

HOUSE BILL No. 2684

By Committee on Federal and State Affairs

2-11

9 AN ACT enacting the rural risk bank loan guarantee program.

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

12 Section 1. The provisions of sections 1 through 7, and amendments
13 thereto, shall be known and may be cited as the Kansas rural risk bank
14 loan guarantee program.

15 Sec. 2. As used in sections 1 through 7, and amendments thereto:

16 (a) "Financial institution" means any bank, trust company, savings
17 bank, credit union or savings and loan association or any other financial
18 institution regulated by the state of Kansas, any agency of the United
19 States or other state with an office in Kansas which is approved by the
20 state treasurer;

21 (b) "eligible area" means any rural county that is not part of a stan-
22 dard metropolitan statistical area as defined by the United States depart-
23 ment of commerce or its successor agency or any census tract in an urban
24 area in which 20% or more of the population of all ages for the census
25 tract has an income below poverty level as reported in the most recently
26 completed decennial census published by the United States bureau of
27 the census;

28 (c) "loan transaction" means a transaction with a financial institution
29 to provide financing for rural development projects for the renovation or
30 construction of commercial, manufacturing or value-added agricultural
31 facilities and equipment in rural areas;

32 (d) "rural developer" means any person, firm or corporation reno-
33 vating or constructing commercial, manufacturing or value-added agri-
34 cultural facilities or equipment;

35 (e) "Rural development project" means projects by rural developers
36 for the renovation or construction of commercial, manufacturing or value-
37 added agricultural facilities or equipment.

38 Sec. 3. (a) The state treasurer is hereby authorized to enter into
39 agreements with developers and financial institutions to provide loan
40 guarantees against risk of default for development projects in accordance
41 with the provisions of this act.

42 (b) Eligible financial institutions shall apply all usual lending stan-
43 dards to determine the credit worthiness of eligible rural developers. Re-

1 payment ability from the cash flow of the business shall be a primary
2 consideration in making the loan, in addition to the business management
3 capability collateral and the borrower's equity contribution. The financial
4 institution originating the loan shall be responsible for monitoring the
5 loan and in case of any default, working out the loan with the borrower
6 to obtain the collateral.

7 (c) The state treasurer shall administer the provisions of this act and
8 may adopt rules and regulations which the state treasurer deems neces-
9 sary for the implementation or administration of this act including the
10 development of an application process. The loan guarantee agreement
11 with the state treasurer shall include reporting requirements and financial
12 standards that are appropriate for the type of loan for the borrower. The
13 state treasurer may enter into contracts the state treasurer deems nec-
14 essary for the implementation or administration of this act. The state
15 treasurer may impose fees and charges as may be necessary to recover
16 costs incurred for the administration of this act and to create a reserve
17 for paying claims against the state's guarantee.

18 Sec. 4. (a) Each agreement entered into by the state treasurer to
19 guarantee against default on a loan transaction shall be backed by the
20 rural risk bank loan guarantee fund and shall receive prior approval by
21 the rural risk bank loan guarantee review committee established under
22 section 5, and amendments thereto.

23 (b) Each loan transaction eligible for a guarantee under this act shall
24 be for the renovation or construction of a rural development project.
25 Eligible costs may include land and building purchases, renovation and
26 new construction costs, equipment and installation costs, pre-develop-
27 ment costs that may be capitalized, financing, capitalized interest during
28 construction and consultant fees which do not include staff costs.

29 (c) The aggregate principal amount of outstanding loan guarantees
30 for any single borrowing organization shall not exceed \$3,000,000. The
31 aggregate outstanding amount of all loan guarantees for borrowing or-
32 ganizations, under this act shall not exceed \$15,000,000 at any time.

33 (d) The amount of the guarantee shall be no greater than 25% of the
34 amount of the loan and shall be no greater than the amount by which the
35 facility's appraised value is less than the project's cost due to its location
36 in a rural or economically depressed area. The amount of the guarantee
37 shall also be subject to any other conditions imposed by the rules and
38 regulations adopted by the state treasurer.

39 (e) Claims against the guarantee shall be approved by the rural risk
40 bank loan guarantee review committee established under section 5, and
41 amendments thereto. The bank and the state shall share equally in any
42 losses after recovering the collateral up to the amount of the state's
43 guarantee.

1 Sec. 5. (a) There is hereby established the rural risk bank loan guar-
2 antee review committee within the office of the state treasurer. The com-
3 mittee shall consist of the state treasurer or the state treasurer's designee
4 and four other members appointed by the state treasurer.

5 (b) The rural risk bank loan guarantee review committee shall review
6 all proposals for loan financing guarantees under this act and shall approve
7 those proposals that the committee deems to represent reasonable risks
8 and to have a sufficient likelihood of repayment. the committee shall
9 advise the state treasurer on matters regarding the administration of this
10 act when requested by the state treasurer and may provide such advice
11 when deemed appropriate by the committee.

12 (c) The state treasurer or the state treasurer's designee shall serve as
13 a nonvoting chairperson of the rural risk bank loan guarantee review com-
14 mittee, and the committee shall annually elect a vice-chairperson from
15 among its members. The committee shall meet upon call of the chair-
16 person or upon call of any two of its members. Three voting members
17 shall constitute a quorum for the transaction of business.

18 (d) Members of the rural risk bank loan guarantee review committee
19 attending meetings of the committee, or attending a subcommittee meet-
20 ing thereof authorized by the committee, shall be paid compensation,
21 subsistence allowances, mileage and other expenses as provided in K.S.A.
22 75-3223, and amendments thereto.

23 Sec. 6. (a) Subject to appropriations there is hereby established the
24 rural risk bank loan guarantee fund in the state treasury for the purposes
25 of facilitating the financing for the renovation or construction of rural
26 development projects. The rural risk bank loan guarantee fund shall be
27 administered by the state treasurer. All moneys in the rural risk bank loan
28 guarantee fund shall be used to provide guarantees against loan risks in
29 accordance with this act and to pay for the administrative costs associated
30 with the act as may be certified by the state treasurer. All expenditures
31 from the rural risk bank loan guarantee fund shall be made in accordance
32 with appropriations acts upon warrants of the director of accounts and
33 reports issued pursuant to vouchers approved by the state treasurer or
34 the state treasurer's designee.

35 (b) All fees and charges imposed by the state treasurer and other
36 moneys received by the state treasurer for the purposes of this act shall
37 be deposited in the state treasury to the credit of the rural risk bank loan
38 guarantee fund.

39 (c) On July 1, 2010, the director of accounts and reports shall transfer
40 \$25,000 from the state general fund to the rural risk bank loan guarantee
41 fund. On July 1, 2011, the director of accounts and reports shall transfer
42 \$50,000 from the state general fund to the rural risk bank loan guarantee
43 fund. On July 1, 2012, the director of accounts and reports shall transfer

1 \$100,000 from the state general fund to the rural risk bank loan guarantee
2 fund. Upon certification by the state treasurer to the director of accounts
3 and reports that the unencumbered balance in the rural risk bank loan
4 guarantee fund is insufficient to pay an amount for claims against a loan
5 guarantee for which the fund is liable under this act, the director of ac-
6 counts and reports shall transfer an amount equal to the insufficiency
7 from the state general fund to the rural risk bank loan guarantee fund.
8 The state treasurer shall transmit a copy of each such certification to the
9 director of the budget and to the director of legislative research at the
10 same time that the state treasurer submits a certification to the director
11 of accounts and reports under this subsection.

12 (d) On or before the 10th of each month, the director of accounts
13 and reports shall transfer from the state general fund to the rural risk
14 bank loan guarantee fund interest earnings based on:

15 (1) The average daily balance of moneys in the rural risk bank loan
16 guarantee fund for the preceding month; and

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

19 Sec. 7. The state treasurer shall prepare an annual report of the loan
20 guarantee activity under this act, including new loans, loan repayment
21 status and other relevant information regarding activities under this act
22 and shall submit the report of its activities to the legislature at the begin-
23 ning of each regular session by submitting the annual report to the com-
24 mittee on ways and means of the senate, or to the appropriate subcom-
25 mittee thereof, or to its successor committee, and to the committee on
26 appropriations of the house of representatives, or to the appropriate
27 budget committee, or its successor committee.

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