

House Substitute for SENATE BILL No. 36

AN ACT concerning the department of health and environment; creating the local conservation lending program.

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

Section 1. (a) As used in this section:

(1) “Department” means the Kansas department of health and environment.

(2) “Eligible borrower” means:

(A) Any individual, limited liability agricultural company, limited agricultural partnership or family farm corporation, as defined in K.S.A. 17-5903, and amendments thereto, involved in farming or livestock production;

(B) a responsible party or an owner of real property, but does not include the state, any state agency, the federal government or any agency of the federal government; or

(C) a person who: (i) Is involved in a transaction related to real property; (ii) is not a responsible party or owner of the real property; (iii) voluntarily takes corrective action on the property in response to a request or order for corrective action from the department; and (iv) voluntarily implements an eligible conservation practice.

(3) “Eligible financial institution” means a bank or other financial institution or association chartered or incorporated under the laws of this state, or organized under the laws of the United States or another state, which has a main or branch office or chapter in this state that agrees to participate in the Kansas local conservation lending program and is eligible to be a depository of state funds.

(4) “Eligible practice” means a conservation practice that prevents or reduces water pollution from nonpoint sources by using the most effective and practicable means of achieving water quality goals. Eligible practices include, but are not limited to, structural and nonstructural controls or systems as identified in the nonpoint source management plan.

(5) “Eligible project” means an individual conservation practice or system of conservation practices located within Kansas and identified in the nonpoint source management plan as eligible for a low interest loan through the local conservation lending program.

(6) “Linked deposit agreement” means the agreement and associated attachments provided by the secretary to the eligible financial institution for participation in the program.

(7) “Project application” means the forms provided by the department for the purpose of determining and certifying eligibility for funding a project through the local conservation lending program.

(8) “Secretary” means the secretary of health and environment.

(b) There is hereby created a local conservation linked deposit lending program, hereby referred to as the local conservation lending program. The secretary may establish and administer the local conservation lending program to facilitate loans by eligible financial institutions for the construction, design, rehabilitation and enhancement of nonpoint source control systems for public or private owners thereof. The eligible financial institution shall enter into a linked deposit agreement with the secretary, which shall include requirements necessary to implement the purposes of the local conservation lending program.

(c) The secretary shall prepare a nonpoint source management plan. The nonpoint source management plan, shall identify eligibility criteria, practices eligible for funding through the local conservation lending program, eligibility criteria for borrowers, eligibility criteria for costs, project completion and certification requirements and process, and establish other program requirements.

(d) The secretary shall authorize a linked deposit in the amount certified by the secretary using long-term investment funds available from the Kansas water pollution control revolving fund, K.S.A. 65-3322, and amendments thereto, or from other available sources to the secretary, into eligible financial institutions in the form of low-yielding certificates of deposit or time or demand deposits, or other authorized deposits or investments. If sufficient funds are not available for a linked deposit then the applications may be considered when funds become available at an interest rate identified annually by the secretary in the nonpoint source management plan.

(e) The secretary is hereby authorized to disseminate information regarding eligibility for potential participants in this program.

(f) The secretary may accept or reject a project application based on the secretary's determination of project eligibility consistent with the eligibility criteria in the nonpoint source management plan. Upon acceptance of a project application, the secretary shall notify the eligible financial institution and borrower of approval.

(g) An eligible financial institution that agrees to receive a local conservation loan deposit shall accept and review applications for loans from eligible borrowers. The eligible financial institution shall apply all usual lending standards to determine the credit worthiness of eligible borrowers.

(h) The eligible financial institution may approve or reject a loan application based on the financial institution's evaluation of the eligible borrowers included in the application, the amount of the loan in the application and other appropriate considerations.

(i) The eligible financial institution shall enter into a local conservation linked deposit participation agreement with the secretary, which shall include requirements necessary to implement the purposes of the Kansas local conservation loan deposit program.

(j) The loans authorized by this act shall not be deemed to constitute a debt or liability of the state or the secretary, and shall not constitute a pledge of the full faith and credit of the state, any political subdivision thereof or the secretary. The state, any political subdivision thereof or the secretary shall not, in any event, be liable for the payment of the principal or interest on any such loan made by an eligible financial institution to an eligible borrower. Any delay in payments or default on the part of an eligible borrower does not, in any manner, affect the linked deposit agreement between the eligible financial institution and the secretary.

(k) The secretary is hereby authorized to adopt any rules and regulations necessary to carry out the provisions of this section.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE concurred in
HOUSE amendments _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.