

ACT 209

H.B. NO. 2261

A Bill for an Act Relating to Agricultural Loans.

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

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

““Farm sustainable projects” means projects that improve the operation’s viability but are not directly tied to farm crop production. Projects may include but are not limited to photovoltaic energy, hydroelectric power, wind power generation, methane generation, food safety, product traceability, bio-diesel production, and ethanol production.”

SECTION 2. Section 219-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“Aquaculture sustainable projects” means projects that improve the operation’s viability but are not directly tied to aquaculture production. Projects may include but are not limited to photovoltaic energy, hydroelectric power, wind power generation, methane generation, food safety, product traceability, biodiesel production, and ethanol production.”

SECTION 3. 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] 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 on class “F” loans shall be six per cent a year. The interest rate of class “H” 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 class “D” loans shall not be less than three per cent a year.”

SECTION 4. 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 [“F”] “H” 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” 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 that the individual has a legal or equitable interest in excess of twenty per cent shall be taken into account.

(b) Class A: Farm ownership and improvement loans shall provide for:

- (1) The purchase or improvement of farm land;
- (2) The purchase, construction, or improvement of adequate farm dwellings, and other essential farm buildings; and
- (3) The liquidation of indebtedness incurred for any of the foregoing purposes.

The loans shall be for an amount not to exceed \$800,000 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 the applicant’s income from and devote, or intend to devote, most of the applicant’s time to farming operations; and (B) have or be able to obtain the operating capital, including livestock and equipment, needed to successfully operate the applicant’s farm.

(c) Class B: Soil and water conservation loans shall provide for:

- (1) Soil conservation practices;
- (2) Water development, conservation, and use;
- (3) Drainage; and

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

The 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 the applicant's 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.

(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 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.

(f) Class E: Loans to farmers' cooperatives, corporations, and food manufacturers shall provide credit to entities engaged in marketing, purchasing, and processing, and providing farm business services, including:

- (1) Facility loans to purchase or improve land, building, and equipment for an amount not to exceed \$500,000 and a term not to exceed twenty years;
- (2) Operating loans to finance inventories of supplies and materials, warehousing, and shipping commodities, extension of consumer credit to justified farmer-members, and other normal operating expenses for an amount not to exceed \$300,000 and a term not to exceed seven years; and

(3) The exportation of crops and livestock.

To be eligible, a farmers' cooperative or corporation shall have a majority of its board of directors and a majority 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 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 ~~[the lesser.] less.~~

To be eligible, a food manufacturer shall be licensed to do business in the ~~[State,] 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 ~~[the lesser.] 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: Loans for new farmer programs shall provide for costs of a new farm enterprise for qualified new farmers:

- (1) Initial 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 \$100,000 or eighty-five per cent of the cost of the project, whichever is ~~[the lesser.] less;~~
- (2) Any subsequent loan shall be made from classes "A" to "D", respectively, depending upon the purpose for which the loan funds are used; and
- (3) 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.

(h) Class G: Loans to part-time farmers shall be for farm improvement and operating purposes for carrying on and improving farming operations, including loans for:

- (1) The purchase, construction, and improvement of farm production and growing structures;
- (2) The purchase of farm equipment or livestock; and
- (3) The payment of production and marketing expenses, including materials, labor, and services.

The liquidation of indebtedness incurred for any of the purposes under this subsection and for living expenses shall not be authorized purposes. Each loan shall be for an amount not to exceed \$25,000 and for a term not to exceed ten years.

(i) Class H: Farm sustainable 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, 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."

SECTION 5. Section 219-6, Hawaii Revised Statutes, is amended to read as follows:

"§219-6 Loan; limitation and terms. Loans made under this chapter shall be for the purposes and in accordance with the terms specified in classes "A", "B", "C", [and] "D", and "H" in [paragraph] paragraphs (1), (2), (3), [and] (4), and (5) following and shall be made only to applicants who meet the eligibility requirements specified therein:

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

Such loans shall be for an amount not to exceed \$400,000 and for a term not to exceed forty years. To be eligible, the applicant shall:

- (i) 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 aquaculture farming operations; and
 - (ii) Have or be able to obtain the operating capital, including fishstock and equipment, needed to successfully operate the applicant's aquaculture farm;
- (2) Class B: Aquaculture operating loans. To carry on and improve an aquaculture operation, including:
 - (A) The purchase of aquaculture equipment and fishstock;
 - (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 \$400,000 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 aquaculture operations;

- (3) Class C: Aquaculture cooperative and corporation loans. To provide credit to aquaculturists' 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 \$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 credit to justified farmer-members, and other normal operating expenses for an amount not to exceed \$300,000 and a term not to exceed seven 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 prescribed by the board and who devote most of their time to aquaculture operations; ~~and~~

- (4) Class D: Emergency loans. To provide relief and rehabilitation to qualified aquaculturists 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 aquatic diseases;
 - (C) On farms seriously affected by prolonged shipping and dock strikes;
 - (D) During economic emergencies such as those caused by overproduction and excessive imports; and
 - (E) During other emergencies as determined by the board.

The maximum amounts and period for the loans shall be determined by the board; provided that the board shall require that any settlement or moneys received by qualified aquaculturists 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~~[-]~~; ~~and~~

- (5) Class H: Aquaculture sustainable project loans shall provide for:
- (A) The purchase, construction, or improvement of essential farm buildings, including the improvement of existing farm buildings related to the project;
 - (B) The improvement of land that may be required by the project;
 - (C) The purchase of equipment and payment of any related expenses, including materials, labor, and services;
 - (D) Operating expenses associated with the project; or
 - (E) 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 aquaculturist of sound credit rating with the ability to repay the money borrowed, as determined by the department. Income from the applicant's aquacultural 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 6. Section 219-9, 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. The interest rate for class "A", class "B", ~~and~~ class "C", and class "H" loans shall be set by rule, pursuant to chapter 91."

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved July 1, 2008.)