

# State of Wisconsin



2015 Senate Bill 549

Date of enactment: **March 30, 2016**

Date of publication\*: **March 31, 2016**

## 2015 WISCONSIN ACT 316

AN ACT *to repeal* 234.905 (2) (e), 234.905 (3m) and 234.905 (4) (b); *to renumber and amend* 234.90 (4); *to amend* 234.90 (2) (b), 234.90 (3) (b), 234.90 (3) (c), 234.90 (3g) (b), 234.90 (3n) (b), 234.90 (5), 234.905 (title), 234.905 (1) (b) (intro.), 234.905 (1) (b) 1., 234.905 (1) (b) 2., 234.905 (1) (b) 3., 234.905 (1) (e), 234.905 (1) (f), 234.905 (2) (intro.), (a), (b), (c), (d), (f) and (g), 234.905 (3) (a), 234.905 (3) (b), 234.905 (3) (e), 234.905 (4) (a), 234.905 (5), 234.907 (2) (c), 234.907 (2) (cm), 234.907 (2) (f), 234.907 (3), 234.91 (2) (c), 234.91 (3) (a) (intro.), 234.91 (3) (b), 234.91 (4), 234.91 (5) (a), 234.91 (5) (b) and 234.93 (1) (d); and *to create* 234.90 (4) (b), 234.905 (1) (cm), 234.905 (4) (bn) and 234.91 (3) (a) 3. of the statutes; **relating to:** agricultural loan guarantee programs administered by the Wisconsin Housing and Economic Development Authority.

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

**SECTION 1.** 234.90 (2) (b) of the statutes is amended to read:

234.90 (2) (b) ~~In order to maximize the benefits of the program under this section, the~~ The total outstanding principal amount guarantee of all loans to the borrower that are guaranteed under this section will not exceed an amount set annually, no later than December 1, by the authority that is not less than \$2,000 nor more than \$150,000. ~~For purposes of adjusting the total outstanding principal amount of all loans to a borrower under this paragraph, the authority shall consider changes in the index of prices paid by farmers published by the federal department of agriculture~~ \$250,000.

**SECTION 2.** 234.90 (3) (b) of the statutes is amended to read:

234.90 (3) (b) The amount of the farmer's debts related to the production of the agricultural commodity that is the subject of the guaranteed loan totals at least 40% 40 percent of the amount of the farmer's assets

related to the production of the agricultural commodity that is the subject of the guaranteed loan.

**SECTION 3.** 234.90 (3) (c) of the statutes is amended to read:

234.90 (3) (c) In the judgment of the participating lender, it is reasonably likely that if the farmer receives a guaranteed loan the farmer's assets, cash flow, and managerial ability are sufficient to preclude voluntary or involuntary liquidation before April 1 of the calendar year following the calendar year in which the participating lender granted the end of the loan term.

**SECTION 4.** 234.90 (3g) (b) of the statutes is amended to read:

234.90 (3g) (b) In the judgment of the participating lender, it is reasonably likely that if the farmer receives a guaranteed loan the farmer's assets, cash flow, and managerial ability are sufficient to preclude voluntary or involuntary liquidation before April 1 of the calendar year following the calendar year in which the participating lender granted the end of the loan term.

**SECTION 5.** 234.90 (3n) (b) of the statutes is amended to read:

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

234.90 (3n) (b) The proceeds of a guaranteed loan may be used to refinance a guaranteed loan that has been refinanced one time if at least ~~60%~~ 60 percent of the principal amount of the refinanced guaranteed loan has been repaid and the total guarantee amount to the borrower under this section after the refinancing is no more than the amount permitted under sub. (2) (b).

**SECTION 6.** 234.90 (4) of the statutes is renumbered 234.90 (4) (a) and amended to read:

234.90 (4) (a) The authority shall may guarantee repayment collection of a percentage, not exceeding 90 percent, of the principal, ~~if less than \$50,000, or 80 percent of the principal, if \$50,000 or more,~~ of any agricultural production loan eligible for guarantee under sub. (2) made to a farmer eligible for a guaranteed loan under sub. (3) or (3g).

**SECTION 7.** 234.90 (4) (b) of the statutes is created to read:

234.90 (4) (b) The authority may extend a guarantee under this section beyond the original term of the guaranteed loan if the guaranteed loan is part of a loan workout agreement.

**SECTION 8.** 234.90 (5) of the statutes is amended to read:

234.90 (5) INTEREST REDUCTION. If at the time of origination or extension the interest rate on a guaranteed loan and the prime lending rate as reported by the federal reserve board in federal reserve statistical release H. 15 each equals or exceeds ~~10%~~ 10 percent, the authority shall may pay, from the moneys in the Wisconsin development reserve fund, to the participating lender making the loan, an amount equal ~~to 2%~~ that is no more than 2 percent of the principal amount of the loan.

**SECTION 9.** 234.905 (title) of the statutes is amended to read:

**234.905 (title) Agricultural production drought disaster assistance loan guarantees.**

**SECTION 10.** 234.905 (1) (b) (intro.) of the statutes is amended to read:

234.905 (1) (b) (intro.) “Agricultural production ~~drought~~ disaster assistance loan” means a loan to a farmer to finance extraordinary ~~drought-related~~ disaster-related costs, including the cost of any of the following:

**SECTION 11.** 234.905 (1) (b) 1. of the statutes is amended to read:

234.905 (1) (b) 1. Fertilizer, seed, fuel, pesticides, tillage services, crop insurance, or any other service or consumable good necessary to produce an agricultural commodity to replace or supplement an agricultural commodity adversely affected by ~~drought~~ disaster conditions.

**SECTION 12.** 234.905 (1) (b) 2. of the statutes is amended to read:

234.905 (1) (b) 2. Water delivery in connection with agricultural commodities adversely affected by ~~drought~~ disaster conditions.

**SECTION 13.** 234.905 (1) (b) 3. of the statutes is amended to read:

234.905 (1) (b) 3. Feed and associated expenses for animals to supplement feed supplies adversely affected by ~~drought~~ disaster conditions.

**SECTION 14.** 234.905 (1) (cm) of the statutes is created to read:

234.905 (1) (cm) “Disaster” means an act of nature for which the governor issues an executive order declaring a state of emergency for the state or any portion of the state under s. 323.10.

**SECTION 15.** 234.905 (1) (e) of the statutes is amended to read:

234.905 (1) (e) “Guaranteed loan” means an agricultural production ~~drought~~ disaster assistance loan on which the authority guarantees collection.

**SECTION 16.** 234.905 (1) (f) of the statutes is amended to read:

234.905 (1) (f) “Participating lender” means a bank, production credit association, credit union, savings bank, savings and loan association or other person who makes agricultural production ~~drought~~ disaster assistance loans and who has entered into an agreement with the authority under s. 234.93 (2) (a).

**SECTION 17.** 234.905 (2) (intro.), (a), (b), (c), (d), (f) and (g) of the statutes are amended to read:

234.905 (2) ELIGIBLE LOANS. (intro.) An agricultural production ~~drought~~ disaster assistance loan made by a participating lender is eligible for guarantee of collection from the Wisconsin development reserve fund under s. 234.93 if all of the following apply:

(a) The total ~~of the principal amounts~~ guarantee amount of all guaranteed loans extended to the borrower that are guaranteed under this section will not exceed ~~\$15,000~~ \$25,000.

(b) The rate of interest on the agricultural production ~~drought~~ disaster assistance loan, including any origination fees or other charges relating to the agricultural production ~~drought~~ disaster assistance loan, does not exceed a rate determined by the authority after considering the conditions of the financial market.

(c) The participating lender shall pay directly any supplier of fertilizer, seed, fuel, pesticides, tillage services, crop insurance, animal feed, water or other service or consumable good necessary to produce an agricultural commodity, if the borrower obtains the agricultural production ~~drought~~ disaster assistance loan to pay that supplier.

(d) The participating lender obtains security for repayment of the agricultural production ~~drought~~ disaster assistance loan or follows other procedures required by the authority to secure repayment of the agricultural production ~~drought~~ disaster assistance loan.

(f) The proceeds of the agricultural production ~~drought~~ disaster assistance loan may not be applied to the outstanding balance of any other loan.

(g) The proceeds of the agricultural production drought ~~disaster~~ assistance loan may not be used to refinance a loan made under this section.

**SECTION 18.** 234.905 (2) (e) of the statutes is repealed.

**SECTION 19.** 234.905 (3) (a) of the statutes is amended to read:

234.905 (3) (a) The farmer does not meet the participating lender's minimum standards of creditworthiness to receive an agricultural production drought ~~disaster~~ assistance loan in the normal course of the participating lender's business.

**SECTION 20.** 234.905 (3) (b) of the statutes is amended to read:

234.905 (3) (b) The participating lender projects the amount of the farmer's debts to be approximately 40% or more related to the agricultural production that is the subject of the loan totals at least 40 percent of the amount of the farmer's assets related to the agricultural production that is the subject of the loan.

**SECTION 21.** 234.905 (3) (e) of the statutes is amended to read:

234.905 (3) (e) The participating lender projects that the farmer will lose approximately 40% 40 percent or more of the farmer's ~~erops~~ agricultural commodities because of drought conditions a disaster.

**SECTION 22.** 234.905 (3m) of the statutes is repealed.

**SECTION 23.** 234.905 (4) (a) of the statutes is amended to read:

234.905 (4) (a) ~~Except as provided in par. (b), on or before June 30, 1989, the~~ The authority shall may guarantee collection of 90% up to 90 percent of the principal of any agricultural production drought ~~disaster~~ assistance loan eligible for guarantee under sub. (2) made to a farmer eligible for a guaranteed loan under sub. (3).

**SECTION 24.** 234.905 (4) (b) of the statutes is repealed.

**SECTION 25.** 234.905 (4) (bn) of the statutes is created to read:

234.905 (4) (bn) The term of the authority's loan guarantee under this section may not exceed 3 years, unless the guaranteed loan is included in a loan workout agreement.

**SECTION 26.** 234.905 (5) of the statutes is amended to read:

234.905 (5) **INTEREST REDUCTION.** The authority shall may pay, from the moneys in the Wisconsin development reserve fund, to each participating lender an amount equal to 3.5% that is no more than 3.5 percent of the principal amount of any guaranteed loan to reduce interest payments on the guaranteed loan paid by a farmer, ~~except that the authority shall make interest reduction payments for no more than 3 years of the repayment term of any guaranteed loan.~~

**SECTION 27.** 234.907 (2) (c) of the statutes is amended to read:

234.907 (2) (c) Subject to par. (cm), the total ~~princi-~~ pal guarantee amount of all loans to the borrower that are guaranteed under this section will not exceed \$750,000.

**SECTION 28.** 234.907 (2) (cm) of the statutes is amended to read:

234.907 (2) (cm) The total ~~principal~~ guarantee amount ~~extended of all loans~~ to the borrower ~~for loans~~ that are guaranteed under this section and that are made for working capital or an item necessary to, or used to, commercially harvest whitefish from Lake Superior will not exceed \$100,000.

**SECTION 29.** 234.907 (2) (f) of the statutes is amended to read:

234.907 (2) (f) ~~The loan term does not extend beyond of the authority's guarantee under this section is not longer than 15 years after the date that the participating lender disburses the loan unless the loan is extended by the authority. This paragraph does not apply to a loan that is part of a loan workout agreement.~~

**SECTION 30.** 234.907 (3) of the statutes is amended to read:

234.907 (3) **GUARANTEE OF COLLECTION.** The authority shall may guarantee collection of ~~a percentage, not exceeding 90%, up to 90 percent~~ of the principal of any loan eligible for a guarantee under sub. (2). The authority shall establish the percentage of the unpaid principal of an eligible loan that will be guaranteed, using the procedures described in the guarantee agreement under s. 234.93 (2) (a). The authority may establish a single percentage for all guaranteed loans or establish different percentages for eligible loans on an individual basis.

**SECTION 31.** 234.91 (2) (c) of the statutes is amended to read:

234.91 (2) (c) The total ~~outstanding~~ guaranteed ~~princi-~~ pal guarantee amount of all loans made to the borrower that are guaranteed under this section will not exceed \$200,000, or \$100,000 if any of the loans is affected by any other state or federal credit assistance program.

**SECTION 32.** 234.91 (3) (a) (intro.) of the statutes is amended to read:

234.91 (3) (a) (intro.) The farmer is ~~either~~ any of the following:

**SECTION 33.** 234.91 (3) (a) 3. of the statutes is created to read:

234.91 (3) (a) 3. A person who intends to operate farm premises and maintain the family farmstead on the farm premises and who has previous experience with the operation of the specific farm premises.

**SECTION 34.** 234.91 (3) (b) of the statutes is amended to read:

234.91 (3) (b) The amount of the farmer's debts related to the agricultural assets, including the loan, is at least 40 percent and does not exceed 85% 85 percent of the farmer's assets, including the value of the agricultural assets to be acquired, or the improvements to be made, with the proceeds of the loan. The authority shall con-

sider only the farmer's debts and assets that are related to the agricultural assets that are the subject of the loan.

**SECTION 35.** 234.91 (4) of the statutes is amended to read:

234.91 (4) ORIGINATION FEES. The authority shall may charge a guarantee origination fee on every loan guaranteed under this section. The amount of the fee shall be 1% may not exceed 1.5 percent of a loan's guaranteed principal. The participating lender shall collect the fee and remit it to the authority. The authority shall deposit all fees received under this subsection in the Wisconsin development reserve fund to be used to guarantee loans under this section.

**SECTION 36.** 234.91 (5) (a) of the statutes is amended to read:

234.91 (5) (a) The authority shall may guarantee collection of a percentage of the principal of a loan eligible for a guarantee under sub. (2). The principal total guarantee amount of an eligible loan that the authority may guarantee all loans to the farmer that are guaranteed under this section may not exceed the borrower's net worth or 25% 25 percent of the total loan amount, whichever is less, calculated at the time the loan is made.

**SECTION 37.** 234.91 (5) (b) of the statutes is amended to read:

234.91 (5) (b) The term of ~~a~~ the authority's loan guarantee under this section may not exceed is not longer

than 10 years. This paragraph does not apply to a guarantee of a loan that is part of a loan workout agreement.

**SECTION 38.** 234.93 (1) (d) of the statutes is amended to read:

234.93 (1) (d) ~~To be used for guaranteeing loans under s. 234.91, fees~~ Fees collected under s. 234.91 (4).

**SECTION 39. Initial applicability.**

(1) AGRICULTURAL PRODUCTION DISASTER ASSISTANCE LOAN GUARANTEES. The treatment of section 234.905 (title), (1) (b) (intro.), 1., 2., and 3., (cm), (e), and (f), (2) (intro.), (a), (b), (c), (d), (e), (f), and (g), (3) (a), (b), and (e), (3m), (4) (a), (b), and (bn), and (5) of the statutes first applies to a loan guarantee for which an application is made under section 234.905 of the statutes on the effective date of this subsection.

(2) AGRICULTURAL PRODUCTION, AGRICULTURAL DEVELOPMENT, AND FARM ASSETS REINVESTMENT MANAGEMENT LOAN GUARANTEES. The treatment of sections 234.90 (2) (b) and (h), (3) (b) and (c), (3g) (b), (3n) (b), (4), and (5), 234.907 (2) (c), (cm), and (f) and (3), 234.91 (2) (c), (3) (a) (intro.) and 3. and (b), (4), and (5) (a) and (b), and 234.93 (1) (d) of the statutes first applies to a loan guarantee for which an application is made under section 234.90, 234.907, or 234.91 of the statutes on the first day of the calendar year after the effective date of this subsection.