

(4) Legal and regulatory barriers to improved delivery of safe and reliable drinking water supplies to the state's residents and in particular regulating and enforcement overlap between the department and the utilities and transportation commission;

(5) The effect of failing or inadequate water supplies on the ability of an owner to sell, or a buyer to obtain financing to buy, residential real estate in this state;

(6) Staffing levels for both state and local agencies responsible for enforcing the state's drinking water laws, including mechanisms for funding such staff;

(7) Revisions to requirements relating to certification of operators for public water systems, including the utilization state-wide of a system of satellite operators; and

(8) Such other topics as are significant and relevant.

NEW SECTION. Sec. 12. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 13. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 3, 1990.

Passed the House March 1, 1990.

Approved by the Governor March 21, 1990.

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CHAPTER 134

[Substitute Senate Bill No. 6453]

AGRICULTURAL LENDERS—FARMERS HOME ADMINISTRATION LOAN GUARANTY PROGRAM PARTICIPATION

AN ACT Relating to the use of farmers home administration guaranty loan funds; adding a new chapter to Title 31 RCW; prescribing penalties; making an appropriation; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds and declares that nondepository agricultural lenders can enhance their access to working capital for the purpose of financing agricultural borrowers by using the United States farmers home administration loan guaranty program. The farmers home administration loan guaranty program provides financing to agricultural borrowers needing working capital and longer term financing for the purchase of real estate, agricultural production expenses, debt refinancing,

equipment, and the purchase of other fixed assets. Loans can be made to agricultural borrowers by nondepository lenders and guaranteed by the farmers home administration only if the state provides an ongoing opportunity for examination of such entities to confirm good lending practices and solvency.

It is the intent of the legislature to empower the supervisor of banking to examine nondepository agricultural lenders for the purpose of allowing such lenders to qualify for participation in the farmers home administration loan guaranty program.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agricultural lender" means a Washington corporation incorporated under Title 23B or 24 RCW and qualified as such under this chapter and the jurisdiction of the federal government agency sponsoring the loan guaranty program.

(2) "Supervisor" means the state supervisor of banking.

(3) "Loan guaranty program" means the farmers home administration loan guaranty program, or any other government program for which the agricultural lender is eligible and which has as its function the provision, facilitation, or financing of agricultural business operations.

NEW SECTION. Sec. 3. (1) The supervisor shall administer this chapter. The supervisor may issue orders and adopt rules that, in the opinion of the supervisor, are necessary to execute, enforce, and effectuate the purposes of this chapter. Rules to enforce the provisions of this chapter shall be adopted under the administrative procedure act, chapter 34.05 RCW.

(2) An application filed with the supervisor under this chapter shall be in such form and contain such information as required by the supervisor by rule and be consistent with the requirements of the loan guaranty program.

(3) After the supervisor is satisfied that the applicant has satisfied all the conditions necessary for approval, the supervisor shall issue a license to the applicant authorizing it to be an agricultural lender under this chapter.

(4) Any change of control of an agricultural lender shall be subject to the approval of the supervisor. Such approval shall be subject to the same criteria as the criteria for approval of the original license. For purposes of this subsection, "change of control" means directly or indirectly, alone or in concert with others, to own, control, or hold the power to vote ten percent or more of the outstanding voting stock of an agricultural lender or the power to elect or control the election of a majority of the board of directors of an agricultural lender.

(5) The supervisor may deny, suspend, or revoke a license if the agricultural lender violates any provision of this chapter or any rules promulgated pursuant to this chapter.

NEW SECTION. Sec. 4. (1) An agricultural lender may participate in a loan guaranty program. If an agricultural lender participates in a loan guaranty program, the agricultural lender shall comply with the requirements of that program.

(2) An agricultural lender may be incorporated under either the Washington business corporation act, Title 23B RCW, or the Washington nonprofit corporation act, Title 24 RCW. In addition to the powers and privileges provided to an agricultural lender by this chapter, an agricultural lender has all the powers and privileges conferred by its incorporating statute that are not inconsistent with or limited by this chapter.

NEW SECTION. Sec. 5. (1) The supervisor is authorized to charge a fee for the estimated direct and indirect costs for examination and supervision by the supervisor of an agricultural lender or a subsidiary of an agricultural lender. Excess examiner time shall be billed at a reasonable rate established by rule.

(2) All such fees shall be deposited in the banking examination fund and administered consistent with the provisions of RCW 43.19.095.

NEW SECTION. Sec. 6. (1) An agricultural lender shall keep books, accounts, and other records in such form and manner as required by the supervisor. These records shall be kept at such place and shall be preserved for such length of time as specified by the supervisor by rule.

(2) Not more than ninety days after the close of each calendar year, or within a period specified by the supervisor, an agricultural lender shall file with the supervisor a report containing the following:

(a) Financial statements, including the balance sheet, the statement of income or loss, the statement of changes in capital accounts, and the statement of changes in financial position; and

(b) Other information that the supervisor may require.

(3) Each agricultural lender shall provide for a loan loss reserve sufficient to cover projected loan losses that are not guaranteed by the United States government or any agency thereof.

NEW SECTION. Sec. 7. (1) The supervisor, the deputy supervisor, or a bank examiner shall visit each agricultural lender at least every twenty-four months for the purpose of assuring that the agricultural lender remains in compliance with and qualified for the loan guaranty program.

(a) The supervisor may accept timely audited financial statements and other timely reports the supervisor determines to be relevant and accurate as part of a full and complete examination of the agricultural lender. The supervisor shall make an independent review of loans guaranteed by the loan guaranty program.

(b) The agricultural lender shall be exempt from examination under this subsection if it terminates its activities under the loan guaranty program and no loans guaranteed by the loan guaranty program remain on the

books. This exemption becomes effective upon notification to the supervisor. The supervisor shall confirm termination of activities under the loan guaranty program with the appropriate federal agency.

(c) All examination reports and all information obtained by the supervisor and the supervisor's staff in conducting examinations of an agricultural lender are confidential to the same extent bank examinations are confidential under RCW 30.04.075.

(d) All examination reports may be shared with other state or federal agencies consistent with chapter 30.04 RCW.

(2) A director, officer, or employee of an agricultural lender or of a subsidiary of an agricultural lender being examined by the supervisor or a person having custody of any of the books, accounts, or records of the agricultural lender or of the subsidiary shall facilitate the examination so far as it is in his or her power to do so.

(3) If in the supervisor's opinion it is necessary in the examination of an agricultural lender or of a subsidiary of an agricultural lender, the supervisor may retain any certified public accountant, attorney, appraiser, or other person to assist the supervisor. The agricultural lender being examined shall pay the fees of a person retained by the supervisor under this subsection.

NEW SECTION. Sec. 8. (1) The supervisor shall adopt rules to enforce the intent and purposes of this chapter. Such rules shall include, but not be limited to, the following:

- (a) Disclosure of conflicts of interest;
- (b) Prohibition of false statements made to the supervisor on any form required by the supervisor or during any examination; or
- (c) Prevention of fraud and undue influence within an agricultural lender.

(2) A violation of any provision of this chapter or any rule of the supervisor adopted under this chapter by an agent, employee, officer, or director of the agricultural lender shall be punishable by a fine, established by the supervisor, not to exceed one hundred dollars for each offense. Each day's continuance of the violation shall be a separate and distinct offense. All fines shall be credited to the banking examination fund.

(3) The supervisor may issue and serve upon an agricultural lender a notice of charges if, in the opinion of the supervisor, the agricultural lender is violating or has violated the law, rule, or any condition imposed in writing by the supervisor or any written agreement made by the supervisor.

(a) The notice shall contain a statement of the facts constituting the alleged violation or practice and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the agricultural lender. The hearing shall be set not earlier than ten days nor later than thirty days after service of the notice unless a later date is set by the supervisor at the request of the agricultural lender.

Unless the agricultural lender appears at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the cease and desist order. In the event of consent or if, upon the record made at the hearing, finds that any violation or practice specified in the notice of charges has been established, the supervisor may issue and serve upon the agricultural lender an order to cease and desist from the violation or practice. The order may require the agricultural lender and its directors, officers, employees, and agents to cease and desist from the violation or practice and may require the agricultural lender to take affirmative action to correct the conditions resulting from the violation or practice.

(b) A cease and desist order shall become effective at the expiration of ten days after the service of the order upon the agricultural lender concerned, except that a cease and desist order issued upon consent shall become effective at the time specified in the order and shall remain effective as provided in the order unless it is stayed, modified, terminated, or set aside by action of the supervisor or a reviewing court.

NEW SECTION. Sec. 9. If, in the opinion of the supervisor, an agricultural lender violates or there is reasonable cause to believe that an agricultural lender is about to violate any provision of this chapter or any rule adopted under this chapter, the supervisor may bring an action in the appropriate court to enjoin the violation or to enforce compliance. Upon a proper showing, a restraining order, preliminary or permanent injunction, shall be granted, and a receiver or a conservator may be appointed for the agricultural lender or the agricultural lender's assets.

NEW SECTION. Sec. 10. All agricultural lenders shall notify their members at the time of membership and annually thereafter that their investment in the agricultural lender, although regulated by the supervisor, is not insured, guaranteed, or protected by any federal or state agency.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid or, if in the written opinion of the farmers home administration, is contrary to the intent and purposes of the loan guaranty program, the supervisor shall not enforce such provision, but the remainder of the act or the application of the provision to other persons or circumstances shall not be affected.

NEW SECTION. Sec. 12. Sections 1 through 11 of this act shall constitute a new chapter in Title 31 RCW.

NEW SECTION. Sec. 13. The sum of five thousand dollars, or as much thereof as may be necessary, is appropriated from the general fund to the bank examination fund for the biennium ending June 30, 1991, for the regulatory purposes of this act.

NEW SECTION. Sec. 14. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state

government and its existing public institutions, and shall take effect immediately.

- Passed the Senate February 9, 1990.
- Passed the House February 28, 1990.
- Approved by the Governor March 21, 1990.
- Filed in Office of Secretary of State March 21, 1990.

CHAPTER 135

[Substitute House Bill No. 2999]

COMMUNITY COLLEGE OFFICERS AND EMPLOYEES—COMPENSATION

AN ACT Relating to compensation for community college officers and employees; reenacting and amending RCW 28B.50.140; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 6, chapter 14, Laws of 1979 as last amended by section 14, chapter 314, Laws of 1987 and by section 1, chapter 407, Laws of 1987 and RCW 28B.50.140 are each reenacted and amended to read as follows:

Each community college board of trustees:

- (1) Shall operate all existing community colleges and vocational-technical institutes in its district;
- (2) Shall create comprehensive programs of community college education and training and maintain an open-door policy in accordance with the provisions of RCW 28B.50.090(3);
- (3) Shall employ for a period to be fixed by the board a college president for each community college(~~(, a director for each vocational-technical institute or school operated by a community college, a district president, if deemed necessary by the board, in the event there is more than one college and/or separated institute or school located in the district,))~~ district, and where applicable community college presidents within the district, and fix their duties and compensation, which may include elements other than salary. Compensation under this subsection shall not affect but may supplement retirement, health care, and other benefits that are otherwise applicable to the presidents as state employees. The board shall also employ for a period to be fixed by the board members of the faculty and such other administrative officers and other employees as may be necessary or appropriate and fix their salaries and duties. Compensation and salary increases under this subsection shall not exceed the amount or percentage established for those purposes in the state appropriations act by the legislature as allocated to the board of trustees by the state board for community college education. The state board for community college education shall adopt rules defining the permissible elements of compensation under this subsection;
- (4) May establish, under the approval and direction of the college board, new facilities as community needs and interests demand. However,