

By: Swinford

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.

17 [Sections 482.004-482.050 reserved for expansion]

18 SUBCHAPTER B. MANUFACTURERS OF QUALIFIED EXPORT PRODUCTS

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

22 (1) is manufactured in Texas;

23 (2) will be exported to an international market; and

24 (3) relates to one or more of the following preferred
25 manufacturing industries:

26 (A) alternative energies;

27 (B) medical goods;

1 (C) green technologies;

2 (D) high fuel efficiency vehicles;

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

5 (F) scientific goods.

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

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

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

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

26 (b) A participating financial institution may not lend any
27 single manufacturer more than \$10 million for purposes of this

1 chapter.

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

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

13 [Sections 482.057-482.100 reserved for expansion]

14 SUBCHAPTER C. LOAN GUARANTEE PROGRAM

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

18 (b) If multiple financial institutions are selected to
19 participate in the program, the office shall designate one
20 financial institution as the lead financial institution that shall
21 solely hold the state's guarantee.

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

25 Sec. 482.103. PERFORMANCE OF DUE DILIGENCE. A
26 participating financial institution shall perform due diligence
27 before making a loan to be guaranteed under the program. This state

1 is not required to perform due diligence before guaranteeing a loan
2 under the program.

3 Sec. 482.104. LOAN GUARANTEE APPROVAL; SUBMISSION TO
4 OFFICE. (a) Not later than the 15th day after the date on which a
5 participating financial institution receives a complete
6 application for a loan to be guaranteed under the program and all
7 necessary supporting documentation, including the letter of
8 credit, the financial institution must perform due diligence and
9 approve or deny the loan.

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

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

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

25 (b) This state may guarantee a percentage of the amount of a
26 loan made by a participating financial institution under this
27 chapter that is equal to the percentage of raw materials obtained

1 from Texas sources used to manufacture the product, except that the
2 percentage of the loan amount guaranteed under this subsection may
3 not exceed 80 percent.

4 Sec. 482.106. SERVICE OF LOAN. A participating financial
5 institution shall service any loan made by the institution under
6 the program, collect payments on the loan, and pay this state
7 accordingly.

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

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

15 [Sections 482.108-482.150 reserved for expansion]

16 SUBCHAPTER D. ADMINISTRATION BY AND DUTIES OF OFFICE

17 Sec. 482.151. OFFICE REQUIREMENTS FOR PARTICIPATING
18 FINANCIAL INSTITUTIONS. The office shall:

19 (1) approve one or more financial institutions for
20 participation in the program;

21 (2) establish a structured application process for a
22 financial institution to apply for a guarantee under the program of
23 a loan made by the financial institution; and

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

26 Sec. 482.152. ANNUAL AUDIT. The office shall perform an
27 annual audit of the program.

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

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

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

6 and

7 (3) an assessment of whether the program has
8 accomplished the stated purposes of this chapter.

9 [Sections 482.154-482.200 reserved for expansion]

10 SUBCHAPTER E. TEXAS EXPORT FINANCIAL ASSISTANCE GUARANTEE PROGRAM

11 FUND

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

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

16 (1) any amounts appropriated by the legislature for
17 the fund, not to exceed \$100 million in any state fiscal biennium;

18 (2) gifts, grants, and other donations received for
19 the fund; and

20 (3) income and interest earned on the investment of
21 money in the fund.

22 (c) The fund may be used only to guarantee loans made as
23 provided by this chapter.

24 SECTION 2. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2009.