

CHAPTER 374

AGRICULTURE

SENATE BILL 21-248

BY SENATOR(S) Donovan and Simpson, Bridges, Buckner, Cooke, Coram, Danielson, Fenberg, Fields, Ginal, Gonzales, Hansen, Hisey, Holbert, Jaquez Lewis, Kolker, Lee, Moreno, Pettersen, Priola, Rankin, Scott, Sonnenberg, Story, Winter, Zenzinger, Garcia;
also REPRESENTATIVE(S) McCormick and Holtorf, Amabile, Bacon, Bernett, Bockenfeld, Cutter, Esgar, Exum, Herod, Hooton, Jackson, McCluskie, Michaelson Jenet, Mullica, Ortiz, Pelton, Ricks, Roberts, Snyder, Titone, Valdez D., Young, Bird, Caraveo, Duran, McLachlan, Garnett.

AN ACT

CONCERNING ASSISTANCE FOR AGRICULTURE IN COLORADO, AND, IN CONNECTION THEREWITH, ESTABLISHING A LOAN PROGRAM IN THE DEPARTMENT OF AGRICULTURE, TRANSFERRING MONEY FROM THE GENERAL FUND TO A NEW AGRICULTURAL FUTURE LOAN PROGRAM CASH FUND TO BE USED FOR THE LOAN PROGRAM, AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** article 1.2 to title 35 as follows:

ARTICLE 1.2
Colorado Agricultural Future Loan Program

35-1.2-101. Short title. THE SHORT TITLE OF THIS ARTICLE 1.2 IS THE "COLORADO AGRICULTURAL FUTURE LOAN PROGRAM ACT".

35-1.2-102. Definitions - repeal. AS USED IN THIS ARTICLE 1.2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AGRICULTURAL PROCESSING" MEANS THE TRANSFORMING, PACKAGING, SORTING, STORAGE, OR GRADING OF COLORADO LIVESTOCK, LIVESTOCK PRODUCTS, AGRICULTURAL COMMODITIES, PLANTS, OR PLANT PRODUCTS.

(2) "AGRICULTURE" HAS THE SAME MEANING AS SET FORTH IN SECTION 35-1-102 (1).

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(3) "COMMISSIONER" MEANS THE COMMISSIONER OF AGRICULTURE.

(4) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE CREATED IN SECTION 35-1-103.

(5) "ELIGIBLE BUSINESS" MEANS A BUSINESS THAT:

(a) EARNS A MAJORITY OF ITS REVENUE FROM AGRICULTURAL PROCESSING; AND

(b) IN THE JUDGMENT OF THE DEPARTMENT:

(I) HAS MANAGERS AND EMPLOYEES WHO POSSESS SUFFICIENT EDUCATION, TRAINING, AND EXPERIENCE TO OPERATE THE BUSINESS; AND

(II) PROVIDES AN ECONOMIC BENEFIT TO COLORADO FARMERS OR RANCHERS.

(6) "ELIGIBLE FARMER OR RANCHER" MEANS AN INDIVIDUAL WHO:

(a) IS AT LEAST EIGHTEEN YEARS OF AGE;

(b) IS A RESIDENT OF COLORADO;

(c) IS AN OWNER OR OPERATOR IN FACT OF A FARM OR RANCH; AND

(d) IN THE JUDGMENT OF THE DEPARTMENT:

(I) POSSESSES SUFFICIENT EDUCATION, TRAINING, AND EXPERIENCE TO OPERATE THE FARM OR RANCH; AND

(II) POSSESSES OR HAS ACCESS TO SUFFICIENT WORKING CAPITAL, FARM MACHINERY, LIVESTOCK, OR LAND TO OPERATE THE FARM OR RANCH.

(7) "FARM-TO-MARKET INFRASTRUCTURE GRANT" MEANS A GRANT OF MONEY FROM THE FUND, WHICH MONEY IS USED FOR AGRICULTURAL PROCESSING.

(8) (a) "FARM-TO-MARKET INFRASTRUCTURE LOAN" MEANS A LOAN FROM THE LOAN PROGRAM, WHICH LOAN IS USED FOR THE PURPOSE OF AGRICULTURAL PROCESSING.

(b) THIS SUBSECTION (8) IS REPEALED, EFFECTIVE JANUARY 2, 2023.

(9) "FINANCIAL ENTITY" MEANS A BANK, NONDEPOSIT COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION, BUSINESS DEVELOPMENT CORPORATION, OR OTHER ENTITY WITH AGRICULTURAL LENDING EXPERIENCE AND WITH WHICH THE DEPARTMENT CONTRACTS TO HELP ADMINISTER THE LOAN PROGRAM.

(10) "FUND" MEANS THE COLORADO AGRICULTURAL FUTURE LOAN PROGRAM CASH FUND CREATED IN SECTION 35-1.2-105.

(11) "LIVESTOCK" HAS THE SAME MEANING AS SET FORTH IN SECTION 35-1-102 (6).

(12) "LOAN PROGRAM" MEANS THE COLORADO AGRICULTURAL FUTURE LOAN PROGRAM CREATED IN SECTION 35-1.2-103.

35-1.2-103. Colorado agricultural future loan program - created - application - criteria - awards - rules - repeal. (1) THERE IS HEREBY CREATED IN THE DEPARTMENT THE COLORADO AGRICULTURAL FUTURE LOAN PROGRAM TO PROVIDE LOANS AS DESCRIBED IN THIS SECTION. THE DEPARTMENT SHALL ADMINISTER THE LOAN PROGRAM. NOTHING IN THIS ARTICLE 1.2 MAY BE CONSTRUED AS PERMITTING THE DEPARTMENT TO ENGAGE IN ANY DIRECT LENDING ACTIVITIES.

(2) (a) (I) BEGINNING ON OR BEFORE JANUARY 1, 2022, AND UNTIL JANUARY 1, 2025, THE DEPARTMENT MAY DISTRIBUTE MONEY FROM THE FUND TO FINANCIAL ENTITIES TO MAKE FARM-TO-MARKET INFRASTRUCTURE LOANS FROM THE LOAN PROGRAM TO APPLICANTS WHO SATISFY THE REQUIREMENTS ESTABLISHED BY RULES PROMULGATED BY THE COMMISSIONER PURSUANT TO SUBSECTION (7) OF THIS SECTION.

(II) THIS SUBSECTION (2)(a) IS REPEALED, EFFECTIVE JANUARY 2, 2025.

(b) BEGINNING ON OR BEFORE JANUARY 1, 2022, THE DEPARTMENT MAY AWARD FARM-TO-MARKET INFRASTRUCTURE GRANTS DIRECTLY TO ELIGIBLE FARMERS OR RANCHERS AND ELIGIBLE BUSINESSES THAT SATISFY THE REQUIREMENTS ESTABLISHED BY RULES PROMULGATED BY THE COMMISSIONER PURSUANT TO SUBSECTION (7) OF THIS SECTION.

(3) IN ADMINISTERING THE LOAN PROGRAM, THE DEPARTMENT, TO THE EXTENT PRACTICABLE, SHALL ATTEMPT TO AWARD OR DISTRIBUTE:

(a) (I) A TOTAL OF AT LEAST FIVE MILLION DOLLARS BUT NO MORE THAN TEN MILLION DOLLARS IN THE FORM OF FARM-TO-MARKET INFRASTRUCTURE LOANS OR FARM-TO-MARKET INFRASTRUCTURE GRANTS BY JUNE 30, 2022.

(II) THIS SUBSECTION (3)(a) IS REPEALED, EFFECTIVE JULY 1, 2022.

(b) (I) A TOTAL OF AT LEAST TEN MILLION DOLLARS BUT NO MORE THAN TWENTY MILLION DOLLARS IN THE FORM OF LOW-INTEREST LOANS TO ELIGIBLE FARMERS OR RANCHERS AND ELIGIBLE BUSINESSES BY DECEMBER 31, 2022.

(II) THIS SUBSECTION (3)(b) IS REPEALED, EFFECTIVE JANUARY 1, 2023.

(4) WHEN THE DEPARTMENT CONTRACTS WITH ONE OR MORE FINANCIAL ENTITIES PURSUANT TO THIS SECTION, THE DEPARTMENT SHALL PROMPTLY NOTIFY THE AGRICULTURE AND NATURAL RESOURCES COMMITTEE OF THE SENATE AND THE AGRICULTURE, LIVESTOCK, AND WATER COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, OF SUCH CONTRACT.

(5) TO RECEIVE A LOAN OR GRANT, AN APPLICANT MUST SUBMIT AN APPLICATION TO THE DEPARTMENT IN THE FORM ESTABLISHED BY THE COMMISSIONER PURSUANT TO SUBSECTION (7)(c)(I) OF THIS SECTION.

(6) THE DEPARTMENT SHALL REVIEW APPLICATIONS RECEIVED PURSUANT TO THIS

SECTION. IN AWARDING GRANTS AND DISTRIBUTING MONEY TO FINANCIAL ENTITIES FOR AWARDING LOANS, THE DEPARTMENT SHALL CONSIDER ANY CRITERIA ESTABLISHED PURSUANT TO RULES PROMULGATED BY THE COMMISSIONER PURSUANT TO SUBSECTION (7) OF THIS SECTION.

(7) PURSUANT TO ARTICLE 4 OF TITLE 24, THE COMMISSIONER SHALL PROMULGATE SUCH RULES AS ARE REQUIRED IN THIS ARTICLE 1.2 AND SUCH ADDITIONAL RULES AS MAY BE NECESSARY TO IMPLEMENT THE LOAN PROGRAM. AT A MINIMUM, THE RULES MUST:

(a) REQUIRE THE DEPARTMENT TO ACCEPT APPLICATIONS FROM APPLICANTS AT ALL TIMES DURING THE YEAR; EXCEPT THAT THE DEPARTMENT MAY BE REQUIRED TO ACCEPT WRITTEN APPLICATIONS ONLY DURING REGULAR OFFICE HOURS;

(b) ON AND AFTER JANUARY 1, 2023, TO THE EXTENT PRACTICABLE, PRIORITIZE THE PROVISION OF LOANS TO ELIGIBLE FARMERS OR RANCHERS WHO APPLY FOR LOANS OR GRANTS FROM THE LOAN PROGRAM AND WHO:

(I) HAVE OWNED OR OPERATED A FARM OR RANCH FOR LESS THAN TEN YEARS; OR

(II) REPRESENT A POPULATION THAT IS UNDERSERVED OR UNDERREPRESENTED IN COLORADO AGRICULTURE; AND

(c) SPECIFY:

(I) THE FORM OF THE LOAN PROGRAM APPLICATION;

(II) THE TIME FRAMES FOR DISTRIBUTING LOAN MONEY;

(III) CRITERIA FOR THE DEPARTMENT TO USE IN CONSIDERING APPLICATIONS AND AWARDING LOANS;

(IV) THE MAXIMUM AMOUNT OF A LOAN FROM THE LOAN PROGRAM;

(V) INTEREST RATES ON LOANS;

(VI) REPAYMENT TERMS OF LOANS; AND

(VII) PERMISSIBLE USES OF MONEY AWARDED AS LOW-INTEREST LOANS TO ELIGIBLE FARMERS OR RANCHERS AND ELIGIBLE BUSINESSES, WHICH USES MAY INCLUDE:

(A) THE ACQUISITION OF PROPERTY AND EQUIPMENT;

(B) PAYING COSTS ASSOCIATED WITH PURCHASING BREEDING LIVESTOCK;

(C) VALUE-ADDED IMPROVEMENTS TO REAL OR PERSONAL PROPERTY ON A FARM OR RANCH;

(D) OPERATING EXPENSES;

(E) CONSERVATION PROJECTS; AND

(F) SUCH OTHER USES AS THE COMMISSIONER MAY IDENTIFY.

35-1.2-104. Report. NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), ON OR BEFORE DECEMBER 15, 2021, AND ON OR BEFORE DECEMBER 15 EACH YEAR THEREAFTER, THE DEPARTMENT SHALL SUBMIT A SUMMARIZED REPORT TO THE AGRICULTURE AND NATURAL RESOURCES COMMITTEE OF THE SENATE AND THE AGRICULTURE, LIVESTOCK, AND WATER COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, CONCERNING THE LOAN PROGRAM.

35-1.2-105. Colorado agricultural future loan program cash fund - created.

(1) THE COLORADO AGRICULTURAL FUTURE LOAN PROGRAM CASH FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF:

(a) MONEY CREDITED TO THE FUND PURSUANT TO SECTION 35-1.2-106;

(b) MONEY RECEIVED AS LOAN PAYMENTS ON LOANS ISSUED FROM THE LOAN PROGRAM, INCLUDING INTEREST; AND

(c) ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND.

(2) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

(3) ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING IN THE FUND AT THE END OF A FISCAL YEAR REMAINS IN THE FUND.

(4) THE MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT TO EXPEND FOR THE PURPOSES OF THIS ARTICLE 1.2.

35-1.2-106. Funding for loan program - repeal. (1) WITHIN THREE DAYS AFTER THE EFFECTIVE DATE OF THIS ARTICLE 1.2, THE STATE TREASURER SHALL TRANSFER THIRTY MILLION DOLLARS FROM THE GENERAL FUND TO THE FUND FOR THE IMPLEMENTATION AND ADMINISTRATION OF THE LOAN PROGRAM.

(2) (a) THE DEPARTMENT MAY USE UP TO ONE AND ONE-HALF PERCENT OF THE MONEY TRANSFERRED PURSUANT TO SUBSECTION (1) OF THIS SECTION TO SET UP THE LOAN PROGRAM.

(b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JANUARY 1, 2022.

(3) BEGINNING WITH THE 2021-22 STATE FISCAL YEAR, THE DEPARTMENT MAY ANNUALLY USE UP TO ONE AND ONE-HALF PERCENT OF THE MONEY TRANSFERRED PURSUANT TO SUBSECTION (1) OF THIS SECTION TO PAY THE DIRECT AND INDIRECT COSTS THAT THE DEPARTMENT INCURS IN ADMINISTERING THE LOAN PROGRAM; EXCEPT THAT NOTHING IN THIS SUBSECTION (3) MAY BE CONSTRUED AS LIMITING THE AMOUNT THAT THE DEPARTMENT MAY PROVIDE TO A FINANCIAL ENTITY AS COMPENSATION FOR MAKING LOANS PURSUANT TO A CONTRACT DESCRIBED IN

SECTION 35-1.2-103 (4).

SECTION 2. Appropriation. For the 2021-22 state fiscal year, \$165,890 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of agriculture from the Colorado agricultural future loan program cash fund created in section 35-1.2-105 (1), C.R.S., and is based on an assumption that the department of law will require an additional 0.9 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of agriculture.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 29, 2021