

FIRST REGULAR SESSION

HOUSE BILL NO. 345

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES GUERNSEY (Sponsor) And KLIPPENSTEIN (Co-sponsor).

1024L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

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

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Section A. Sections 348.400, 348.407, and 348.412, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 348.400, 348.407, and 348.412, to read as follows:

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

(1) **"Agribusiness", any business whose primary customer base is producers of agricultural goods and products, or any business whose function is the support of agricultural production or processing by providing goods and services used for producing or processing agricultural products;**

(2) **"Agricultural business development loan", a loan for the acquisition, construction, improvement, or rehabilitation of agricultural property, or for the expansion, acquisition, construction, improvement, or rehabilitation of agribusiness;**

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

[(3)] (4) **"Agricultural property", any land and easements and real and personal property, including, but not limited to, buildings, structures, improvements, and equipment which is used in Missouri by Missouri residents or Missouri-based businesses for the purpose of processing,**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 manufacturing, marketing, exporting or adding value to an agricultural product. Agricultural
18 property also includes any land and easements and real and personal property, including, but not
19 limited to, buildings, structures, improvements, equipment and plant stock used for the growing
20 of grapes which will be processed into wine;

21 [4] (5) "Authority", the Missouri agricultural and small business development
22 authority;

23 [(5)] (6) "Eligible borrower", as defined in section 348.015;

24 [(6)] (7) "Eligible lender", lender as defined in section 348.015;

25 [(7)] (8) "Fund", the agricultural product utilization and business development loan
26 guarantee fund or the agricultural product utilization grant fund;

27 [(8)] (9) "Grant fund" the agricultural product utilization grant fund;

28 [(9)] (10) "Program fund", the agricultural product utilization and business development
29 loan program fund.

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

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

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

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

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

15 [5.] 6. Upon a determination by the authority that such concept is feasible and upon the
16 provision of a fee by the requesting person, in an amount to be determined by the authority, the
17 authority may then provide for a marketing study. Such marketing study shall be designed to
18 determine whether such concept may be operated profitably.

19 [6.] 7. Upon a determination by the authority that the concept may be operated profitably,
20 the authority may provide for legal assistance to set up the business. Such legal assistance shall
21 include, but not be limited to, providing advice and assistance on the form of business entity, the
22 availability of tax credits and other assistance for which the business may qualify as well as
23 helping the person apply for such assistance.

24 [7.] **8.** The authority may provide or facilitate loans or guaranteed loans for the business
25 including, but not limited to, loans from the United States Department of Agriculture Rural
26 Development Program, subject to availability.

27 Such financial assistance may only be provided to feasible projects, and for an amount that is the
28 least amount necessary to cause the project to occur, as determined by the authority. The
29 authority may structure the financial assistance in a way that facilitates the project, but also
30 provides for a compensatory return on investment or loan payment to the authority, based on the
31 risk of the project.

32 [8.] **9.** The authority may provide for consulting services in the building of the physical
33 facilities of the business.

34 [9.] **10.** The authority may provide for consulting services in the operation of the
35 business.

36 [10.] **11.** The authority may provide for such services through employees of the state or
37 by contracting with private entities.

38 [11.] **12.** The authority may consider the following in making the decision:

- 39 (1) The applicant's commitment to the project through the applicant's risk;
40 (2) Community involvement and support;
41 (3) The phase the project is in on an annual basis;
42 (4) The leaders and consultants chosen to direct the project;
43 (5) The amount needed for the project to achieve the bankable stage; and
44 (6) The projects planning for long-term success through feasibility studies, marketing
45 plans and business plans.

46 [12.] **13.** The department of agriculture, the department of natural resources, the
47 department of economic development and the University of Missouri may provide such
48 assistance as is necessary for the implementation and operation of this section. The authority
49 may consult with other state and federal agencies as is necessary.

50 [13.] **14.** The authority may charge fees for the provision of any service pursuant to this
51 section.

52 [14.] **15.** The authority may adopt rules to implement the provisions of this section.

53 [15.] **16.** Any rule or portion of a rule, as that term is defined in section 536.010, that is
54 created under the authority delegated in sections 348.005 to 348.180 shall become effective only
55 if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
56 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect
57 and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any
58 rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions
59 of law. This section and chapter 536 are nonseverable and if any of the powers vested with the

60 general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove
61 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority
62 and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

348.412. 1. Eligible borrowers:

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

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

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

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

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

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

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

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

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

19 (1) The requirement or nonrequirement of security or endorsement and the nature
20 thereof;

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

22 (3) The maximum rate of interest;

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

24 (5) The amount of the guaranty charge;

25 (6) The effective period of the guaranty;

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

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

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

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

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

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

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