

ACT 63

H.B. NO. 1948-82

A Bill for an Act Relating to Agriculture.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that, in time of economic uncertainty, certain segments of Hawaii's agriculture industry may need financial assistance from the state in order to remain economically viable. The legislature further finds that the State Board of Agriculture is the appropriate State agency to determine that unforeseen circumstances have arisen which jeopardize a sector or sectors of Hawaii's agriculture industry to the extent that financial assistance by the State is warranted and that farm loans should be authorized for qualifying farmer applicants to meet emergencies.

The purpose of this Act is to improve the farm loan program and to appropriate moneys from which loans may be made.

This Act is recommended by the governor for immediate passage in accordance with Article VII, section 9, of the Constitution of the State of Hawaii.

SECTION 2. Section 155-4, Hawaii Revised Statutes, is amended to read as follows:

"§155-4 Powers and duties of the department. The department of agriculture

shall have the following powers:

- (1) Employ a secretary, who may be exempt from chapters 76 and 77, and such other full-time and part-time employees, subject to chapters 76 and 77, as are necessary to effectuate the purposes of this chapter, subject further to the limitation of funds in the [farm] agricultural loan reserve fund.
- (2) Designate such agents throughout the State as may be necessary for property appraisal, the consideration of loan applications, and the supervision of farming operations of borrowers. The agents may be compensated for their services at such rates as the department in its discretion may fix.
- (3) Initiate and carry on a continuing research and education program, utilizing and coordinating the services and facilities of other government agencies and private lenders to the maximum, to inform qualified farmers concerning procedures for obtaining loans and to inform private lenders concerning the advantages of making loans to qualified farmers.
- (4) Cooperate with private and federal government farm loans sources to increase the amount of loan funds available to qualified farmers in this State.
- (5) Assist individual qualified farmers in obtaining loans from other sources. Insofar as available funds and staff permit, counsel and assist individual farmers in establishing and maintaining proper records to prove their farming ability for loan purposes.
- (6) Insure loans made to qualified farmers by private lenders under section 155-5.
- (7) Participate in loans made to qualified farmers by private lenders under section 155-6.
- (8) Make loans to qualified farmers under the insured loan program of the Farmers Home Administration, subject to section 155-7.
- (9) Make direct loans to qualified farmers under section 155-8.
- (10) Borrow money for loan purposes.
- (11) Assign and sell mortgages.
- (12) Sue and be sued in the name of the "State of Hawaii".
- (13) Exercise such incidental powers as are deemed necessary or requisite to fulfill its duty in carrying out the purposes of this chapter.
- (14) Permit the board of agriculture to delegate authority to its chairperson to approve loans, where the requested amount plus any principal balance on existing loans to the applicant, does not exceed \$25,000 of state funds.
- [(14)] (15) Promulgate rules [and regulations] as it may deem necessary in accordance with chapter 91 having the force and effect of law."

SECTION 3. Section 155-9, Hawaii Revised Statutes, is amended to read:

"§155-9 **Classes of loans; purposes, terms, eligibility.** Loans made under this chapter shall be for the purposes and in accordance with the terms specified in classes "A" through "F" in the paragraphs following 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" loans, the eligibility requirements specified in section 155-10. The maximum amount of a loan for class "A", "C", "D", and "F" loans to an individual applicant shall also apply to any loan application submitted by a partnership, corporation, or other entity, and for the purpose of determining whether the maximum loan amount to any individual will be exceeded, outstanding loans to any partnership, corporation, or other entity in which such individual has a legal or equitable interest in excess of twenty per cent shall be taken into account.

- (1) Class A: Farm ownership and improvement loans. To provide for:
 - (A) The purchase or improvement of farm land;
 - (B) The purchase, construction, or improvement of adequate farm dwellings, and other essential farm buildings; and
 - (C) The liquidation of indebtedness incurred for any of the foregoing purposes.

Such loans shall be for an amount not to exceed ☐\$☐100,000 and for a term not to exceed forty years. To be eligible, the applicant shall ☐ (A) ☐ derive, or present an acceptable plan to derive, a major portion of his income from and devote, or intend to devote, most of his time to farming operations; (B) have or be able to obtain farming operating capital, including livestock and equipment, needed to successfully operate his farm.

- (2) Class B: Soil and water and conservation loans. To provide for:
 - (A) Soil conservation practices;
 - (B) Water development, conservation, and use;
 - (C) Drainage; and
 - (D) The liquidation of indebtedness incurred for any of the foregoing purposes.

Such loans shall be for an amount not to exceed \$35,000 to an individual or \$200,000 to an association and shall be for a term not to exceed twenty years for a loan to an individual and forty years to an association. To be eligible, an individual applicant shall have sufficient farm and other income to pay for farm operating and living expenses and to meet payments on his existing debts, including the proposed soil and water conservation loan. An association, to be eligible, shall be a nonprofit organization primarily engaged in extending 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.

- (3) Class C: Farm operating loans. To carry on and improve farming operation, including:
 - (A) The purchase of farm equipment and livestock;
 - (B) The payment of production and marketing expenses including materials, labor, and services;
 - (C) The payment of living expenses; and
 - (D) The liquidation of indebtedness incurred for any of the foregoing purposes.

Such loans shall be for an amount not to exceed \$100,000 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 his income from and devote, or intend to devote, most of his time to farming operations.

- (4) Class D: Emergency loans. To provide relief and rehabilitation to qualified farmers without limit as to purpose:
- (A) In areas stricken by extraordinary rainstorms, windstorms, droughts, tidal waves, earthquakes, volcanic eruptions, and other natural catastrophes;
 - (B) On farms stricken by livestock disease epidemics and crop blights;
 - (C) On farms seriously affected by prolonged shipping and dock strikes;
 - (D) During economic emergencies caused by overproduction, excessive imports, and the like[.]; and
 - (E) During other emergencies as determined by the board of agriculture.

[Such loans shall not exceed the] The maximum amounts and [the maximum period specified in paragraphs (1) to (3) respectively, above, when the loan funds are used for the purposes specified therein.] period for such loans shall be determined by the board of agriculture; provided that the board shall require that any settlement or moneys received by qualified farmers as a result of an emergency declared under this section shall first be applied to the repayment of an emergency loan made under this chapter.

- (5) Class E: Loans to cooperatives and corporations. To provide credit to farmers' cooperative associations and corporations engaged in marketing, purchasing, and processing, and providing farm business services, including:
- (A) Facility loans to purchase or improve land, building, and equipment for an amount not to exceed [~~\$250,000~~] \$500,000 and a term not to exceed twenty years; and
 - (B) Operating loans to finance inventories of supplies, warehousing, and shipping commodities, extension of consumer credits to justified farmer-members, and other normal operating expenses for an amount not to exceed [~~\$150,000~~] \$300,000 and a term not to exceed three years.

To be eligible, a cooperative or corporation shall have at least seventy-five per cent of its board of directors and seventy-five per cent of its membership as shareholders who meet the eligibility requirements of section 155-10 and who devote most of their time to farming operations[.], and such facility loans shall be for an amount not to exceed \$500,000 or eighty per cent of the cost of the project, whichever is the lesser.

- (6) Class F: Loans for new farmer programs. To provide for costs of a new farm enterprise for qualified farmers:
- (A) Initial loans made under this class shall be for purposes and in

accordance with the terms specified in classes "A" and "C" only, and shall be made only for full-time farming. Such loans shall be made for an amount not to exceed [~~\$75,000~~] \$100,000 or [ninety] eighty-five per cent of the cost of the project, whichever is the lesser[.];

- (B) Any subsequent loan shall be made from classes (A) to (D), respectively, depending upon the purpose for which the loan funds are used[.]; and
- (C) Borrowers [must] shall comply with such special term loan agreements as may be required by the department and shall take such special training courses as the department deems necessary."

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii, the sum of \$3,000,000, or so much thereof as may be necessary for fiscal year 1982-1983, and the sum of \$3,000,000, or so much thereof as maybe necessary for fiscal year 1982-1983, to the agricultural loan revolving fund established under section 155-14, Hawaii Revised Statutes, to carry out the purposes of this Act. The sums appropriated by this Act shall be expended by the department of agriculture.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act shall take effect upon its approval but shall not affect any loans made or agreements entered into prior to the effective date of this Act.

(Approved May 12, 1982.)