HOUSE BILL No. 1554

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-4-34.

Synopsis: Low interest loans for small businesses. 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 lend the money to approved small business development projects. 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 development project is $1,000,000. 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.

Moed, Harman

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

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Introduced

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. 1554

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:

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

Chapter 34. Small Business Loan Program

Sec. 1. As used in this chapter, "authority" means the Indiana finance authority created by IC 4-4-11-4.

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

(1) organized or reorganized under the laws of Indiana; or

(2) organized or reorganized under the laws of the United States and has its headquarters in Indiana.

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

Sec. 3. As used in this chapter, "fund" means the small business loan fund established by section 7 of this chapter.

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

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

(1) is actively engaged in business in Indiana and maintains its principal place of business in Indiana;

(2) is independently owned and operated;

(3) employs not more than one hundred (100) full-time employees; and

(4) has gross annual receipts of not more than five million dollars ($5,000,000).

Sec. 6. As used in this chapter, "small business development project" refers to a small business start up or expansion project that proposes to create new jobs in Indiana.

Sec. 7. (a) There is established the small business loan fund. The fund shall be administered by the authority under the direction of the authority's board. Money in the fund must be used for the purposes of this chapter.

(b) The fund consists of the following resources:

(1) Appropriations from the general assembly.

(2) Gifts, grants, and donations of any tangible or intangible property from public or private sources.

(3) Investment income earned on the fund's assets.

(4) Repayments of loans from the fund.

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

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

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

Sec. 8. A financial institution that wishes to participate in the small business loan program established by this chapter shall apply to the authority for the authority's approval. A financial institution may not participate in the program until the financial institution's application is approved. The authority shall publish and maintain a list of participating financial institutions on the authority's Internet web site.

Sec. 9. (a) A small business that wishes to obtain a loan under

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this chapter must submit an application to a participating financial institution on a form prescribed by the authority. The application must describe the small business development project for which the small business will use a loan received under this chapter.

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

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

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

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

(d) In determining whether to approve an application submitted under subsection (a), the participating financial institution shall evaluate the application using guidelines and criteria developed by the entity responsible for carrying out the duties of the Indiana economic development corporation under IC 5-28-17 concerning small business development.

Sec. 10. A participating financial institution that approves an application submitted under section 9 of this chapter for a small business development project shall apply to receive a deposit under this chapter by submitting to the authority:

(1) a copy of the approved application; and

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

Sec. 11. The authority shall establish a program review committee to review each application received from a participating financial institution under section 10 of this chapter. The committee must consider the following before making a recommendation to the authority concerning the small business development project for which the participating financial institution has applied for a deposit:

(1) Whether the proposed small business development project is economically sound and will benefit the people of Indiana by increasing opportunities for employment in Indiana and strengthening the economy of Indiana.

(2) Whether receiving a loan under this chapter is a major factor in the small business owner's decision to go forward

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with the project and not receiving the loan will result in the small business not creating new jobs in Indiana.

Sec. 12. Upon the recommendation of the program review committee that approves a small business development project, the authority may transfer money from the fund to the participating financial institution for deposit. Interest payable to the authority on money deposited in the financial institution under this section may not exceed the difference between:

(1) the interest rate for fifty-two (52) week United States Treasury bills, as in effect on the day of the deposit; minus

(2) one and five-tenths percent (1.5%).

Sec. 13. (a) A participating financial institution that receives money for deposit under section 12 of this chapter must use the money to provide a low interest loan to the owner of the small business who must use the loan for purposes permitted by section 14 of this chapter. A participating financial institution that makes a loan under this chapter may not charge an interest rate to the owner of the small business that exceeds:

(1) the interest rate payable to the authority under section 12 of this chapter; plus

(2) three percent (3%).

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

(1) A requirement that the loan proceeds be used for specified purposes consistent with the requirements of this chapter.

(2) The term of the loan, which may not be greater than twenty (20) years.

(3) The repayment schedule.

(4) The interest rate of the loan.

(5) Any other terms and provisions that the authority or financial institution requires.

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

(1) a requirement that the loan be insured directly or indirectly by a loan insurer or be guaranteed by a loan guarantor; and

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

Sec. 14. The owner of a small business may use the proceeds of a loan received under this chapter for one (1) or more of the following purposes:

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(1) To purchase real property.
(2) To construct, renovate, or expand a building.
(3) To purchase equipment, furniture, fixtures, or inventory.
(4) For working capital purposes.

Sec. 15. The maximum amount of a deposit made under section 12 of this chapter for a particular small business development project is one million dollars ($1,000,000).

Sec. 16. (a) The authority shall, following the close of each state fiscal year, submit an annual report of its activities under this chapter for the preceding state fiscal year to the governor, the budget committee, and the general assembly. A report submitted to the general assembly must be in an electronic format under IC 5-14-6. The governor shall forward a copy of the report to the entity responsible for carrying out the duties of the Indiana economic development corporation under IC 5-28-17 concerning small business development.

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

(1) review the report submitted under subsection (a);
(2) evaluate the effectiveness of the small business loan program; and
(3) submit its findings to the governor, the budget committee, the authority, and the general assembly.

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

Sec. 17. (a) An obligation of the authority for losses on loans resulting from death, default, bankruptcy, or total or permanent disability of borrowers is not a debt of the state but is payable solely from the fund.

(b) The making of loans from money transferred from the fund does not constitute the lending of credit by the state for purposes of any other statute or the Constitution of the State of Indiana.

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