

SECOND REGULAR SESSION

# SENATE BILL NO. 1280

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CLEMENS.

Read 1st time February 28, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

5350S.011

## AN ACT

To amend chapter 348, RSMo, by adding thereto six new sections relating to a livestock feed and crop input loan guarantee program.

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

Section A. Chapter 348, RSMo, is amended by adding thereto six new sections, to be known as sections 348.518, 348.521, 348.524, 348.527, 348.530, and 348.533, to read as follows:

**348.518. 1. In addition to the duties and powers established in sections 348.005 to 348.505, the Missouri agricultural and small business development authority shall develop and implement a livestock feed and crop input loan guarantee program as provided in sections 348.518 to 348.533. The authority may promulgate rules necessary to carry out the purposes of sections 348.518 to 348.533. The rules promulgated under sections 348.518 to 348.533 shall be designed to encourage maximum involvement and participation by lenders and financial institutions in the loan guarantee program. The authority shall be the administrative agency for the implementation of the loan guarantee program, and may employ such persons as necessary, within the limits of appropriations made for that purpose, to administer the loan guarantee program.**

**2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 348.518 to 348.533 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date,**

21 or to disapprove and annul a rule are subsequently held  
22 unconstitutional, then the grant of rulemaking authority and any rule  
23 proposed or adopted after August 28, 2008, shall be invalid and void.

348.521. 1. The authority may issue certificates of guaranty  
2 covering a first loss guarantee up to but not more than fifty percent of  
3 the loan on a declining principal basis for loans to individuals  
4 executing a note or other evidence of a loan made for livestock feed  
5 and crop input, but not to exceed the amount of forty thousand dollars  
6 for any one individual and to pay from the livestock feed and crop  
7 input loan guarantee fund to an eligible lender up to fifty percent of  
8 the amount on a declining principal basis of any loss on any guaranteed  
9 loan made under the provisions of sections 348.518 to 348.533, in the  
10 event of default on the loan. Upon payment of the loan, the authority  
11 shall be subrogated to all the rights of the eligible lender.

12 2. As used in sections 348.518 to 348.533, the term "eligible  
13 lender" means those entities defined as "lenders" under subdivision (8)  
14 of section 348.015.

15 3. The authority shall charge for each guaranteed loan a  
16 one-time participation fee of fifty dollars which shall be collected by  
17 the lender at the time of closing and paid to the authority. In addition,  
18 the authority may charge a special loan guarantee fee of up to one  
19 percent per annum of the outstanding principal which shall be  
20 collected from the borrower by the lender and paid to the  
21 authority. Amounts so collected shall be deposited in the livestock feed  
22 and crop input loan program fund and used, upon appropriation, to pay  
23 the costs of administering the program.

24 4. All moneys paid to satisfy a defaulted guaranteed loan shall  
25 only be paid out of the livestock feed and crop input loan guarantee  
26 fund established by sections 348.518 to 348.533.

27 5. The total outstanding guaranteed loans shall at no time exceed  
28 an amount which, according to sound actuarial judgment, would allow  
29 immediate redemption of twenty percent of the outstanding loans  
30 guaranteed by the fund at any one time.

348.524. 1. There is hereby established in the state treasury the  
2 "Livestock Feed and Crop Input Loan Guarantee Fund". The fund shall  
3 consist of money appropriated to it by the general assembly, charges,  
4 gifts, grants and bequests from federal, private or other sources. The

5 state treasurer shall be custodian of the fund and may approve  
6 disbursements from the fund in accordance with sections 30.170 and  
7 30.180, RSMo. Upon appropriation, money in the fund shall be used  
8 solely for the administration of sections 348.518 to 348.533. Any moneys  
9 remaining in the fund at the end of the biennium shall not revert to the  
10 credit of the general revenue fund. The state treasurer shall invest  
11 moneys in the fund in the same manner as other funds are  
12 invested. Any interest and moneys earned on such investments shall be  
13 credited to the fund.

14 2. All moneys received by the authority for payments made on  
15 previously defaulted guaranteed loans shall be paid promptly into the  
16 state treasury and deposited in the fund.

17 3. The fund shall be administered by the Missouri agricultural  
18 and small business development authority organized under sections  
19 348.005 to 348.180.

20 4. Beginning with fiscal year 2009, the general assembly may  
21 appropriate moneys not to exceed four million dollars for the  
22 establishment and initial funding of the livestock feed and crop input  
23 loan guarantee fund.

348.527. Moneys in the fund, both unobligated and obligated as  
2 a reserve, which in the judgment of the authority are not currently  
3 needed for payments of defaults of guaranteed loans, may be invested  
4 by the state treasurer, and any income therefrom shall be deposited to  
5 the credit of the fund.

348.530. 1. Persons eligible for guarantees for loans under the  
2 provisions of sections 348.518 to 348.533 are individuals engaged in  
3 farming as "farming" is defined in section 350.010, RSMo, who intend to  
4 use the proceeds from the loan to finance the purchase of livestock feed  
5 used to produce livestock and input used to produce crops for the  
6 feeding of livestock, and who are seeking a loan or loans to finance not  
7 more than ninety percent of the anticipated cost.

8 2. The authority shall adopt and promulgate rules establishing  
9 eligibility under the provisions of sections 348.518 to 348.533, taking  
10 into consideration the individual's ability to repay the loan, the general  
11 economic conditions of the area in which the individual will be located,  
12 the prospect of success of the particular farm operation for which the  
13 loan is sought and such other factors as the authority may

14 establish. The eligibility of any person for a loan guarantee under the  
15 provisions of sections 348.518 to 348.533 shall not be determined or  
16 otherwise affected by any consideration of that person's race, religion,  
17 sex, creed, color, or location of residence. The authority may also  
18 provide for:

19 (1) The requirement or nonrequirement of security or  
20 endorsement and the nature thereof;

21 (2) The manner and time of repayment of the principal and  
22 interest;

23 (3) The maximum rate of interest;

24 (4) The right of the borrower to accelerate payments without  
25 penalty;

26 (5) The amount of the guaranty charge;

27 (6) The effective period of the guaranty;

28 (7) The percent of the loan, not to exceed fifty percent, covered  
29 by the guaranty;

30 (8) The assignability of loans by the lender;

31 (9) Procedures in event of default by the borrower;

32 (10) The due diligence effort on the part of lenders for collection  
33 of guaranteed loans;

34 (11) Collection assistance to be provided to lenders; and

35 (12) The extension of the guaranty in consideration of duty in  
36 the armed forces, unemployment, natural disasters, or other hardships.

348.533. The authority, by rule, shall determine the policy of  
2 collections and recovery of loans, including the use of private collection  
3 agencies. The authority may institute action to recover any amount  
4 due the state in any loan transaction, use private collection agencies,  
5 or otherwise carry out the policy of the authority. The lender making  
6 the original loan shall cooperate with the authority in the collection of  
7 the loan and shall use its regular collection procedures prior to any  
8 action being undertaken by the authority.

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