GOV. MSG. NO. 1256

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 26, 2015

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Eighth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Eighth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on June 26, 2015, the following bill was signed into law:

SB1060 SD2 HD1 CD1 RELATING TO AGRICULTURAL LOANS
ACT 155 (15)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

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SENATE
OFFICE OF THE PRESIDENT

'15 JUN 30 A10:27

RECEIVED
THE SENATE
CLERK'S OFFICE
STATE OF HAWAII

'15 JUN 30 P3:17

Approved by the Governor
on JUN 26 2015

THE SENATE
TWENTY-EIGHTH LEGISLATURE, 2015
STATE OF HAWAII

ACT 155

S.B. NO. 1060 S.D. 2 H.D. 1 C.D. 1

A BILL FOR AN ACT

RELATING TO AGRICULTURAL LOANS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Hawaii's livestock industry is both economically and culturally significant with its long paniolo history, as well as providing whole hog carcasses for imus and Chinatown markets. Livestock operations are susceptible to the introduction of pests and diseases that can affect the health and welfare of the animals and in some cases may affect the health and well-being of people who come in contact with the animals or farm products.

Installing biosecurity measures serves to protect the health of poultry and livestock by reducing the introduction of diseases, pests, and pathogens into farm operations, as well as reducing the spread of the diseases or pathogens to other farms. Biosecurity measures are increasingly being required by federal programs to ensure a safe food supply. While these measures help protect the farm and consumers, they often do not result in additional profits for the operation.

The purpose of this Act is to assist the livestock industry by establishing a low interest biosecurity loan program to help install these vital measures.

SECTION 2. Section 155-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"<u>"Biosecurity" means a system that serves to protect the health of livestock, poultry, and humans from diseases, pests, and pathogens and measures that prevent disease causing agents from entering, spreading, or leaving the farm premises.</u>"

SECTION 3. Section 155-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Loans insured under this section shall be limited by the provisions of sections 155-9 through 155-13 for purposes of class "A" through class [~~"F",~~] <u>"I";</u> provided that class "E" loans to food manufacturers shall not be subject to section 155-10."

SECTION 4. Section 155-5.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Loans guaranteed under this section shall be limited by the provisions of sections 155-9 through 155-13 for purposes

of classes "A", "B", "C", [~~and "E";~~] "D", "E", "F", "G", "H", and "I"; provided that class "E" loans to food manufacturers shall not be subject to section 155-10. [~~No class "D" and "F" loans shall be made under this section.~~]"

SECTION 5. Section 155-6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Participating loans under this section shall be limited by sections 155-9 to 155-13 for purposes of class "A" through class [~~"F",~~] "I", the department's share not to exceed the maximum amounts specified therefor; provided that class "E" loans to food manufacturers shall not be subject to section 155-10."

SECTION 6. Section 155-8, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Loans made under this section shall bear simple interest on the unpaid principal balance, charged on the actual amount disbursed to the borrower. The interest rate on loans of class "A", "B", "C", "E", and "G" shall be at a rate of one per cent below the prime rate or at a rate of seven and one-half per cent a year, whichever is less. For purposes of this subsection, the prime rate shall be determined on January 1 and

July 1 of each year, and shall be the prime rate charged by the two largest banks in the State identified by the department of commerce and consumer affairs. If the prime rates of the two largest banks are different, the lower prime rate of the two shall apply. The interest rate of class "F" loans shall be at a rate of one and one-half per cent below the prime rate or at a rate of six per cent a year, whichever is less. The interest rate of class "H" and "I" loans shall be three per cent a year. If the money loaned is borrowed by the department, then the interest on loans of the classes shall be the rate as determined above or one per cent over the cost to the State of borrowing the money, whichever is greater. Interest on loans made under this chapter shall not be less than three per cent a year."

SECTION 7. Section 155-9, Hawaii Revised Statutes, is amended to read as follows:

"§155-9 Classes of loans; purposes, terms, eligibility. (a) Loans made under this chapter shall be for the purposes and in accordance with the terms specified in classes "A" through [~~"H"~~] "I" in this section and shall be made only to applicants who meet the eligibility requirements specified therein and except as to class "B" loans to associations and class "E"

1 loans, the eligibility requirements specified in section 155-10.
2 The maximum amount of a loan for class "A", "C", "D", and "F"
3 loans to an individual applicant shall also apply to any loan
4 application submitted by a partnership, corporation, or other
5 entity, and for the purpose of determining whether the maximum
6 loan amount to any individual will be exceeded, outstanding
7 loans to any partnership, corporation, or other entity that the
8 individual has a legal or equitable interest in excess of twenty
9 per cent shall be taken into account.
10 (b) Class A: Farm ownership and improvement loans shall
11 provide for:
12 (1) The purchase or improvement of farm land;
13 (2) The purchase, construction, or improvement of adequate
14 farm dwellings, and other essential farm buildings;
15 and
16 (3) The liquidation of indebtedness incurred for any of
17 the foregoing purposes.
18 The loans shall be for an amount not to exceed $800,000 and
19 for a term not to exceed forty years. To be eligible, the
20 applicant shall (A) derive, or present an acceptable plan to
21 derive, a major portion of the applicant's income from and

1 devote, or intend to devote, most of the applicant's time to
2 farming operations; and (B) have or be able to obtain the
3 operating capital, including livestock and equipment, needed to
4 successfully operate the applicant's farm.
5 (c) Class B: Soil and water conservation loans shall
6 provide for:
7 (1) Soil conservation practices;
8 (2) Water development, conservation, and use;
9 (3) Drainage; and
10 (4) The liquidation of indebtedness incurred for any of
11 the foregoing purposes.
12 The loans shall be for an amount not to exceed $35,000 to
13 an individual or $200,000 to an association and shall be for a
14 term not to exceed twenty years for a loan to an individual and
15 forty years to an association. To be eligible, an individual
16 applicant shall have sufficient farm and other income to pay for
17 farm operating and living expenses and to meet payments on
18 applicant's existing debts, including the proposed soil and
19 water conservation loan. An association, to be eligible, shall
20 be a nonprofit organization primarily engaged in extending
21 services directly related to the purposes of the loan to its

members, and at least sixty per cent of its membership shall meet the eligibility requirements specified in section 155-10.

(d) Class C: Farm operating loans shall be for the purpose of carrying on and improving a farming operation, including:

(1) The purchase of farm equipment and livestock;

(2) The payment of production and marketing expenses, including materials, labor, and services;

(3) The payment of living expenses;

(4) The liquidation of indebtedness incurred for any of the foregoing purposes; and

(5) The exportation of crops and livestock.

The loans shall be for an amount not to exceed $800,000 and for a term not to exceed ten years. To be eligible, an applicant shall derive, or present an acceptable plan to derive, a major portion of the applicant's income from and devote, or intend to devote, most of the applicant's time to farming operations.

Qualified farmers affected by state eradication programs may also be eligible for loans under this subsection. Loans made for rehabilitation from eradication programs shall be

subject to the terms of class "C" loans; provided that the interest rate shall be three per cent a year and the requirements in section 155-3 shall be waived and paragraph (4) shall not apply.

(e) Class D: Emergency loans shall be for the purpose of providing relief and rehabilitation to qualified farmers without limit as to purpose:

(1) In areas stricken by extraordinary rainstorms, windstorms, droughts, tidal waves, earthquakes, volcanic eruptions, and other natural catastrophes;

(2) On farms stricken by livestock disease epidemics and crop blights;

(3) On farms seriously affected by prolonged shipping and dock strikes;

(4) During economic emergencies caused by overproduction, excessive imports, and the like; and

(5) During other emergencies as determined by the board of agriculture.

The maximum amounts and period for the loans shall be determined by the board of agriculture; provided that the board shall require that any settlement or moneys received by

1 qualified farmers as a result of an emergency declared under
2 this section shall first be applied to the repayment of an
3 emergency loan made under this chapter.
4 (f) Class E: Loans to farmers' cooperatives,
5 corporations, and food manufacturers shall provide credit to
6 entities engaged in marketing, purchasing, and processing, and
7 providing farm business services, including:
8 (1) Facility loans to purchase or improve land, building,
9 and equipment for an amount not to exceed $500,000 and
10 a term not to exceed twenty years;
11 (2) Operating loans to finance inventories of supplies and
12 materials, warehousing, and shipping commodities,
13 extension of consumer credit to justified farmer-
14 members, and other normal operating expenses for an
15 amount not to exceed $300,000 and a term not to exceed
16 seven years; and
17 (3) The exportation of crops and livestock.
18 To be eligible, a farmers' cooperative or corporation shall
19 have a majority of its board of directors and a majority of its
20 membership as shareholders who meet the eligibility requirements
21 of section 155-10 and who devote most of their time to farming

operations, and the facility loans shall be for an amount not to exceed $500,000 or eighty per cent of the cost of the project, whichever is less.

To be eligible, a food manufacturer shall be licensed to do business in the State, and the controlling interest of the entity shall possess a minimum of two years of relevant processing or manufacturing experience as acceptable to the department of agriculture. The entity shall process Hawaii-grown agricultural products or use Hawaii-grown agricultural products as an ingredient in the manufacturing process. Facility loans shall be for an amount not to exceed $500,000 or eighty per cent of the cost of the project, whichever is less. The requirements in section 155-10 shall be waived for food manufacturing loans; however, the entity shall be a sound credit risk with the ability to repay the money borrowed.

(g) Class F: New farmer and farm innovation loan programs shall provide for:

(1) New farmer loans made under this class shall be for purposes and in accordance with the terms specified in class "A" and "C" only, and shall be made only for full-time farming. The loans shall be made for an

amount not to exceed $250,000 or eighty-five per cent of the cost of the project, whichever is less. Farm trainees and recent graduates with a degree in agriculture with smaller projects requiring loans of $100,000 or less shall have a minimum five per cent equity contribution towards the cost of the project;

(2) Farm innovation loans made under this class shall be for qualified farmers to perform practical research in crop development, innovative production techniques, new technologies, and production of new crops that are not typically grown in the State. Farm innovation loans shall be limited to a maximum of $75,000;

(3) Any subsequent loan shall be made from classes "A" to "D", respectively, depending upon the purpose for which the loan funds are used; and

(4) Borrowers shall comply with special term loan agreements as may be required by the department and shall take special training courses as the department deems necessary.

1 (h) Class G: Loans to part-time farmers shall be for farm
2 improvement and operating purposes for carrying on and improving
3 farming operations, including loans for:
4 (1) The purchase, construction, and improvement of farm
5 production and growing structures;
6 (2) The purchase of farm equipment or livestock; and
7 (3) The payment of production and marketing expenses,
8 including materials, labor, and services.
9 The liquidation of indebtedness incurred for any of the
10 purposes under this subsection and for living expenses shall not
11 be authorized purposes. Each loan shall be for an amount not to
12 exceed $25,000 and for a term not to exceed ten years.
13 (i) Class H: Farm sustainable project loans shall provide
14 for:
15 (1) The purchase, construction, or improvement of
16 essential farm buildings, including the improvement of
17 existing farm buildings related to the project;
18 (2) The improvement of land that may be required by the
19 project;
20 (3) The purchase of equipment and payment of any related
21 expenses, including materials, labor, and services;

(4) Operating expenses associated with the project; or

(5) The liquidation of indebtedness incurred for any of the foregoing purposes.

The loans shall be for an amount not to exceed $1,500,000 or eighty-five per cent of the project cost, whichever is less, and for a term not to exceed forty years.

To be eligible, the applicant shall be a qualified farmer of sound credit rating with the ability to repay the money borrowed, as determined by the department. Income from the applicant's farming activities and any supplemental income that may be generated from the project shall be the sole criterion for the department's determination of the applicant's ability to repay the money borrowed. The department's determination may be based on projections of income and expenses.

(j) Class I: Biosecurity project loans shall provide for:

(1) The purchase, construction, or improvement of essential farm buildings, including the improvement of existing farm buildings related to the project;

(2) The improvement of land that may be required by the project;

(3) The purchase of equipment and payment of any related expenses, including materials, labor, signage, training, and services;

(4) Operating expenses associated with the project; or

(5) The liquidation of indebtedness incurred for any of the foregoing purposes.

The loans shall be for an amount not to exceed $1,000,000 or eighty-five per cent of the project cost, whichever is less, and for a term not to exceed twenty-five years.

To be eligible, the applicant shall be a qualified farmer of sound credit rating with the ability to repay the money borrowed, as determined by the department. Income from the applicant's farming activities and any supplemental income that may be generated from the project shall be the sole criterion for the department's determination of the applicant's ability to repay the money borrowed. The department's determination may be based on projections of income and expenses."

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 2015.

APPROVED this 26 day of JUN, 2015

GOVERNOR OF THE STATE OF HAWAII