

SENATE BILL No. 239

By Committee on Financial Institutions and Insurance

2-6

9 AN ACT enacting the rural risk bank loan guarantee program.

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11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. The provisions of sections 1 through 7, and amendments
13 thereto, shall be known and may be cited as the Kansas rural risk bank
14 loan guarantee program.

15 Sec. 2. As used in sections 1 through 7, and amendments thereto:

16 (a) "Financial institution" means any bank, trust company, savings
17 bank, credit union or savings and loan association or any other financial
18 institution regulated by the state of Kansas, any agency of the United
19 States or other state with an office in Kansas which is approved by the
20 state treasurer;

21 (b) "rural area" means any county that is not part of a standard met-
22 ropolitan statistical area as defined by the United States department of
23 commerce or its successor agency;

24 (c) "loan transaction" means a transaction with a financial institution
25 to provide financing for rural development projects for the renovation or
26 construction of commercial, manufacturing or value-added agricultural
27 facilities and equipment in rural areas;

28 (d) "rural developer" means any person, firm or corporation reno-
29 vating or constructing commercial, manufacturing or value-added agri-
30 cultural facilities or equipment;

31 (e) "Rural development project" means projects by rural developers
32 for the renovation or construction of commercial, manufacturing or value-
33 added agricultural facilities or equipment.

34 Sec. 3. (a) The state treasurer is hereby authorized to enter into
35 agreements with rural developers and financial institutions to provide loan
36 guarantees against risk of default for rural development projects in ac-
37 cordance with the provisions of this act. Except as provided in section 4,
38 and amendments thereto, for payment for a loan guarantee for which the
39 rural risk bank loan guarantee fund is liable, no claim against the state
40 under this act shall be paid by the state, the state treasurer or any other
41 state agency other than pursuant to an appropriation act of the legislature
42 after such claim has been filed with and considered by the joint committee
43 on special claims against the state.

1 (b) Eligible financial institutions shall apply all usual lending stan-
2 dards to determine the credit worthiness of eligible rural developers. Re-
3 payment ability from the cash flow of the business shall be a primary
4 consideration in making the loan, in addition to the business management
5 capability collateral and the borrower's equity contribution. The financial
6 institution originating the loan shall be responsible for monitoring the
7 loan and in case of any default, working out the loan with the borrower
8 to obtain the collateral. The bank shall be in first position and the state
9 in second position.

10 (c) The state treasurer shall administer the provisions of this act and
11 shall adopt rules and regulations which the state treasurer deems neces-
12 sary for the implementation or administration of this act including the
13 development of an application process. The loan guarantee agreement
14 with the state treasurer shall include reporting requirements and financial
15 standards that are appropriate for the type of loan for the borrower. The
16 state treasurer may enter into contracts the state treasurer deems nec-
17 essary for the implementation or administration of this act. The state
18 treasurer may impose fees and charges as may be necessary to recover
19 costs incurred for the administration of this act.

20 Sec. 4. (a) Each agreement entered into by the state treasurer to
21 guarantee against default on a loan transaction shall be backed by the
22 rural risk bank loan guarantee fund and shall receive prior approval by
23 the rural risk bank loan guarantee review committee established under
24 section 5, and amendments thereto.

25 (b) Each loan transaction eligible for a guarantee under this act shall
26 be for the renovation or construction of a rural development project.
27 Eligible costs may include land and building purchases, renovation and
28 new construction costs, equipment and installation costs, pre-develop-
29 ment costs that may be capitalized, financing, capitalized interest during
30 construction and consultant fees which do not include staff costs.

31 (c) The aggregate principal amount of outstanding loan guarantees
32 for any single borrowing organization shall not exceed \$3,000,000. The
33 aggregate outstanding amount of all loan guarantees for borrowing or-
34 ganizations, under this act shall not exceed \$15,000,000 at any time.

35 (d) Conventional loans may be guaranteed up to 50% under this act,
36 subject to the other provisions of this act and the rules and regulations
37 adopted by the state treasurer.

38 Sec. 5. (a) There is hereby established the rural risk bank loan guar-
39 antee review committee within the office of the state treasurer. The com-
40 mittee shall consist of five members.

41 (b) The members of the rural risk bank loan guarantee review com-
42 mittee shall be appointed by the state treasurer.

43 (c) The rural risk bank loan guarantee review committee shall review

1 all proposals for loan financing guarantees under this act and shall approve
2 those proposals that the committee deems to represent reasonable risks
3 and to have a sufficient likelihood of repayment. the committee shall
4 advise the state treasurer on matters regarding the administration of this
5 act when requested by the state treasurer and may provide such advice
6 when deemed appropriate by the committee.

7 (d) The state treasurer or the state treasurer's designee shall serve as
8 a nonvoting chairperson of the rural risk bank loan guarantee review com-
9 mittee, and the committee shall annually elect a vice-chairperson from
10 among its members. The committee shall meet upon call of the chair-
11 person or upon call of any two of its members. Three voting members
12 shall constitute a quorum for the transaction of business.

13 (e) Members of the rural risk bank loan guarantee review committee
14 attending meetings of the committee, or attending a subcommittee meet-
15 ing thereof authorized by the committee, shall be paid compensation,
16 subsistence allowances, mileage and other expenses as provided in K.S.A.
17 75-3223, and amendments thereto.

18 Sec. 6. (a) Subject to appropriations there is hereby established the
19 rural risk bank loan guarantee fund in the state treasury for the purposes
20 of facilitating the financing for the renovation or construction of rural
21 development projects. The rural risk bank loan guarantee fund shall be
22 administered by the state treasurer. All moneys in the rural risk bank loan
23 guarantee fund shall be used to provide guarantees against loan risks in
24 accordance with this act and to pay for the administrative costs associated
25 with the act as may be certified by the state treasurer. All expenditures
26 from the rural risk bank loan guarantee fund shall be made in accordance
27 with appropriations acts upon warrants of the director of accounts and
28 reports issued pursuant to vouchers approved by the state treasurer or
29 the state treasurer's designee.

30 (b) All fees and charges imposed by the state treasurer and other
31 moneys received by the state treasurer for the purposes of this act shall
32 be deposited in the state treasury to the credit of the rural risk bank loan
33 guarantee fund.

34 (c) Upon certification by the state treasurer to the director of ac-
35 counts and reports that the unencumbered balance in the rural risk bank
36 loan guarantee fund is insufficient to pay an amount for a loan guarantee
37 for which the fund is liable under this act, the director of accounts and
38 reports shall transfer an amount equal to the insufficiency from the state
39 general fund to the rural risk bank loan guarantee fund. The state trea-
40 surer shall transmit a copy of each such certification to the director of the
41 budget and to the director of legislative research at the same time that
42 the state treasurer submits a certification to the director of accounts and
43 reports under this subsection.

1 (d) On or before the 10th of each month, the director of accounts
2 and reports shall transfer from the state general fund to the rural risk
3 bank loan guarantee fund interest earnings based on:

4 (1) The average daily balance of moneys in the rural risk bank loan
5 guarantee fund for the preceding month; and

6 (2) the net earnings rate of the pooled money investment portfolio
7 for the preceding month.

8 Sec. 7. The state treasurer shall prepare an annual report of the loan
9 guarantee activity under this act, including new loans, loan repayment
10 status and other relevant information regarding activities under this act
11 and shall submit the report of its activities to the legislature at the begin-
12 ning of each regular session by submitting the annual report to the com-
13 mittee on ways and means of the senate, or to the appropriate subcom-
14 mittee thereof, or to its successor committee, and to the committee on
15 appropriations of the house of representatives, or to the appropriate
16 budget committee, or its successor committee.

17 Sec. 8. This act shall take effect and be in force from and after its
18 publication in the statute book.