

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 297

Introduced by Dubas, 34.

Read first time January 15, 2009

Committee: Banking, Commerce and Insurance

A BILL

- 1 FOR AN ACT relating to finance; to adopt the Nebraska Beginning
- 2 Farmer and Small Business Linked Deposit Loan Act; and to
- 3 provide an operative date.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 11 of this act shall be known
2 and may be cited as the Nebraska Beginning Farmer and Small
3 Business Linked Deposit Loan Act.

4 Sec. 2. For purposes of the Nebraska Beginning Farmer and
5 Small Business Linked Deposit Loan Act:

6 (1) Eligible beginning farmer means a beginning farmer
7 or livestock producer who is a resident individual as defined in
8 section 77-2714.01, who has entered farming or livestock production
9 or is seeking entry into farming or livestock production, who
10 intends to farm or raise crops or livestock on land located within
11 the state borders of Nebraska, and who meets the eligibility
12 guidelines established in section 3 of this act;

13 (2) Eligible lending institution means:

14 (a) A bank which is chartered to conduct a bank in this
15 state pursuant to the Nebraska Banking Act or any national bank
16 authorized to do business in this state that agrees to participate
17 in the Nebraska Beginning Farmer and Small Business Linked Deposit
18 Loan Act and is eligible to be a depository of funds available for
19 investment as designated by the state investment officer;

20 (b) Any state-chartered or federally chartered building
21 and loan association authorized to do business in this state that
22 agrees to participate in the Nebraska Beginning Farmer and Small
23 Business Linked Deposit Loan Act and is eligible to be a depository
24 of funds available for investment as designated by the state
25 investment officer;

1 (3) Eligible small business means any individual,
2 partnership, limited partnership, limited liability company,
3 limited liability partnership, or corporation headquartered in
4 Nebraska that employs fewer than ten employees doing business in
5 a municipality, county, unincorporated area within a county, or
6 census tract in Nebraska that has (a) an unemployment rate which
7 exceeds the statewide average unemployment rate, (b) a per capita
8 income below the statewide average per capita income, or (c) had a
9 population decrease between the two most recent federal decennial
10 censuses;

11 (4) Linked deposit means an investment account of funds
12 available for investment placed by the State Treasurer pursuant
13 to the Nebraska Beginning Farmer and Small Business Linked Deposit
14 Loan Act with an eligible lending institution for the purpose of
15 carrying out the intent of the act; and

16 (5) Linked deposit loan package means forms and
17 information provided by the State Treasurer to eligible lending
18 institutions for the purpose of applying for a linked deposit.

19 Sec. 3. An eligible beginning farmer shall be an
20 individual who: (1) Has a net worth of not more than five
21 hundred thousand dollars, including any holdings by a spouse or
22 dependent, based on fair market value; (2) provides the majority of
23 the day-to-day physical labor and management of his or her farming
24 or livestock production operations; (3) has adequate farming or
25 livestock production experience or demonstrates knowledge in the

1 type of farming or livestock production for which he or she
2 seeks assistance; (4) demonstrates a profit potential by submitting
3 projected earnings statements and agrees that farming or livestock
4 production is intended to become his or her principal source of
5 income; and (5) demonstrates a need for assistance.

6 Sec. 4. (1) The State Treasurer is hereby authorized to
7 administer a linked deposit loan program pursuant to the Nebraska
8 Beginning Farmer and Small Business Linked Deposit Loan Act. The
9 program shall be for the purpose of providing incentives for making
10 loans from linked deposits, through eligible lending institutions,
11 to eligible beginning farmers and eligible small businesses.

12 (2) The State Treasurer shall submit an annual report
13 outlining the status of the program to the Governor and
14 Legislature.

15 Sec. 5. (1) The State Treasurer may disseminate linked
16 deposit loan packages to eligible lending institutions.

17 (2) A linked deposit loan application shall be completed
18 by an eligible beginning farmer or eligible small business seeking
19 to borrow linked deposit funds under the Nebraska Beginning Farmer
20 and Small Business Linked Deposit Loan Act and returned to the
21 State Treasurer. The State Treasurer shall forward the application
22 to an eligible lending institution for consideration.

23 (3)(a) An eligible lending institution that agrees to
24 receive a linked deposit shall accept and review such linked
25 deposit loan application. The eligible lending institution shall

1 apply its usual and prudent lending standards and practices to
2 determine the credit worthiness of eligible beginning farmers and
3 eligible small businesses seeking to borrow linked deposit funds.
4 No single beginning farmer linked deposit loan shall exceed two
5 hundred fifty thousand dollars. No single small business linked
6 deposit loan shall exceed two hundred fifty thousand dollars.
7 The total aggregate amount of beginning farmer and small business
8 linked deposit loans under the linked deposit loan program shall
9 not exceed twenty million dollars pursuant to the act.

10 Sec. 6. (1) Only one eligible beginning farmer linked
11 deposit loan shall be made and be outstanding at any one time
12 to any eligible beginning farmer. No eligible beginning farmer
13 linked deposit loan shall be extended for more than five years or
14 amortized for greater than fifteen years.

15 (2) An eligible beginning farmer shall certify on the
16 linked deposit loan application that the linked deposit loan
17 will be used exclusively for the following expenses involved in
18 the operation of the eligible beginning farmer: Inventory; rent,
19 utilities, insurance, or taxes; equipment purchase, rental, or
20 lease; renovations, repairs, and maintenance of equipment and
21 facilities; or purchase of land and buildings.

22 Sec. 7. (1) Only one eligible small business linked
23 deposit loan shall be made and be outstanding at any one time to an
24 eligible small business. No eligible small business linked deposit
25 loan shall be extended for more than five years or amortized for

1 greater than fifteen years.

2 (2) An eligible small business shall certify on the
3 linked deposit loan application that the linked deposit loan
4 will be used exclusively for the following expenses involved in
5 the operation of the eligible small business: Inventory; rent,
6 utilities, insurance, or taxes; equipment purchase, rental, or
7 lease; renovations, repairs, and maintenance of equipment and
8 facilities; or purchase of land and buildings.

9 Sec. 8. (1) An eligible lending institution may approve
10 or disapprove a linked deposit loan application based on the
11 lending institution's evaluation of the eligible beginning farmer
12 or eligible small business applying for the loan, the amount of the
13 individual loan applied for, and other appropriate considerations.

14 (2) The eligible lending institution shall forward an
15 approved linked deposit loan application to the State Treasurer in
16 the form and manner prescribed and approved by the State Treasurer
17 for final approval by the State Treasurer. The linked deposit loan
18 application shall include information regarding the amount of the
19 linked deposit loan requested by each eligible beginning farmer
20 or eligible small business and such other information regarding
21 each eligible beginning farmer or eligible small business the State
22 Treasurer requires, including a certification by the applicant that
23 such applicant is an eligible beginning farmer or eligible small
24 business.

25 Sec. 9. (1) The State Treasurer may approve or disapprove

1 a linked deposit loan application based upon (a) the State
2 Treasurer's evaluation of whether the linked deposit loan to
3 the eligible beginning farmer or eligible small business meets the
4 purposes of the Nebraska Beginning Farmer and Small Business Linked
5 Deposit Loan Act and (b) the availability of funds. If sufficient
6 funds are not available for every approved linked deposit loan,
7 then the applications shall be considered in the order in which
8 they were received when linked deposit funds are once again
9 available.

10 (2) Once a linked deposit loan application has had
11 final approval from the State Treasurer, the State Treasurer shall
12 certify to the state investment officer the amount required for
13 the linked deposit loan. The state investment officer shall place
14 a linked deposit in the amount certified by the State Treasurer
15 with the eligible lending institution at an interest rate which is
16 two percent below the interest rate provided in section 45-103.
17 Such interest rate for new loans shall be recalculated on the first
18 business day of January, April, July, and October of each year
19 using the rate then in effect. When necessary, the State Treasurer
20 may request the state investment officer to place a linked deposit
21 with an eligible lending institution prior to acceptance of a
22 linked deposit loan application.

23 (3) An eligible lending institution shall enter into
24 a linked deposit loan agreement with the State Treasurer which
25 shall include requirements necessary to implement the purposes of

1 the Nebraska Beginning Farmer and Small Business Linked Deposit
2 Loan Act. Such requirements shall include an agreement by an
3 eligible lending institution to lend an amount equal to the linked
4 deposits to eligible beginning farmers or eligible beginning small
5 businesses seeking to borrow linked deposit funds under the act
6 at an interest rate which is not more than two percent above
7 the interest rate provided in section 45-103. Such interest rate
8 for new loans shall be recalculated on the first business day
9 of January, April, July, and October of each year using the rate
10 then in effect. The agreement may include provisions for the
11 linked deposits to be placed for a maturity considered appropriate
12 in coordination with the underlying eligible beginning farmer or
13 eligible small business loan within the requirements of section 6
14 and 7 of this act. The agreement may include provisions for the
15 reduction of linked deposits in an amount equal to any payment of
16 bank loan principal.

17 Sec. 10. (1) Except as provided in subsection (2) of
18 section 9 of this act, upon the placement of a linked deposit with
19 an eligible lending institution, the eligible lending institution
20 shall fund the linked deposit loan to each approved eligible
21 beginning farmer or eligible small business listed in the linked
22 deposit loan application in accordance with the linked deposit loan
23 agreement between the eligible lending institution and the State
24 Treasurer. The linked deposit loan shall be at an interest rate as
25 provided in section 9 of this act. A certification of compliance

1 with this section in the form and manner as prescribed by the State
2 Treasurer shall be required of an eligible lending institution.

3 (2) The State Treasurer may adopt and promulgate rules
4 and regulations necessary to implement the Nebraska Beginning
5 Farmer and Small Business Linked Deposit Loan Act.

6 Sec. 11. The state or the State Treasurer shall not
7 be liable to any eligible lending institution in any manner for
8 payment of the principal or interest on a linked deposit loan. Any
9 delay in payments or default on a linked deposit loan shall not
10 in any manner affect the linked deposit loan agreement between an
11 eligible lending institution and the State Treasurer.

12 Sec. 12. This act becomes operative on January 1, 2010.