

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1134

H. P. 925

House of Representatives, March 12, 1979

Referred to the Committee on Agriculture. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Wood of Sanford.

Cosponsors: Mr. Roope of Presque Isle, Mr. Wyman of Pittsfield and Mr. Mahany of Easton.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

AN ACT to Provide Loans for Family Farms.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 7 MRSA c. 9 is enacted to read:

CHAPTER 9

FAMILY FARM SECURITY

PROGRAM

§ 301. Agriculture; family farm security program; purpose

In order to aid farmers in obtaining credit for the acquisition of farm real estate, there is established a family farm security program which shall provide state money in guarantee of loans made according to the provisions of this chapter.

§ 302. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms shall have the following meanings.

1. **Applicant.** "Applicant" means a natural person applying for a family farm security loan.

2. **Commissioner.** "Commissioner" means the Commissioner of Agriculture.

3. **Council.** "Council" means the family farm advisory council.

4. **Family farm loan guarantee.** "Family farm loan guarantee" means an agreement that in the event of default the State shall pay the lender 90% of the sums due and payable under the first real estate mortgage.

5. **Family farm security loan.** "Family farm security loan" means a loan secured by a first real estate mortgage. It shall be used for acquisition of farm land and shall be approved by the commissioner. This loan shall be guaranteed and may qualify for a payment adjustment as defined in subsection 8 and may be a seller-sponsored loan as defined in subsection 9.

6. **Farm Land.** "Farm land" means land in Maine that is capable of supporting the commercial production of agricultural crops, livestock or livestock products, poultry products, milk or dairy products, fruit or other horticultural products.

7. **Lender.** "Lender" means any financial institution or financial institution authorized to do business in the State as defined in Title 9-B, section 131, subsections 17 and 17-A. In case of seller-sponsored loans as authorized in subsection 9, "lender" also means the seller of the property.

8. **Payment adjustment.** "Payment adjustment" means an amount of money equal to 4% interest on the principal balance of the family farm security loan.

9. **Seller-sponsored loan.** "Seller-sponsored loan" means a loan in which part or all of the purchase price of the farm is financed by a loan from the seller of the property who is a natural person or a close corporation and the remainder of the loan, if any, is supplied by a lender as defined in subsection 7. This loan shall be secured by a first real estate mortgage evidenced by one or more notes that may carry different interest rates.

### § 303. Administration

1. **Administration of program.** The family farm security program shall be administered by the commissioner.

2. **Rules.** The commissioner shall, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, promulgate rules necessary for the efficient administration of this chapter.

3. **Report to Legislature.** On or before January 1st of each year the commissioner shall submit a report to the Legislature concerning the actions of the commissioner and the status of loans granted.

**§ 304. Advisory council**

**1. Membership; composition.** There is established a family farm advisory council composed of 7 members appointed by the Commissioner of Agriculture as follows:

- A. Two officers from a financial institution;**
- B. One dairy farmer;**
- C. One farmer engaged in growing horticultural products;**
- D. One poultry farmer;**
- E. One public representative; and**
- F. One agricultural economist.**

**2. Meetings; terms and compensation.** The term of office of the members of the advisory council shall be 4 years, except that of those first appointed 2 shall be appointed for one year, 2 shall be appointed for 2 years, 2 shall be appointed for 3 years and one shall be appointed for 4 years, as determined by the commissioner. The advisory council shall meet at least 4 times during each calendar year and shall, at the first meeting in any calendar year, elect one of its members to serve as chairman.

Members of the advisory council shall serve until their successors are appointed and qualified. Any vacancy in the council shall be filled by appointment for the unexpired term.

Members of the advisory council shall each be allowed the sum of \$25 per day and their necessary expenses for actual attendance at meetings of the advisory council.

The presence at any meeting of at least 4 members of the advisory council shall be necessary to constitute a quorum.

**3. Chairman.** The members of the council shall annually elect a chairman and other officers they deem necessary.

**4. Duties.** The duties of the council shall be as follows:

- A. To review and appraise the family farm security program;**
- B. To give advice and counsel to the commissioner regarding the family farm security program;**
- C. To review all applications for family farm security loans and make recommendations to the commissioner as to their disposition; and**
- D. To make recommendations to the Commissioner of Agriculture, the Legislature and the public on or before December 31st of each year regarding any needed state policy or program changes to foster and promote the economic health and viability of the family farm.**

5. **Staff; services.** The Commissioner of Agriculture shall provide the council with necessary staff, office space and administrative services.

**§ 305. Eligibility**

A family farm security loan approval may be granted if the following criteria are satisfied:

1. **Evidence of residency.** That the applicant is a resident of the State of Maine, or shows sufficient evidence that he intends to become a resident;

2. **Eligible.** That the applicant has sufficient education, training or experience in the type of farming for which he wishes the loan and continued participation in a farm management program, approved by the commissioner, for the duration of the family farm security loan;

3. **Net worth.** That the applicant, his dependents and spouse have total net worth valued at less than \$50,000 and has demonstrated a need for the loan;

4. **Land purchase.** That the applicant intends to purchase farm land to be used by the applicant for agricultural purposes; and

5. **Credit worthy.** That the applicant is credit worthy according to standards prescribed by the commissioner.

**§ 306. Procedure**

1. **Application for loan; definition.** Any person desiring to acquire farm land may make application with a lender for a family farm security loan. Upon completion of the appropriate forms by the applicant and the lender, the lender shall forward the application to the commissioner for approval. The commissioner shall prescribe a screening process to determine eligibility and he may arrange for local lenders to perform this function for the State. The commissioner may approve the application if the criteria of sections 305 and 307 are satisfied, and shall notify the applicant and the lender of his decision.

If the application is denied, the commissioner shall return the application to the lender with a written statement of the reasons for the denial. The applicant shall be given a copy of the reasons for the denial of the loan. If the circumstances of the applicant change so that he becomes eligible, he may reapply.

2. **Approval of loans.** If the commissioner approves the loan application, he shall retain a copy of the application for his files and return the original to the lender. The applicant and the lender may then complete the transaction for the loan.

3. **Default; filing claim.** Within 90 days of a default on a guaranteed family farm security loan, the lender shall send notice to the applicant stating that the commissioner shall be notified if the default continues for another 90 days, and the consequences of that default. The lender and the applicant may agree to take any steps reasonable to assure the fulfillment of the loan obligation.

After 180 days from the initial default, if the applicant has not made arrangements to meet his obligation, the lender shall file a claim with the commissioner, identifying the loan and the nature of the default, and assigning to the State all of the lender's security and interest in the loan in exchange for payment according to the terms of the family farm security loan guarantee. If the commissioner determines that the terms of the family farm security loan guarantee have been met, he shall authorize payment of state funds to the lender, and shall notify the defaulting party. The State shall then become the holder of the mortgage and taxes shall be levied and paid on the land as though the owner were a natural person and not a political subdivision of the State. The commissioner may, on behalf of the State, commence foreclosure proceedings in the manner provided by law.

4. Sale of defaulted property. In the event that title to the property is acquired by the State, upon conveyance of title to the State and expiration of the period of redemption, the commissioner shall, within 15 days of the expiration of that period, undertake to sell the property by publishing a notice of the impending sale at least once each week for 4 successive weeks in a legal newspaper and also in a newspaper of general distribution in the county in which the property to be sold is situated. The notice shall specify the time and place in the county at which the sale shall commence, a description of the lots or tracts to be offered and a general statement of the terms of sale. Except as further provided in this subsection the terms and method of sale shall be determined by the commissioner. The commissioner shall sell the property to the highest bidder as determined by taking sealed bids or by public auction, provided that in either event he shall select the successful bidder within 15 days of the date of the last published notice of sale. Bidders shall submit bid security in the form of a certified check or bid bond in the amount of 2% of their bid price and the successful bidder shall remit the balance of the purchase price to the commissioner within 90 days of the date of sale. Upon remittance of the balance within 90 days of the date of sale, the commissioner shall transfer title to the property to the purchaser by quitclaim deed. In the event that the purchaser fails to remit any part of the balance within 90 days of the date of sale, the purchaser shall forfeit all rights to the property and any moneys paid thereon and the State shall commence the sale process as specified in this subsection. Proceeds from the sale of a parcel of property obtained by the State pursuant to this section shall be paid into the special fund as authorized in section 310, to the extent that funds from the special fund were disbursed according to the terms of the family farm security loan guarantee. Proceeds in excess of the amount disbursed from the special fund shall be paid into the General Fund.

5. Guarantee void. The loan guarantee shall be void only if the guaranteed loan was obtained by fraud or material misrepresentation of which the original lender or subsequent holder had actual knowledge.

#### § 307. Terms of loan

1. Forms; appraisal procedure; limitations. A family farm security loan shall be transacted on forms approved by the commissioner with the advice of the

**Attorney General.** The commissioner shall establish by rule an appraisal procedure. He shall thereby determine the value and income potential of the property before guaranteeing a family farm security loan. No guarantee shall be made if the purchase price of the farm land exceeds the appraisal value as determined under this subsection.

**2. Payment adjustment.** To be eligible for payment adjustment a family farm security loan shall have a maximum term of 20 years and shall provide for payments at least annually so that the loan shall be amortized over its term with equal annual payments of principal and interest. During the first 10 years of a family farm security loan, the commissioner shall annually pay to the lender 4% of the outstanding balance due at the beginning of that year and the applicant shall pay the remainder of the payment due. After the 10th year, the applicant shall make payments according to the stated interest rate. The applicant may petition the commissioner for one 10-year renewal of the payment adjustment. If a renewal is granted, in the 21st year the applicant shall reimburse the commissioner for the sums paid on the applicant's behalf under this subsection. If no renewal is granted, the applicant shall reimburse the commissioner in the 11th year for the sums paid on the applicant's behalf under this subsection. The obligation to repay the payment adjustment shall be a lien against the property.

**3. Annual review of net worth.** The applicant, his dependents and spouse shall annually submit to the commissioner a statement of their net worth. If their net worth in any year exceeds the sum of \$100,000, the applicant shall be ineligible for a payment adjustment in that year.

#### **§ 308. Seller-sponsored loans**

**1. Authorization.** The commissioner may provide a guarantee to the lenders on seller-sponsored loans when the buyer satisfies the eligibility criteria in section 306, subsection 5. The commissioner may also provide a payment adjustment on behalf of the applicant in the case of seller-sponsored loans.

**2. Negotiability and marketability.** A seller-sponsored loan shall be secured by a purchase money first real estate mortgage evidenced by negotiable note or notes. The commissioner shall be notified in writing within 30 days after a family farm security loan note is sold or exchanged.

#### **§ 309. Sale or conveyance**

**1. Immediate repayment of loan.** Any applicant who sells or conveys the property for which a family farm security loan was issued shall immediately retire the entire indebtedness still owed to the lender and the commissioner. The new owner may negotiate a family farm security loan in his own right, but under no circumstances may the original loan be assumed by the new owner. This subsection is not intended to prohibit the applicant from granting a security interest in the property for the purposes of securing an additional loan.

**Any applicant who fails to maintain the land covered by a family farm security loan in active agricultural production for a period of time longer than one year shall be in default. Such a default may be waived by the commissioner in the event of a physical disability or other extenuating circumstances.**

**Sec. 2. Appropriation.** The following funds shall be appropriated from the General Fund to carry out the purposes of this Act.

**1979-80**

**TREASURER OF STATE**

|                                |             |
|--------------------------------|-------------|
| Family Farm Security Loan Fund | \$1,000,000 |
|--------------------------------|-------------|

Such sums as may be needed from time to time to pay lenders for defaulted loans may be appropriated from this fund to the Commissioner of Agriculture. The sum of all outstanding family farm security loans guaranteed by the commissioner at any time shall not exceed 10 times the amount of money in this special fund created in this Act.

**STATEMENT OF FACT**

The purpose of this bill is to create a family farm security fund from which family farm owners may be loaned funds guaranteed by the State.