

HOUSE BILL NO. HB0009

Beginning agricultural producer development bonds.

Sponsored by: Joint Agriculture, Public Lands and Water Resources Interim Committee

A BILL

for

1 AN ACT relating to administration of government; providing
2 for agricultural development bonds as specified; creating
3 an authority as specified; creating duties and powers;
4 providing for administration of the program as specified;
5 providing for the directors of the authority; specifying
6 legislative intent; and providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 9-7-301 through 9-7-326 are created
11 to read:

12

13

ARTICLE 3

14

BEGINNING AGRICULTURAL PRODUCER FINANCE AUTHORITY

15

16

9-7-301. Short title.

1

2 This article shall be known and may be cited as the
3 "Beginning Agricultural Producer Finance Authority Act."

4

5 **9-7-302. Definitions.**

6

7 (a) As used in this article:

8

9 (i) "Agricultural enterprise" means the real and
10 personal property constituting farms and ranches and other
11 agricultural endeavors the authority wishes to include
12 within the provisions of this article;

13

14 (ii) "Authority" means the beginning
15 agricultural producer finance authority created pursuant to
16 this article;

17

18 (iii) "Beginning agricultural producer" is a
19 person who has never had any direct or indirect ownership
20 interest in substantial farmland, as defined by title 26,
21 section 147 of the United States Internal Revenue Code;

22

23 (iv) "Board" means the board of directors of the
24 authority;

1

2 (v) "Bonds" means bonds, notes and certificates,
3 and bond, grant or revenue anticipation notes or any other
4 evidence of indebtedness representing an obligation to pay
5 money;

6

7 (vi) "Cost" means the cost of land,
8 improvements, or depreciable agricultural property;

9

10 (vii) "Lender" means any institution or
11 association qualified within this state to originate and
12 service loans.

13

14 **9-7-303. Creation of authority.**

15

16 There is created the beginning agricultural producer
17 finance authority, with powers and duties as are
18 hereinafter provided.

19

20 **9-7-304. Membership of board of directors of the**
21 **beginning agricultural producer finance authority.**

22

23 The board of directors of the beginning agricultural
24 producer finance authority consists of five (5) members

1 appointed by the chairman of the Wyoming business council.
2 The board of directors shall include: one (1) member of
3 the Wyoming business council; one (1) member of the Wyoming
4 board of agriculture; one (1) member of the Wyoming rural
5 development council; and two (2) at-large members.

6

7 **9-7-305. Duties and goal of board.**

8

9 The board shall administer the beginning agricultural
10 producer bond program and make annual recommendations to
11 the legislature and governor on programs to develop and
12 promote agricultural enterprises in this state.

13

14 **9-7-306. Election of board officers.**

15

16 The authority shall annually elect from its members any
17 officers it deems advisable. A majority of the members
18 constitutes a quorum. The board shall meet at the call of
19 the chair or a majority of the members.

20

21 **9-7-307. Compensation of board members.**

22

23 Members of the authority shall receive no compensation for
24 their services but shall receive an allowance per day for

1 the time spent in attending and traveling to and from
2 meetings of the authority, and expenses and travel
3 allowance pursuant to W.S. 9-3-102.

4

5 **9-7-308. Powers of authority.**

6

7 (a) The authority may:

8

9 (i) Have perpetual succession as a body politic
10 and corporate exercising essential public functions;

11

12 (ii) Adopt, amend and repeal bylaws, rules and
13 regulations not inconsistent with this article, regulate
14 its affairs, carry into effect the powers and purposes of
15 the authority and conduct its business consistent with the
16 provisions of this article;

17

18 (iii) Sue and be sued in its own name;

19

20 (iv) Have an official seal and alter it at will;

21

22 (v) Maintain an office at such place or places
23 within the state as it may designate;

24

1 (vi) Make and execute contracts and all other
2 instruments necessary or convenient for the performance of
3 its duties and the exercise of its powers and functions
4 under this article;

5

6 (vii) Employ persons as may be required and
7 engage the services of private consultants and legal
8 counsel to render professional and technical assistance and
9 advice in carrying out the purposes of this article;

10

11 (viii) Procure insurance against any loss in
12 connection with the property and other assets, including
13 loans and loan notes in such amounts and from such insurers
14 as it may deem advisable;

15

16 (ix) Borrow money and issue bonds, notes, bond
17 anticipation notes or other obligations for any of its
18 corporate purposes and fund or refund such obligations as
19 provided in this article;

20

21 (x) Receive and accept from any source aid or
22 contributions of monies, property, labor or other things of
23 value to be held, used and applied to carry out the
24 purposes of this article subject to the conditions upon

1 which the grants or contributions are made, including, but
2 not limited to, gifts or grants from any department, agency
3 or instrumentality of the United States for any purpose
4 consistent with the provisions of this article;

5

6 (xi) Enter into agreements with any department,
7 agency or instrumentality of the United States or this
8 state and with lenders or others and enter into loan
9 agreements, sales contracts and leases and other financing
10 arrangements with a beginning agricultural producer or
11 other contracting parties in connection with the beginning
12 agricultural producer bond program or for the purpose of
13 planning, regulating and providing for the financing or
14 refinancing of any agricultural enterprises;

15

16 (xii) Enter into contracts or agreements with
17 lenders for the servicing and processing of loans or with
18 any person or entity providing credit enhancement for the
19 bonds of the authority;

20

21 (xiii) To the extent permitted under its
22 contract with the holders of bonds of the authority,
23 consent to any modification with respect to the rate of
24 interest, time and payment of any installment of principal

1 or interest, or any other term of any contract, loan, loan
2 note, loan note commitment, contract, lease or agreement of
3 any kind to which the authority is a party;

4

5 (xiv) To the extent permitted under its contract
6 with the holders of bonds of the authority, enter into
7 contracts with any lender containing provisions enabling
8 the authority to reduce the rental or carrying charges to
9 persons unable to pay the regular schedule or charges when,
10 by reason of other income or payment by any department,
11 agency or instrumentality of the United States or of this
12 state, the reduction can be made without jeopardizing the
13 economic stability of the agricultural enterprise being
14 financed;

15

16 (xv) Invest proceeds of any bonds not needed for
17 immediate disbursement in any investment permitted under
18 the constitution and laws of this state;

19

20 (xvi) Collect fees and charges, as the authority
21 determines to be reasonable, in connection with its loans,
22 advances, insurance, commitments, servicing and other
23 activities;

24

1 (xvii) Cooperate with and exchange services,
2 personnel and information with any federal, state or local
3 governmental agency;

4
5 (xviii) Sell, at public or private sale, with or
6 without public bidding, any loan or other obligation held
7 by the authority;

8
9 (xix) Mortgage, pledge, assign or grant security
10 interests in any or all of its notes or other instruments,
11 contract rights or other property, including, but without
12 limitation to, any receipts from insurance on or guarantees
13 of any of its notes or other instruments, as security for
14 the payment of the principal of, premium, if any, and
15 interest on any bonds issued by the authority, or as
16 security for any credit enhancement or other agreements
17 made in connection therewith, whether then owned or
18 thereafter acquired, and to pledge the revenues from which
19 the bonds are payable and any other available revenues or
20 assets as security for the payment of the principal of,
21 premium, if any, and interest on the bonds and any
22 agreements made in connection therewith;

23

1 (xx) Do any act and execute any instrument which
2 in the authority's judgment is necessary or convenient to
3 the exercise of the powers granted by this article or
4 reasonably implied from it;

5

6 (xxi) Assign the loans or security documents or
7 other instruments to bondholders as security without
8 recourse.

9

10 **9-7-309. Lending power of authority.**

11

12 (a) The authority may authorize a lender to:

13

14 (i) Make, and undertake commitments to make,
15 loans or deposits with lenders including certificates of
16 deposits, under terms and conditions which shall require
17 lenders to make loans (in an amount substantially equal to
18 the principal amount of the loan or deposit) to or enter
19 into leases with borrowers to finance the costs of
20 agricultural enterprises. Loan commitments or actual loans
21 shall be originated through and serviced by any bank, trust
22 company, savings and loan association, mortgage banker or
23 other financial institutions authorized to transact
24 business in this state;

1

2 (ii) Invest in, purchase or make commitments to
3 invest in or purchase, and take assignments of, loans made
4 by lenders to borrowers to finance the costs of
5 agricultural enterprises;

6

7 (iii) Invest in, purchase or make commitments to
8 invest in or purchase, any securities or obligations deemed
9 necessary or desirable by the authority for the purpose of
10 pledging the securities or obligations as security for any
11 bonds of the authority;

12

13 (iv) Make loans directly to a beginning
14 agricultural producer and enter into agreements, contracts
15 and other instruments with a beginning agricultural
16 producer or lender in connection with the beginning
17 agricultural producer bond program.

18

19 **9-7-310. Borrowing power of authority.**

20

21 (a) The authority may:

22

23 (i) Borrow funds and issue its bonds from time
24 to time and in principal amounts as the authority deems

1 necessary to carry out its purposes under this article,
2 including, but not limited to, the exercise of its powers
3 under W.S. 9-7-309, the payment of interest on its bonds,
4 the establishment of reserves to secure the bonds and
5 payment of other expenses necessary, convenient and
6 incident to fulfillment of its purposes;

7

8 (ii) Issue from time to time bonds to renew or
9 to pay bonds, including the interest or premium thereon,
10 and whenever it deems refunding expedient, to refund any
11 bonds and to pay costs of issuance of the refunding bonds
12 by the issuance of new bonds, whether the bonds to be
13 refunded have or have not matured, and to issue bonds
14 partly to refund outstanding bonds and partly for any other
15 of its corporate purposes. The refunding bonds may be sold
16 and the proceeds applied to the purchase, redemption or
17 payment of the bonds to be refunded, or exchanged for the
18 bonds to be refunded.

19

20 **9-7-311. Authority bonds not state or subdivision**
21 **obligation.**

22

23 Obligations issued under the provisions of this article
24 shall not be deemed to constitute a debt, liability or

1 obligation of the state or of any political subdivision
2 thereof, nor a pledge of the full faith and credit of the
3 state or any political subdivision, but shall be payable
4 solely as provided in this article. Each obligation issued
5 under this article shall contain on the face thereof a
6 statement to the effect that neither the full faith and
7 credit, nor the taxing power of the state, or of any
8 political subdivision thereof is pledged to the payment of
9 the principal of or the interest on such obligation. All
10 obligations of the authority issued under the provisions of
11 this article shall be authority bonds or notes and shall
12 not be general obligations of the state of Wyoming.

13

14 **9-7-312. Bond authorization; terms and sale; interest**
15 **rate; noninterest bearing bonds.**

16

17 The bonds shall be authorized by a resolution of the
18 authority, shall bear such date or dates and shall mature
19 at such time or times as the resolution or the instrument
20 providing for the issuance of such bonds may provide,
21 except that no bond may mature more than fifty (50) years
22 from the date of its issue. The bonds shall bear interest
23 at such rate or rates, be in such denominations, be in such
24 form, either coupon or registered, be evidenced by physical

1 certificates or uncertificated, carry such registration
2 privileges, be executed in such manner, be payable in such
3 medium of payment, at such place or places, and be subject
4 to such terms of redemption, including redemption prior to
5 maturity, as such resolution or the instrument providing
6 for the issuance of such bonds may provide. No other state
7 laws relating to the offer, sale or issuance of revenue
8 bonds or any other security may apply to bonds issued by
9 the authority. Bonds of the authority may be sold by the
10 authority at public or private sale, and at such price or
11 prices as the authority shall determine. The bonds of the
12 authority may bear interest at a fixed, variable or
13 adjustable rate (and may be convertible from one method of
14 calculating interest to another) and such interest rate may
15 be based upon any formula or contractual arrangement for
16 the periodic determination of interest rates, all as may be
17 established in the resolution or instrument providing for
18 the issuance of such bonds. Any such formula or
19 contractual arrangement may authorize the delegation of the
20 interest rate setting function to a third party subject
21 only to such standards or criteria as shall be set forth in
22 the resolution or instrument providing for the issuance of
23 such bonds. In no event may the setting or resetting of
24 the rate of interest on the authority's bonds or the

1 conversion from one method of determining interest to
2 another constitute a reissuance or refunding of bonds
3 issued by the authority if such action is taken in
4 accordance with the resolution or instrument providing for
5 the initial issuance of such bonds. The authority may issue
6 noninterest bearing bonds or bonds bearing interest at a
7 rate of zero percent (0%) and sell the same at such price
8 or prices as may be determined by the authority.

9

10 **9-7-313. Pledges by authority.**

11

12 Any pledge made by the authority shall be valid and binding
13 from the time when the pledge is made. The revenue, money
14 or properties so pledged and thereafter received by or on
15 behalf of the authority shall immediately be subject to the
16 lien of such pledge without any physical delivery thereof
17 or further act, and the lien of any such pledge shall be
18 valid and binding as against all parties having claims of
19 any kind in tort, contract or otherwise against the
20 authority, irrespective of whether the parties have notice
21 thereof. Neither the resolution nor the trust indenture, if
22 any, nor any other instrument by which a pledge is created
23 need be recorded.

24

1 **9-7-314. Redemption of bonds.**

2

3 The authority, subject to such agreements with bondholders
4 as may then exist, may purchase and cancel its bonds out of
5 any funds available therefore, at any reasonable price
6 which, if the bonds are then redeemable, may not exceed the
7 redemption price then applicable plus accrued interest to
8 the next interest payment thereon.

9

10 **9-7-315. Bonds as negotiable instruments.**

11

12 Whether or not the bonds are in the form and character of
13 negotiable instruments, the bonds are hereby made
14 negotiable instruments, subject only to provisions of the
15 bonds relating to registration.

16

17 **9-7-316. Execution of bonds; seal.**

18

19 Bonds of the authority may be executed by the manual or
20 facsimile signatures of the officers of the authority
21 authorized by the resolution of the authority to execute
22 such bonds. If such resolution authorizes or directs the
23 affixing of the seal of the authority on bonds of the
24 authority, such seal or a facsimile thereof may be

1 impressed or imprinted thereon. In the event that any
2 officer of the authority shall cease to be an officer of
3 the authority prior to the delivery of any bonds or coupons
4 signed by him, his signature or facsimile thereof on any
5 bonds or coupons shall nevertheless be valid and sufficient
6 for all purposes, the same as if the officer had remained
7 in office until the delivery of any bonds or coupons.

8
9 **9-7-317. Immunity from personal liability on bonds.**

10
11 Neither the members of the authority nor any other person
12 executing the bonds issued under this article is subject to
13 personal liability or accountability by reason of the
14 issuance thereof.

15
16 **9-7-318. State pledge not to alter rights of
17 authority to detriment of its bondholders.**

18
19 The state does hereby pledge to and agree with the holder
20 of any bonds issued under this article that the state will
21 not limit or alter the rights vested in the authority to
22 fulfill the terms of any agreements made with the holders
23 thereof or in any way impair the rights or remedies of the
24 holders until the bonds, together with the interest

1 thereon, with interest on any unpaid installments of
2 interest, and all costs and expenses in connection with any
3 action or proceeding by or on behalf of the holders, are
4 fully met and discharged. The authority may include this
5 pledge and agreement of the state in any agreement with the
6 holders of the bonds.

7

8 **9-7-319. Bonds as authorized investments and**
9 **securities for deposits.**

10

11 The bonds and notes of the authority are hereby made
12 securities in which all public officers and bodies of this
13 state and all municipal subdivisions, all insurance
14 companies and associations and other persons carrying on
15 insurance business, all banks, bankers, trust companies,
16 including savings and loan associations, building and loan
17 associations, investment banking companies and other
18 persons carrying on an investment banking business, all
19 administrators, conservators, executors, trustees and other
20 fiduciaries and all other persons who are now or may
21 hereafter be authorized to invest in bonds or obligations
22 of the state, may properly and legally invest in the bonds
23 and notes of the authority funds including capital in their
24 own control or belonging to them. The bonds and notes are

1 also hereby made securities which may be deposited with and
2 may be received by all public officers and bodies of this
3 state and all municipalities and municipal subdivisions for
4 any purpose for which the deposit of bonds or notes or
5 other obligations of this state is now or may hereafter be
6 authorized.

7

8 **9-7-320. Rules and regulations of authority.**

9

10 (a) The authority may, pursuant to the Wyoming
11 Administrative Procedure Act, adopt rules or regulations as
12 it deems necessary or desirable to implement the purposes
13 of this article, including, but not limited to:

14

15 (i) Setting forth the procedures for applicants
16 to apply for loans under this article;

17

18 (ii) Establishing criteria, including rates,
19 fees and other charges for originating or servicing loans
20 and determining which applicants will receive such loans;

21

22 (iii) Governing the use of proceeds of such
23 loans;

24

1 (iv) Establishing criteria for the terms and
2 conditions upon which such loans shall be made, including
3 the terms of security given, if any, to secure such loans;
4

5 (v) Governing the use of proceeds by lenders of
6 funds advanced to such lenders by the authority including
7 the terms and conditions upon which such proceeds shall be
8 loaned to borrowers for the purposes described in this
9 article.
10

11 **9-7-321. Construction with other laws.**

12
13 Insofar as the provisions of this article are inconsistent
14 with the provisions of any other law, the provisions of
15 this article shall be controlling.
16

17 **9-7-322. Liberal construction of article.**

18
19 This article, being necessary for the welfare of the state
20 and its inhabitants, shall be liberally construed so as to
21 effectuate its purposes.
22

23 **9-7-323. Disposition of authority assets on**
24 **dissolution.**

1

2 If, after all indebtedness and other obligations of the
3 authority are discharged, the authority is dissolved, its
4 remaining assets shall inure to the benefit of the state.

5

6 **9-7-324. Report to governor and legislature.**

7

8 (a) The authority shall submit to the governor and
9 the management council within ninety (90) days of the close
10 of its fiscal year a complete and detailed report setting
11 forth:

12

13 (i) Its operations and accomplishments;

14

15 (ii) Its receipts and expenditures during such
16 fiscal year in accordance with the categories or
17 classifications established by the authority for its
18 operating and capital outlay purposes;

19

20 (iii) Its assets and liabilities at the end of
21 its fiscal year, including a schedule of its loans and
22 commitments and the status of reserve, special or other
23 funds; and

24

1 (iv) A schedule of its notes and bonds
2 outstanding at the end of its fiscal year, together with a
3 statement of the amounts redeemed and incurred during such
4 fiscal year.

5

6 **9-7-325. Compliance with Internal Revenue Code.**

7

8 Notwithstanding any provision under the laws of this state,
9 the authority in order to accomplish the purposes provided
10 in this section and this article may perform all acts
11 necessary to comply with the requirements of title 26, §
12 103 of the Internal Revenue Code of 2000, as amended, and
13 any regulation promulgated pursuant to § 103 to insure that
14 all interest from bonds issued under this article are tax
15 exempt. All hearings or acts necessary to comply with §
16 147(f) of the Internal Revenue Code of 2000, as amended,
17 and any regulations promulgated pursuant to § 147(f) are
18 exempt from the requirements and procedures of the Wyoming
19 Administrative Procedure Act. The governor is the
20 approving representative for the state for the purpose of
21 complying with the applicable provisions of § 147(f) of the
22 Internal Revenue Code of 2000, as amended, and any
23 regulations promulgated pursuant to § 147(f) necessary to
24 insure that all interest from bonds issued are tax exempt.

1

2 **9-7-326. Confidentiality of borrower information.**

3

4 All financial information submitted by the borrower to the
5 board shall be confidential.

6

7 **Section 2.** W.S. 9-4-711(a)(ii) is amended to read:

8

9 **9-4-711. Permissible investments of state funds.**

10

11 (a) Any funds of the state of Wyoming may be invested
12 by the state treasurer, or his designee under W.S.
13 9-4-834(a), in any one (1) or more of the following
14 securities:

15

16 (ii) In bonds issued by the state of Wyoming,
17 counties, cities, school districts, or special improvement
18 bonds issued by cities, towns and counties, or bonds issued
19 by the beginning agricultural producer finance authority,
20 or in industrial development revenue bonds issued by
21 cities, towns and counties of the state, or in interest
22 bearing warrants of this state, or in bonds of irrigation
23 districts organized and existing under and by virtue of the
24 laws of this state;

1

2 **Section 3.** This act is effective immediately upon
3 completion of all acts necessary for a bill to become law
4 as provided by Article 4, Section 8 of the Wyoming
5 Constitution.

6

7

(END)