

HOUSE BILL No. 1438

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-4-34.

Synopsis: Small business loans. Establishes the small business loan program administered by the Indiana finance authority (IFA). Establishes the small business loan fund. Authorizes the IFA to transfer money in the fund to financial institutions for deposit at reduced interest rates. Requires the financial institution to loan the money to approved small businesses. Provides that the interest rate charged to the small business may not exceed the rate payable to the IFA plus 3%. Provides that the maximum amount that may be deposited for a particular small business loan is \$25,000. Provides that at least 50% of the deposits received by a financial institution for a small business loan may not exceed \$10,000. Requires an annual report from the entity responsible for carrying out the duties of the Indiana economic development corporation concerning small business development.

Effective: July 1, 2013.

Niezgodski

January 22, 2013, read first time and referred to Committee on Commerce, Small Business and Economic Development.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1438



A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-4-34 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2013]:

4 **Chapter 34. Small Business Loan Program**

5 **Sec. 1. As used in this chapter, "authority" refers to the Indiana**
6 **finance authority created by IC 4-4-11-4.**

7 **Sec. 2. As used in this chapter, "financial institution" means any**
8 **bank, trust company, corporate fiduciary, savings association,**
9 **credit union, savings bank, bank of discount and deposit, or**
10 **industrial loan and investment company that is:**

- 11 (1) **organized or reorganized under the laws of this state; or**
- 12 (2) **organized or reorganized under the laws of the United**
13 **States and has its headquarters in Indiana.**

14 **The term includes a consumer finance institution licensed to make**
15 **supervised or regulated loans under IC 24-4.5.**

16 **Sec. 3. As used in this chapter, "fund" refers to the small**
17 **business loan fund established by section 6 of this chapter.**



1 **Sec. 4. As used in this chapter, "participating financial**
2 **institution" means a financial institution approved by the authority**
3 **to participate in the small business loan program established by**
4 **this chapter.**

5 **Sec. 5. As used in this chapter, "small business" means any**
6 **person, firm, corporation, limited liability company, partnership,**
7 **or association that:**

- 8 **(1) is actively engaged in business in Indiana and maintains its**
9 **principal place of business in Indiana;**
10 **(2) is independently owned and operated;**
11 **(3) employs not more than fifty (50) full-time employees; and**
12 **(4) has gross annual receipts of not more than five million**
13 **dollars (\$5,000,000).**

14 **Sec. 6. (a) There is established the small business loan fund. The**
15 **fund shall be administered by the authority under the direction of**
16 **the authority's board. Money in the fund must be used for the**
17 **purposes of this chapter.**

18 **(b) The fund consists of the following resources:**

- 19 **(1) Appropriations from the general assembly.**
20 **(2) Gifts, grants, and donations of any tangible or intangible**
21 **property from public or private sources.**
22 **(3) Investment income earned on the fund's assets.**
23 **(4) Repayments of loans from the fund.**

24 **(c) The treasurer of state shall invest the money in the fund not**
25 **currently needed to meet the obligations of the fund in the same**
26 **manner as other public funds may be invested.**

27 **(d) The money remaining in the fund at the end of a fiscal year**
28 **does not revert to the state general fund.**

29 **(e) Interest earned on the fund may be used by the authority to**
30 **pay expenses incurred in the administration of the fund.**

31 **Sec. 7. A financial institution that wishes to participate in the**
32 **small business loan program established by this chapter shall apply**
33 **to the authority for the authority's approval. A financial institution**
34 **may not participate in the program until the financial institution's**
35 **application is approved. The authority shall publish and maintain**
36 **a list of participating financial institutions on the authority's**
37 **Internet web site.**

38 **Sec. 8. (a) A small business that wishes to obtain a loan under**
39 **this chapter must submit an application to a participating financial**
40 **institution on a form prescribed by the authority. The application**
41 **must describe the reasons for which the small business will use a**
42 **loan received under this chapter.**

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1 (b) A small business may not receive a loan under this chapter
 2 unless the participating financial institution to which the small
 3 business submitted the application required by subsection (a):

4 (1) approves the application submitted by the small business;
 5 and

6 (2) applies for and receives a deposit of money transferred
 7 from the fund that must be used to provide the loan.

8 (c) A participating financial institution must approve an
 9 application submitted under subsection (a) or inform the applicant
 10 that the application has been rejected by the participating financial
 11 institution not more than fifteen (15) days after the date the
 12 application is submitted.

13 (d) In determining whether to approve an application submitted
 14 under subsection (a), the participating financial institution shall:

15 (1) determine that the applicant is likely to repay the proposed
 16 loan, based on the creditworthiness of the applicant and any
 17 insurers or guarantors;

18 (2) require an applicant to have been profitable in at least two
 19 (2) of the previous three (3) years the applicant has operated,
 20 if the small business has been in existence for three (3) or
 21 more years; and

22 (3) evaluate the application using guidelines and criteria
 23 developed by the entity responsible for carrying out the duties
 24 of the Indiana economic development corporation under
 25 IC 5-28-17 concerning small business development, to the
 26 extent those guidelines and criteria do not conflict with the
 27 requirements of this chapter.

28 Sec. 9. A participating financial institution that approves an
 29 application submitted under section 8 of this chapter for a small
 30 business loan shall apply to receive a deposit under this chapter by
 31 submitting to the authority:

32 (1) a copy of the approved application; and

33 (2) any additional information required by the authority on a
 34 form prescribed by the authority.

35 Sec. 10. The authority shall establish a program review
 36 committee to review each application received from a participating
 37 financial institution under section 9 of this chapter. The committee
 38 must consider whether the proposed small business loan is
 39 economically sound and will benefit the people of Indiana by
 40 strengthening the economy of Indiana before making a
 41 recommendation to the authority concerning the small business
 42 loan for which the participating financial institution has applied

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1 for a deposit.

2 **Sec. 11.** Upon the recommendation of the program review
3 committee approving a small business loan, the authority may
4 transfer money from the fund to the participating financial
5 institution for deposit. Interest payable to the authority on money
6 deposited in the financial institution under this section may not
7 exceed the greater of:

- 8 (1) zero percent (0%); or
9 (2) the difference between:
10 (A) the interest rate for fifty-two (52) week United States
11 Treasury bills, as in effect on the day of the deposit; minus
12 (B) one and five-tenths percent (1.5%).

13 **Sec. 12. (a)** A participating financial institution that receives
14 money for deposit under section 11 of this chapter must use the
15 money to provide a low interest loan to the owner of the small
16 business, and the owner of the small business must use the loan
17 only for purposes allowed by section 13 of this chapter. A
18 participating financial institution that makes a loan under this
19 chapter may not charge an interest rate to the owner of the small
20 business that exceeds:

- 21 (1) the interest rate payable to the authority under section 11
22 of this chapter; plus
23 (2) three percent (3%).

24 (b) A participating financial institution and the owner of a small
25 business that receives a loan under this chapter shall enter a loan
26 agreement that must include the following:

- 27 (1) A requirement that the loan proceeds be used for specified
28 purposes consistent with the requirements of this chapter.
29 (2) The term of the loan, which may not exceed five (5) years.
30 (3) A provision specifying that interest does not begin to
31 accrue on the principal amount of the loan until the date
32 occurring six (6) months after the date the agreement is
33 entered into.
34 (4) The repayment schedule, the first payment of which is not
35 due until the date occurring six (6) months after the date the
36 agreement is entered into.
37 (5) The interest rate of the loan.
38 (6) Any other terms and provisions that the authority or
39 financial institution requires.

40 (c) A loan agreement under this section may also contain:

- 41 (1) a requirement that the loan be insured directly or
42 indirectly by a loan insurer or be guaranteed by a loan

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1 guarantor; and

2 (2) a requirement of any other type of security or collateral
3 that the authority or financial institution considers reasonable
4 or necessary.

5 Sec. 13. The owner of a small business may use the proceeds of
6 a loan received under this chapter for one (1) or more of the
7 following purposes:

8 (1) To purchase real property.

9 (2) To construct, renovate, or expand a building.

10 (3) To purchase equipment, furniture, fixtures, or inventory.

11 (4) Working capital purposes, including debt reduction.

12 Sec. 14. (a) The maximum amount of a deposit made under
13 section 11 of this chapter for a particular small business loan is
14 twenty-five thousand dollars (\$25,000).

15 (b) In addition to the limit specified in subsection (a), at least
16 fifty percent (50%) of the deposits made to a participating
17 financial institution under section 11 of this chapter for all small
18 business loans that the participating financial institution makes
19 under this chapter may not exceed ten thousand dollars (\$10,000).

20 Sec. 15. (a) The authority shall, following the close of each state
21 fiscal year, submit an annual report of its activities under this
22 chapter for the preceding state fiscal year to the governor, the
23 budget committee, and the general assembly. A report submitted
24 to the general assembly must be in an electronic format under
25 IC 5-14-6. The governor shall forward a copy of the report to the
26 entity responsible for carrying out the duties of the Indiana
27 economic development corporation under IC 5-28-17 concerning
28 small business development.

29 (b) Beginning November 1, 2014, and before November 1 of
30 each succeeding year, the entity responsible for carrying out the
31 duties of the Indiana economic development corporation under
32 IC 5-28-17 concerning small business development shall:

33 (1) review the report submitted under subsection (a);

34 (2) evaluate the effectiveness of the small business loan
35 program; and

36 (3) submit its findings to the governor, the budget committee,
37 the authority, and the general assembly.

38 A report submitted to the general assembly must be in an
39 electronic format under IC 5-14-6.

40 Sec. 16. (a) An obligation of the authority for losses on loans
41 resulting from death, default, bankruptcy, or total or permanent
42 disability of borrowers is not a debt of the state but is payable

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1 solely from the fund.
2 (b) The making of loans from money transferred from the fund
3 under this chapter does not constitute the lending of credit by the
4 state for purposes of any other statute or the Constitution of the
5 State of Indiana.

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