

FIRST REGULAR SESSION

HOUSE BILL NO. 303

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES HOBBS (Sponsor), MYERS, GUEST, BEAN, KELLY, CHINN, MOORE, SANDER, MUNZLINGER, BLACK, QUINN, DAY, WRIGHT (159), SCHLOTTACH, FISHER, BRUNS, DENISON, LOEHNER, DETHROW, WHORTON, BROWN (30), WETER, KINGERY AND BEHNEN (Co-sponsors).

Read 1st time January 24, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0453L.01I

AN ACT

To repeal sections 30.750, 30.753, 30.756, 30.758, 30.760, 30.765, and 30.767, RSMo, and to enact in lieu thereof eight new sections relating to linked deposit loans for agricultural purposes, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 30.750, 30.753, 30.756, 30.758, 30.760, 30.765, and 30.767, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 30.750, 30.753, 30.756, 30.758, 30.760, 30.765, 30.767, and 348.375, to read as follows:

30.750. As used in sections 30.750 to 30.765, the following terms mean:

- (1) "Eligible agribusiness", a person, employing ten or more persons engaged in the processing or adding of value to agricultural products produced in Missouri;
- (2) "Eligible beginning farmer",
 - (a) For any beginning farmer who seeks to participate in the linked deposit program alone, a farmer who:
 - a. Is a Missouri resident;
 - b. Wishes to borrow for a farm operation located in Missouri;
 - c. Is at least eighteen years old;
 - d. In the preceding five years has not owned, either directly or indirectly, farm land greater than thirty percent of the median size farm in the county where the proposed farm

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 operation is located, or farm land with an appraised value greater than one hundred twenty-five
13 thousand dollars; and

14 e. Has not been the sole farmer of land for more than ten years prior to the date of
15 application of the proposed farm operation.

16

17 A farmer who qualifies as an eligible farmer under this provision may utilize the proceeds of a
18 linked deposit loan to purchase agricultural land, farm buildings, new and used farm equipment,
19 livestock and working capital;

20 (b) For any beginning farmer who is participating in both the linked deposit program and
21 the beginning farmer loan program administered by the Missouri agriculture and small business
22 development authority, a farmer who:

23 a. Qualifies under the definition of a beginning farmer utilized for eligibility for federal
24 tax-exempt financing, including the limitations on the use of loan proceeds; and

25 b. Meets all other requirements established by the Missouri agriculture and small
26 business development authority;

27 (3) **"Eligible facility borrower", a borrower qualified by the department of**
28 **agriculture under section 348.375, RSMo, to apply for a reduced rate loan under sections**
29 **30.750 to 30.767;**

30 (4) "Eligible farming operation", any person engaged in farming in an authorized farm
31 corporation, family farm, or family farm corporation as defined in section 350.010, RSMo, that
32 has all of the following characteristics:

33 (a) Is headquartered in this state;

34 (b) Maintains offices, operating facilities, or farming operations and transacts business
35 in this state;

36 (c) Employs less than ten employees;

37 (d) Is organized for profit;

38 (e) Possesses not more than sixty percent equity, where "percent equity" is defined as
39 total assets minus total liabilities divided by total assets, except that an otherwise eligible
40 farming operation applying for a loan for the purpose of installing or improving a waste
41 management practice in order to comply with environmental protection regulations shall be
42 exempt from this eligibility requirement;

43 [(4)] (5) "Eligible higher education institution", any approved public or private
44 institution as defined in section 173.205, RSMo;

45 [(5)] (6) "Eligible job enhancement business", a new, existing or expanding firm
46 operating in Missouri which employs ten or more employees on a yearly average and which, as
47 nearly as possible, is able to establish or retain at least one job in Missouri for each twenty-five

48 thousand dollars received from a linked deposit loan;

49 [(6)] (7) "Eligible lending institution", a financial institution that is eligible to make
50 commercial or agricultural or student loans or discount or purchase such loans, is a public
51 depository of state funds or obtains its funds through the issuance of obligations, either directly
52 or through a related entity, eligible for the placement of state funds under the provisions of
53 section 15, article IV, Constitution of Missouri, and agrees to participate in the linked deposit
54 program;

55 [(7)] (8) "Eligible livestock operation", any person, engaged in production of livestock
56 or poultry in an authorized farm corporation, family farm, or family farm corporation as defined
57 in section 350.010, RSMo;

58 [(8)] (9) "Eligible marketing enterprise", a business enterprise operating in this state
59 which is in the process of marketing its goods, products or services within or outside of this state
60 or overseas, which marketing is designed to increase manufacturing, transportation, mining,
61 communications, or other enterprises in this state, which has proposed its marketing plan and
62 strategy to the department of economic development and which plan and strategy has been
63 approved by the department for purposes of eligibility pursuant to sections 30.750 to 30.765.
64 Such business enterprise shall conform to the characteristics of paragraphs (a), (b) and (d) of
65 subdivision (3) of this section and also employ less than twenty-five employees;

66 [(9)] (10) "Eligible multitenant development enterprise", a new enterprise that develops
67 multitenant space for targeted industries as determined by the department of economic
68 development and approved by the department for the purposes of eligibility pursuant to sections
69 30.750 to 30.765;

70 [(10)] (11) "Eligible residential property developer", an individual who purchases and
71 develops a residential structure of either two or four units, if such residential property developer
72 uses and agrees to continue to use, for at least the five years immediately following the date of
73 issuance of the linked deposit loan, one of the units as his principal residence or if such person's
74 principal residence is located within one-half mile from the developed structure and such person
75 agrees to maintain the principal residence within one-half mile of the developed structure for at
76 least the five years immediately following the date of issuance of the linked deposit loan;

77 [(11)] (12) "Eligible residential property owner", a person, firm or corporation who
78 purchases, develops or rehabilitates a multifamily residential structure;

79 [(12)] (13) "Eligible small business", a person engaged in an activity with the purpose
80 of obtaining, directly or indirectly, a gain, benefit or advantage and which conforms to the
81 characteristics of paragraphs (a), (b) and (d) of subdivision (3) of this section, and also employs
82 less than twenty-five employees;

83 [(13)] (14) "Eligible student borrower", any person attending, or the parent of a

84 dependent undergraduate attending, an eligible higher education institution in Missouri who may
85 or may not qualify for need-based student financial aid calculated by the federal analysis called
86 Congressional Methodology Formula pursuant to 20 U.S.C. 1078, as amended (the Higher
87 Education Amendments of 1986);

88 [(14)] (15) "Eligible water supply system", a water system which serves fewer than fifty
89 thousand persons and which is owned and operated by:

90 (a) A public water supply district established pursuant to chapter 247, RSMo; or

91 (b) A municipality or other political subdivision; or

92 (c) A water corporation; and which is certified by the department of natural resources
93 in accordance with its rules and regulations to have suffered a significant decrease in its capacity
94 to meet its service needs as a result of drought;

95 [(15)] (16) "Farming", using or cultivating land for the production of agricultural crops,
96 livestock or livestock products, forest products, poultry or poultry products, milk or dairy
97 products, or fruit or other horticultural products;

98 [(16)] (17) "Linked deposit", a certificate of deposit, or in the case of production credit
99 associations, the subscription or purchase outright of obligations described in section 15, article
100 IV, Constitution of Missouri, placed by the state treasurer with an eligible lending institution at
101 up to three percent below current market rates that are determined and calculated by the state
102 treasurer, provided the deposit rate is not below two percent, provided the institution agrees to
103 lend the value of such deposit, according to the deposit agreement provided in sections 30.750
104 to 30.765, to eligible small businesses, farming operations, eligible job enhancement businesses,
105 eligible marketing enterprises, eligible residential property developers, eligible residential
106 property owners, eligible agribusinesses, eligible beginning farmers, eligible livestock
107 operations, eligible student borrowers, **eligible facility borrowers**, or eligible water supply
108 systems at below the present borrowing rate applicable to each small business, farming
109 operation, eligible job enhancement business, eligible marketing enterprise, eligible residential
110 property developer, eligible residential property owner, eligible agribusiness, eligible beginning
111 farmer, eligible livestock operation, eligible student borrower, **eligible facility borrower**, or
112 supply system at the time of the deposit of state funds in the institution;

113 [(17)] (18) "Water corporation", as such term is defined in section 386.020, RSMo;

114 [(18)] (19) "Water system", as such term is defined in section 386.020, RSMo.

30.753. 1. The state treasurer may invest in linked deposits; however, the total amount
2 so deposited at any one time shall not exceed, in the aggregate, [three] **seven** hundred sixty
3 million dollars. No more than one hundred sixty-five million dollars of the aggregate deposit
4 shall be used for linked deposits to eligible farming operations, eligible agribusinesses, eligible
5 beginning farmers and eligible livestock operations, no more than fifty-five million of the

6 aggregate deposit shall be used for linked deposits to small businesses, no more than ten million
7 dollars shall be used for linked deposits to eligible multitenant development enterprises, and no
8 more than ten million dollars of the aggregate deposit shall be used for linked deposits to eligible
9 residential property developers and eligible residential property owners, no more than one
10 hundred ten million dollars of the aggregate deposit shall be used for linked deposits to eligible
11 job enhancement businesses and no more than ten million dollars of the aggregate deposit shall
12 be used for linked deposit loans to eligible water systems, **and no more than four hundred**
13 **million dollars of the aggregate deposit shall be used for linked deposit loans to eligible**
14 **facility borrowers.** Linked deposit loans may be made to eligible student borrowers from the
15 aggregate deposit. If demand for a particular type of linked deposit exceeds the initial allocation,
16 and funds initially allocated to another type are available and not in demand, the state treasurer
17 may commingle allocations among the types of linked deposits. The amount reallocated under
18 this commingling provision shall not exceed fifty percent of the initial allocation.

19 2. The minimum deposit to be made by the state treasurer to an eligible lending
20 institution for eligible job enhancement business loans shall be ninety thousand dollars. Linked
21 deposit loans for eligible job enhancement businesses may be made for the purposes of assisting
22 with relocation expenses, working capital, interim construction, inventory, site development,
23 machinery and equipment, or other expenses necessary to create or retain jobs in the recipient
24 firm.

30.756. 1. An eligible lending institution that desires to receive a linked deposit shall
2 accept and review applications for linked deposit loans from eligible multitenant enterprises,
3 eligible farming operations, eligible small businesses, eligible job enhancement businesses,
4 eligible marketing enterprises, eligible agribusinesses, eligible beginning farmers, eligible
5 livestock operations, eligible residential property developers, eligible residential property
6 owners, eligible student borrowers, **eligible facility borrowers**, and eligible water supply
7 systems. An eligible residential property owner shall certify on his **or her** loan application that
8 the reduced rate loan will be used exclusively to purchase, develop or rehabilitate a multifamily
9 residential property. The lending institution shall apply all usual lending standards to determine
10 the credit worthiness of each eligible multitenant enterprise, eligible farming operation, eligible
11 small business, eligible job enhancement business, eligible marketing enterprise, eligible
12 residential property developer, eligible residential property owner, eligible agribusiness, eligible
13 beginning farmer, eligible livestock operation, eligible student borrower, **eligible facility**
14 **borrower**, or eligible water supply system. No linked deposit loan made to any eligible farming
15 operation, eligible livestock operation, eligible agribusiness or eligible small business shall
16 exceed one hundred thousand dollars and no service of separate loans may be made which
17 exceeds such limit to any single eligible farming operation, eligible livestock operation, eligible

18 agribusiness or eligible small business. Any link deposit loan made to an eligible facility
19 borrower shall be in accordance with the loan amount and loan term requirements in section
20 348.375, RSMo.

21 2. An eligible farming operation, small business or job enhancement business shall
22 certify on its loan application that the reduced rate loan will be used exclusively for necessary
23 production expenses or the expenses listed in subsection 2 of section 30.753 or the refinancing
24 of an existing loan for production expenses or the expenses listed in subsection 2 of section
25 30.753 of an eligible farming operation, small business or job enhancement business. Whoever
26 knowingly makes a false statement concerning such application is guilty of a class A
27 misdemeanor. An eligible water supply system shall certify on its loan application that the
28 reduced rate loan shall be used exclusively to pay the costs of upgrading or repairing an existing
29 water system, constructing a new water system, or making other capital improvements to a water
30 system which are necessary to improve the service capacity of the system.

31 3. In considering which eligible farming operations should receive reduced rate loans,
32 the eligible lending institution shall give priority to those farming operations which have suffered
33 reduced yields due to drought or other natural disasters and for which the receipt of a reduced
34 rate loan will make a significant contribution to the continued operation of the recipient farming
35 operation.

36 4. The eligible financial institution shall forward to the state treasurer a linked deposit
37 loan package, in the form and manner as prescribed by the state treasurer. The package shall
38 include such information as required by the state treasurer, including the amount of each loan
39 requested. The institution shall certify that each applicant is an eligible farming operation,
40 eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible
41 residential property developer, eligible residential property owner, eligible agribusiness, eligible
42 beginning farmer, eligible livestock operation, eligible student borrower, **eligible facility**
43 **borrower**, or eligible water supply system, and shall, for each eligible farming operation, small
44 business, eligible job enhancement business, eligible marketing enterprise, eligible residential
45 property developer, eligible residential property owner, eligible agribusiness, eligible beginning
46 farmer, eligible livestock operation, eligible student borrower, **eligible facility borrower**, or
47 eligible water supply system, certify the present borrowing rate applicable.

48 5. The eligible lending institution shall be responsible for determining if a student
49 borrower is an eligible student borrower. A student borrower shall be eligible for an initial or
50 renewal reduced rate loan only if, at the time of the application for the loan, [he] **the student** is
51 a citizen or permanent resident of the United States, a resident of the state of Missouri as defined
52 by the coordinating board for higher education, is enrolled or has been accepted for enrollment
53 in an eligible higher education institution, and establishes that [he] **the student** has financial

54 need. In considering which eligible student borrowers may receive reduced rate loans, the
55 eligible lending institution may give priority to those eligible student borrowers whose income,
56 or whose family income, if the eligible student borrower is a dependent, is such that the eligible
57 student borrower does not qualify for need-based student financial aid pursuant to 20 U.S.C.
58 1078, as amended (the Higher Education Amendments of 1986). The eligible lending institution
59 shall require the eligible student borrower to document that [he] **the student** has applied for and
60 has obtained all need-based student financial aid for which [he] **the student** is eligible prior to
61 application for a reduced rate loan pursuant to this section. In no case shall the combination of
62 all financial aid awarded to any student in any particular enrollment period exceed the total cost
63 of attendance at the institution in which the student is enrolled. No eligible lending institution
64 shall charge any additional fees, including but not limited to an origination, service or insurance
65 fee on any loan agreement under the provisions of sections 30.750 to 30.765.

66 6. The eligible lending institution making an initial loan to an eligible student borrower
67 may make a renewal loan or loans to the student. The total of such reduced rate loans from
68 eligible lending institutions made pursuant to this section to any individual student shall not
69 exceed the cumulative totals established by 20 U.S.C. 1078, as amended. An eligible student
70 borrower shall certify on his **or her** loan application that the reduced rate loan shall be used
71 exclusively to pay the costs of tuition, incidental fees, books and academic supplies, room and
72 board and other fees directly related to enrollment in an eligible higher education institution. The
73 eligible lending institution shall make the loan payable to the eligible student borrower and the
74 eligible higher education institution as copayees. The method of repayment of the loan shall be
75 the same as for repayment of loans made pursuant to sections 173.095 to 173.186, RSMo.

30.758. 1. The state treasurer may accept or reject a linked deposit loan package or any
2 portion thereof.

3 2. Upon acceptance of the linked deposit loan package or any portion thereof, the state
4 treasurer may place linked deposits with the eligible lending institution at up to three percent
5 below current market rates, as determined and calculated by the state treasurer provided the
6 deposit rate is not below two percent. When necessary, the treasurer may place linked deposits
7 prior to acceptance of a linked deposit loan package.

8 3. The eligible lending institution shall enter into a deposit agreement with the state
9 treasurer, which shall include requirements necessary to carry out the purposes of sections 30.750
10 to 30.765. Such requirements shall reflect the market conditions prevailing in the eligible
11 lending institution's lending area. The deposit agreement shall specify the length of time for
12 which the lending institution will lend funds upon receiving a linked deposit. The agreement
13 shall also include provisions for the linked deposit of a linked deposit for an eligible multitenant
14 enterprise, eligible farming operation, small business, eligible marketing enterprise, eligible

15 residential property developer, eligible residential property owner, eligible agribusiness, eligible
16 beginning farmer, eligible livestock operation, eligible student borrower or job enhancement
17 business to mature within a period not to exceed one year. The state treasurer may renew such
18 linked deposit for additional periods of time, each of which shall not exceed one year. The
19 linked deposit of a linked deposit for an **eligible facility borrower**, eligible property developer
20 or residential property owner shall mature within a period not to exceed three years. The linked
21 deposit of a linked deposit for an eligible water supply system shall mature within a period not
22 to exceed three years and the state treasurer may renew such a linked deposit for additional
23 periods of time, each of which shall not exceed three years. Interest shall be paid at the times
24 determined by the state treasurer.

25 4. The period of time for which such linked deposit is placed with an eligible lending
26 institution shall be neither longer nor shorter than the period of time for which the linked deposit
27 is used to provide loans at reduced interest rates. The agreement shall further provide that the
28 state shall receive market interest rates on any linked deposit or any portion thereof for any
29 period of time for which there is no corresponding linked deposit loan outstanding to an eligible
30 multitenant enterprise, eligible farming operation, eligible small business, eligible job
31 enhancement business, eligible marketing enterprise, eligible residential property developer,
32 eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible
33 livestock operation, eligible student borrower, **eligible facility borrower**, or eligible water
34 supply system.

30.760. 1. Upon the placement of a linked deposit with an eligible lending institution,
2 such institution is required to lend such funds to each approved eligible multitenant enterprise,
3 eligible farm operation, eligible small business, eligible job enhancement business, eligible
4 marketing enterprise, eligible residential property developer, eligible residential property owner,
5 eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student
6 borrower, **eligible facility borrower**, or eligible water supply system listed in the linked deposit
7 loan package required by section 30.756 and in accordance with the deposit agreement required
8 by section 30.758. The loan shall be at a fixed rate of interest which is below the present
9 borrowing rate applicable to each eligible multitenant enterprise, eligible farming operation,
10 eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible
11 residential property developer, eligible residential property owner, eligible agribusiness, eligible
12 beginning farmer, eligible livestock operation, eligible student borrower, **eligible facility**
13 **borrower**, or eligible water supply system as determined pursuant to rules and regulations
14 promulgated by the state treasurer under the provisions of chapter 536, RSMo, including
15 emergency rules issued pursuant to section 536.025, RSMo. In addition, the loan agreement
16 shall specify that the eligible multitenant enterprise, eligible farming operation, eligible small

17 business, eligible job enhancement business, eligible marketing enterprise, eligible residential
18 property developer, eligible residential property owner, eligible agribusiness, eligible beginning
19 farmer, eligible livestock operation, eligible student borrower, **eligible facility borrower**, or
20 eligible water supply system shall use the proceeds as required by sections 30.750 to 30.765, and
21 that in the event the loan recipient does not use the proceeds in the manner prescribed by sections
22 30.750 to 30.765, the remaining proceeds shall be immediately returned to the lending institution
23 and that any proceeds used by the loan recipient shall be repaid to the lending institution as soon
24 as practicable. All records and documents pertaining to the programs established by sections
25 30.750 to 30.765 shall be segregated by the lending institution for ease of identification and
26 examination. A certification of compliance with this section in the form and manner as
27 prescribed by the state treasurer shall be required of the eligible lending institution. Any lender
28 or lending officer of an eligible lending institution who knowingly violates the provisions of
29 sections 30.750 to 30.765 is guilty of a class A misdemeanor.

30 2. The state treasurer shall take any and all steps necessary to implement the linked
31 deposit program and monitor compliance of eligible multitenant enterprises, eligible lending
32 institutions, eligible farming operations, eligible small businesses, eligible job enhancement
33 businesses, eligible marketing enterprises, eligible residential property developers, eligible
34 residential property owners, eligible agribusinesses, eligible beginning farmers, eligible livestock
35 operations, eligible student borrowers, **eligible facility borrowers**, or eligible water supply
36 systems. Annually, by the first day of February, the state treasurer shall report on the linked
37 deposits program for the preceding calendar year to the governor, the speaker of the house of
38 representatives, and the president pro tem of the senate. The report shall set forth the linked
39 deposits made by the state treasurer under the program during the year and shall include
40 information regarding the nature, terms, and amounts of the loans upon which the linked deposits
41 were based. The report shall not include the assets, liabilities or percent equity of any recipient
42 eligible multitenant enterprise, eligible farming operation, eligible small business, eligible job
43 enhancement business, eligible marketing enterprise, eligible residential property developer,
44 eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible
45 livestock operation, eligible student borrower, **eligible facility borrower**, or eligible water
46 supply system, but shall include a statement by the state treasurer that the eligible lending
47 institutions have certified that all recipient eligible multitenant enterprises, eligible farming
48 operations, eligible small businesses, eligible job enhancement businesses, eligible marketing
49 enterprises, eligible residential property developers, eligible residential property owners, eligible
50 agribusinesses, eligible beginning farmers, eligible livestock operations, eligible student
51 borrowers, **eligible facility borrowers**, or eligible water supply systems meet the criteria of
52 sections 30.750 to 30.765.

30.765. The state and the state treasurer are not liable to any eligible lending institution
2 in any manner for payment of the principal or interest on the loan to an eligible multitenant
3 enterprise, eligible farm operation, eligible small business, eligible job enhancement business,
4 eligible marketing enterprise, eligible residential property developer, eligible residential property
5 owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible
6 student borrower, **eligible facility borrower**, or eligible water supply system. Any delay in
7 payments or default on the part of an eligible multitenant enterprise, eligible farming operation,
8 eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible
9 residential property developer, eligible residential property owner, eligible agribusiness, eligible
10 beginning farmer, eligible livestock operation, eligible student borrower, **eligible facility**
11 **borrower**, or eligible water supply system does not in any manner affect the deposit agreement
12 between the eligible lending institution and the state treasurer.

30.767. The state treasurer shall not, after December 31, 2007, invest in any linked
2 deposit the value of which is to be lent to a recipient other than an eligible water supply system
3 or an eligible student borrower. **The state treasurer shall not, after January 1, 2020, invest**
4 **in any linked deposit the value of which is to be lent to any new eligible facility borrower;**
5 **provided, however, that such restriction shall not apply to any extensions of existing loans**
6 **as provided for in section 348.375, RSMo.**

348.375. 1. As used in this section, the following terms mean:

- 2 (1) **"Agricultural commodity", any agricultural product that has been produced**
3 **for purpose of sale or exchange, except for animals whose principal use may be construed**
4 **as recreational or as a pet;**
- 5 (2) **"Authority", the Missouri agricultural and small business development**
6 **authority organized under sections 348.005 to 348.180;**
- 7 (3) **"Borrower", any partnership, corporation, cooperative, of limited liability**
8 **company organized or incorporated under the laws of this state consisting of not less than**
9 **twelve members for the purpose of owning or operating within this state a development**
10 **facility or a renewable fuel production facility in which producer members:**
 - 11 (a) **Hold a majority of the governance or voting rights of the entity and any**
12 **governing committee;**
 - 13 (b) **Control the hiring and firing of management; and**
 - 14 (c) **Deliver agricultural commodities or products to the entity for processing, unless**
15 **processing is required by multiple entities;**
- 16 (4) **"Development facility", a facility producing either a good derived from an**
17 **agricultural commodity or using a process to produce a good derived from an agricultural**
18 **product;**

19 (5) "Eligible facility borrower", a borrower qualified by the authority under this
20 section to apply for a reduced rate loan under sections 30.750 to 30.767, RSMo;

21 (6) "Renewable fuel production facility", a facility producing an energy source
22 which is derived from a renewable, domestically grown, organic compound capable of
23 powering machinery, including an engine or power plant, and any by-product derived
24 from such energy source.

25 2. Notwithstanding any other provision of law, the Missouri agricultural and small
26 business development authority shall accept applications and issue certificates of
27 qualification as an eligible facility borrower to development facilities and renewable fuel
28 production facilities for purposes of applying for reduced rate loans under sections 30.750
29 to 30.767, RSMo, to finance new costs or refinance existing debt associated with such
30 facilities. The authority may charge for each certificate of qualification a one-time fee in
31 an amount not to exceed the actual cost of issuance of the certificate.

32 3. In determining whether a facility will qualify as an eligible facility borrower, the
33 authority shall consider the following factors:

34 (1) The borrower's ability to repay the loan;

35 (2) The general economic conditions of the area in which the agricultural property
36 will be or is located;

37 (3) The prospect of success of the particular project for which the loan is sought;
38 and

39 (4) Such other factors as the authority may establish by rule.

40 4. No reduced rate loan made to an eligible facility borrower under sections 30.750
41 to 30.767, RSMo shall:

42 (1) Exceed seventy million dollars for any single eligible facility borrowers;

43 (2) Exceed ninety percent of the total anticipated cost of the development facility
44 or renewable fuel production facility or, in the case of refinancing existing debt, ninety
45 percent of the fair market value of the development facility or renewable fuel production
46 facility; and

47 (3) Exceed a loan term of five years; except that such loan may be extended up to
48 two additional loan periods of five years each for a maximum total loan term of fifteen
49 years.

50 5. The authority shall promulgate rules to implement the provisions of this section.
51 Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is
52 created under the authority delegated in this section shall become effective only if it
53 complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
54 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable

55 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**
56 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**
57 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
58 **adopted after August 28, 2005, shall be invalid and void.**