

HOUSE BILL NO. 137
INTRODUCED BY D. VILLA
BY REQUEST OF THE DEPARTMENT OF COMMERCE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CONDITIONS UNDER THE MICROBUSINESS DEVELOPMENT ACT TO INCREASE ACCESS TO DEVELOPMENT LOANS; REVISING THE DEFINITION OF "QUALIFIED MICROBUSINESS"; AMENDING SECTIONS 17-6-402, 17-6-403, AND 17-6-407, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 17-6-402, MCA, is amended to read:

"17-6-402. Legislative findings and purpose. (1) The legislature finds and declares that:

(a) it is the policy of the state to foster and encourage economic development within the state in order to promote the general welfare of the people;

(b) no program exists by which the state encourages and assists in the creation, development, and financing of businesses with fewer than 10 full-time equivalent employees and gross revenues of less than ~~\$500,000~~ \$1 million a year, which represent a significant component of and potential for growth in the state's economy; and

(c) neither the public sector nor the private sector currently satisfies the financial needs of these businesses.

(2) The purpose of this part is to create a program to encourage and assist in the creation, development, and financing of businesses with fewer than 10 full-time equivalent employees and gross revenues of less than ~~\$500,000~~ \$1 million a year.

(3) The process of certification of microbusiness development corporations and selection among competing proposals for development loans must be open and competitive and allow access to the competition to all interested communities and organizations and must provide for selecting for award of development loans those projects that are best qualified according to the criteria established under 17-6-406 through 17-6-408."

Section 2. Section 17-6-403, MCA, is amended to read:

"17-6-403. Definitions. As used in this part, the following definitions apply:

(1) "Certified microbusiness development corporation" means a microbusiness development corporation certified pursuant to 17-6-408.

(2) "Department" means the department of commerce provided for in 2-15-1801.

(3) "Development loan" means money loaned to a certified microbusiness development corporation by the department for the purpose of making microbusiness loans under the provisions of this part.

(4) "Microbusiness development corporation" means a nonprofit corporation organized and existing under the laws of the state to provide training, technical assistance, and access to capital for the startup or expansion of qualified microbusinesses.

(5) "Microbusiness loan" means a loan made from or guaranteed by a revolving loan fund contributed to by the microbusiness finance program.

(6) "Program" means the microbusiness finance program established in 17-6-406.

(7) "Qualified microbusiness" means a business enterprise located in the state that:

(a) produces goods or provides services and has fewer than 10 full-time equivalent employees and annual gross revenue of less than ~~\$500,000~~ \$1 million; or

(b) produces energy using an alternative renewable energy source as defined in 15-6-225.

(8) "Revolving loan fund" means a fund required to be established by a certified microbusiness development corporation that receives a development loan."

Section 3. Section 17-6-407, MCA, is amended to read:

"17-6-407. Microbusiness development loan account and finance program administrative account -- criteria -- limitations. (1) (a) There is in the state special revenue fund a microbusiness development loan account into which funds allocated for that purpose and money received in repayment of the principal of development loans must be deposited.

(b) The department may make development loans from the account to a certified microbusiness development corporation.

(c) Interest earned on the account must be deposited in the microbusiness finance program administrative account established in subsection (2).

(2) There is in the state special revenue fund a microbusiness finance program administrative account into which must be deposited:

(a) all interest received on development loans received directly from microbusiness development corporations;

(b) service charges or fees received from certified microbusiness development corporations;

(c) grants, donations, and private or public income; and

(d) all interest earned on money in the account and interest earned on money in the account provided for in subsection (1)(a).

(3) Money in the administrative account may be transferred to the development loan account or be used to pay the costs of the program, including personnel, travel, equipment, supplies, consulting costs, and other operating expenses of the program.

(4) Subject to subsection (1), a certified microbusiness development corporation that receives a development loan may apply for an additional loan if the applicant meets the performance criteria established by the department.

(5) To establish the criteria for making development loans, the department shall consider:

- (a) the plan for providing services to microbusinesses;
- (b) the scope of services to be provided by the certified microbusiness development corporation;
- (c) the geographic representation of all regions of the state, including urban, rural[, and tribal] communities;
- (d) the plan for providing service to minorities, women, and low-income persons;
- (e) the ability of the corporation to provide business training and technical assistance to microbusiness clients;
- (f) the ability of the corporation, with a plan, to:
- (i) monitor and provide financial oversight of recipients of microbusiness loans;
- (ii) administer a revolving loan fund; and
- (iii) investigate and qualify financing proposals and to service credit accounts;
- (g) sources and sufficiency of operating funds for the certified microbusiness development corporation;
- and
- (h) the intent of the corporation, with a plan and written indications of local institutional support, to provide services to a designated multicounty region of the state.

(6) Development loan funds may be used by a certified microbusiness development corporation to:

- (a) satisfy matching fund requirements for other state, federal, or private funding only if funding is intended and used for the purpose of providing or enhancing the certified microbusiness development corporation's ability to provide and administer loans, technical assistance, or management training to microbusinesses;

(b) establish a revolving loan fund from which the certified microbusiness development corporation may make loans to qualified microbusinesses, provided that a single loan does not exceed ~~\$35,000~~ \$100,000 and the outstanding balance of all loans to a microbusiness or a project participated in by more than one microbusiness or to two or more microbusinesses in which any one person holds more than a 20% equity share does not exceed ~~\$35,000~~ \$100,000;

(c) establish a guarantee fund from which the certified microbusiness development corporation may guarantee loans made by financial institutions to qualified microbusinesses. However, a single guarantee may not exceed ~~\$35,000~~ \$100,000, and the aggregate of all guarantees to a microbusiness or a project participated in by more than one microbusiness or to two or more microbusinesses in which any one person holds more than a 20% equity share may not exceed ~~\$35,000~~ \$100,000.

(7) Development loan funds may not be:

(a) loaned for relending or investment in stocks, bonds, or other securities or for property not intended for use in production by the recipient of the loan; or

(b) used to:

(i) refinance a nonperforming loan held by a financial institution; or

(ii) pay the operating costs of a certified microbusiness development corporation. However, interest income earned from the proceeds of a development loan may be used to pay operating expenses.

(8) Certified microbusiness development corporations are required to contribute cash from other sources to leverage and secure development loans from the program. Contributions provided by the corporation must be on a ratio of at least \$1 from other sources for each \$6 from the program. These contributions may come from a public or private source other than the program and may be in the form of equity capital, loans, or grants.

(9) Development loans must be made pursuant to a development loan agreement and may be amortization or term loans, bear interest at less than the market rate, be renewable, be callable, and contain other terms and conditions considered appropriate by the department and that are consistent with the purposes of and with rules promulgated to implement this part.

(10) Each certified microbusiness development corporation that receives a development loan under this part shall provide the department with an annual audit from an independent certified public accountant. The audit must cover all of the microbusiness development corporation's activities and must include verification of compliance with requirements specific to the microbusiness program.

(11) A certified microbusiness development corporation that is in default for nonperformance under rules established by the department may be required to refund the outstanding balance of development loans awarded

prior to the default declaration. A development loan is secured by a first lien on all funds and all receivables administered under the authority of the microbusiness development act by the corporation receiving the loan. (Bracketed language terminates June 30, 2009--secs. 3, 4, Ch. 460, L. 2005.)"

NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2007.

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