

HOUSE BILL NO. 898

INTRODUCED BY P. TUSS, D. SALOMON, E. BOLDMAN, A. BUCKLEY, M. YAKAWICH, T. BROCKMAN, C. SPRUNGER, P. GREEN, J. KARLEN, J. FITZPATRICK, N. HASTINGS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MICROBUSINESS DEVELOPMENT ACT; REVISING THE DEFINITION OF A QUALIFIED MICROBUSINESS; INCREASING THE AMOUNT ALLOWED FOR A DEVELOPMENT LOAN; PROVIDING FOR A FUND TRANSFER FROM THE STATE GENERAL FUND; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 17-6-403 AND 17-6-407, MCA; AND PROVIDING EFFECTIVE DATES."

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

Section 1. 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 ~~40~~15 full-time equivalent employees and annual gross revenue of less than ~~\$4~~ \$5 million; or

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

2 (8) "Revolving loan fund" means a fund required to be established by a certified microbusiness
3 development corporation that receives a development loan."
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5 **Section 2.** Section 17-6-407, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

- 1 (a) the plan for providing services to microbusinesses;
- 2 (b) the scope of services to be provided by the certified microbusiness development corporation;
- 3 (c) the geographic representation of all regions of the state, including urban, rural, and tribal
- 4 communities;
- 5 (d) the plan for providing service to minorities, women, and low-income persons;
- 6 (e) the ability of the corporation to provide business training and technical assistance to
- 7 microbusiness clients;
- 8 (f) the ability of the corporation, with a plan, to:
- 9 (i) monitor and provide financial oversight of recipients of microbusiness loans;
- 10 (ii) administer a revolving loan fund; and
- 11 (iii) investigate and qualify financing proposals and to service credit accounts;
- 12 (g) sources and sufficiency of operating funds for the certified microbusiness development
- 13 corporation; and
- 14 (h) the intent of the corporation, with a plan and written indications of local institutional support, to
- 15 provide services to a designated multicounty region of the state.
- 16 (6) Development loan funds may be used by a certified microbusiness development corporation to:
- 17 (a) satisfy matching fund requirements for other state, federal, or private funding only if funding is
- 18 intended and used for the purpose of providing or enhancing the certified microbusiness development
- 19 corporation's ability to provide and administer loans, technical assistance, or management training to
- 20 microbusinesses;
- 21 (b) establish a revolving loan fund from which the certified microbusiness development corporation
- 22 may make loans to qualified microbusinesses, provided that a single loan does not exceed ~~\$100,000~~ \$200,000
- 23 and the outstanding balance of all loans to a microbusiness or a project participated in by more than one
- 24 microbusiness or to two or more microbusinesses in which any one person holds more than a 20% equity share
- 25 does not exceed ~~\$100,000~~ \$200,000;
- 26 (c) establish a guarantee fund from which the certified microbusiness development corporation
- 27 may guarantee loans made by financial institutions to qualified microbusinesses. However, a single guarantee
- 28 may not exceed ~~\$100,000~~ \$200,000, and the aggregate of all guarantees to a microbusiness or a project

1 participated in by more than one microbusiness or to two or more microbusinesses in which any one person
2 holds more than a 20% equity share may not exceed ~~\$100,000~~ \$200,000.

3 (7) Development loan funds may not be:

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

6 (b) used to:

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

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

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

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

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

23 (11) A certified microbusiness development corporation that is in default for nonperformance under
24 rules established by the department may be required to refund the outstanding balance of development loans
25 awarded prior to the default declaration. A development loan is secured by a first lien on all funds and all
26 receivables administered under the authority of the microbusiness development act by the corporation receiving
27 the loan."
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