ninety days from the date of a subsequent
3 default, the creditor shall file a claim with the authority
4 identifying the loan and the default. If the authority de-
5 termines that the terms and conditions of the guarantee have
6 been satisfied the authority shall give notice of that deter-
7 mination to the creditor and the borrower and shall cause
8 the guarantee to be performed and shall foreclose upon the
9 property which secures the loan.

10 3. With respect to a community enterprise loan, if the
11 borrower fails to make satisfactory arrangements to remedy
12 the default within sixty days from the date of initial default,
13 or within thirty days from the date of a subsequent default,
14 the creditor shall file a claim with the authority identify-
15 ing the loan and the default. If the authority determines
16 that the terms and conditions of the guarantee have been
17 satisfied, the authority shall give notice of that determina-
18 tion to the creditor and the borrower and shall cause the
19 guarantee to be performed and shall foreclose upon the property
20 which secures the loan.

21 4. The provisions of this section do not apply to de-
22 fault as defined in sections nine (9) and ten (10) of this
23 Act.

24 5. If the borrower is in default of a seller-participation
25 loan, the seller may elect to satisfy the obligations of the
26 borrower to the authority and recover title to the property
27 in lieu of payment under the guarantee. The seller must make
28 the election in writing at the time the claim is filed with
29 the authority under subsection two (2) or three (3) of this
30 section or the right is forfeited. If the seller satisfies
31 the claims of the authority and executes a release of the
32 guarantee the authority shall issue a quitclaim deed to the
33 seller.

34 Sec. 12. NEW SECTION. DISPOSAL OF AUTHORITY PROPERTY.

35 1. Within fifteen days after title to property has been

1 acquired by the authority under this Act the authority shall
2 commence sale of the property by public sale. The authority
3 shall publish notice of sale once each week for four
4 consecutive weeks in a newspaper of general circulation in
5 each county in which any part of the property is located.
6 The notice shall include the time, date and location where
7 the sale is to take place, the manner of sale, a description
8 of the property to be sold, and a general description of the
9 terms of the sale. Except as provided in this section, the
10 terms and conditions of the sale shall be as determined by
11 the authority.

12 2. Property to be disposed of by the authority at public
13 sale shall be sold to the highest bidder, as determined by
14 sealed bids or by public auction. The authority shall select
15 and notify the successful bidder within fifteen days after
16 the date of the final publications of the notice of sale.

17 3. A person purchasing property from the authority at
18 public sale shall submit security in the form of a certified
19 check or bond and in the amount of two percent of the purchase
20 price within twenty-four hours following selection of the
21 successful bidder. The balance of the price must be paid
22 to the authority within ninety days after the date of
23 selection. Upon timely payment the authority shall transfer
24 the property to the purchaser by quitclaim deed. If the
25 purchaser fails to submit security as required, or fails to
26 make timely payment of the purchase price, the purchaser
27 forfeits all rights to the property and any money paid to
28 the authority, and in that event the authority shall commence
29 a new public sale under this section.

30 4. Upon transfer of the property the authority shall
31 execute and file of record a release of a lien created by
32 section seven (7) of this Act.

33 5. Net proceeds from a sale under this section shall be
34 credited to the loan account of the authority, except that
35 any excess of the sale price over the amount paid by the au-

1 thorty under the guarantee shall be credited to the interest
2 adjustment account. Money forfeited to the authority under
3 this section shall be credited to the loan account.

4 6. This section does not apply where property is trans-
5 ferred by the authority pursuant to section ten (10), subsec-
6 tion three (3), or section eleven (11), subsection five (5)
7 of this Act.

8 Sec. 13. NEW SECTION. LOAN ASSISTANCE AUTHORITY. A loan
9 assistance authority is created to administer the provisions
10 of this Act. The authority is a separate and independent
11 public corporation. The authority consists of thirteen mem-
12 bers appointed by the governor with the consent of the senate
13 as follows:

14 1. Four officers of institutional lenders. At no time
15 shall any two of the persons appointed under this subsection
16 be employed by the same type of lender.

17 2. Three farmers each of whose main operation is dif-
18 ferent from the other two.

19 3. One officer of a farm credit corporation.

20 4. One agricultural economist.

21 5. One small business economist.

22 6. Three persons experienced in the ownership and opera-
23 tion of small businesses.

24 Each member appointed shall be actively engaged in the
25 area which he or she represents.

26 Sec. 14. NEW SECTION. TERMS AND COMPENSATION.

27 1. The initial members of the authority shall be appointed
28 to terms of office as follows:

29 a. Two officers of institutional lenders, two of the
30 farmers, the agricultural economist, and two of the small
31 business persons for terms ending June 30, 1982.

32 b. The remaining members for terms ending June 30, 1983.

33 2. Upon the expiration of initial terms and each three
34 years thereafter members shall be appointed for terms commenc-
35 ing July first. A vacancy shall be filled by appointment

1 for the remainder of the unexpired term.

2 3. The members of the authority shall be paid forty dol-
3 lars per day for each day of official duties, and shall be
4 reimbursed for actual and necessary expenses incurred in the
5 performance of official duties.

6 Sec. 15. NEW SECTION. QUORUM. A majority vote of the
7 entire membership of the authority is required to transact
8 the business of the authority. However, the authority may
9 by rule provide for the division of the authority into separate
10 panels of not less than seven members each for the
11 consideration of applications for loan assistance. A majority
12 vote of the members of a panel may grant or deny loan
13 assistance, but an applicant or any two members of the
14 authority may apply to the full membership of the authority
15 for reconsideration of a decision of a panel. A request for
16 reconsideration must be filed within fifteen days after notice
17 of the decision of the panel has been mailed to the applicant
18 or the decision of the panel shall constitute final action
19 by the authority.

20 Sec. 16. NEW SECTION. GENERAL POWERS. The authority
21 has all powers necessary or convenient to carry out its
22 purposes and duties, including but not limited to the
23 following:

- 24 1. To have perpetual existence.
- 25 2. To have a corporate seal.
- 26 3. To sue and be sued in its own name.
- 27 4. To make and alter bylaws consistent with the provisions
28 and purposes of this Act.
- 29 5. To make and execute contracts and other legal instru-
30 ments.
- 31 6. To incur debts as a surety in the manner provided in
32 this Act.
- 33 7. To acquire and dispose of mortgages and security in-
34 terests as provided in this Act.
- 35 8. To obtain insurance against any loss in connection

1 with its operations and property interests.

2 9. To fix and collect fees and charges for its services,
3 including the charging of a premium and the fixing of the
4 rate for guarantees.

5 10. To accept donations, gifts, grants, appropriations
6 and other financial aid from any person.

7 11. To hold and disburse its own funds, independent of
8 state warrants.

9 12. To prepare and distribute standard forms for use by
10 applicants and lenders.

11 Sec. 17. NEW SECTION. DUTIES. The authority shall have
12 the following general duties:

13 1. To promulgate rules subject to chapter seventeen A
14 (17A) of the Code for the operation of the authority and for
15 the administration of the loan assistance program.

16 2. To employ a chief administrative officer and other
17 personnel as necessary to enable the authority to administer
18 this Act. The chief administrative officer shall execute
19 all documents on behalf of the authority.

20 3. To file a report with the general assembly before the
21 last day of January of each year describing the current opera-
22 tions and activities of the authority; and disclosing the
23 status of loan applications, loan guarantees, interest ad-
24 justment payments, receipts and disbursements, and other fi-
25 nancial affairs of the authority; and containing other in-
26 formation about the loan assistance program as determined
27 by the authority. The authority also shall submit oral or
28 written reports as requested by a standing committee of the
29 general assembly.

30 Sec. 18. NEW SECTION. FUNDS OF AUTHORITY--RESTRICTIONS.

31 1. The authority shall not grant a loan guarantee which
32 would cause the outstanding obligations of the authority on
33 loan guarantees to exceed ten times the sum of money held
34 by the authority in the loan account.

35 2. The authority shall not issue a warrant in anticipa-

1 tion of revenues from any source.

2 3. The authority shall not borrow money.

3 4. The authority shall not grant a loan guarantee which
4 would cause the outstanding obligations of the authority on
5 loan guarantees granted on loans made to acquire business
6 property to exceed twenty percent of the outstanding obliga-
7 tions of the authority on all loan guarantees.

8 5. The authority shall not contract for interest ad-
9 justment which would cause the outstanding obligations of
10 the authority on interest adjustment contracts made with
11 borrowers who have loan guarantees on loans made to acquire
12 business property to exceed twenty percent of the outstanding
13 obligations of the authority on all interest adjustment con-
14 tracts.

15 Sec. 19. NEW SECTION. FINANCIAL ACCOUNTS.

16 1. The authority shall establish a general account known
17 as the loan account. The authority shall credit to the loan
18 account all money received which is designated by its source
19 or required by law to be credited to the loan account. All
20 moneys received from the charging of premiums for the
21 guaranteeing of loans shall be credited to the loan account.
22 The authority shall not disburse money out of the loan account
23 except to satisfy a loan guarantee or to pay expenses incurred
24 in foreclosure and public sale proceedings.

25 2. The authority shall establish a general account known
26 as the interest adjustment account. The authority shall
27 credit to this account all reimbursements under section seven
28 (7) of this Act and any other money which is designated by
29 its source or required by law to be credited to the interest
30 adjustment account. The authority shall not disburse money
31 out of the interest adjustment account except as interest
32 adjustment payments to lenders.

33 3. The authority may establish other accounts as neces-
34 sary or convenient.

35 4. The authority may, in its discretion, credit to either

1 the loan account or the interest adjustment account, or both,
2 money received by it which is not otherwise required to be
3 deposited in one or the other of these two accounts. Once
4 credited to one of these accounts, disbursement is subject
5 to the limitations contained in this section.

6 5. The financial affairs of the authority are subject
7 to audit by the auditor of state in the manner provided in
8 chapter eleven (11) of the Code for the auditing of departments
9 of state government.

10 6. The authority shall establish the loan account and
11 interest adjustment account in the office of the treasurer
12 of state. The treasurer shall invest or deposit the funds
13 in those accounts in the manner specified by section four
14 hundred fifty-two point ten (452.10) of the Code. The trea-
15 surer shall not commingle the funds of these accounts. The
16 proceeds from the investing or depositing of the funds of
17 each account shall be credited to their respective accounts
18 and used for the purposes for which the account was
19 established.

20 Sec. 20. NEW SECTION. STATE NOT LIABLE. The guarantee
21 of a loan under this Act is not an obligation of the state
22 within the meaning of constitutional or statutory limitations
23 or prohibitions respecting debt, but is solely the obliga-
24 tion of the authority. The authority does not have the power
25 to lend the credit of this state. Neither this state nor
26 the general assembly is obliged to appropriate or provide
27 funds to the authority for any purpose. Except for the au-
28 thority, this state, its agencies, and its officers and em-
29 ployees are immune from suit with respect to a claim arising
30 out of the existence or operations of the authority.

31 Sec. 21. Section four hundred twenty-two point seven
32 (422.7), Code 1979, is amended by adding the following new
33 subsection:

34 NEW SUBSECTION. Subtract the interest earned by the seller
35 of farm land or business property on a seller-participation

1 loan which is guaranteed by the loan assistance authority
 2 under section eight (8) of this Act.

3 Sec. 22. Chapter four hundred twenty-two (422), Code 1979,
 4 is amended by adding the following new section:

5 NEW SECTION.

6 1. In addition to other taxes imposed by this chapter,
 7 a tax is imposed on the gain realized from the transfer of
 8 business real property or farm land for which loan assistance
 9 has been granted to the transferor under this Act. The rate
 10 of the tax shall be based upon the length of time during which
 11 the loan assistance has been in effect, as follows:

12	a. Length of time in years:		Rate of tax on gain realized:
13	<u>At least</u>	<u>Less than</u>	
14		One	50%
15	One	Two	45%
16	Two	Three	40%
17	Three	Four	35%
18	Four	Five	30%
19	Five	Six	25%
20	Six	Seven	20%
21	Seven	Eight	15%
22	Eight	Nine	10%
23	Nine	Ten	5%

24 b. If the total taxes imposed under this chapter on the
 25 gain realized exceeds the gain realized, then the tax imposed
 26 under this section shall be decreased so that the total taxes
 27 imposed under this chapter equals the gain realized.

28 c. There is no tax if a transfer occurs ten years or more
 29 after the loan guarantee was granted.

30 2. For purposes of this section, the gain realized on
 31 the transfer of business real property or farm land is the
 32 amount determined under the Internal Revenue Code of 1954,
 33 as amended to and including January 1, 1979.

34 3. The tax created by this section does not apply to a
 35 transfer of property which occurs on or after the date a

1 transferor dies or suffers disability or illness which
2 incapacitates the borrower from working the farm or community
3 enterprise to the extent that the farm or community enterprise
4 cannot be operated as a financially sound enterprise.
5 Notwithstanding section four hundred twenty-two point sixty-
6 eight (422.68) of the Code, the loan assistance authority
7 created by section thirteen (13) of this Act shall have the
8 power to prescribe all rules and set standards for the
9 administration of this subsection and shall determine, after
10 a hearing has been held, whether or not the borrower's
11 disability or illness qualifies the borrower for the exemption
12 under this subsection.

13 Sec. 23.

14 1. There is appropriated from the general fund of the
15 state on July 1, 1979 to the loan assistance authority the
16 following amounts:

17 a. The sum of ten million (10,000,000) dollars to be
18 deposited in the loan account established under subsection
19 one (1) of section nineteen (19) of this Act and to be used
20 to satisfy loan guarantees and to pay expenses incurred in
21 foreclosure and public sale proceedings.

22 b. The sum of eight hundred thousand (800,000) dollars
23 to be deposited in the interest adjustment account established
24 under subsection two (2) of section nineteen (19) of this
25 Act and to be used to make interest adjustment payments to
26 lenders.

27 It is the intent that the appropriations made under this
28 subsection shall not revert to the general fund of the state.

29 2. There is appropriated from the general fund of the
30 state for the fiscal year commencing July 1, 1979 and ending
31 June 30, 1980 to the loan assistance authority the sum of
32 one hundred thousand (100,000) dollars, or so much thereof
33 as may be necessary, for salaries, support, maintenance and
34 miscellaneous purposes.

35

EXPLANATION

1 This bill establishes a program for assisting individuals
2 in obtaining credit to enable them to purchase real property
3 to commence the operation of farming or certain small business
4 enterprises. The concept is similar to the Minnesota family
5 farm security program.

6 Essentially this bill creates an independent public corpora-
7 tion which would guarantee loans made to qualified individuals,
8 and would make reimbursable interest payments equal to a rate
9 of four percent per year on behalf of the borrower. The
10 guarantee provides that if the borrower defaults the lender
11 is entitled to receive from the authority ninety percent of
12 the amount owing at the time of default. The authority would
13 acquire the property and sell it at public sale except in
14 limited circumstances.

15 The various sections of the bill provide as follows:

16 Section 1 states the purpose of the Act.

17 Section 2 contains definitions.

18 Section 3 establishes the eligibility requirements for
19 individuals who seek loan assistance from the authority.
20 The requirements attempt to assure that the prospective
21 borrower is capable of operating the proposed enterprise and
22 has financial need.

23 Section 4 establishes the requirements which must be met
24 by the agreements between the borrower, lender and seller
25 of property if loan assistance is to be obtained.

26 Section 5 contains a special limitation to discourage
27 speculation in farm land which tends to inflate land prices.

28 Section 6 defines the terms of the guarantee.

29 Section 7 defines the terms of the interest payments
30 contract.

31 Section 8 establishes the procedures for submitting appli-
32 cations for loan assistance.

33 Section 9 establishes the requirement that the borrower
34 under a guaranteed loan must actively use the property
35 purchased by the guaranteed loan for the purposes for which

1 the property was sought during the entire term of the loan
2 guarantee. Failure constitutes a default and may mean the
3 loss of the property.

4 Section 10 prohibits the transfer of property which is
5 subject to a loan guarantee and provides for default and loss
6 of the property. If the borrower dies, his or her spouse
7 or lineal descendants may reacquire the property for use in
8 continuing the enterprise.

9 Section 11 establishes the conditions under which a de-
10 fault by the borrower of the loan agreement will result in
11 payment to the lender of the guarantee.

12 Section 12 provides the procedures whereby the authority
13 issuing the guarantee disposes of property which it acquires
14 on default of the borrower and payment to the lender of the
15 guarantee.

16 Section 13 defines the loan assistance authority, which
17 is a thirteen-member agency which administers the Act.

18 Section 14 establishes the terms of office of authority
19 members at three years, and provides that they shall receive
20 forty dollars per diem plus expenses.

21 Section 15 permits the authority to divide itself into
22 panels of not less than seven members each for consideration
23 of applications for loan assistance. Review by the full
24 membership of the authority is provided for a panel decision.

25 Section 16 sets forth the general powers of the authority.

26 Section 17 sets forth rule-making and reporting duties
27 of the authority.

28 Section 18 creates certain restrictions on the financial
29 operations of the authority.

30 Section 19 requires the creation by the authority of two
31 principle accounts which the authority shall use to receive
32 and disburse funds, and states the limitations applicable
33 to disbursements from each of those accounts. The section
34 also provides that the financial affairs of the authority
35 shall be subject to audit by the auditor of state.

1 Section 20 states that the authority is solely responsi-
2 ble for its obligations, and that the authority does not have
3 the power to lend the credit of the state.

4 Section 21 provides that the seller under a guaranteed
5 seller-participation loan as defined in the Act does not pay
6 state income tax on interest earned on the loan.

7 Section 22 provides a special tax potentially applicable
8 to a borrower under a guaranteed loan. The tax is imposed
9 on the gain realized upon the sale of property subject to
10 the guarantee if sold within the first ten years of the
11 guarantee.

12 Section 23 provides for appropriations to guarantee loans,
13 pay interest adjustment and pay expenses of the authority.

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