

## **IC 5-28-31**

### **Chapter 31. Agricultural Loan and Rural Development Project Guarantee Fund**

#### **IC 5-28-31-1**

##### **"Agriculture"; "agricultural enterprise"**

Sec. 1. As used in this chapter, "agriculture" or "agricultural enterprise" includes:

- (1) the real and personal property constituting farms;
- (2) acquiring, enlarging, or improving farms, including farm buildings, land and water development, use, and conservation;
- (3) recreational uses and facilities when incidental to farming;
- (4) enterprises incidental to farming needed to supplement farm income;
- (5) purchasing livestock, poultry, and farm equipment;
- (6) purchasing feed, seed, fertilizer, insecticides, and farm supplies and other essential farm operating expenses including cash rent; and
- (7) other farm and home needs, including farm subsistence.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-2**

##### **"Authority"**

Sec. 2. As used in this chapter, "authority" refers to the Indiana finance authority created by IC 4-4-11.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-3**

##### **"Bonds"**

Sec. 3. As used in this chapter, "bonds" has the meaning set forth in IC 4-4-10.9-2.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-4**

##### **"Borrower"**

Sec. 4. As used in this chapter, "borrower" means a person who receives a loan under this chapter.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-5**

##### **"Contracting party"**

Sec. 5. As used in this chapter, "contracting party" means a party to a lease, sales contract, or loan agreement except the authority.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-6**

##### **"Equipment"**

Sec. 6. As used in this chapter, "equipment" means a capital item.

*As added by P.L.162-2007, SEC.26.*

**IC 5-28-31-7****"Guarantee fund"**

Sec. 7. As used in this chapter, "guarantee fund" refers to the agricultural loan and rural development project guarantee fund established by section 32 of this chapter.

*As added by P.L.162-2007, SEC.26.*

**IC 5-28-31-8****"Guarantee program"**

Sec. 8. As used in this chapter, "guarantee program" means the program of the corporation described in this chapter under which the corporation guarantees certain portions of particular mortgages, security agreements, or leases with funds available from its agricultural loan and rural development project guarantee fund.

*As added by P.L.162-2007, SEC.26.*

**IC 5-28-31-9****"Lease"**

Sec. 9. As used in this chapter, "lease" means a lease containing:

- (1) an option to purchase the agricultural enterprise for a nominal sum upon payment in full or provision for payment in full of all bonds issued in connection with the agricultural enterprise or rural development project, all interest on the bonds, and all other expenses in connection with the agricultural enterprise or rural development project; and
- (2) a lease containing an option to purchase the agricultural enterprise or rural development project at any time, as provided in the lease, upon payment of the purchase price sufficient to pay all bonds issued in connection with the agricultural enterprise or rural development project, all interest on the bonds, and all other expenses incurred in connection with the agricultural enterprise or rural development project but under which payment may be made in the form of one (1) or more notes, debentures, or other secured or unsecured debt obligations of the lessee providing for timely payments, including interest on the notes, debentures, or debt obligations sufficient for these purposes and delivered to the authority or to the trustee under the indenture under which the bonds were issued.

*As added by P.L.162-2007, SEC.26.*

**IC 5-28-31-10****"Lender"**

Sec. 10. As used in this chapter, "lender" means:

- (1) a federal or state chartered bank;
- (2) the Federal Land Bank;
- (3) a production credit association;
- (4) bank for cooperatives;
- (5) a savings association;
- (6) a small business investment company; or

(7) an institution qualified within Indiana to originate and service loans, including an insurance company, credit union, or mortgage loan company.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-11**

##### **"Loan"**

Sec. 11. As used in this chapter, "loan" means a lease, loan agreement, or sale contract.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-12**

##### **"Loan agreement"**

Sec. 12. As used in this chapter, "loan agreement" means an agreement providing for:

- (1) the corporation, or a lender with which the corporation has contracted, to loan the proceeds derived from the issuance of bonds by the authority to one (1) or more contracting parties to be used for agriculture or agricultural enterprises or rural development projects; and
- (2) the repayment of the loan by the contracting party or parties.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-13**

##### **"Loan insurer"**

Sec. 13. As used in this chapter, "loan insurer" means:

- (1) an agency, a department, an administration, or an instrumentality, corporate or otherwise, of or in the United States Department of Housing and Urban Development;
- (2) the Farmers Home Administration of the United States Department of Agriculture;
- (3) the United States Department of Veterans Affairs;
- (4) a private mortgage insurance company; or
- (5) a public or private agency that insures or guarantees loans.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-14**

##### **"Maturity date"**

Sec. 14. As used in this chapter, "maturity date" means the date on which the mortgage or security agreement indebtedness, or lease obligations, would be extinguished if paid in accordance with periodic payments provided for in the mortgage, security agreement, or lease.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-15**

##### **"Mortgage"**

Sec. 15. As used in this chapter, "mortgage" refers to a mortgage on an agricultural enterprise or rural development project, or the unpaid purchase price of real estate under the laws of this state,

together with the credit instruments, if any, that have been secured, including a financing agreement or a financing agreement within the meaning of IC 36-7-12 in connection with real property.

*As added by P.L.162-2007, SEC.26.*

**IC 5-28-31-16**

**"Mortgagee"**

Sec. 16. As used in this chapter, "mortgagee" means the original lender under a mortgage and the original lender's successors and assigns approved by the corporation, including insurance companies, trust companies, banks, investment companies, savings banks, executors, trustees, and other fiduciaries, such as pensions and retirement funds.

*As added by P.L.162-2007, SEC.26.*

**IC 5-28-31-17**

**"Mortgage payments"**

Sec. 17. As used in this chapter, "mortgage payments" means periodic payments called for by the mortgage that cover interest, installments of principal, taxes and assessments, mortgage insurance premiums, and hazard insurance premiums.

*As added by P.L.162-2007, SEC.26.*

**IC 5-28-31-18**

**"Mortgagor"**

Sec. 18. As used in this chapter, "mortgagor" means the original borrower under a mortgage and the original borrower's successors and assigns.

*As added by P.L.162-2007, SEC.26.*

**IC 5-28-31-19**

**"Person"**

Sec. 19. As used in this chapter, "person" means an individual, a partnership, a firm, an association, a joint venture, a limited liability company, or a corporation.

*As added by P.L.162-2007, SEC.26.*

**IC 5-28-31-20**

**"Rural development project"**

Sec. 20. As used in this chapter, "rural development project" includes:

- (1) the acquisition of land;
- (2) interests in land;
- (3) site improvements;
- (4) infrastructure improvements;
- (5) buildings;
- (6) structures;
- (7) rehabilitation, renovation, and enlargement of buildings and structures;
- (8) machinery;

- (9) equipment;
- (10) furnishings; or
- (11) facilities;

or any combination of these, comprising or being functionally related and subordinate to any project (whether manufacturing, commercial, agricultural, agribusiness, or otherwise) for which the development is determined by the corporation to promote, further, enhance, or assist in the growth or maintenance of rural areas in Indiana and to serve the public purposes of the corporation and the authority set forth in this chapter and IC 4-4-11.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-21**

##### **"Sale contract"**

Sec. 21. As used in this chapter, "sale contract" means a contract providing for the sale of one (1) or more agricultural enterprises consisting of real or personal property to one (1) or more contracting parties and includes a contract providing for payment of the purchase price in one (1) or more installments.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-22**

##### **"Security agreement"**

Sec. 22. As used in this chapter, "security agreement" means an agreement which creates or provides for security interest in equipment, including an equipment lease under that program or within the meaning of IC 36-7-12, and a successor provision related to equipment.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-23**

##### **"Taxable bonds"**

Sec. 23. As used in this chapter, "taxable bonds" means bonds the interest on which will not be excluded from the gross income of the owners of the bonds under Section 103 of the Internal Revenue Code.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-24**

##### **"Tax exempt bonds"**

Sec. 24. As used in this chapter, "tax exempt bonds" means bonds the interest on which will be excluded from the gross income of the owners of the bonds under Section 103 of the Internal Revenue Code.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-25**

##### **Findings**

Sec. 25. It is found and declared that:

- (1) There exists in Indiana an inadequate supply of affordable farm credit and agricultural loan financing at interest rates which are consistent with the needs of borrowers for farming

and agricultural enterprises, which if not supplemented will make it difficult for farmers and other agricultural enterprises to maintain or increase present employment levels and to maintain or increase crops, livestock, and business productivity, all of which will have an adverse effect upon the welfare of the citizens of Indiana and the economy of Indiana.

(2) There exists in particular in Indiana a need for affordable farm credit and agricultural loan financing for new and young farmers, for small farmers, for family farm operations, and for farmers for whom loans in the conventional farm credit markets are either not available or not affordable at interest rates found in conventional farm credit markets. Alleviation of the problems described in this subdivision and subdivision (1) as they apply to the agricultural enterprises described in this paragraph is the primary purpose of this chapter.

(3) Such problems cannot be remedied through the operation of private enterprise alone, but can be alleviated through the creation of a governmental body to encourage the investment of private capital in the agricultural sector through the use of public financing as provided by this chapter for the purpose of making loans available at interest rates lower than those available in the conventional farm credit markets, and by coordinating and cooperating with farmers, other agricultural enterprises, and local communities, which is essential to alleviating these conditions and is in the public interest.

(4) Alleviating the conditions and problems by the encouragement of private investment through a governmental body is a public purpose and a use for which revenue bonds may be issued.

(5) The necessity for this chapter to protect the health, safety, morals, and general welfare of all the people of Indiana is declared as a matter of legislative determination.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-26**

##### **Power to make loans to lenders**

Sec. 26. The corporation may make and undertake commitments to make loans to lenders under terms and conditions requiring the proceeds thereof to be used by such lenders to make loans for agricultural enterprises. Loan commitments or actual loans shall originate through and be serviced by any eligible lender.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-27**

##### **Loans may be secured**

Sec. 27. A loan agreement under this chapter may provide for the loans to be secured by or evidenced by one (1) or more notes, debentures, or other secured or unsecured debt obligations of the contracting party or parties delivered to the corporation, the authority, or the trustee under the indenture under which the bonds

were issued.  
*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-28**

##### **Sale contract; title**

Sec. 28. If a sale contract permits title to the project to pass to the contracting party or parties before payment in full of the entire purchase price, it must also provide for the contracting party or parties to deliver to the corporation, the authority, or the trustee under the indenture under which the bonds were issued one (1) or more notes, debentures, or other secured or unsecured debt obligations of the contracting party or parties providing for timely payments, including interest on the notes, debentures, or debt obligations for the balance of the purchase price at or before the passage of title.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-29**

##### **Power to engage in financing activities**

Sec. 29. (a) The corporation may invest in, purchase or make commitments to invest in or purchase, and take assignments or make commitments to take assignments of loans made for agriculture or agricultural enterprises or for refinancing loans made for agriculture or agricultural enterprises. Before investment, purchase, assignment, or commitment, the lender shall certify that the proceeds therefrom or its equivalent will be reinvested in loans or used to make loans to provide agricultural enterprises or, pending reinvestment in such loans or the making of such loans, invested in short term obligations complying with the requirements of this chapter. The corporation shall purchase loans at a purchase price equal to the outstanding principal balance, but the corporation may require a discount from the principal balance or make a payment of a premium to effect a fair rate of return for the lender, as determined by the rate of return on comparable investments under market conditions existing at the time of purchase. In addition to the payment of outstanding principal balance, the corporation shall pay the accrued interest due thereon on the date the loan is delivered against payment therefor or on another date as may be established by agreement between the corporation and the selling lender.

(b) The corporation may not invest in, purchase, or make commitments to invest in or purchase, and take assignments or make commitments to take assignments of loans made for the construction, rehabilitation, or purchase of real property unless the borrower, in a written contract separate from the mortgage, promises that for a period of ten (10) years from the date of the loan the borrower will not convey the real property without a written release from the corporation. The corporation shall record the contract in the same manner as a mortgage on real property, and when recorded the contract constitutes an absolute bar on the alienation of the property until ten (10) years after the date of the mortgage or until released in

writing by the corporation. The corporation may not release a contract under this subsection unless the release is compatible with section 25 of this chapter.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-30**

##### **Lender certifications**

Sec. 30. Before exercising any of the powers authorized in sections 26 and 29 of this chapter, the corporation shall require the lender to certify and agree that:

- (1) the loan is or, if the loan has not been made, will at the time of making be in all respects a prudent investment; and
- (2) the lender will use the proceeds of the loan, investment sale, or assignment within a reasonable period of time to make loans or purchase loans to provide agricultural enterprises or, if the lender has made a commitment to make loans to provide agricultural enterprises on the basis of a commitment from the corporation to purchase the loans, the lender will make the loans and sell the loans to the corporation within a reasonable time.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-31**

##### **Additional security provisions**

Sec. 31. Before exercising any of the powers conferred by sections 26 and 29 of this chapter, the corporation may:

- (1) require that the loan involved be:
  - (A) insured by a loan insurer; or
  - (B) guaranteed by a loan guarantor or the corporation under sections 32 through 43 of this chapter;
- (2) require any type of security that the corporation considers reasonable and necessary; or
- (3) authorize the reservation of funds by lenders in the amount and subject to conditions that the corporation considers reasonable and necessary under this chapter.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-32**

##### **Agricultural loan and rural development project guarantee fund**

Sec. 32. The agricultural loan and rural development project guarantee fund is established. The corporation shall use the guarantee fund as a nonlapsing, revolving fund for carrying out the provisions of the guarantee program. The corporation may expend money from the guarantee fund as the authority considers appropriate to carry out the purposes of this chapter and IC 4-4-11. The guarantee fund consists of the money appropriated to the guarantee fund by the general assembly, and money, property, and other things of value contributed to the guarantee fund by any other source. To this sum shall be charged those expenses of the corporation attributable and allocated by the corporation to the corporation's



guarantee program, including interest, principal, and lease payments required by loan or lease defaults. To this sum shall be credited that income of the corporation attributable and allocated by the corporation to the corporation's guarantee program, including guarantee premiums.

*As added by P.L.162-2007, SEC.26.*

### **IC 5-28-31-33**

#### **Guarantees; secured loans**

Sec. 33. Subject to the conditions set forth in section 34 of this chapter and the other provisions of this chapter, if the corporation makes a written finding that:

- (1) the guarantee of a particular loan secured by, or lease of, real property or tangible or intangible personal property to or for the benefit of any agricultural enterprise or rural development project would tend to accomplish the purposes of this chapter, including the creation or retention of employment in Indiana through the guarantee of the lease;
- (2) the proposed borrower or lessee cannot obtain the loan or lease upon reasonable terms; and
- (3) the proposed borrower, lessee, lender, or lessor has filed an application on a form prescribed by the corporation;

the corporation may, under its guarantee program, guarantee the loan or lease upon the terms and conditions that the corporation prescribes.

*As added by P.L.162-2007, SEC.26.*

### **IC 5-28-31-34**

#### **Guarantees; conditions**

Sec. 34. The conditions referred to in section 33 of this chapter are as follows:

- (1) No new or additional guarantee of a loan or lease under section 33, 35, or 40 of this chapter may be entered into if the guarantee would cause the outstanding aggregate guarantee obligations with respect to all loans and leases guaranteed under sections 33, 35, and 40 of this chapter to exceed eight (8) times the amount of money in the guarantee fund.
- (2) The amount of all guarantees by the corporation of loans or leases to or for the benefit of any single agricultural enterprise or rural development project may not exceed three hundred thousand dollars (\$300,000), less the outstanding aggregate principal balance under any loans made and owed to the corporation under section 40 of this chapter to or for the benefit of the enterprise or rural development project.
- (3) A guarantee of a loan secured by either real estate or a real estate lease may not exceed ninety percent (90%) of the unpaid principal balance of the loan from time to time outstanding or ninety percent (90%) of the amount of any lease payment, as applicable, and the original principal amount of the loan or the total amount of the lease payments, as applicable, may not

exceed ninety percent (90%) of the appraised fair market value of the real estate.

(4) A guarantee of a loan secured by personal property or of a personal property lease may not exceed seventy-five percent (75%) of the unpaid principal balance of the loan from time to time outstanding or seventy-five percent (75%) of the amount of any lease payment, as applicable, and the original principal amount of the loan or the total amount of the lease payments, as applicable, may not exceed seventy-five percent (75%) of the appraised fair market value of the personal property.

(5) A guarantee involving both real estate and personal property may not exceed the percentage proportionate to each type of property.

(6) To be eligible for a guarantee under this section, a loan or lease must:

(A) be one that is to be made to and held by a lender or lessor approved by the corporation as responsible and able to service the loan or lease properly;

(B) involve a principal obligation or lease payments, as applicable, which may include initial service charges and appraisal, inspection, and other fees approved by the corporation;

(C) have a maturity or term satisfactory to the corporation but in no case later than twenty (20) years after the date of the guarantee;

(D) contain payment terms satisfactory to the corporation requiring periodic payments by the developer or user, including principal and interest payments, cost of local property taxes and assessments, land lease rentals, if any, insurance on the property, as applicable, and the guarantee premiums that are fixed by the corporation; and

(E) contain terms and provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens, and other matters that the corporation prescribes.

*As added by P.L.162-2007, SEC.26.*

### **IC 5-28-31-35**

#### **Guarantees; unsecured loans**

Sec. 35. The corporation may guarantee an unsecured loan for working capital purposes if the corporation determines, under criteria that the corporation establishes, that:

(1) the loan for working capital is for an agricultural enterprise or a rural development project; and

(2) the loan for working capital will lead directly to increased production or job creation or retention through sales of products or provision of services to federal, state, or local government or private business or individuals or through exports to foreign markets.

The working capital loan guarantee may not exceed two hundred thousand dollars (\$200,000) for any single agricultural enterprise or rural development project and may be in addition to any other guarantees of the corporation under this section. The guaranteed terms must include a time limit for working capital loan guarantees that may not exceed eighteen (18) months. However, the guarantees are renewable. A working capital loan guarantee may not exceed eighty percent (80%) of the unpaid principal balance from time to time outstanding of the loan being guaranteed. The corporation may impose additional terms that the corporation considers appropriate for any particular agricultural enterprise or rural development project.

*As added by P.L.162-2007, SEC.26.*

### **IC 5-28-31-36**

#### **Guarantee premiums**

Sec. 36. The corporation may fix guarantee premiums for the guarantee under this chapter of any loan or lease outstanding at the beginning of each year or at the time the guarantee is entered into, and the corporation may fix loan application, placement, origination, commitment, administrative, processing, or other fees or charges in connection with the powers of the corporation under section 40 of this chapter. These premiums, fees, or charges may be payable in amounts or based upon formulas established by the corporation and may be payable, at the election of the corporation, in whole or in part, in the form of cash, shares of stock, warrants for the purchase of shares of stock, or other securities, property, or rights acceptable to the corporation. These premiums, fees, or charges are payable by the borrower or user to the corporation in a manner prescribed by the corporation.

*As added by P.L.162-2007, SEC.26.*

### **IC 5-28-31-37**

#### **Letters of credit**

Sec. 37. Any guarantee made by the corporation under section 33, 35, or 40 of this chapter may be effected or enhanced, in whole or in part, through the provision by the corporation of a letter of credit or an equivalent form of credit enhancement instrument. However, the maximum principal payment obligation of the corporation under the credit instrument, as the credit instrument may be effective from time to time, is the amount of the guarantee or part of the guarantee made under section 33, 35, or 40 of this chapter and for purposes of the limitations on the amount of guarantees under section 33, 35, or 40 of this chapter. The term of any letter of credit may not exceed the respective terms established for guarantees or loans under sections 34, 35, and 40 of this chapter.

*As added by P.L.162-2007, SEC.26.*

### **IC 5-28-31-38**

#### **Legal investments**

Sec. 38. Notwithstanding any other law, loans or leases guaranteed or made by the corporation or the authority under this chapter are legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, executors, trustees and other fiduciaries, and pension or retirement funds, as well as the board for depositories.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-39**

##### **Guarantees of bonds issued by the authority; subordination**

Sec. 39. To further the purposes of this chapter and subject to this chapter, the corporation may also use any part of the guarantee fund to guarantee any bonds issued by the authority under section 46 of this chapter or by any authorized issuer under IC 36-7-12. With regard to direct obligations of the authority that are guaranteed by the corporation, the corporation may permit a subordination of any valid security agreement, mortgage, combinations thereof, or other appropriate documents securing the direct obligations if the corporation in its discretion determines that the subordination is reasonably necessary to accomplish the objectives of the authority.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-40**

##### **Power to make direct loans**

Sec. 40. To further the purposes of this chapter, and in addition to the corporation's other powers under this chapter, the corporation may, upon a written finding as described in section 33 of this chapter, also make direct loans from money in the guarantee fund to or for the benefit of any agricultural enterprise or rural development project upon the terms and conditions that the corporation prescribes. Loans made under this section are subject to the following conditions:

(1) No new or additional loan may be made if the loan would cause the then outstanding aggregate guarantee obligations with respect to all loans and leases guaranteed under this section and sections 33 and 35 of this chapter to exceed eight (8) times the amount of money then in the guarantee fund or would cause the then outstanding aggregate principal balance of all loans made under this section and then owing to the corporation to exceed twenty percent (20%) of the amount of money then in the guarantee fund.

(2) The principal amount of a loan under this section to or for the benefit of an enterprise or rural development project may not exceed two hundred thousand dollars (\$200,000), less the then outstanding total guarantee obligations with respect to any loans or leases guaranteed under this section and sections 33 and 35 of this chapter to or for the benefit of that enterprise or rural development project.

(3) With respect to any loan made under this section, a loan agreement with the corporation must contain the following

terms:

- (A) A requirement that the loan proceeds be used for specified purposes consistent with and in furtherance of the purposes of the corporation under this chapter.
  - (B) The term of the loan, which must be not later than twenty (20) years after the date of the loan.
  - (C) The repayment schedule.
  - (D) The interest rate or rates of the loan, which may include variations in the rate, but which may not be less than the amount necessary to cover all expenses of the corporation in making the loan.
  - (E) Any other terms and provisions that the corporation requires.
- (4) Any loan agreement under this section may also contain a requirement that the loan be insured directly or indirectly by a loan insurer or be guaranteed by a loan guarantor and a requirement of any other type or types of security or collateral that the corporation considers to be reasonable or necessary.
- (5) A loan made under this section may be sold by the corporation, and the corporation may permit other lenders to participate in any loan made under this section, at the time or times and upon the terms and conditions that the corporation considers reasonable or necessary. A loan sold or in which other lenders participate may be guaranteed by the corporation upon terms and conditions established by the corporation.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-41**

##### **Proceeds of sales**

Sec. 41. All proceeds received by the corporation or the Indiana finance authority from the disposal by sale or in some other manner of property acquired under this chapter and in connection with the guarantee program or otherwise under this chapter shall be credited to the guarantee fund.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-42**

##### **Guarantee fund nonreverting; exception**

Sec. 42. The money in the guarantee fund does not revert to the state general fund at the end of a fiscal year. However, if the guarantee fund ceases to exist, the money in the guarantee fund attributable to transfers from the state general fund reverts to the state general fund.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-43**

##### **Expenses; reimbursement by borrower**

Sec. 43. Upon the issuance of a loan or a guarantee of a loan or lease under this chapter, any expenses incurred by the corporation in connection with the loan or guarantee or the enterprise or rural

development project for which the loan or guarantee is being made shall be reimbursed to the corporation by the borrower, in the case of a loan (to the extent not provided for under section 36 of this chapter), or by the borrower, lender, lessee, or lessor in the case of a guarantee of a loan or lease, from the proceeds of the loan or the payments under the lease or otherwise.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-44**

##### **Powers in the event of default**

Sec. 44. The corporation may take assignments of notes and mortgages and security agreements securing notes and other forms of security, and attach, seize, or take title by foreclosure or conveyance to any agricultural enterprise or rural development project when a guaranteed loan to the enterprise or rural development project is clearly in default and when in the opinion of the corporation the acquisition is necessary to safeguard the guarantee fund, and sell, or on a temporary basis, lease or rent the agricultural enterprise or rural development project for any use.

*As added by P.L.162-2007, SEC.26.*

#### **IC 5-28-31-45**

##### **Authorization to adopt rules**

Sec. 45. (a) Before carrying out any of the powers granted under section 26, section 29, or sections 32 through 43 of this chapter, the corporation may adopt rules under IC 4-22-2 governing its activities authorized under this chapter, including rules relating to the following:

- (1) Procedures for the submission of requests or invitations and proposals for making loans to lenders and the investment in and purchase, assignment, and sale of loans.
- (2) The reinvestment by lenders of the proceeds or an equivalent amount, from any loan to lenders or the investment in or purchase by the corporation or the authority or the assignment or sale of loans to the corporation or the authority, in loans to provide agricultural enterprises or rural development projects.
- (3) The number of agricultural projects and rural development projects, location of the projects, and other characteristics of agricultural enterprises and rural development projects, including to the extent reasonably possible assurance that the agricultural enterprises or rural development projects to be financed by an issue of bonds or series of issues will improve employment conditions and enhance the welfare of persons in the agricultural sector, as determined by the corporation, to be financed directly or indirectly by the corporation and the authority under section 26, section 29, or sections 32 through 43 of this chapter.
- (4) Rates, fees, charges, and other terms and conditions of originating or servicing loans in order to protect against

realization of an excessive financial return or benefit by the originator or servicer.

(5) The type and amount of collateral or security to be provided to assure repayment of loans made or guaranteed by the corporation and the fees to be charged under sections 32 through 43 of this chapter.

(6) The type of collateral, payment bonds, performance bonds, or other security to be provided for any loans made by a lender for construction loans.

(7) The nature and amount of fees to be charged by the corporation or the authority to provide for expenses and reserves of the corporation or the authority.

(8) Standards and requirements for the allocation of available money among lenders and the determination of the maturities, terms, conditions, and interest rates for loans made, purchased, sold, assigned, or committed under section 26, section 29, or sections 32 through 43 of this chapter.

(9) Commitment requirements for agricultural financing by lenders involving money provided directly or indirectly by the corporation or the authority.

(10) Any other matters related to the duties or exercise of the corporation's or the authority's powers or duties under this chapter.

(b) In adopting rules governing its activities, the corporation shall consider the following factors relative to eligibility of borrowers for loans made or guaranteed under this chapter:

(1) The length of time any borrower has been engaged in the business of agriculture or development.

(2) The net income of any borrower in the preceding year or years.

(3) The net worth of any borrower.

(4) The availability or feasibility of alternative financing methods for any borrower.

(c) The following entities may not be borrowers:

(1) A corporation that has more than ten (10) shareholders.

(2) A corporation that has any shareholder that is a corporation, a subsidiary of a corporation, or a subsidiary of a subsidiary of a corporation with more than ten (10) shareholders.

(3) A partnership, joint venture, firm, limited liability company, or association that has any member who is a corporation, a subsidiary of a corporation, or a subsidiary of a subsidiary of a corporation with more than ten (10) shareholders.

*As added by P.L.162-2007, SEC.26.*

### **IC 5-28-31-46**

#### **Power to issue bonds**

Sec. 46. For purposes of this chapter, the authority may issue and secure bonds in accordance with IC 4-4-11. Whether the bonds are in the form and character of negotiable instruments, the bonds are hereby made negotiable instruments, subject only to provisions of the

bonds relating to registration.  
*As added by P.L.162-2007, SEC.26.*

**IC 5-28-31-47**

**Powers are cumulative**

Sec. 47. This chapter shall not be construed as a restriction or limitation upon any powers which the corporation or the authority might otherwise have under any other law of this state, and this chapter is cumulative to those powers. This chapter shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized and shall be regarded as supplemental and additional to powers conferred by any other laws.

*As added by P.L.162-2007, SEC.26.*