



1995 ASSEMBLY BILL 556

September 12, 1995 - Introduced by Representatives OTT, AINSWORTH, F. LASEE, WARD, HARSDORF, BALDUS, WILDER, GREEN, FREESE, HAHN, OLSEN, GARD, ALBERS, HUTCHISON, KREIBICH, GUNDERSON, DOBYNS, MUSSER, SERATTI, PLOMBON and LADWIG, cosponsored by Senators FITZGERALD, SCHULTZ, BRESKE, RUDE, CLAUSING and DECKER. Referred to Committee on Agriculture.

1 **AN ACT to amend** 234.265 (2), 234.68 (3) (b), 234.69 (3) (b), 234.87 (5) (b) and (c),
2 234.90 (4) (b) 1. and 600.01 (1) (b) 8.; and **to create** 234.91, 234.93 (1) (d) and
3 234.93 (3g) of the statutes; **relating to:** a loan guarantee program for the
4 acquisition or improvement of farm assets.

Analysis by the Legislative Reference Bureau

Under current law, the Wisconsin Housing and Economic Development Authority (WHEDA) guarantees collection of loans from the Wisconsin development reserve fund (fund) for the recycling, stratospheric ozone protection, clean air, small business, business improvement, targeted development, nonpoint source pollution abatement and agricultural chemical cleanup, agricultural production, agricultural production drought assistance, agricultural development and cultural and architectural landmark loan guarantee programs. This bill creates a farm assets reinvestment management loan guarantee program.

The bill authorizes WHEDA to guarantee collection from the fund of a portion of the principal of an eligible loan made to an eligible borrower by a participating private lender. For any eligible loan, the principal amount that WHEDA may guarantee may not exceed the borrower's net worth or 25% of the loan principal, whichever is less. An eligible borrower is a farmer who is currently operating farm premises and whose debts do not exceed 85% of the farmer's assets. An eligible loan is one for the acquisition of agricultural assets, defined as machinery, equipment, facilities, land or livestock, or for the cost of improvements to facilities or land. The agricultural assets must be purchased, and the improvements must be made, for agricultural purposes. The total outstanding guaranteed principal amount of all loans to an individual borrower that WHEDA may guarantee under the program may not exceed \$100,000, or \$50,000 if any of the loans is affected by any other state or federal credit assistance program. The bill specifies that WHEDA must charge

an annual service fee for each loan guarantee, to be deposited in the fund to back up loan guarantees under the program. The amount of the fee is based on the outstanding guaranteed principal amount. The bill also limits the term of a guarantee to 5 years if the loan is for the acquisition of machinery, equipment or livestock or for improvements to facilities or land. The term may not exceed 10 years if the loan is for the acquisition of facilities or land.

The total outstanding guaranteed principal amount of all loans that WHEDA may guarantee under the program may not exceed \$10,000,000. The bill reduces the total outstanding principal amount of all loans that WHEDA may guarantee under the agricultural production loan guarantee program (CROP) from \$30,000,000 to \$20,000,000. Additionally, the bill provides that, if there is a difference between the amount actually guaranteed and the maximum amount that WHEDA may guarantee under the stratospheric ozone protection loan guarantee program, the clean air loan guarantee program or the nonpoint source pollution abatement and agricultural chemical cleanup loan guarantee program, WHEDA may increase the amount that it guarantees under the new program by the amount of any such differences. The amount that WHEDA may guarantee under any of the specified programs must then be reduced by the amount by which the total guaranteed principal amount under the new program was increased on account of the difference under the specified program between its guarantee limit and the amount actually guaranteed.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 234.265 (2) of the statutes is amended to read:

2 234.265 (2) Records or portions of records consisting of personal or financial
3 information provided by a person seeking a grant or loan under s. 234.08, 234.49,
4 234.59, 234.65, 234.67, 234.68, 234.69, 234.70, 234.765, 234.82, 234.83, 234.87,
5 234.90, 234.905 ~~or~~, 234.907 or 234.91, seeking a loan under ss. 234.621 to 234.626,
6 seeking financial assistance under s. 234.66 or under ss. 234.75 to 234.802, seeking
7 investment of funds under s. 234.03 (18m) or in which the authority has invested
8 funds under s. 234.03 (18m), unless the person consents to disclosure of the
9 information.

10 **SECTION 2.** 234.68 (3) (b) of the statutes is amended to read:

1 234.68 (3) (b) Except as provided in s. 234.93 (3) and (3g), the total outstanding
2 principal amount of all guaranteed loans under par. (a) may not exceed \$500,000.

3 **SECTION 3.** 234.69 (3) (b) of the statutes is amended to read:

4 234.69 (3) (b) Except as provided in s. 234.93 (3) and (3g), the total outstanding
5 principal amount of all guaranteed loans under par. (a) may not exceed \$1,000,000.

6 **SECTION 4.** 234.87 (5) (b) and (c) of the statutes are amended to read:

7 234.87 (5) (b) Except as provided in s. 234.93 (3) and (3g), the total guaranteed
8 principal amount of all loans for the installation of best management practices that
9 the authority may guarantee under par. (a) may not exceed \$850,000.

10 (c) Except as provided in s. 234.93 (3) and (3g), the total guaranteed principal
11 amount of all loans for the taking of corrective action in response to the discharge of
12 an agricultural chemical that the authority may guarantee under par. (a) may not
13 exceed \$650,000.

14 **SECTION 5.** 234.90 (4) (b) 1. of the statutes is amended to read:

15 234.90 (4) (b) 1. Except as provided in subd. 2., the total outstanding principal
16 amount of all loans which the authority may guarantee under par. (a) may not exceed
17 ~~\$30,000,000~~ \$20,000,000.

18 **SECTION 6.** 234.91 of the statutes is created to read:

19 **234.91 Farm assets reinvestment management loan guarantee**
20 **program. (1) DEFINITIONS.** In this section:

21 (a) "Agricultural assets" means machinery, equipment, facilities, land or
22 livestock.

23 (b) "Farm credit service" includes a production credit association, federal land
24 credit association and agricultural credit association.

25 (c) "Farmer" has the meaning given in s. 102.04 (3).

1 (d) "Farm premises" has the meaning given in s. 102.04 (3).

2 (e) "Participating lender" means a bank, farm credit service, credit union,
3 savings bank, savings and loan association or other person who makes loans for the
4 acquisition or improvement of agricultural assets and who has entered into an
5 agreement with the authority under s. 234.93 (2) (a). The term does not include a
6 seller under a land contract.

7 **(2) ELIGIBLE LOANS.** A loan made by a participating lender is eligible for
8 guarantee of collection from the Wisconsin development reserve fund under s. 234.93
9 if all of the following apply:

10 (a) The borrower is a farmer who is eligible for a guarantee under sub. (3).

11 (b) The loan is made to finance the acquisition of agricultural assets or the cost
12 of improvements to facilities or land. The agricultural assets must be acquired, and
13 the improvements must be made, for agricultural purposes.

14 (c) The total outstanding guaranteed principal amount of all loans made to the
15 borrower that are guaranteed under this section will not exceed \$100,000, or \$50,000
16 if any of the loans is affected by any other state or federal credit assistance program.

17 (d) The rate of interest and the loan terms, including any associated fees or
18 charges, are approved by the authority.

19 (e) The participating lender obtains a security interest in agricultural assets
20 acquired or improvements made with the proceeds of the loan.

21 (f) The proceeds of the loan are not applied to the outstanding balance of any
22 other loan or forbearance.

23 **(3) ELIGIBLE FARMERS.** A farmer is eligible for a guarantee of a loan under this
24 section if all of the following apply at the time the loan is made:

25 (a) The farmer is currently operating farm premises.

1 (b) The amount of the farmer's debts, including the loan, does not exceed 85%
2 of the farmer's assets, including the value of the agricultural assets to be acquired,
3 or the improvements to be made, with the proceeds of the loan.

4 (c) The participating lender considers the farmer's assets, cash flow and
5 managerial ability sufficient to preclude voluntary or involuntary liquidation during
6 the term of the loan.

7 **(4) SERVICE FEES AND PAYMENT PRORATION.** (a) The authority shall charge an
8 annual service fee on every loan guarantee under this section. The fee shall be 1%
9 of a loan's outstanding guaranteed principal not exceeding \$50,000 plus 1.5% of a
10 loan's outstanding guaranteed principal exceeding \$50,000. The fee shall be
11 calculated and charged when the loan is made and on each anniversary date of the
12 loan's inception during the term of the guarantee. The participating lender shall
13 collect the fee as part of the interest charged on the loan and transmit the proceeds
14 to the authority. The authority shall deposit all fees received under this paragraph
15 in the Wisconsin development reserve fund to be used to guarantee loans under this
16 section.

17 (b) In applying principal payments to the outstanding loan balance, the
18 participating lender shall prorate the payments between that portion of the
19 outstanding loan principal that is guaranteed under this section and the remainder
20 of the outstanding principal balance to reduce the liability of the authority over the
21 term of the guarantee.

22 **(5) GUARANTEE OF COLLECTION.** (a) Subject to par. (c), the authority shall
23 guarantee collection of a portion of the principal of a loan eligible for a guarantee
24 under sub. (2). The principal amount of an eligible loan that the authority may

1 guarantee may not exceed the borrower's net worth or 25% of the total loan amount,
2 whichever is less, calculated at the time the loan is made.

3 (b) The term of a loan guarantee for a loan made to finance the acquisition of
4 machinery, equipment or livestock, or the cost of improvements to facilities or land,
5 may not exceed 5 years. The term of a loan guarantee for a loan made to finance the
6 acquisition of facilities or land may not exceed 10 years.

7 (c) Except as provided in s. 234.93 (3) and (3g), the total outstanding
8 guaranteed principal amount of all loans that the authority may guarantee under
9 par. (a) may not exceed \$10,000,000.

10 **SECTION 7.** 234.93 (1) (d) of the statutes is created to read:

11 234.93 (1) (d) To be used for guaranteeing loans under s. 234.91, fees collected
12 under s. 234.91 (4) (a).

13 **SECTION 8.** 234.93 (3g) of the statutes is created to read:

14 234.93 (3g) INCREASES AND DECREASES IN CERTAIN LOAN GUARANTEES. (a)
15 Notwithstanding sub. (3), if the authority receives applications for guarantees under
16 s. 234.91 that would, if approved, result in guarantees under that section of
17 outstanding guaranteed principal in excess of \$10,000,000, the authority may
18 guarantee a total outstanding guaranteed principal amount under s. 234.91 that
19 exceeds \$10,000,000 if any of the following applies:

20 1. The total outstanding principal amount of all loans guaranteed under s.
21 234.68 is less than \$500,000.

22 2. The total outstanding principal amount of all loans guaranteed under s.
23 234.69 is less than \$1,000,000.

24 3. The total guaranteed principal amount of all loans for the installation of best
25 management practices guaranteed under s. 234.87 is less than \$850,000.

1 4. The total guaranteed principal amount of all loans for the taking of corrective
2 action in response to the discharge of an agricultural chemical guaranteed under s.
3 234.87 is less than \$650,000.

4 (b) If par. (a) applies, the total outstanding guaranteed principal amount that
5 the authority may guarantee under s. 234.91 may exceed \$10,000,000 by any of the
6 following:

7 1. The difference between the total outstanding principal amount of all loans
8 guaranteed under s. 234.68 and \$500,000.

9 2. The difference between the total outstanding principal amount of all loans
10 guaranteed under s. 234.69 and \$1,000,000.

11 3. The difference between the total guaranteed principal amount of all loans
12 for the installation of best management practices guaranteed under s. 234.87 and
13 \$850,000.

14 4. The difference between the total guaranteed principal amount of all loans
15 for the taking of corrective action in response to the discharge of an agricultural
16 chemical guaranteed under s. 234.87 and \$650,000.

17 (c) If par. (a) applies and the authority guarantees a total outstanding
18 guaranteed principal amount under s. 234.91 that exceeds \$10,000,000, all of the
19 following apply:

20 1. The total outstanding principal amount of all loans that the authority may
21 guarantee under s. 234.68 may not exceed \$500,000 minus the amount by which the
22 total outstanding guaranteed principal amount that is guaranteed under s. 234.91
23 exceeds \$10,000,000 as a result of the application of par. (b) 1.

24 2. The total outstanding principal amount of all loans that the authority may
25 guarantee under s. 234.69 may not exceed \$1,000,000 minus the amount by which

1 the total outstanding guaranteed principal amount that is guaranteed under s.
2 234.91 exceeds \$10,000,000 as a result of the application of par. (b) 2.

3 3. The total guaranteed principal amount of all loans for the installation of best
4 management practices that the authority may guarantee under s. 234.87 may not
5 exceed \$850,000 minus the amount by which the total outstanding guaranteed
6 principal amount that is guaranteed under s. 234.91 exceeds \$10,000,000 as a result
7 of the application of par. (b) 3.

8 4. The total guaranteed principal amount of all loans for the taking of corrective
9 action in response to the discharge of an agricultural chemical that the authority
10 may guarantee under s. 234.87 may not exceed \$650,000 minus the amount by which
11 the total outstanding guaranteed principal amount that is guaranteed under s.
12 234.91 exceeds \$10,000,000 as a result of the application of par. (b) 4.

13 **SECTION 9.** 600.01 (1) (b) 8. of the statutes is amended to read:

14 600.01 (1) (b) 8. Guarantees of the Wisconsin housing and economic
15 development authority under ss. 234.67, 234.68, 234.69, 234.765, 234.82, 234.83,
16 234.87, 234.90, 234.905 and, 234.907 and 234.91.

17 **SECTION 10. Initial applicability.**

18 (1) This act first applies to loans for which application for guarantee is made
19 on the effective date of this subsection.

20 (END)