

FIRST REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 161

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MUNZLINGER.

Read 1st time January 24, 2011, and ordered printed.

Read 2nd time January 27, 2011, and referred to the Committee on Agriculture, Food Production and Outdoor Resources.

Reported from the Committee February 17, 2011, with recommendation that the bill do pass and be placed on the Consent Calendar.

Removed from the Consent Calendar February 21, 2011.

Re-reported from the Committee February 24, 2011, with recommendation that the bill do pass.

Taken up for Perfection March 9, 2011. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

0993S.01P

AN ACT

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

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Section A. Sections 348.400, 348.407, and 348.412, RSMo, are repealed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 **expansion, acquisition, construction, improvement, or rehabilitation of**
6 **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

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

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,
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 goods and products or any**
32 **business whose function is the support of agricultural production or**
33 **processing by providing goods and services used for producing or**
34 **processing 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 add value to agricultural products by**
14 **providing necessary products and services for production or**
15 **processing.**

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

19 **[5.] 6.** Upon a determination by the authority that such concept is
20 feasible and upon the provision of a fee by the requesting person, in an amount
21 to be determined by the authority, the authority may then provide for a
22 marketing study. Such marketing study shall be designed to determine whether
23 such concept may be operated profitably.

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

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

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

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

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

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

- 47 (1) The applicant's commitment to the project through the applicant's risk;
- 48 (2) Community involvement and support;
- 49 (3) The phase the project is in on an annual basis;
- 50 (4) The leaders and consultants chosen to direct the project;
- 51 (5) The amount needed for the project to achieve the bankable stage; and

52 (6) The projects planning for long-term success through feasibility studies,
53 marketing plans and business plans.

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

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

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

63 [15.] 16. Any rule or portion of a rule, as that term is defined in section
64 536.010, that is created under the authority delegated in sections 348.005 to
65 348.180 shall become effective only if it complies with and is subject to all of the
66 provisions of chapter 536 and, if applicable, section 536.028. All rulemaking
67 authority delegated prior to August 28, 1999, is of no force and effect and
68 repealed. Nothing in this section shall be interpreted to repeal or affect the
69 validity of any rule filed or adopted prior to August 28, 1999, if it fully complied
70 with all applicable provisions of law. This section and chapter 536 are
71 nonseverable and if any of the powers vested with the general assembly pursuant
72 to chapter 536 to review, to delay the effective date or to disapprove and annul
73 a rule are subsequently held unconstitutional, then the grant of rulemaking
74 authority and any rule proposed or adopted after August 28, 1999, shall be
75 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 expansion, acquisition,**
4 **construction, improvement, or rehabilitation of a qualifying**
5 **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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