

Regular Session, 2009  
HOUSE BILL NO. 538  
BY REPRESENTATIVE ANDERS

# ACT No. 510

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To amend and reenact R.S. 3:263, 264(B)(introductory paragraph), 265(B), and 266(13) and  
3 (19), and 274 and to enact R.S. 3:262(D), 266(22), and 283.1 and R.S. 35:410,  
4 relative to the Louisiana Agricultural Finance Authority; to revise legislative  
5 findings; to expand definitions; to revise the powers of authority; to provide for  
6 certain loans and guarantees for agricultural plants; to provide for the approval of the  
7 issuance of bonds; to provide for restrictions; to provide for reports; to provide for  
8 a special fund; to provide for positions; to provide for administration and  
9 implementation; to provide for ex officio notaries public; and to provide for related  
10 matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 3:263, 264(B)(introductory paragraph), 265(B), and 266(13) and  
13 (19), and 274 are hereby amended and reenacted and R.S. 3:262(D), 266(22), and 283.1 are  
14 hereby enacted to read as follows:

15 §262. Legislative findings

16 \* \* \*

17 D. The legislature hereby finds that in order to convert Louisiana from an  
18 exporter of raw agricultural products into an exporter of processed products of high  
19 added value and to expand the state's economic base, it is necessary that the state  
20 encourage and support the development of agricultural plants to process products in  
21 this state. It is necessary for the state to develop and enhance its capacity to process  
22 agricultural products in Louisiana including providing financial assistance to any  
23 person who owns, leases, or operates, or is seeking to own, lease, or operate an  
24 agricultural plant in this state.

1            §263. Definitions

2                            As used in this Chapter, the following terms shall have the following  
 3 meanings:

4                            (1) "Agribusiness" means a person, other than an agricultural producer, who  
 5 engages in agriculture or provides support activities, products, or services to an  
 6 agricultural producer and such products or services that are directly related to the  
 7 planting, growing, production, or harvesting of crops and livestock.

8                            ~~(1)~~(2) "Agricultural loan" means a loan made ~~by a lending institution~~ to any  
 9 person for the purpose of financing: land acquisition or improvement for agricultural  
 10 or agribusiness purposes; or for financing conversion to aquacultural production; soil  
 11 conservation; construction of levees and ponds; irrigation; water well drilling;  
 12 construction, renovation, or expansion of buildings and facilities for agricultural or  
 13 agribusiness purposes; purchase of farm fixtures, livestock, poultry, fish of any kind;  
 14 crustaceans and mollusks; seeds; fertilizers; pesticides; feeds; agricultural or  
 15 agribusiness machinery; equipment; containers or supplies employed in the  
 16 production, cultivation, harvesting, storage, marketing, distribution, or export of  
 17 agricultural ~~or aquacultural~~ products, or for the purpose of financing ~~mariculture~~  
 18 agricultural products.

19                            (3) "Agricultural plant" means any facility which receives raw agricultural  
 20 products for the purpose of rendering them suitable for wholesale or retail marketing.

21                            (4) "Agricultural producer" means a person engaged in agriculture for the  
 22 planting, growing, harvesting, or production of an agricultural product in its natural  
 23 state and who primarily assumes the production and market risks associated with  
 24 such activities.

25                            (5) "Agricultural product" means any agronomic, aquacultural, floricultural,  
 26 horticultural, maricultural, silvicultural, or viticultural crop, livestock, or product.

27                            ~~(2)~~(6) "Agriculture" means the commercial planting, growing, harvesting,  
 28 production, storage, processing, marketing, distribution, or export of any ~~agronomic,~~  
 29 ~~floricultural, horticultural, vitacultural, silvicultural, or aquacultural crop~~ agricultural  
 30 product, including but not limited to farm products, livestock and livestock products,

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 poultry and poultry products, milk and dairy products, fruit and other horticultural  
2 products, and seafood and aquacultural products.

3 ~~(3)~~(7) "Aquaculture" means the commercial production, storage, processing,  
4 marketing, distribution, or export of any seafood including but not limited to catfish,  
5 trout, crustaceans, and mollusks.

6 ~~(4)~~(8) "Authority" means the Louisiana Agricultural Finance Authority  
7 created by this Chapter.

8 ~~(5)~~(9) "Bonds" means the bonds, notes, renewal notes, refunding bonds,  
9 interim certificates, certificates of indebtedness, debentures, warrants, commercial  
10 paper, or other obligations or evidences of indebtedness authorized to be issued by  
11 the Authority pursuant to the provisions of this Chapter.

12 ~~(6)~~(10) "Commissioner" means the Louisiana Commissioner of Agriculture  
13 and Forestry.

14 ~~(7)~~(11) "Department" means the Louisiana Department of Agriculture and  
15 Forestry.

16 ~~(8)~~(12) "Federal government" means the United States of America and any  
17 agency or instrumentality, corporate or otherwise, of the United States of America.

18 ~~(9)~~(13) "Lending institution" means any bank, bank or trust company, federal  
19 land bank, production credit association, bank for cooperatives, building and loan  
20 association, homestead, insurance company, investment banker, mortgage banker or  
21 company, pension or retirement fund, savings bank or savings and loan association,  
22 small business investment company, credit union, or any other financial institution  
23 authorized to do business in Louisiana or operating under the supervision of any  
24 federal agency or any "Edge Act Corporation" or agreement corporation organized  
25 or operating pursuant to Section 25 of the Federal Reserve Act.

26 (14) "Livestock" means any animal except dogs and cats, bred, kept,  
27 maintained, raised, or used for profit, that is used in agriculture, aquaculture,  
28 agritourism, competition, recreation, or silviculture, or for other related purposes or  
29 used in the production of crops, animals, or plant or animal products for market.  
30 This definition includes but is not limited to cattle, buffalo, bison, oxen, and other



1 rights, to the authority, and shall not be counted for the purpose of constituting a  
2 quorum for the transaction of official business. The other eight members shall be  
3 appointed by the governor in the following manner:

4 \* \* \*

5 §265. Officers and employees; administration of Chapter

6 \* \* \*

7 B. The Authority, subject to the approval of the commissioner, may  
8 appoint a director and an assistant director and a director of the agriculture  
9 loan program and an assistant director of the agriculture loan program who  
10 shall be in the unclassified service of the state.

11 \* \* \*

12 §266. Powers of authority

13 The authority shall have all the powers necessary to give effect to and carry  
14 out the purposes and provisions of this Chapter, including, in addition to all other  
15 powers granted by other provisions of this Chapter, the powers to:

16 \* \* \*

17 (13) Make and guarantee agricultural loans ~~to or deposits with lending~~  
18 ~~institutions~~ and purchase or sell agricultural loans.

19 \* \* \*

20 (19) With the prior approval of the House and Senate ~~Committees~~  
21 ~~committees~~ on ~~Agriculture, Forestry, Aquaculture and Rural Development~~  
22 agriculture, forestry, aquaculture and rural development, to create such subsidiary  
23 corporations or entities as may be necessary to make agricultural loans, borrow  
24 money for agricultural loans, insure or reinsure agricultural loans, or issue bonds in  
25 the international financial market.

26 \* \* \*

27 (22) Foster and support the development and enhancement of processing raw  
28 agricultural products in this state by participating in cooperative endeavors involving  
29 loans and loan guarantees to private business enterprises, nonprofit institutions and  
30 organizations, the state and political subdivisions thereof, the federal government,

1 and other organizations or persons concerned with the development or enhancement  
2 of agricultural plants in this state. The authority shall participate only in cooperative  
3 endeavors which involve the creation of a significant number of new jobs in relation  
4 to the amount of participation by the authority.

5 \* \* \*

6 §274. Approval of issuance of bonds by State Bond Commission

7 The approval of the State Bond Commission shall be obtained prior to the  
8 issuance of any bonds of the Authority. However, before the Authority shall make  
9 application to the State Bond Commission for the issuance of any bonds in the  
10 amount of five million dollars or more, it shall first seek the approval of the Joint  
11 Legislative Committee on the Budget for such borrowing. No notice to, or consent  
12 or approval by any other governmental body or public officer shall be required as a  
13 prerequisite to the issuance, sale, or delivery of any bonds of the Authority, or to the  
14 making of any loans or deposits by the Authority to lending institutions, or to the  
15 purchase or sale of agricultural loans by the Authority, or to the insurance by the  
16 Authority of any agricultural loan, or to the exercise of any other public function or  
17 corporate power of the Authority, except as is expressly provided in this Chapter.

18 \* \* \*

19 §283.1. Loans and guarantees for agricultural plants

20 A. As part of the authority's participation in cooperative endeavors, the  
21 authority may:

22 (1) Loan funds to any person to be expended to acquire, construct, furnish,  
23 equip, make necessary improvements to, or purchase land for any agricultural plant  
24 which will be occupied by that person, under rules and regulations adopted by the  
25 authority. The loan shall not exceed seventy-five percent of the value of the property  
26 offered as security pursuant to a first mortgage. The minimum execution  
27 requirement by the borrower of a note is to be secured by a first mortgage on the  
28 property being acquired or constructed and payable to the authority within the time  
29 and under the terms and conditions together with additional endorsements as may be  
30 required by the authority.

1           (2) Loan to any person funds for operating capital, market development, and  
2           product inventories under rules and regulations adopted by the authority. The loan  
3           shall not exceed seventy-five percent of the value of the property offered as security  
4           pursuant to a first mortgage. The minimum execution requirement by the borrower  
5           of a note or notes is to be secured by a first mortgage on property, including product  
6           inventories and accounts receivable from the sale of inventories, under the terms and  
7           conditions as may be required by the authority.

8           (3) Guarantee funds, on an interim or long-term basis, for an amount to be  
9           expended to acquire, construct, furnish, equip, make necessary improvements to, or  
10          purchase land for, any agricultural plant for any loan made by any lending institution  
11          to any person approved by the authority, provided that whenever the authority  
12          guarantees the payment of the loan, the authority shall make and enter into a  
13          guarantee agreement with the lending institution and the borrower setting forth the  
14          terms and conditions under which the authority is obligated and the extent to which  
15          repayment of the loan is guaranteed and secured. Each loan guaranteed by the  
16          authority shall be secured by a first mortgage on property. Whenever the authority  
17          enters into a loan guarantee agreement, the authority may impose and collect an  
18          origination fee not to exceed one percent of the amount of the loan guaranteed.

19          (4) Guarantee funds, on an interim or long-term basis, to any person for  
20          operating capital, market development, and product inventories, under rules and  
21          regulations adopted by the authority. The minimum execution requirement by the  
22          borrower of a note or notes is to be secured by a first mortgage on property,  
23          including product inventories and accounts receivable from the sale of inventories,  
24          under the terms and conditions as may be required by the authority.

25          (5) Renegotiate, refinance, or foreclose on any mortgage or commence any  
26          action to protect or enforce any right or benefit conferred by any law, mortgage,  
27          contract, or other agreement and bid for and purchase such property at any  
28          foreclosure or at any other sale or otherwise to acquire or take possession of the  
29          property. In such event, the authority may complete, administer, pay the principal  
30          of and interest on any obligation incurred in connection with the property, and

1 dispose of and otherwise deal with such property in such manner as may be desirable  
 2 or necessary to protect the interest of the authority.

3 B. The aggregate of loans and loan guarantees made by the authority under  
 4 this Section shall not exceed twenty million dollars at any one time.

5 C. The authority shall:

6 (1) Give priority to persons who utilize Louisiana agricultural products to the  
 7 maximum extent possible.

8 (2) Fix the rate of interest to be charged on every loan at a rate not less than  
 9 the base federal reserve discount rate.

10 (3) Keep records showing from whom any money is received and for what  
 11 purpose and to whom any money is paid and for what purpose.

12 (4) Keep vouchers and receipts for all money disbursed.

13 D. The authority shall not loan or guarantee any loan:

14 (1) For any applicant who fails to submit all information required by this  
 15 Section or by rules and regulations of the authority.

16 (2) If the amount loaned would result in the property offered as security  
 17 being burdened with indebtedness in excess of seventy-five percent of the appraised  
 18 value of the property.

19 (3) For any person with any pending or outstanding charge or liability  
 20 relating to failure or inability to pay promissory notes or other evidence of  
 21 indebtedness.

22 (4) For any person who has presently pending, at the federal, state, or local  
 23 level, any proceeding concerning the denial or revocation of a necessary license or  
 24 permit.

25 (5) If the proceeds of the loan are to be, or may be, used for consolidation of  
 26 existing, previous financial obligations.

27 (6) To a person in excess of fifty percent of the total funds for loans or  
 28 guarantees under this Section.

29 E. The authority shall not:

1           (1) Subordinate its interest, if such subordination shall result in any risk to  
2           the authority's security position.

3           (2) Enter into any cooperative endeavor, unless the cooperative endeavor  
4           involves the creation of a significant number of new jobs in relation to the amount  
5           of participation by the authority.

6           F. When requested by the authority, the commissioner may contract with  
7           consulting engineers, architects, attorneys, accountants, construction experts,  
8           financial experts, and such other persons as may be necessary to carry out the  
9           purpose of this Section. Contracts entered into under this Section shall be subject to  
10          the provisions of R.S. 38:2310 et seq.

11          G. The authority shall transmit, at the end of each fiscal year, reports to the  
12          House and Senate committees on agriculture, forestry, aquaculture and rural  
13          development, the House Committee on Appropriations and the Senate Committee  
14          on Finance. The reports shall set forth the cooperative endeavors approved and  
15          rejected, the terms, conditions, and status of each loan guarantee entered into in the  
16          fiscal year covered by the report, and the status of all loans and guarantees entered  
17          into in previous fiscal years.

18          H.(1) The Agricultural Products Processing Development Fund is hereby  
19          established. Funds received by the authority under this Section or otherwise made  
20          available for the purpose of this Section shall be deposited immediately upon receipt  
21          into the state treasury.

22          (2) After compliance with the requirements of Article VII, Section 9(B) of  
23          the Constitution of Louisiana relative to the Bond Security and Redemption Fund,  
24          and prior to monies being placed in the state general fund, an amount equal to that  
25          deposited as required in Paragraph (1) of this Subsection, and monies appropriated  
26          by the legislature shall be credited to a special fund hereby created in the state  
27          treasury to be known as the "Agricultural Products Processing Development Fund".  
28          The monies in this fund shall be used solely as provided in this Section and only in  
29          the amounts appropriated by the legislature. All unexpended and unencumbered  
30          monies in this fund at the end of the fiscal year shall remain in the fund. The monies

1 in this fund shall be invested by the state treasurer in the same manner as monies in  
2 the state general fund, and interest earned on the investment of these monies shall be  
3 credited to this fund again, following compliance with the requirements of Article  
4 VII, Section 9(B) relative to the Bond Security and Redemption Fund.

5 (3) The monies in the Agricultural Products Processing Development Fund  
6 shall be used by the authority solely to implement, administer, and make loans and  
7 loan guarantees under this Section.

8 Section 2. R.S. 35:410 is hereby enacted to read as follows:

9 §410. Ex officio notaries public for the Louisiana Agricultural Finance Authority  
10 or the Department of Agriculture and Forestry

11 A. Notwithstanding any provisions of the law relative to qualifications for  
12 and limitations on the number of notaries public, the commissioner of agriculture and  
13 forestry may appoint employees of the Louisiana Agricultural Finance Authority or  
14 the Department of Agriculture and Forestry as ex officio notaries public for the  
15 agriculture loan program.

16 B. Such ex officio notaries public may exercise the functions of a notary  
17 public only to administer oaths, receive sworn statements, and execute affidavits,  
18 acknowledgments, and other documents, and shall be limited to matters within the  
19 official functions for the agriculture loan program.

20 C. All acts performed by each ex officio notary public authorized by this  
21 Section shall be performed without charge or other compensation.

22 D. The commissioner of agriculture and forestry may suspend or terminate  
23 any appointment made pursuant to this Section at any time. Separation from the  
24 employ of the Louisiana Agricultural Finance Authority or the Department of  
25 Agriculture and Forestry shall automatically terminate the powers of such an ex  
26 officio notary public.

27 Section 3. This Act shall become effective upon the signature of the governor, if not  
28 signed by the governor, upon expiration of the time for bills to become law without signature  
29 by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
2 effective on the day following such approval.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_