

**Introduced by Senator Yee**February 24, 2012

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An act to add Title 10.5 (commencing with Section 91700) to the Government Code, relating to state government, and making an appropriation therefor.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1465, as introduced, Yee. California Agriculture and Clean Energy (solar energy), biotech Export Loan Guarantee Financing Program.

The California Industrial Development Financing Act establishes the California Industrial Development Financing Advisory Commission, consisting of the Treasurer, the Controller, the Director of Finance, the Secretary of Business, Transportation and Housing, and the Commissioner of Corporations.

This bill would create the California Agriculture and Clean Energy (solar energy), biotech Export Loan Guarantee Financing Program, to be implemented by the commission, to provide small businesses, as defined, with financial and technical assistance. This bill would also create the Export Financing Advisory Board, consisting of 11 members appointed by the Legislature, the Governor, and specified state officials, to advise the commission on trends and opportunities in export financing. Members of the board will serve at the pleasure of their appointing authority and serve without compensation. This bill would also create the Export Development Fund, a continuously appropriated fund for the purposes of the program. By creating a continuously appropriated fund and providing for the deposit of moneys into the fund, this bill would make an appropriation.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) The great recession that began in 2007 has severely eroded  
4 California's economy and the state must restore the agricultural  
5 and clean energy (solar energy), biotech manufacturing and  
6 production sectors by retaining jobs and promoting job growth in  
7 those sectors, while improving revenue collections through an  
8 export financing loan guarantee program for those sectors.

9 (b) International trade and expanding export markets have been  
10 an important part of California's economic prosperity over the last  
11 60 years. This legislation is necessary to assist California's most  
12 successful and promising new and emerging businesses and  
13 industries secure markets outside of the United States. The credit  
14 support provided by this legislation is necessary to facilitate  
15 expansion of financially secure businesses and industries that have  
16 insufficient international experience or access to credit to secure  
17 financing from private sources. The credit support provided by  
18 this legislation will be used to facilitate export expansion and is  
19 intended to be targeted to new or emerging ventures and provide  
20 temporary assistance.

21 SEC. 2. Title 10.5 (commencing with Section 91700) is added  
22 to the Government Code, to read:

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24 TITLE 10.5. CALIFORNIA AGRICULTURE AND CLEAN  
25 ENERGY (SOLAR ENERGY), BIOTECH EXPORT LOAN  
26 GUARANTEE FINANCING PROGRAM

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28 91700. The following definitions shall apply to this title:

29 (a) "Board" means the Export Financing Advisory Board.

30 (b) "Commission" means the California Industrial Development  
31 Financing Advisory Commission established pursuant to Section  
32 91550.

33 (c) "Director" means the Executive Director of the California  
34 Agriculture and Clean Energy (solar energy), biotech Export Loan  
35 Guarantee Financing Program.

36 (d) "Financial institution" means any bank or savings and loan  
37 association regulated by the state or the federal government, any  
38 insurance company authorized to transact business in the state,

1 and any personal property broker or industrial loan company that  
2 is regulated under state law.

3 (e) “Program” means the California Agriculture and Clean  
4 Energy (solar energy), biotech Export Loan Guarantee Financing  
5 Program.

6 (f) “Small business” means an independently owned and  
7 operated business that meets all of the following:

8 (1) Primarily engaged in agricultural support, production,  
9 processing, and distribution or clean energy manufacturing and  
10 production.

11 (2) Not dominant in its field of operation.

12 (3) The principal office is located in California and the officers  
13 are domiciled in California.

14 (4) Together with affiliates it has 100 or fewer employees and  
15 has average gross receipts of ten million dollars (\$10,000,000) or  
16 less over the previous three years.

17 (5) Creates and sells products that are at least 85 percent  
18 produced and manufactured in California.

19 91701. The California Agriculture and Clean Energy (solar  
20 energy), biotech Export Loan Guarantee Financing Program is  
21 hereby established in the California Industrial Development  
22 Financing Advisory Commission. The purpose of the program is  
23 to expand employment and income opportunities through increased  
24 exports of California goods, services, and agricultural commodities  
25 by providing small businesses with financial and technical  
26 assistance on export opportunities, exporting techniques, and  
27 financial assistance in support of export transactions.

28 91702. The commission shall do all of the following:

29 (a) Implement this title and promulgate rules and regulations  
30 necessary to carry out the responsibilities under this title, including,  
31 but not limited to, establishing the program to insure, coinsure,  
32 and provide loan guarantees to support export transactions. The  
33 commission shall ensure that the program conforms to international  
34 trade agreements of the United States.

35 (b) Create advisory groups as necessary to carry out the powers  
36 and duties of the program.

37 (c) Publish an annual report critiquing the program, the  
38 continued need for the program, and recommended changes to the  
39 program. The report shall include, but not be limited to, an  
40 evaluation of the program’s impact on all of the following:

- 1 (1) Jobs created in the state by every program participant.
- 2 (2) Participation of private banks in export financing programs.
- 3 (3) Access by firms located in the state to federal export
- 4 financing programs.
- 5 (4) Export volume of firms located in the state.
- 6 (5) Other economic and social benefits to the state.
- 7 (d) Adopt criteria establishing which exporters and export
- 8 transactions shall be eligible for the insurance, coinsurance, and
- 9 loan guarantees as may be extended by the commission. Pursuant
- 10 to this subdivision, the commission shall adopt regulations to
- 11 ensure that all of the following criteria are met:
  - 12 (1) Borrowers have a minimum equity interest in the business
  - 13 as determined by the commission.
  - 14 (2) The loan guarantees, insurance, and coinsurance are extended
  - 15 exclusively to support the export of goods, services, and
  - 16 agricultural commodities produced or grown primarily in the state
  - 17 by companies or agricultural enterprises commercially domiciled
  - 18 in the state, as defined in subdivision (b) of Section 25120 of the
  - 19 Revenue and Taxation Code.
  - 20 (3) That financing assistance using state funds shall be extended
  - 21 only if at least one of the following circumstances is met:
    - 22 (A) Assistance is part of a state match that may be required to
    - 23 secure participation of California firms or agricultural enterprises
    - 24 in federal, state, or private financing programs.
    - 25 (B) If adequate financing assistance is not readily available from
    - 26 public or private sources in a timely manner.
    - 27 (e) Adopt collateral or security requirements to ensure the
    - 28 reasonable expectation of the full repayment of loan guarantees
    - 29 and solvency of any insurance and coinsurance program extended
    - 30 under this title and to assist in evaluating the program.
    - 31 (f) Consider and approve or reject any and all extensions of
    - 32 insurance, coinsurance, or loan guarantees under this title.
    - 33 (g) In order to expedite the implementation of this title, if a loan
    - 34 guarantee does not exceed one hundred thousand dollars
    - 35 (\$100,000), the commission may elect to delegate this approval
    - 36 authority to the director. All approvals made by the director
    - 37 pursuant to this paragraph shall be reported to, and reviewed by,
    - 38 the commission at its next regular meeting.
    - 39 (h) Consult with the office of the Governor to ensure that the
    - 40 respective loan guarantee programs are not duplicative and that

1 each program makes full use of, to the extent practicable, the  
2 resources of the other.

3 (i) Work to secure a delegated line of authority from the United  
4 States Export-Import Bank in order to take advantage of this  
5 possible new federal funding source.

6 (j) Develop a streamlined application and review process.

7 91703. (a) The director shall administer the program and  
8 perform any duties delegated by the commission and shall exercise  
9 any other power as may be necessary to carry out the purposes of  
10 this title. The director shall provide export finance training for  
11 program staff and other individuals involved in export finance  
12 assistance, including any training sessions as may be provided by  
13 the United States Export-Import Bank, the United States  
14 Department of Commerce, or other organizations.

15 (b) The director shall have the power and authority to carry out  
16 the following functions:

17 (1) To establish a network of contacts among those public and  
18 private organizations that provide technical assistance and financial  
19 support of exporting.

20 (2) To insure, coinsure, and guarantee loans related to qualified  
21 export transactions pursuant to regulations adopted by the  
22 commission.

23 (3) To seek public and private funding sources for the purpose  
24 of guaranteeing loans.

25 (4) To coordinate to the maximum extent possible the efforts  
26 of the program with programs and goals of the United States  
27 Export-Import Bank, United States Department of Commerce, the  
28 United States Small Business Administration, and other private  
29 and public programs designed to provide export assistance and  
30 export-related financing.

31 (5) Certify that exporters who borrow more than two hundred  
32 thousand dollars (\$200,000) create at least one job for each  
33 increment thereof and retain those jobs through the repayment  
34 period for the loan.

35 (6) Certify that exporters who borrow less than two hundred  
36 thousand dollars (\$200,000) retain all jobs at the time of application  
37 through repayment of the loan.

38 (7) Take any other related actions as may be appropriate and  
39 necessary to facilitate sale of export accounts receivable for  
40 exporters located in the state.

1 (c) The director shall provide administrative assistance to the  
2 board.

3 91704. (a) The Export Financing Advisory Board is hereby  
4 established. The purpose of the board is to advise the commission  
5 on trends and opportunities in export financing.

6 (b) The board shall consist of 11 members as follows:

7 (1) One member appointed by the Secretary of Food and  
8 Agriculture who is knowledgeable about, and experienced in, the  
9 exporting and export finance needs of California agriculture.

10 (2) Four members representing export firms, two each appointed  
11 by the Governor and the Speaker of the Assembly, who are  
12 experienced in exporting, knowledgeable about the needs and  
13 problems of small and entrepreneurial exporters, and actively  
14 employed with an exporting firm, export trading company, or  
15 export management company.

16 (3) Four members representing financial institutions, two each  
17 appointed by the Governor and the Senate Committee on Rules,  
18 who shall be experienced in export financing, knowledgeable about  
19 the export financing needs and problems of small and  
20 entrepreneurial exporters, and actively employed with financial  
21 institutions.

22 (4) Two members, one each appointed by the Treasurer and the  
23 Controller, who shall be accomplished credit evaluation  
24 representatives experienced in analyzing financial statements, such  
25 as loan applications, and in evaluating the creditworthiness of the  
26 types of loans, loan guarantees, and firms that are likely to come  
27 before the board.

28 (c) The appointing authorities described in subdivision (a) shall  
29 make their initial board appointments on or before April 1, 2013.

30 (d) Upon appointment of at least seven members under  
31 subdivision (a), the board may commence formal action pursuant  
32 to this title, but in no case shall this be later than June 1, 2013.

33 (e) The director shall call the initial meeting of the board and  
34 serve as interim chair of the board until a chair has been elected.

35 (f) Board members shall serve at the pleasure of the appointing  
36 authority and vacancies shall be filled by the appointing authority.

37 (g) Board members shall serve without compensation.

38 91705. The commission may charge fees, in amounts it  
39 determines, for loan guarantees, insurance, and other services

1 provided by the program. Fees shall be deposited into the Export  
2 Development Fund, created pursuant to Section 91707.

3 91706. Loan guarantees and insured export transactions made  
4 by the commission under the program shall be secured by no less  
5 than 25 percent reserve in the Export Development Fund  
6 established pursuant to Section 91707. The commission may  
7 require a higher reserve. The commission shall adopt regulations  
8 on the terms and limits for loan guarantees, but a loan guarantee  
9 shall not exceed any of the following:

10 (a) Ninety percent of the required financing. However, the  
11 commission may guarantee a higher percentage of the required  
12 financing if there is evidence of lender credit exposure and  
13 adequate analysis of foreign commercial and political risk.

14 (b) One million dollars (\$1,000,000).

15 (c) The lesser of two years or the useful life of the product.

16 91707. (a) The Export Development Fund is hereby established  
17 in the State Treasury.

18 (b) The fund is created for the purpose of receiving the following  
19 moneys for the purposes of this title:

20 (1) State, federal, and nonpublic moneys.

21 (2) Insurance premiums and other fees earned by the program.

22 (3) Recoveries and collections on claims paid by the program.

23 (4) Moneys received from the return of investments of money  
24 in the fund.

25 (c) Notwithstanding Section 13340, moneys in the fund are  
26 continuously appropriated, without regard to fiscal year, for the  
27 purposes of this title.

28 91708. Moneys in the Export Development Fund shall be paid  
29 out by the Treasurer on warrants drawn by the Controller upon  
30 order of the commission in furtherance of the purposes of this title,  
31 including the payment of claims under loan guarantee and  
32 insurance programs, payments for reinsurance, and payments  
33 required by state, federal, or private export programs conducted  
34 by the commission.

35 91709. This title shall be implemented only to the extent that  
36 funding is available for that purpose.

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