

HOUSE BILL 722

Introduced by Cobb

2/15	Introduced
2/16	Referred to Appropriations
3/17	Hearing
3/27	Tabled in Committee

1 House BILL NO. 722  
 2 INTRODUCED BY Cobb  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
 5 MONTANA AGRICULTURAL LOAN AUTHORITY ACT; PROVIDING FOR LOANS  
 6 TO AGRICULTURAL BUSINESSES OTHER THAN FARMS OR RANCHES;  
 7 REVISING LOAN QUALIFICATION REQUIREMENTS; AUTHORIZING THE  
 8 AUTHORITY TO PURCHASE OR SELL AGRICULTURAL LOANS FROM OR TO  
 9 FINANCIAL INSTITUTIONS, INCLUDING THE BOARD OF INVESTMENTS;  
 10 ESTABLISHING A MORAL OBLIGATION OF THE STATE TO MAINTAIN A  
 11 CAPITAL RESERVE ACCOUNT TO REPAY BONDS; AND AMENDING  
 12 SECTIONS 80-12-102, 80-12-103, 80-12-201, 80-12-203 THROUGH  
 13 80-12-205, 80-12-216, AND 80-12-301, MCA."

14  
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 **Section 1.** Section 80-12-102, MCA, is amended to read:

17 "80-12-102. Definitions. (1) As used in this chapter,  
 18 the following definitions apply:

19 (a) "Agricultural business" means an enterprise  
 20 engaged in the production, processing, marketing,  
 21 distribution, or exporting of agricultural products. The  
 22 term includes any related business the primary function of  
 23 which is providing goods or services to such an enterprise.

24 (b) "Agricultural land" means land actively devoted  
 25 to agricultural use as defined in 15-7-202.

1 (b)(c) "Authority" means the agricultural loan  
 2 authority provided for in 2-15-3011.

3 (c)(d) "Bonds" means bonds or bond anticipation notes  
 4 issued by the authority under the provisions of this  
 5 chapter.

6 (e) "Financial institution" means a federal or state  
 7 agency, including the board of investments provided for in  
 8 2-15-1808, a farm credit system unit, or a private  
 9 institution chartered under federal or state law, that is  
 10 authorized to make loans to the persons and for the purposes  
 11 authorized in this chapter.

12 (2) References to the authority's property, revenues,  
 13 or assets apply only to property, revenues, and assets  
 14 generated by the Montana agricultural loan authority  
 15 program, not those owned or generated by any other program  
 16 or property over which the authority exercises general  
 17 authority, direction, and control."

18 **Section 2.** Section 80-12-103, MCA, is amended to read:

19 "80-12-103. Agricultural loan authority -- general  
 20 powers. The authority may:

21 (1) retain professional consultants and advisers;

22 (2) adopt rules governing its procedures;

23 (3) purchase agricultural loans made by financial  
 24 institutions or sell agricultural loans to financial  
 25 institutions;

(4) issue bonds, in accordance with 80-12-301, necessary to provide funds for implementing this chapter;

(5) invest any funds generated by sale of bonds in the permissible investments outlined in 17-6-211 until such time as the funds are needed for any of the authority's other functions;

(6) procure insurance or guaranties in amounts and in the form the authority considers desirable or necessary, from any party, including a governmental agency, against any loss in connection with its loan agreements; and

(7) use the assistance and services of the farmers home administration, the production credit association, the federal land bank, the board of investments, or private lenders in approving loans for issuance of bonds."

**Section 3.** Section 80-12-201, MCA, is amended to read:

**"80-12-201. Loan agreements -- general provisions.** (1)

Each loan approved by the authority for issuance of a bond must include a loan agreement providing a payment schedule that may not exceed 30 years.

(2) The agreement must specify a reasonable rate of interest, which rate may be a variable rate provided the method of determination is contained in the loan agreement.

(3) Loans approved by the authority for issuance of a bond may be secured by any liens or collateral the financial institution considers necessary.

(4) The money received under a loan agreement may be used for:

(a) acquisition of farm or ranch land;

(b) a down payment on the acquisition of farm or ranch land; or

(c) acquisition or construction of depreciable property used in the operation of a farm or ranch or an agricultural business."

**Section 4.** Section 80-12-203, MCA, is amended to read:

**"80-12-203. Qualifications of applicants.** (1) To be eligible for a loan approved by the authority for issuance of a bond, an applicant must:

(a) declare his intention to maintain his residence in Montana during the length of the loan; and

(b) have been approved by a financial institution; ~~and~~

~~(c) have a net worth not to exceed \$250,000.~~

(2) Applications for loans to be approved by the authority for issuance of bonds may be submitted by individuals, partnerships, associations, or joint ventures. All persons involved in the application must meet the requirements of subsection (1). Corporations, as defined in 35-1-102, may not apply."

**Section 5.** Section 80-12-204, MCA, is amended to read:

**"80-12-204. Evaluation of applicants.** (1) The authority shall by rule establish:

(a) procedures and standards for evaluating applications for loans to be approved by the authority for issuance of bonds; and

(b) a system for evaluating the applicants, considering the following criteria:

(i) the applicant's net worth;

(ii) the applicant's access to livestock and machinery;

(iii) the applicant's training and experience in agriculture;

(iv) the prospects of the applicant to generate a positive cash-flow over the term of the loan;

~~(iv)~~(v) the applicant's prospects for succeeding in an ~~the~~ agricultural operation ~~on--the--land--proposed--for~~ purchase; and

~~(v)~~(vi) any other factors it may prescribe.

(2) The authority shall select the best qualified and most deserving applicants from among those applying for approval of loans for issuance of bonds.

(3) The authority may seek the advice of such lenders as the farmers home administration, the production credit association, the federal land bank, private lenders, or similar organizations in Montana and coordinate its program through these organizations."

**Section 6.** Section 80-12-205, MCA, is amended to read:

"80-12-205. Purchase of loans. The authority may

purchase or sell loans and make advance commitments to purchase or sell loans from or to a financial institution at prices and upon terms and conditions established pursuant to 80-12-201 through 80-12-204 and rules promulgated by the authority."

**Section 7.** Section 80-12-216, MCA, is amended to read:

"80-12-216. Agricultural loan guaranty fund. (1) The authority shall create an agricultural loan guaranty fund. The fund must be held by a trustee or other fiduciary designated by the authority. There must be deposited into the fund amounts, insurance fees, premiums, and such other revenues and assets as the authority considers necessary to comply with any contract or agreement entered into by the authority under this chapter. The authority may borrow from and deposit in the agricultural loan guaranty fund up to \$20,000,000 from any available state fund, including funds of the Montana board of housing or board of investments.

(2) The amounts in the fund must be used to satisfy any claim resulting from a defaulted loan or other credit agreement. The amounts in the fund may also be used for any other purpose prescribed by the authority in accordance with guaranty contracts with financial institutions entered into pursuant to this chapter, including without limitation the protection of the interest of the authority in loans during periods of delinquency or upon default.

(3) The minimum reserve requirement for the agricultural loan guaranty fund must be such amount as may be provided in an agreement, resolution, or indenture with the holders of bonds issued under this chapter, but not in excess of the aggregate annual payments due under the loans or other credit agreements guaranteed by the authority. No A loan or other credit agreement may not be guaranteed by the authority if the amount of money available in the agricultural loan guaranty fund would be less than the minimum reserve requirement.

(4) In order to assure the maintenance of the agricultural loan guaranty fund, the authority shall, on or before September 1 in each year preceding the convening of the legislature, deliver to the governor a certificate stating the sum, if any, required to restore the agricultural loan guaranty fund to the minimum reserve requirement. The governor shall include in the executive budget submitted to the legislature the sum required to restore the agricultural loan guaranty fund to the minimum reserve requirement. Nothing contained herein shall obligate the legislature to make an appropriation for this purpose.

(5) All amounts remitted to the authority under this section constitute loans to the authority and must be repaid to the state treasury without interest from available

operating revenues of the authority in excess of amounts required for the guarantee of loans."

**Section 8.** Section 80-12-301, MCA, is amended to read:

**"80-12-301. Issuance of bonds ---credit-of--the--state not--pledged.** (1) The authority may issue bonds of the state of Montana in a principal amount it determines necessary to provide sufficient funds for achieving any of the purposes of the Montana agricultural loan authority program, including the payment of interest on bonds, establishment of reserves to secure the bonds, and all other expenditures of the authority incident to the program.

(2) Each issue of its bonds is an obligation of the authority, payable out of any revenues, assets, or money generated by the Montana agricultural loan authority program. The authority shall manage its loans so that the bonds are repaid by the revenue generated by the program. ~~The full faith and credit and taxing powers of the state are not pledged for the payment of bonds issued by the authority under the provisions of this chapter.~~

(3) The bonds must be authorized by resolution of the authority, bear a date, and mature at times the authority determines. A bond may not mature more than 60 years from the date of its issue. The bonds may be issued as serial bonds payable in annual installments or as term bonds or as a combination thereof. The bonds of the authority may be

1 sold at public or private sale, at prices determined by the  
2 authority.

3 (4) The resolution shall specify:

4 (a) the rate of interest of the bonds;

5 (b) the denomination of the bonds;

6 (c) whether the bonds shall be in coupon or registered  
7 form and registration privileges, if any;

8 (d) the manner and place of execution;

9 (e) the manner, place, and medium of payment; and

10 (f) the terms of redemption.

11 (5) The total amount of bonds outstanding at any one  
12 time may not exceed \$40 million."

13 NEW SECTION. Section 9. Maintenance of capital  
14 reserve account. (1) In order to assure the maintenance of  
15 the capital reserve account established in 80-12-312, the  
16 authority shall, on or before September 1 in each year  
17 preceding the convening of the legislature, deliver to the  
18 governor a certificate stating the sum, if any, required to  
19 restore the capital reserve account to the minimum capital  
20 reserve requirement. The governor shall include in the  
21 executive budget submitted to the legislature the sum  
22 required to restore the capital reserve account to such  
23 minimum amount. All sums appropriated by the legislature  
24 for this purpose must be deposited in the capital reserve  
25 account.

1 (2) All amounts appropriated to the authority under  
2 this section constitute advances to the authority and,  
3 subject to the rights of the holders of any bonds or notes  
4 of the authority, must be repaid to the state general fund,  
5 without interest, from available operating revenues of the  
6 authority in excess of amounts required for:

7 (a) the payment of bonds, notes, or other obligations  
8 of the authority;

9 (b) maintenance of the capital reserve account; and

10 (c) operating expenses.

11 NEW SECTION. Section 10. Extension of authority. Any  
12 existing authority to make rules on the subject of the  
13 provisions of [this act] is extended to the provisions of  
14 [this act].

15 NEW SECTION. Section 11. Codification instruction.  
16 [Section 9] is intended to be codified as an integral part  
17 of Title 80, chapter 12, part 3, and the provisions of Title  
18 80, chapter 12, apply to [section 9].

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