

By: Swinford

H.B. No. 4133

Substitute the following for H.B. No. 4133:

By: Solomons

C.S.H.B. No. 4133

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Texas Export Financial Assistance
Guarantee Program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle F, Title 4, Government Code, is amended
by adding Chapter 482 to read as follows:

CHAPTER 482. TEXAS EXPORT FINANCIAL ASSISTANCE GUARANTEE PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 482.001. DEFINITIONS. In this chapter:

(1) "Financial institution" has the meaning assigned
by Section 31.002, Finance Code.

(2) "Fund" means the Texas export financial assistance
guarantee program fund.

(3) "Office" means the Texas Economic Development and
Tourism Office.

(4) "Participating financial institution" means an
eligible financial institution that makes loans guaranteed under
the program.

(5) "Program" means the Texas Export Financial
Assistance Guarantee Program established under this chapter.

(6) "Qualified export product" means a product
described by Section 482.051.

Sec. 482.002. PURPOSES; ESTABLISHMENT OF PROGRAM. (a) The
purposes of the program include:

1 (1) promoting Texas as an exporter in the
2 international arena;

3 (2) accelerating delivery of products manufactured in
4 Texas to international markets; and

5 (3) stimulating the economy of this state by creating
6 manufacturing jobs and tax bases.

7 (b) To accomplish the purposes described by Subsection (a),
8 the office shall establish the Texas Export Financial Assistance
9 Guarantee Program to guarantee a portion of loans made to eligible
10 manufacturers by participating financial institutions to
11 facilitate the manufacture of qualified products in Texas for
12 international export.

13 Sec. 482.003. ADMINISTRATION BY OFFICE OF ECONOMIC
14 DEVELOPMENT AND TOURISM; RULES. The office shall administer the
15 program under this chapter and shall adopt rules as necessary for
16 the administration of the program, including rules regarding the
17 use of money in the fund for administrative costs.

18 [Sections 482.004-482.050 reserved for expansion]

19 SUBCHAPTER B. MANUFACTURERS OF QUALIFIED EXPORT PRODUCTS

20 Sec. 482.051. QUALIFIED EXPORT PRODUCTS. A person may
21 obtain a loan guarantee under the program with respect to the
22 manufacture of a product if the product:

- 23 (1) is manufactured in Texas;
24 (2) will be exported to an international market; and
25 (3) relates to one or more of the following preferred
26 manufacturing industries:

27 (A) alternative energies;

1 (B) medical goods;

2 (C) green technologies;

3 (D) high fuel efficiency vehicles;

4 (E) water conservation and purification
5 technologies; or

6 (F) scientific goods.

7 Sec. 482.052. MANUFACTURER EXPERIENCE. A manufacturer may
8 obtain a loan guarantee under the program for costs associated with
9 the manufacture of a qualified export product only after the
10 manufacturer has been in the business of manufacturing the same or a
11 substantially similar product for at least two years.

12 Sec. 482.053. LETTER OF CREDIT AND OTHER FINANCIAL
13 REQUIREMENTS. (a) To obtain a loan guarantee under the program, a
14 manufacturer must provide to a participating financial institution
15 a letter of credit or other documentation evidencing a creditworthy
16 customer's undertaking to pay for the manufacturer's products.

17 (b) A financial institution may impose other requirements
18 on the manufacturer as the financial institution considers
19 necessary to conform to prudent lending practices.

20 Sec. 482.054. MAXIMUM AMOUNT TO BE FINANCED. (a) A loan to
21 be guaranteed under the program may finance an amount not to exceed
22 80 percent of the costs to be incurred in manufacturing the products
23 to be purchased under the letter of credit or other documentation
24 described by Section 482.053(a). A financial institution may
25 require that a manufacturer demonstrate that the manufacturer has
26 the ability to finance the remaining 20 percent of the products'
27 manufacturing costs.

1 (b) A participating financial institution may not lend any
2 single manufacturer more than \$5 million for purposes of this
3 chapter.

4 Sec. 482.055. USE OF LOAN PROCEEDS. A manufacturer must use
5 the proceeds of a loan guaranteed under the program only to finance
6 the costs of manufacturing in this state a product for
7 international export.

8 Sec. 482.056. DURATION; REAPPLICATION. A manufacturer may
9 not receive any portion of the proceeds of a loan guaranteed under
10 the program after the fifth anniversary of the date on which the
11 manufacturer first received loan proceeds under the program unless
12 the manufacturer and financial institution reapply for the loan
13 guarantee in the same manner as a person who has not previously
14 applied for a loan guarantee under the program.

15 [Sections 482.057-482.100 reserved for expansion]

16 SUBCHAPTER C. LOAN GUARANTEE PROGRAM

17 Sec. 482.101. FINANCIAL INSTITUTION PARTICIPATION. (a)
18 The office shall by rule determine criteria for a financial
19 institution to apply for loan guarantees under the program.

20 (b) If multiple financial institutions are used by a single
21 manufacturer that applies to participate in the program, the office
22 shall designate one financial institution as the lead financial
23 institution that shall solely hold the state's guarantee.

24 Sec. 482.102. TERMS OF LOAN. A participating financial
25 institution shall set the terms of a loan to be guaranteed under the
26 program. The terms must conform to prudent banking practices.

27 Sec. 482.103. PERFORMANCE OF DUE DILIGENCE. A

1 participating financial institution shall perform due diligence
2 before making a loan to be guaranteed under the program. This state
3 is not required to perform due diligence before guaranteeing a loan
4 under the program.

5 Sec. 482.104. LOAN GUARANTEE APPROVAL; SUBMISSION TO
6 OFFICE. (a) Not later than the 30th day after the date on which a
7 participating financial institution receives a complete
8 application for a loan to be guaranteed under the program and all
9 necessary supporting documentation, including the letter of credit
10 or other documentation described by Section 482.053(a), the
11 financial institution must perform due diligence and approve or
12 deny the loan.

13 (b) As soon as practicable after approving a loan to be
14 guaranteed under the program, a participating financial
15 institution shall submit an application for a loan guarantee to the
16 office. The application for the loan guarantee must include the
17 completed loan application approved by the financial institution,
18 all supporting documentation, including the letter of credit or
19 other documentation described by Section 482.053(a), and any other
20 information or documentation required by office rule.

21 (c) Not later than the 10th business day after the date the
22 office receives a complete application for a loan guarantee, the
23 office shall determine whether to guarantee the loan.

24 Sec. 482.105. AMOUNT OF STATE GUARANTEE. (a) This state
25 may guarantee up to 50 percent of the amount of a loan made by a
26 participating financial institution under this chapter, except
27 that this state may guarantee a greater amount as provided by

1 Subsection (b).

2 (b) This state may guarantee a percentage of the amount of a
3 loan made by a participating financial institution under this
4 chapter that is equal to the percentage of raw materials obtained
5 from Texas sources used to manufacture the product, except that the
6 percentage of the loan amount guaranteed under this subsection may
7 not exceed 80 percent.

8 Sec. 482.106. SERVICE OF LOAN. A participating financial
9 institution shall service any loan made by the institution under
10 the program, collect payments on the loan, and pay this state
11 accordingly.

12 Sec. 482.107. FEE FOR GUARANTEE OF LOAN. (a) Every six
13 months, a participating financial institution shall pay to the
14 office a 25-basis-point fee applied to the outstanding balance of
15 the state's guaranteed portion of loans made by the financial
16 institution under the program.

17 (b) The office shall by rule prescribe the manner in which a
18 financial institution must pay the fee required under this section.

19 [Sections 482.108-482.150 reserved for expansion]

20 SUBCHAPTER D. ADMINISTRATION BY AND DUTIES OF OFFICE

21 Sec. 482.151. OFFICE REQUIREMENTS FOR PARTICIPATING
22 FINANCIAL INSTITUTIONS. The office shall:

23 (1) have final approval of any financial institutions
24 that apply for participation in the program;

25 (2) establish a structured application process for a
26 financial institution to apply for a guarantee under the program of
27 a loan made by the financial institution; and

1 (3) establish eligibility criteria for a financial
2 institution to participate in the program.

3 Sec. 482.152. ANNUAL AUDIT. The office shall perform an
4 annual audit of the program.

5 Sec. 482.153. BIENNIAL REPORT TO LEGISLATURE. Not later
6 than January 1 of each odd-numbered year, the office shall submit a
7 report on the program to the legislature. The report must include:

8 (1) the amounts of loans guaranteed under the program;

9 (2) the uses of loans guaranteed under the program;

10 (3) an assessment of whether the program has
11 accomplished the stated purposes of this chapter;

12 (4) the number of jobs created as a result of the
13 program; and

14 (5) the income, including tax revenue, received by
15 this state as a result of the program.

16 [Sections 482.154-482.200 reserved for expansion]

17 SUBCHAPTER E. TEXAS EXPORT FINANCIAL ASSISTANCE GUARANTEE PROGRAM

18 FUND

19 Sec. 482.201. ESTABLISHMENT OF FUND. (a) The Texas export
20 financial assistance guarantee program fund is a dedicated account
21 in the general revenue fund.

22 (b) The following amounts shall be deposited in the fund:

23 (1) any amounts appropriated by the legislature for
24 the fund;

25 (2) gifts, grants, and other donations received for
26 the fund; and

27 (3) income and interest earned on the investment of

1 money in the fund.

2 (c) The fund may be used only:

3 (1) to guarantee loans made as provided by this
4 chapter; and

5 (2) for the administration of the program.

6 SECTION 2. Section 481.078, Government Code, is amended by
7 adding Subsection (c-1) to read as follows:

8 (c-1) The fund may be used to support the Texas Export
9 Financial Assistance Guarantee Program to the extent that
10 sufficient amounts are unavailable in the Texas export financial
11 assistance guarantee program fund to make payments as required by a
12 guarantee made under Chapter 482 for a defaulted loan, the full
13 repayment of which is unrecoverable under the letter of credit or
14 other documentation described by Section 482.053(a) or from the
15 borrower's assets.

16 SECTION 3. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2009.