

As Amended by House Committee

Session of 2007

HOUSE BILL No. 2547

By Committee on Appropriations

2-21

10 AN ACT enacting the primary care safety net clinic capital loan guar-
11 antee act; prescribing powers, duties and functions for the secretary
12 of health and environment; establishing the primary care safety net
13 clinic loan guarantee committee and fund.

14

15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. The provisions of sections 1 through 7 and amendments
17 thereto shall be known and may be cited as the primary care safety net
18 clinic capital loan guarantee act.

19 Sec. 2. As used in the primary care safety net clinic capital loan guar-
20 antee act:

21 (a) "Act" means the primary care safety net clinic capital loan guar-
22 antee act;

23 (b) "community health center" means an entity that receives funding
24 under section 330 of the federal health center consolidation act of 1996
25 and meets all of the requirements of 42 USC section 254b, relating to
26 serving a population that is medically underserved, or a special medically
27 underserved population comprised of migratory and seasonal agricultural
28 workers, the homeless, and residents of public housing, by providing,
29 either through staff and supporting resources of the center or through
30 contracts or cooperative arrangements, all required primary health serv-
31 ices as defined by 42 USC section 254b;

32 (c) "federally-qualified health center look-alike" means an entity
33 which has been determined by the federal health resources and services
34 administration to meet the definition of a federally qualified health center
35 as defined by section 1905(l)(2)(B) of the federal social security act, but
36 which does not receive funding under section 330 of the federal health
37 center consolidation act of 1996;

38 (d) "financial institution" means any bank, trust company, savings
39 bank, credit union or savings and loan association or any other financial
40 institution regulated by the state of Kansas, any agency of the United
41 States or other state with an office in Kansas which is approved by the
42 secretary for the purposes of this act;

43 (e) "indigent health care clinic" means an outpatient medical care

1 clinic operated on a not-for-profit basis which has a contractual agreement
2 in effect with the secretary of health and environment under K.S.A. 75-
3 6120 and amendments thereto to provide health care services to medically
4 indigent persons;

5 (f) “loan transaction” means a transaction with a financial institution
6 **or the Kansas development finance authority** to provide capital fi-
7 nancing for the renovation, construction, acquisition, modernization,
8 leasehold improvement or equipping of a primary care safety net clinic;

9 (g) “medically indigent person” means a person who lacks resources
10 to pay for medically necessary health care services and who meets the
11 eligibility criteria for qualification as a medically indigent person estab-
12 lished by the secretary of health and environment under K.S.A. 75-6120
13 and amendments thereto;

14 (h) “primary care safety net clinic” means a community health center,
15 a federally-qualified health center look-alike or an indigent health care
16 clinic; and

17 (i) “secretary” means the secretary of health and environment.

18 Sec. 3. (a) ~~Subject to the provisions of appropriations acts, the~~ **The**
19 secretary is hereby authorized to enter into agreements with primary care
20 safety net clinics, financial institutions, **the Kansas development fi-**
21 **nance authority** and other public or private entities, including agencies
22 of the United States government to provide capital loan guarantees
23 against risk of default for eligible primary care safety net clinics in Kansas
24 in accordance with this act. **Except as provided in section 6, and**
25 **amendments thereto, for payment for a loan guarantee for which**
26 **the primary care safety net clinic loan guarantee fund is liable, no**
27 **claim against the state under this act shall be paid by the state, the**
28 **secretary of health and environment or any other state agency**
29 **other than pursuant to an appropriation act of the legislature after**
30 **such claim has been filed with and considered by the joint com-**
31 **mittee on special claims against the state.**

32 (b) To be eligible for a capital loan guarantee under this act, a primary
33 care safety net clinic shall offer a sliding fee discount for health care and
34 other services provided that is based upon household income and shall
35 serve all persons regardless of ability to pay. The policies to determine
36 patient eligibility based upon income or insurance status may be deter-
37 mined by each primary care safety net clinic, but shall be posted in the
38 primary care safety net clinic and available to potential patients. The pa-
39 tient eligibility policies of a primary care safety net clinic shall reflect the
40 mission of the primary care safety net clinic to provide affordable, acces-
41 sible primary care to underserved populations in Kansas to be eligible for
42 a capital loan guarantee under this act.

43 (c) The secretary shall administer the provisions of this act and ~~shall~~

1 **may** adopt rules and regulations which the secretary deems necessary for
2 the implementation or administration of this act. The ~~rules and regula-~~
3 ~~tions~~ **loan guarantee agreement with the secretary** shall include re-
4 porting requirements and financial ~~covenants, including reasonable fi-~~
5 ~~ancial performance covenants~~ **standards** that are appropriate for the
6 type of loan for the borrower. The secretary may enter into contracts that
7 the secretary deems necessary for the implementation or administration
8 of this act. **The secretary may impose fees and charges as may be**
9 **necessary to recover costs incurred for the administration of this**
10 **act.**

11 Sec. 4. (a) Each agreement entered into by the secretary to guar-
12 antee against default on a loan transaction shall be backed by the primary
13 care safety net capital loan guarantee fund and shall receive prior approval
14 by the primary care safety net clinic loan guarantee review committee
15 established under section 5, and amendments thereto.

16 (b) Each loan transaction eligible for a guarantee under this act shall
17 be for renovation, construction, acquisition, modernization, leasehold im-
18 provement or equipping of a primary care safety net clinic. Eligible costs
19 may include land and building purchases, renovation and new construc-
20 tion costs, equipment and installation costs, pre-development costs that
21 may be capitalized, financing, capitalized interest during construction,
22 limited working capital during a start-up phase and consultant fees which
23 do not include staff costs.

24 (c) The aggregate principal amount of outstanding loan guarantees
25 for any single borrowing organization shall not exceed \$3,000,000. The
26 aggregate outstanding amount of all loan guarantees for borrowing or-
27 ganizations, ~~including accrued interest,~~ under this act shall not exceed
28 ~~\$25,000,000~~ **\$15,000,000** at any time.

29 (d) Eligible tax-exempt bonds or conventional loans may be guaran-
30 teed up to 100% under this act, subject to the other provisions of this act
31 and the rules and regulations adopted by the secretary of health and
32 environment therefor. Each eligible loan transaction shall require an equ-
33 ity investment by the borrowing organization and shall have a loan-to-
34 value ratio of at least 66%.

35 (e) The maximum term for an eligible loan transaction under this act
36 for machinery or equipment shall be 10 years. The maximum term for an
37 eligible loan transaction under this act for renovation, remodeling or
38 leasehold improvements shall be 10 years. The maximum term for an
39 eligible loan transaction under this act for new construction or land ac-
40 quisition shall be 25 years.

41 Sec. 5. (a) There is hereby established the primary care safety net
42 clinic loan guarantee review committee within the department of health
43 and environment. The committee shall consist of five members.

1 (b) The members of the primary care safety net clinic loan guarantee
2 review committee shall be appointed by the secretary in accordance with
3 the following: (1) Two members shall be representatives of the depart-
4 ment of health and environment selected by the secretary, (2) one mem-
5 ber shall be appointed by the secretary ~~from among a list of persons who~~
6 **is** nominated by the Kansas development finance authority, (3) one mem-
7 ber shall be appointed by the secretary ~~from among a list of persons who~~
8 **is** nominated by the Kansas health policy authority, and (4) one member
9 shall be appointed by the secretary ~~from among a list of persons who is~~
10 nominated by the Kansas association for the medically underserved.

11 (c) The secretary may appoint persons as members of the primary
12 care safety net clinic loan guarantee review committee who are officers
13 or employees of the agencies or organizations they are nominated by or
14 that they are appointed to represent. Not more than three members of
15 the committee shall be affiliated with the same political party. Members
16 shall serve at the pleasure of the secretary.

17 (d) The primary care safety net clinic loan guarantee review com-
18 mittee shall review all proposals for loan financing guarantees under this
19 act and shall approve those proposals that the committee deems to rep-
20 resent reasonable risks and to have a sufficient likelihood of repayment.
21 The committee shall advise the secretary on matters regarding the ad-
22 ministration of this act when requested by the secretary and may provide
23 such advice when deemed appropriate by the committee.

24 (e) The secretary or the secretary's designee shall serve as a nonvoting
25 chairperson of the primary care safety net clinic loan guarantee review
26 committee, and the committee shall annually elect a vice-chairperson
27 from among its members. The committee shall meet upon call of the
28 chairperson or upon call of any two of its members. Three voting mem-
29 bers shall constitute a quorum for the transaction of business.

30 (f) Members of the primary care safety net clinic loan guarantee re-
31 view committee attending meetings of the committee, or attending a sub-
32 committee meeting thereof authorized by the committee, shall be paid
33 compensation, subsistence allowances, mileage and other expenses as
34 provided in K.S.A. 75-3223 and amendments thereto.

35 Sec. 6. (a) There is hereby established the primary care safety net
36 clinic loan guarantee fund in the state treasury for the purposes of facil-
37 itating the financing for the acquisition and modernization of primary care
38 safety net clinics in Kansas and the refinancing of capital improvements
39 and acquisition and installation of equipment therefor. The primary care
40 safety net clinic loan guarantee fund shall be administered by the secre-
41 tary. All moneys in the primary care safety net clinic loan guarantee fund
42 shall be used to provide guarantees against capital loan risks in accordance
43 with this act **and to pay for the administrative costs associated with**

1 **the act as may be certified by the secretary.** All expenditures from
2 the primary care safety net clinic loan guarantee fund shall be made in
3 accordance with appropriations acts upon warrants of the director of ac-
4 counts and reports issued pursuant to vouchers approved by the secretary
5 or the secretary's designee.

6 (b) All **fees and charges imposed by the secretary and other**
7 moneys received by the secretary for the purposes of this act shall be
8 remitted to the state treasurer in accordance with the provisions of K.S.A.
9 75-4215, and amendments thereto. Upon receipt of each such remittance,
10 the state treasurer shall deposit the entire amount in the state treasury
11 to the credit of the primary care safety net clinic loan guarantee fund.

12 (c) Upon certification by the secretary to the director of accounts and
13 reports that the unencumbered balance in the primary care safety net
14 clinic loan guarantee fund is insufficient to pay an amount for a loan
15 guarantee for which the fund is liable under this act, the director of ac-
16 counts and reports shall transfer an amount equal to the insufficiency
17 from the state general fund to the primary care safety net clinic loan
18 guarantee fund. The secretary shall transmit a copy of each such certifi-
19 cation to the director of the budget and to the director of legislative
20 research at the same time that the secretary submits a certification to the
21 director of accounts and reports under this subsection.

22 (d) On or before the 10th of each month, the director of accounts
23 and reports shall transfer from the state general fund to the primary care
24 safety net clinic loan guarantee fund interest earnings based on:

25 (1) The average daily balance of moneys in the Kansas export loan
26 guarantee fund for the preceding month; and

27 (2) the net earnings rate of the pooled money investment portfolio
28 for the preceding month.

29 Sec. 7. The secretary shall prepare an annual report of the loan guar-
30 antee activity under this act, including new loans, loan repayment status
31 and other relevant information regarding activities under this act and shall
32 submit the report of its activities to the legislature at the beginning of
33 each regular session by submitting the annual report to the committee
34 on ways and means of the senate, or to the appropriate subcommittee
35 thereof, or to its successor committee, and to the committee on approp-
36 riations of the house of representatives, or to the appropriate budget
37 committee, or its successor committee.

38 Sec. 8. This act shall take effect and be in force from and after its
39 publication in the statute book.