

ACT 148

H.B. NO. 978

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 the State's diversified agriculture is at a critical juncture. Over the years, the State invested public funds for diversified agriculture research and development. This investment is now coming to fruition. With the closures of most of the State's sugar plantations, prime agricultural land, water, and an agriculturally oriented labor force are now available for agricultural development and expansion. Financing is one of the critical elements required to foster diversified agriculture's growth to further contribute to Hawaii's economy. Agricultural lending poses higher risks in comparison to conventional commercial lending. Unlike most other industries, agriculture is not only susceptible to competition, increasing operating costs, increasing government regulations, changing consumer preferences, changing demographics, etc., but is also affected by adverse weather conditions, insect and disease pests, urban encroachment, etc. These factors make agricultural lending a high-risk proposition and private lenders base much of their lending criteria on risks and benefits.

This Act encourages private lenders to provide financing for diversified agriculture by reducing private lenders' risks through the department of agriculture's loan guarantee. This new program further encourages private lenders to provide financing by virtue of streamlined program procedures as there is no requirement for prior credit denials as is the case for department loans, generally, or for department insured loans.

SECTION 2. Chapter 155, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§155- Loans guaranteed by the department. (a) The department of agriculture may guarantee up to ninety per cent of the principal balance of a loan, plus interest due thereon, made to a qualified farmer or cooperative by a private lender; provided that at no time shall the aggregate amount of the State's liability, contingent or otherwise, on loans guaranteed under this section, section 155-5, and section 155-6 exceed \$10,000,000.

(b) Loans guaranteed under this section shall be limited by the provisions of sections 155-9 through 155-13 for purposes of class "A", "B", "C", and "E". No class "D" and "F" loans shall be made under this section.

(c) Loans made under this section shall not be subject to the restrictions in section 155-3.

(d) Interest charged on a guaranteed loan made under this section shall not be more than two percentage points above the prime rate charged by the lender.

(e) When the application for a guaranteed loan has been approved by the department, the department shall issue to the lender a guaranty for that percentage of the loan on which it guarantees payment of principal and interest. The lender shall collect all payments from the borrower and otherwise service the loan.

(f) In return for the department's guaranty, the lender shall remit a one-time insurance fee of two per cent on the principal amount of the guaranteed portion of the loan, at the time the loan is booked, except that for the following loans a reduced fee of one per cent shall be paid:

(1) Loans of \$75,000 or less with a maturity exceeding twelve months;

(2) All guaranteed loans with a maturity of twelve months or less.

This fee may be paid by the borrower as a cost for the loan.

(g) When any installment of principal and interest has been due for sixty days and has not been paid by the borrower, the department shall issue, on request of the lender, a check for the percentage of the overdue payment guaranteed, thereby acquiring a division of interest in the collateral pledged by the borrower in proportion to the amount of the payment. The department shall be reimbursed for any amounts so paid plus interest at the applicable rate, where payment is collected from the borrower.

(h) Under conditions specified in department rules, the lender may request that a portion or all of the guaranteed percentage of the principal balance of the loan be converted to a participating share held by the department subject to section 155-6.

(i) Should the lender deem that foreclosure proceedings are necessary to collect moneys due from the borrower, it shall so notify the department. Within thirty days of the notification, the department may elect to request an assignment of the loan on payment in full to the lender of the principal balance and interest due. Foreclosure proceedings shall be held in abeyance in the interim.

(j) The lender may reduce the percentage of the principal balance guaranteed under this section at any time."

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect on July 1, 1999.

(Approved June 28, 1999.)

Note

1. Edited pursuant to HRS §23G-16.5.