

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1349
93RD GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, May 4, 2006, with recommendation that the Senate Committee Substitute do pass.

3481S.05C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 30.750, RSMo, and to enact in lieu thereof three new sections relating to the family farms act.

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

Section A. Section 30.750, RSMo, is repealed and three new sections
2 enacted in lieu thereof, to be known as sections 30.750, 348.500, and 348.505, to
3 read as follows:

30.750. As used in sections 30.750 to 30.767, the following terms mean:

2 (1) "Eligible agribusiness", a person engaged in the processing or adding
3 of value to agricultural products produced in Missouri;

4 (2) "Eligible beginning farmer",

5 (a) For any beginning farmer who seeks to participate in the linked
6 deposit program alone, a farmer who:

7 a. Is a Missouri resident;

8 b. Wishes to borrow for a farm operation located in Missouri;

9 c. Is at least eighteen years old; and

10 d. In the preceding five years has not owned, either directly or indirectly,
11 farm land greater than fifty percent of the average size farm in the county where
12 the proposed farm operation is located or farm land with an appraised value
13 greater than four hundred fifty thousand dollars.

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

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

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

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

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

25 (3) "Eligible facility borrower", a borrower qualified under section 30.860
26 to apply for a reduced-rate loan under sections 30.750 to 30.767;

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

30 (a) Is headquartered in this state;

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

33 (c) Employs less than ten employees;

34 (d) Is organized for profit;

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

41 (5) "Eligible higher education institution", any approved public or private
42 institution as defined in section 173.205, RSMo;

43 (6) "Eligible job enhancement business", a new, existing or expanding firm
44 operating in Missouri, or which as a condition of accepting the linked
45 deposit will locate a facility or office in Missouri associated with said
46 linked deposit, which employs ten or more employees in Missouri on a yearly
47 average and which, as nearly as possible, is able to establish or retain at least
48 one job in Missouri for each [twenty-five] fifty thousand dollars received from a
49 linked deposit loan, except that the state treasurer may, at the treasurer's
50 discretion, approve a linked deposit at an amount higher than fifty
51 thousand dollars per employee if the applicant can demonstrate
52 significant costs for equipment, capital outlay, or construction

53 associated with the physical expansion, renovation, or modernization
54 of a facility or equipment;

55 (7) "Eligible lending institution", a financial institution that is eligible to
56 make commercial or agricultural or student loans or discount or purchase such
57 loans, is a public depository of state funds or obtains its funds through the
58 issuance of obligations, either directly or through a related entity, eligible for the
59 placement of state funds under the provisions of section 15, article IV,
60 Constitution of Missouri, and agrees to participate in the linked deposit program;

61 (8) "Eligible livestock operation", any person engaged in production of
62 livestock or poultry in an authorized farm corporation, family farm, or family
63 farm corporation as defined in section 350.010, RSMo;

64 (9) "Eligible marketing enterprise", a business enterprise operating in this
65 state which is in the process of marketing its goods, products or services within
66 or outside of this state or overseas, which marketing is designed to increase
67 manufacturing, transportation, mining, communications, or other enterprises in
68 this state, which has proposed its marketing plan and strategy to the department
69 of economic development and which plan and strategy has been approved by the
70 department for purposes of eligibility pursuant to sections 30.750 to 30.767. Such
71 business enterprise shall conform to the characteristics of paragraphs (a), (b) and
72 (d) of subdivision (4) of this section and also employ less than twenty-five
73 employees;

74 (10) "Eligible multitenant development enterprise", a new enterprise that
75 develops multitenant space for targeted industries as determined by the
76 department of economic development and approved by the department for the
77 purposes of eligibility pursuant to sections 30.750 to 30.767;

78 (11) "Eligible residential property developer", an individual who purchases
79 and develops a residential structure of either two or four units, if such residential
80 property developer uses and agrees to continue to use, for at least the five years
81 immediately following the date of issuance of the linked deposit loan, one of the
82 units as his principal residence or if such person's principal residence is located
83 within one-half mile from the developed structure and such person agrees to
84 maintain the principal residence within one-half mile of the developed structure
85 for at least the five years immediately following the date of issuance of the linked
86 deposit loan;

87 (12) "Eligible residential property owner", a person, firm or corporation
88 who purchases, develops or rehabilitates a multifamily residential structure;

89 (13) "Eligible small business", a person engaged in an activity with the
90 purpose of obtaining, directly or indirectly, a gain, benefit or advantage and
91 which conforms to the characteristics of paragraphs (a), (b) and (d) of subdivision
92 (4) of this section, and also employs less than twenty-five employees;

93 (14) "Eligible student borrower", any person attending, or the parent of
94 a dependent undergraduate attending, an eligible higher education institution in
95 Missouri who may or may not qualify for need-based student financial aid
96 calculated by the federal analysis called Congressional Methodology Formula
97 pursuant to 20 U.S.C. 1078, as amended (the Higher Education Amendments of
98 1986);

99 (15) "Eligible water supply system", a water system which serves fewer
100 than fifty thousand persons and which is owned and operated by:

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

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

104 (c) A water corporation;

105 and which is certified by the department of natural resources in accordance with
106 its rules and regulations to have suffered a significant decrease in its capacity to
107 meet its service needs as a result of drought;

108 (16) "Farming", using or cultivating land for the production of agricultural
109 crops, livestock or livestock products, forest products, poultry or poultry products,
110 milk or dairy products, or fruit or other horticultural products;

111 (17) "Linked deposit", a certificate of deposit, or in the case of production
112 credit associations, the subscription or purchase outright of obligations described
113 in section 15, article IV, Constitution of Missouri, placed by the state treasurer
114 with an eligible lending institution at rates otherwise provided by law in section
115 30.758, provided the institution agrees to lend the value of such deposit,
116 according to the deposit agreement provided in sections 30.750 to 30.767, to
117 eligible small businesses, farming operations, eligible job enhancement
118 businesses, eligible marketing enterprises, eligible residential property
119 developers, eligible residential property owners, eligible agribusinesses, eligible
120 beginning farmers, eligible livestock operations, eligible student borrowers,
121 eligible facility borrowers, or eligible water supply systems at below the present
122 borrowing rate applicable to each small business, farming operation, eligible job
123 enhancement business, eligible marketing enterprise, eligible residential property
124 developer, eligible residential property owner, eligible agribusiness, eligible

125 beginning farmer, eligible livestock operation, eligible student borrower, or supply
126 system at the time of the deposit of state funds in the institution;

127 (18) "Market rate", the interest rate tied to federal government securities
128 and more specifically described in subsection 4 of section 30.260;

129 (19) "Water corporation", as such term is defined in section 386.020,
130 RSMo;

131 (20) "Water system", as such term is defined in section 386.020, RSMo.

348.500. 1. This section shall be known and may be cited as the
2 "Family Farms Act".

3 2. As used in this section, "small farmer" means a farmer who is
4 a Missouri resident and who has less than two hundred fifty thousand
5 dollars in gross sales per year.

6 3. The agricultural and small business development authority
7 shall establish a family farm breeding livestock loan program for small
8 farmers for the purchase of beef cattle, dairy cattle, sheep and goats,
9 and swine only.

10 4. To participate in the loan program, a small farmer shall first
11 obtain approval for a family farm livestock loan from a lender as
12 defined in section 348.015. Each small farmer shall be eligible for only
13 one family farm livestock loan per family and for only one type of
14 livestock.

15 5. The maximum amount of the family farm livestock loan for
16 each type of livestock shall be as follows:

17 (1) Seventy-five thousand dollars for beef cattle;

18 (2) Seventy-five thousand dollars for dairy cattle;

19 (3) Thirty-five thousand dollars for swine; and

20 (4) Thirty thousand dollars for sheep and goats.

21 6. Eligible borrowers under the program:

22 (1) Shall use the proceeds of the family farm loan to acquire
23 breeding livestock;

24 (2) Shall not finance more than ninety percent of the anticipated
25 cost of the purchase of such livestock through the family farm livestock
26 loan; and

27 (3) Shall not be charged interest by the lender, as defined in
28 section 348.015, for the first year of the qualified family farm livestock
29 loan.

30 7. Upon approval of the family farm livestock loan by a lender

31 under subsection 4 of this section, the loan shall be submitted for
32 approval by the agriculture and small business development
33 authority. The authority shall promulgate rules establishing eligibility
34 under this section, taking into consideration:

35 (1) The eligible borrower's ability to repay the family farm
36 livestock loan;

37 (2) The general economic conditions of the area in which the
38 farm is located;

39 (3) The prospect of a financial return for the small farmer for the
40 type of livestock for which the family farm livestock loan is sought; and

41 (4) Such other factors as the authority may establish.

42 8. For eligible borrowers participating in the program, the
43 authority shall be responsible for reviewing the purchase price of any
44 livestock to be purchased by an eligible borrower under the program
45 to determine whether the price to be paid is appropriate for the type
46 of livestock purchased. The authority may impose a one-time loan
47 review fee of one percent which shall be collected by the lender at the
48 time of the loan and paid to the authority.

49 9. Nothing in this section shall preclude a small farmer from
50 participating in any other agricultural program.

51 10. Any rule or portion of a rule, as that term is defined in
52 section 536.010, RSMo, that is created under the authority delegated in
53 this section shall become effective only if it complies with and is
54 subject to all of the provisions of chapter 536, RSMo, and, if applicable,
55 section 536.028, RSMo. This section and chapter 536, RSMo, are
56 nonseverable and if any of the powers vested with the general assembly
57 pursuant to chapter 536, RSMo, to review, to delay the effective date,
58 or to disapprove and annul a rule are subsequently held
59 unconstitutional, then the grant of rulemaking authority and any rule
60 proposed or adopted after August 28, 2006, shall be invalid and void.

348.505. 1. As used in this section, "state tax liability", any state
2 tax liability incurred by a taxpayer under the provisions of chapters
3 143, 147, and 148, RSMo, exclusive of the provisions relating to the
4 withholding of tax as provided for in sections 143.191 to 143.265, RSMo,
5 and related provisions.

6 2. Any eligible lender under the family farm livestock loan
7 program under section 348.500 shall be entitled to receive a tax credit

8 equal to one hundred percent of the amount of interest waived by the
9 lender under section 348.500 on a qualifying loan for the first year of
10 the loan only. The tax credit shall be evidenced by a tax credit
11 certificate issued by the agriculture and small business development
12 authority and may be used to satisfy the state tax liability of the owner
13 of such certificate that becomes due in the tax year in which the
14 interest on a qualified loan is waived by the lender under section
15 348.500. No lender may receive a tax credit under this section unless
16 such person presents a tax credit certificate to the department of
17 revenue for payment of such state tax liability. The amount of the tax
18 credits that may be issued to all eligible lenders claiming tax credits
19 authorized in this section in a fiscal year shall not exceed two hundred
20 thousand dollars.

21 3. The agriculture and small business development authority
22 shall be responsible for the administration and issuance of the
23 certificate of tax credits authorized by this section. The authority shall
24 issue a certificate of tax credit at the request of any lender. Each
25 request shall include a true copy of the loan documents, the name of
26 the lender who is to receive a certificate of tax credit, the type of state
27 tax liability against which the tax credit is to be used, and the amount
28 of the certificate of tax credit to be issued to the lender based on the
29 interest waived by the lender under section 348.500 on the loan for the
30 first year.

31 4. The Missouri department of revenue shall accept a certificate
32 of tax credit in lieu of other payment in such amount as is equal to the
33 lesser of the amount of the tax or the remaining unused amount of the
34 credit as indicated on the certificate of tax credit, and shall indicate on
35 the certificate of tax credit the amount of tax thereby paid and the date
36 of such payment.

37 5. The following provisions shall apply to tax credits authorized
38 under this section:

39 (1) Tax credits claimed in a taxable year may be claimed on a
40 quarterly basis and applied to the estimated quarterly tax of the
41 lender;

42 (2) Any amount of tax credit which exceeds the tax due,
43 including any estimated quarterly taxes paid by the lender under
44 subdivision (1) of this subsection which results in an overpayment of

45 taxes for a taxable year, shall not be refunded but may be carried over
46 to any subsequent taxable year, not to exceed a total of three years for
47 which a tax credit may be taken for a qualified family farm livestock
48 loan;

49 (3) Notwithstanding any provision of law to the contrary, a
50 lender may assign, transfer or sell tax credits authorized under this
51 section, with the new owner of the tax credit receiving the same rights
52 in the tax credit as the lender. For any tax credits assigned,
53 transferred, sold, or otherwise conveyed, a notarized endorsement shall
54 be filed by the lender with the authority specifying the name and
55 address of the new owner of the tax credit and the value of such tax
56 credit; and

57 (4) Notwithstanding any other provision of this section to the
58 contrary, any commercial bank may use tax credits created under this
59 section as provided in section 148.064, RSMo, and receive a net tax
60 credit against taxes actually paid in the amount of the first year's
61 interest on loans made under this section. If such first year tax credits
62 reduce taxes due as provided in section 148.064, RSMo, to zero, the
63 remaining tax credits may be carried over as otherwise provided in this
64 section and utilized as provided in section 148.064, RSMo, in
65 subsequent years.

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