



**OFFICE OF THE ATTORNEY GENERAL**  
STATE OF ILLINOIS

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**Jim Ryan**  
ATTORNEY GENERAL

FILE NO. 00-006

STATE MATTERS:  
Illinois Farm Development  
Authority Loan Guarantees

David L. Wirth  
Executive Director  
Illinois Farm Development Authority  
427 East Monroe, Suite 201  
Springfield, Illinois 62701

Dear Mr. Wirth:

I have your letter wherein you inquire whether loan guarantees issued by the Illinois Farm Development Authority (hereinafter "IFDA") are backed unconditionally by the full faith and credit of the State of Illinois. For the reasons hereinafter stated, it is my opinion that they are.

Sections 12.1, 12.2, 12.4 and 12.5 of the Illinois Farm Development Act (hereinafter "the Act") (20 ILCS 3605/12.1, 12.2, 12.4, 12.5 (West 1998), as amended by Public Act 91-386, effective January 1, 2000) authorize IFDA to issue guarantees to lenders who make loans to farmers and agribusinesses for restructuring of existing debt or for financing certain agricultural

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operations. The guarantees may apply to no more than 85% of the outstanding principal balance plus accrued interest on each loan, and are subject to dollar value limitations with respect to each borrower and in an aggregate principal amount with respect to each type of loan authorized. (20 ILCS 3605/11 (West 1998), as amended by Public Act 91-611, effective August 19, 1999), 3605/12.1, 12.2, 12.4, 12.5 (West 1998), as amended by Public Act 91-386, effective January 1, 2000.)

The State guarantees are secured by the Illinois Agricultural Loan Guarantee Fund, established by section 12.1 of the Act, and the Illinois Farmer and Agribusiness Loan Guarantee Fund, established by section 12.2 of the Act. Prior to the enactment of Public Act 91-386, the amounts which could be transferred into these funds, and the liability of the State for losses on the guarantees, was limited to \$45,000,000 and \$15,000,000, respectively. These limits were deleted by Public Act 91-386. The operative language of each section now permits IFDA to transfer to each Fund "such amounts as are necessary to satisfy claims" made with respect to the State guarantees issued pursuant to the program, and each section further provides that the Act constitutes an irrevocable and continuing appropriation of the amounts necessary to secure the guarantees as defaults occur.

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In opinion No. 92-022, issued October 27, 1992, Attorney General Burriss concluded that loan guarantees issued by IFDA were unconditional and were backed by the full faith and credit of the State of Illinois up to the limits then imposed by statute. My predecessor explained that an unconditional guarantee is one which imposes no duty upon the creditor or holder of the obligation to attempt collection from the principal debtor before looking to the guarantor, and that the language of subsection 12.1(c) of the Act indicated that no such duty is imposed as a prerequisite to payment of the 85 percent of principal and interest guaranteed by the IFDA. The pertinent language of subsection 12.1(c) remains unchanged; therefore, I agree with the conclusion expressed in opinion No. 92-022 that loan guarantees issued by IFDA are unconditional.

As explained in opinion No. 92-022, a pledge of the full faith and credit of the State is an undertaking by the State to be obligated irrevocably to use its taxing powers, or any revenues available to it for general governmental purposes, for the full and prompt payment of the amount due. Such an undertaking is distinguishable from an obligation payable solely from a single, designated revenue source, such as income producing property, which is not considered a debt of the State. People v. Barrett (1940), 373 Ill. 393, 400-01.

Subsection 12.1(c) of the Act provides for the payment of guarantees from the Illinois Agricultural Loan Guarantee Fund. As amended by Public Act 91-386, the second paragraph of subsection 12.1(c) provides:

" \* \* \*

The Authority is authorized to transfer to the Fund such amounts as are necessary to satisfy claims during the duration of the State Guarantee program to secure State Guarantees issued under this Section. If for any reason the General Assembly fails to make an appropriation sufficient to meet these obligations, this Act shall constitute an irrevocable and continuing appropriation of an amount necessary to secure guarantees as defaults occur and the irrevocable and continuing authority for, and direction to, the State Treasurer and the Comptroller to make the necessary transfers to the Illinois Agricultural Loan Guarantee Fund, as directed by the Governor, out of the General Revenue Fund.

\* \* \* "

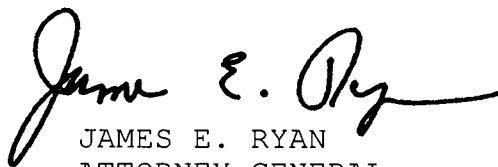
Parallel language is found in section 12.2 of the Act with respect to the Illinois Farmer and Agribusiness Loan Guarantee Fund.

These provisions, as amended, make available from the general revenue of the State any and all amounts necessary to satisfy claims made pursuant to the guarantees authorized to be issued. Necessary amounts are not tied to income derived from a specific source, and are subject to continuing appropriations,

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requiring no further action by the General Assembly. Continuing appropriation provisions for the repayment of debt have been held to be valid. (See People ex rel. Ogilvie v. Lewis (1971), 49 Ill. 2d 476, 489-90.) Therefore, it is my opinion that the State has pledged its full faith and credit to back the guarantees authorized by sections 12.1, 12.2, 12.4 and 12.5 of the Illinois Farm Development Act.

Sincerely,



JAMES E. RYAN  
ATTORNEY GENERAL