

SB3719



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3719

Introduced 2/11/2010, by Sen. Michael W. Frerichs

SYNOPSIS AS INTRODUCED:

20 ILCS 3501/805-20
20 ILCS 3501/830-55 new

Amends the Illinois Finance Authority Act concerning agricultural assistance. Authorizes the Authority to insure and make advance commitments to insure payments on bonds issued for agricultural assistance. Authorizes the Authority to issue State Guarantees to lenders for working capital loans to finance planting and raising agricultural commodities. Sets forth eligibility, application, and renewal requirements. Establishes fees and loan limits. Contains other provisions. Effective immediately.

LRB096 20392 RCE 36037 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Finance Authority Act is amended by
5 changing Section 805-20 and by adding Section 830-55 as
6 follows:

7 (20 ILCS 3501/805-20)

8 Sec. 805-20. Powers and Duties; Industrial Project
9 Insurance Program. The Authority has the power:

10 (a) To insure and make advance commitments to insure all or
11 any part of the payments required on the bonds issued or a loan
12 made to finance any environmental facility under the Illinois
13 Environmental Facilities Financing Act or for any industrial
14 project upon such terms and conditions as the Authority may
15 prescribe in accordance with this Article. The insurance
16 provided by the Authority shall be payable solely from the Fund
17 created by Section 805-15 and shall not constitute a debt or
18 pledge of the full faith and credit of the State, the
19 Authority, or any political subdivision thereof;

20 (b) To enter into insurance contracts, letters of credit or
21 any other agreements or contracts with financial institutions
22 with respect to the Fund and any bonds or loans insured
23 thereunder. Any such agreement or contract may contain terms

1 and provisions necessary or desirable in connection with the
2 program, subject to the requirements established by this Act,
3 including without limitation terms and provisions relating to
4 loan documentation, review and approval procedures,
5 origination and servicing rights and responsibilities, default
6 conditions, procedures and obligations with respect to
7 insurance contracts made under this Act. The agreements or
8 contracts may be executed on an individual, group or master
9 contract basis with financial institutions;

10 (c) To charge reasonable fees to defray the cost of
11 obtaining letters of credit or other similar documents, other
12 than insurance contracts under paragraph (b). Any such fees
13 shall be payable by such person, in such amounts and at such
14 times as the Authority shall determine, and the amount of the
15 fees need not be uniform among the various bonds or loans
16 insured;

17 (d) To fix insurance premiums for the insurance of payments
18 under the provisions of this Article. Such premiums shall be
19 computed as determined by the Authority. Any premiums for the
20 insurance of loan payments under the provisions of this Act
21 shall be payable by such person, in such amounts and at such
22 times as the Authority shall determine, and the amount of the
23 premiums need not be uniform among the various bonds or loans
24 insured;

25 (e) To establish application fees and prescribe
26 application, notification, contract and insurance forms, rules

1 and regulations it deems necessary or appropriate;

2 (f) To make loans and to issue bonds secured by insurance
3 or other agreements authorized by paragraphs (a) and (b) of
4 this Section 805-20 and to issue bonds secured by loans that
5 are guaranteed by the federal government or agencies thereof;

6 (g) To issue a single bond issue, or a series of bond
7 issues, for a group of industrial projects, a group of
8 corporations, or a group of business entities or any
9 combination thereof insured by insurance or backed by any other
10 agreement authorized by paragraphs (a) and (b) of this Section
11 or secured by loans that are guaranteed by the federal
12 government or agencies thereof;

13 (h) To enter into trust agreements for the management of
14 the Fund created under Section 805-15 of this Act; and

15 (i) To exercise such other powers as are necessary or
16 incidental to the foregoing.

17 (j) At the discretion of the Authority, to insure and make
18 advance commitments to insure all or any part of the payments
19 required on the bonds issued or loans made to finance any
20 agricultural facility, project, or program under Article 830 of
21 this Act upon such terms and conditions as the Authority may
22 prescribe in accordance with this Article. The insurance
23 provided by the Authority may be payable from the Fund created
24 by Section 805-15 and is in addition to and not in replacement
25 of the Illinois Agricultural Loan Guarantee Fund and the
26 Illinois Farmer Agribusiness Loan Guarantee Fund created under

1 Article 830 of this Act.

2 (Source: P.A. 93-205, eff. 1-1-04.)

3 (20 ILCS 3501/830-55 new)

4 Sec. 830-55. Working Capital Loan Guarantee Program.

5 (a) The Authority is authorized to issue State Guarantees
6 to lenders for loans to finance needed input costs related and
7 in connection to planting and raising agricultural commodities
8 in Illinois. Eligible input costs include, but are not limited
9 to, fertilizer, chemicals, feed, seed, fuel, parts, and
10 repairs. Generally, the farmer, producer, or agri-business
11 must be able to provide the originating lender with a first
12 lien on the proposed crop or commodity to be raised and an
13 assignment of Federal Crop Insurance sufficient to secure the
14 Working Capital Loan. Additional collateral may be required as
15 deemed necessary by the lender and the Authority.

16 For the purposes of this Section, an eligible farmer,
17 producer, or agri-business is a resident of Illinois who is at
18 least 18 years of age and who is a principal operator of a farm
19 or land, who derives at least 50% of annual gross income from
20 farming, and whose debt to asset ratio is not less than 40%.
21 For the purposes of this Section, debt to asset ratio means
22 current outstanding liabilities, including any debt to be
23 financed or refinanced under this Section 830-55, divided by
24 current outstanding assets. The Authority shall establish the
25 maximum permissible debt to asset ratio based on criteria

1 established by the Authority. Lenders shall apply for the State
2 Guarantees on forms provided by the Authority and certify that
3 the application and any other documents submitted are true and
4 correct. The lender or borrower, or both in combination, shall
5 pay an administrative fee as determined by the Authority. The
6 applicant shall be responsible for paying any fee or charge
7 involved in recording mortgages, releases, financing
8 statements, insurance for secondary market issues, and any
9 other similar fee or charge that the Authority may require. The
10 application shall at a minimum contain the borrower's name,
11 address, present credit and financial information, including
12 cash flow statements, financial statements, balance sheets,
13 and any other information pertinent to the application, and the
14 collateral to be used to secure the State Guarantee. In
15 addition, the borrower must certify to the Authority that, at
16 the time the State Guarantee is provided, the borrower will not
17 be delinquent in the repayment of any debt. The lender must
18 agree to charge a fixed or adjustable interest rate that the
19 Authority determines to be below the market rate of interest
20 generally available to the borrower. If both the lender and
21 applicant agree, the interest rate on the State guaranteed loan
22 can be converted to a fixed interest rate at any time during
23 the term of the loan. State Guarantees provided under this
24 Section (i) shall not exceed \$250,000 per borrower, (ii) shall
25 be repaid annually, and (iii) shall be subject to an annual
26 review and renewal by the lender and the Authority. The State

1 Guarantee may be extended each year, for a period not to exceed
2 3 years per commitment, if the borrower meets financial
3 criteria each year, as established by the Authority. A farmer
4 or agri-business may use this program more than once provided
5 the aggregate principal amount of State Guarantees under this
6 Section to that farmer or agri-business does not exceed
7 \$250,000 annually. No State Guarantee shall be revoked by the
8 Authority without a 90-day notice, in writing, to all parties.

9 (b) The Authority shall provide or renew a State Guarantee
10 to a lender if:

11 (i) The borrower pays a closing fee equal to 100 basis
12 points, with no annual renewal fee.

13 (ii) The application provides collateral acceptable to
14 the Authority that is at least equal to the State
15 Guarantee.

16 (iii) The lender assumes all responsibility and costs
17 for pursuing legal action on collecting any loan that is
18 delinquent or in default.

19 (iv) The lender is at risk for the first 15% of the
20 outstanding principal of the note for which the State
21 Guarantee is provided.

22 (c) The Illinois Agricultural Loan Guarantee Fund may be
23 used to secure State Guarantees issued under this Section as
24 provided in Section 830-35.

25 (d) Notwithstanding the provisions of this Section 830-55
26 with respect to the borrowers and lenders who may obtain State

1 Guarantees, the Authority may promulgate rules establishing
2 the eligibility of borrowers and lenders to participate in the
3 State Guarantee program and the terms, standards, and
4 procedures that will apply, when the Authority finds that
5 emergency conditions in Illinois agriculture have created the
6 need for State Guarantees pursuant to terms, standards, and
7 procedures other than those specified in this Section.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.