

AGRICULTURE CODE

TITLE 3. AGRICULTURAL RESEARCH AND PROMOTION

CHAPTER 44. AGRICULTURAL DIVERSIFICATION AND MICROENTERPRISE

SUPPORT PROGRAMS

Sec. 44.001. DEFINITIONS. In this chapter:

(1) "Eligible lending institution" means a financial institution that makes commercial loans, is either a depository of state funds or an institution of the Farm Credit System headquartered in this state, and agrees to participate in the interest rate reduction program and to provide collateral equal to the amount of linked deposits placed with it.

(2) "Eligible borrower" means a person who proposes to use the proceeds of a loan under this chapter in a manner that will help accomplish the state's goal of fostering the creation and expansion of enterprises based on agriculture in this state.

(3) Repealed by Acts 2009, 81st Leg., R.S., Ch. 506, Sec. 1.21(1), eff. September 1, 2009.

(4) "Linked deposit" means a time deposit governed by a written deposit agreement between the state and an eligible lending institution that provides:

(A) that the eligible lending institution pay interest on the deposit at a rate that is not less than the greater of:

(i) the current market rate of a United States treasury bill or note of comparable maturity minus two percent; or

(ii) 1.5 percent;

(B) that the state not withdraw any part of the deposit before the expiration of a period set by a written advance notice of the intention to withdraw; and

(C) that the eligible lending institution agree to lend the value of the deposit to an eligible borrower at a maximum rate that is the linked deposit rate plus a maximum of four percent.

(5) "Microenterprise" means a small business located in a rural area in which the owner operates the enterprise.

Priority under this chapter shall be given to microenterprises which demonstrate significant potential for expansion that will provide jobs in economically depressed rural communities or to currently unemployed rural residents.

(6) "Rural area" means an area which is predominantly rural in character, being one which the board defines and declares to be a rural area.

(7) "Board" means the board of directors of the Texas Agricultural Finance Authority in Chapter 58.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 32, art. 1, Sec. 1, eff. Nov. 3, 1987. Amended by Acts 1989, 71st Leg., ch. 1247, Sec. 3, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 644, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 1041, Sec. 3, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 419, Sec. 5.01, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1459, Sec. 1, eff. June 19, 1999; Acts 2001, 77th Leg., ch. 26, Sec. 1, eff. May 2, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 1.01, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 1.21(1), eff. September 1, 2009.

Sec. 44.002. CREATION OF MICROENTERPRISE PROGRAMS. The board shall create a microenterprise support program to provide financial assistance to microenterprises in rural areas.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 32, art. 1, Sec. 1, eff. Nov. 3, 1987. Amended by Acts 1989, 71st Leg., ch. 1247, Sec. 4, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 419, Sec. 5.02, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1459, Sec. 2, eff. June 19, 1999.

Sec. 44.0045. MICROENTERPRISE SUPPORT PROGRAM LOANS. (a) The board shall administer a loan program supporting established and proposed microenterprises in rural areas by providing loans to expand, modernize, or otherwise improve established microenterprises and to begin operation of proposed microenterprises.

(b) An applicant applying on behalf of a proposed microenterprise may receive a loan of up to \$25,000 to begin operation of the microenterprise.

(c) An applicant applying on behalf of an established microenterprise may receive a loan of up to \$50,000 to expand, modernize, or otherwise improve an established operation.

(d) The board may reserve a portion of the total fund for use in cooperative loan programs established with the participation of other public or private lenders.

Added by Acts 1989, 71st Leg., ch. 1247, Sec. 6, eff. Sept. 1, 1989.

Amended by Acts 1995, 74th Leg., ch. 419, Sec. 5.04, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1459, Sec. 3, eff. June 19, 1999.

Sec. 44.007. INTEREST RATE REDUCTION PROGRAM. (a) The board shall establish an interest rate reduction program to foster the:

(1) creation and expansion of enterprises based on agriculture in this state; or

(2) development or expansion of businesses in rural areas of this state.

(b) The board shall approve or disapprove any and all applications under this chapter, provided that the board may delegate this authority to the commissioner.

(c) The board shall promulgate rules for the loan portion of the interest rate reduction program.

(d) In order to participate in the interest rate reduction program, an eligible lending institution may solicit loan applications from eligible borrowers.

(e) After reviewing an application and determining that the applicant is eligible and creditworthy, the eligible lending institution shall send the application for a linked deposit loan to the administrator of the Texas Agricultural Finance Authority.

(f) The eligible lending institution shall certify the interest rate applicable to the specific eligible borrower and attach it to the application sent to the administrator of the Texas Agricultural Finance Authority.

(g) After reviewing each linked deposit loan application,

the board or the commissioner shall recommend to the comptroller the acceptance or rejection of the application.

(h) After acceptance of the application, the comptroller shall place a linked deposit with the applicable eligible lending institution for the period the comptroller considers appropriate. The comptroller may not place a deposit for a period extending beyond the state fiscal biennium in which it is placed. Subject to the limitation described by Section 44.010, the comptroller may place time deposits at an interest rate described by Section 44.001(4).

(i) Before the placing of a linked deposit, the eligible lending institution and the state, represented by the comptroller, shall enter into a written deposit agreement containing the conditions on which the linked deposit is made.

(j) If a lending institution holding linked deposits ceases to be either a state depository or a Farm Credit System institution headquartered in this state, the comptroller may withdraw the linked deposits.

(k) The board may adopt rules that create a procedure for determining priorities for loans granted under this chapter. Each rule adopted must state the policy objective of the rule.

(l) A lending institution is not ineligible to participate in the interest rate reduction program solely because a member of the board is also an officer, director, or employee of the lending institution, provided that a board member shall recuse himself or herself from any action taken by the board on an application involving a lending institution by which the board member is employed or for which the board member serves as an officer or director.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 32, art. 1, Sec. 1, eff. Nov. 3, 1987. Amended by Acts 1993, 73rd Leg., ch. 644, Sec. 2, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 419, Sec. 5.07, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 891, Sec. 3.02, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 901, Sec. 1, eff. June 18, 1997; Acts 1997, 75th Leg., ch. 1010, Sec. 5.10, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 2.02, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1459, Sec. 4, eff. June 19, 1999; Acts 2001,

77th Leg., ch. 26, Sec. 2, eff. May 2, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 1.02, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 1.03, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1197 (S.B. 1214), Sec. 4, eff. June 14, 2013.

Sec. 44.008. COMPLIANCE. (a) On accepting a linked deposit, an eligible lending institution must loan money to eligible borrowers in accordance with the deposit agreement and this chapter. The eligible lending institution shall forward a compliance report to the board.

(b) The board shall monitor compliance with this chapter and inform the comptroller of noncompliance on the part of an eligible lending institution.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 32, art. 1, Sec. 1, eff. Nov. 3, 1987. Amended by Acts 1995, 74th Leg., ch. 419, Sec. 5.08, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1010, Sec. 5.10, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 2.03, eff. Sept. 1, 1997.

Sec. 44.009. STATE LIABILITY PROHIBITED. The state is not liable to an eligible lending institution for payment of the principal, interest, or any late charges on a loan made to an eligible borrower. A delay in payment or default on a loan by an eligible borrower does not affect the validity of the deposit agreement. Linked deposits are not an extension of the state's credit within the meaning of any state constitutional prohibition.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 32, art. 1, Sec. 1, eff. Nov. 3, 1987. Amended by Acts 1997, 75th Leg., ch. 1010, Sec. 5.10, eff. Sept. 1, 1997.

Sec. 44.010. LIMITATIONS IN PROGRAM. (a) At any one time, not more than \$30 million may be placed in linked deposits under this chapter.

(b) The maximum amount of a loan under this chapter is \$500,000.

(c) A loan granted pursuant to this chapter may be used for any agriculture-related operating expense, including the purchase or lease of land or fixed assets acquisition or improvement, as identified in the application.

(d) A loan granted pursuant to this chapter may be applied to existing debt as described in Section 44.007.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 32, art. 1, Sec. 1, eff. Nov. 3, 1987. Amended by Acts 1993, 73rd Leg., ch. 644, Sec. 3, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 1010, Sec. 5.10, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1459, Sec. 5, eff. June 19, 1999; Acts 2001, 77th Leg., ch. 26, Sec. 3, eff. May 2, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 1.04, eff. September 1, 2009.

Sec. 44.012. MONEY FOR LOANS. The board may accept gifts and grants of money from the federal government, local governments, or private corporations or other persons for use in making loans under the rural microenterprise support program. The legislature may appropriate money for loans under the program.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 32, art. 1, Sec. 1, eff. Nov. 3, 1987. Amended by Acts 1989, 71st Leg., ch. 1247, Sec. 7, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 419, Sec. 5.10, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1459, Sec. 6, eff. June 19, 1999.

Sec. 44.013. RURAL MICROENTERPRISE DEVELOPMENT FUND. The rural microenterprise development fund is a fund in the comptroller's office. Money appropriated to the board for use in making loans under the rural microenterprise support program, other amounts received by the state for loans made under the program, and other money received by the board for the program and required by the board to be deposited in the fund shall be deposited to the credit of the fund. The fund shall operate as a revolving fund, the contents of which shall be applied and reapplied for the purposes of

the rural microenterprise support program.

Added by Acts 1989, 71st Leg., ch. 1247, Sec. 8, eff. Sept. 1, 1989.

Amended by Acts 1999, 76th Leg., ch. 1459, Sec. 6, eff. June 19, 1999.