

SECOND REGULAR SESSION

HOUSE BILL NO. 2628

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GREEN.

5826H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 620, RSMo, by adding thereto one new section relating to the Missouri Minority Business Loan Program.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 620, RSMo, is amended by adding thereto one new section, to be known as section 620.1940, to read as follows:

620.1940 1. This section shall be known and may be cited as the "Missouri Minority Business Loan Program".

2. As used in this section, unless the context clearly indicates otherwise, the following terms mean:

(1) "Commission", the Missouri minority business advocacy commission established under section 37.014;

(2) "Department", the department of economic development;

(3) "Member of a minority", any individual who has been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities. Such groups shall include, but not be limited to, groups based on race, color, religion, sex, or national origin;

(4) "Minority business enterprise", a socially and economically disadvantaged small business concern that is organized for profit, that is performing a commercially useful function, and that is owned and controlled by another minority business enterprise or one or more members of a minority, at least fifty percent of whom are resident citizens of this state;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **(5) "Owned and controlled", one or more entities control at least sixty percent of**
18 **the management and daily business operations of the business and:**

19 **(a) For a corporation, one or more entities own at least sixty percent of the voting**
20 **stock; or**

21 **(b) For all other forms of businesses, one or more entities own at least sixty percent**
22 **of the business;**

23 **(6) "Qualified entity", a planning and development district, a small business**
24 **investment corporation, a bank-based community development corporation, or other entity**
25 **that meets the requirements established by the department;**

26 **(7) "Socially and economically disadvantaged small business concern", the same**
27 **meaning as ascribed under the Small Business Act, 15 U.S.C.S., Section 637(a). However,**
28 **an individual whose personal net worth exceeds five hundred thousand dollars shall not**
29 **be considered economically disadvantaged.**

30 **3. The department may loan or grant funds to a qualified entity for the purpose of**
31 **establishing loan revolving funds to assist in financing the economic development of**
32 **minority businesses. The moneys loaned or granted by the department shall be drawn**
33 **from the general revenue fund and shall not exceed twenty-nine million dollars in the**
34 **aggregate.**

35 **4. Qualified entities that receive moneys pursuant to this provision shall use such**
36 **moneys to make loans to minority businesses consistent with requirements established by**
37 **the department. Such requirements shall, at a minimum, include the following:**

38 **(1) The minority business shall be a private, for-profit enterprise;**

39 **(2) If the minority business enterprise is a proprietorship, the borrower shall be a**
40 **resident citizen of this state, or, if the minority business enterprise is a corporation or**
41 **partnership, at least fifty percent of the owners shall be resident citizens of this state;**

42 **(3) The borrower shall have at least five percent equity interest in the minority**
43 **business enterprise;**

44 **(4) The borrower shall demonstrate an ability to repay the loan;**

45 **(5) The borrower shall not be in default of any previous loan from the state or**
46 **federal government;**

47 **(6) Loan proceeds shall be used for financing project costs associated with the**
48 **development or expansion of a small business including, but not limited to, fixed assets,**
49 **working capital, start-up costs, rental payments, interest expenses during construction, and**
50 **professional fees related to the project; and**

51 **(7) Loan proceeds shall not be used to pay off existing debt for loan consolidation**
52 **purposes; to finance the acquisition, construction, improvement, or operation of real**

53 property which shall be held primarily for sale or investment; to provide for or free funds
54 for speculation in any kind of property; or as a loan to owners, partners, or stockholders
55 of the applicant that do not change ownership interest by the applicant. However, this does
56 not apply to ordinary compensation for services rendered in the course of business.

57 5. The maximum amount that may be loaned to any one borrower shall not exceed
58 fifty percent of the total project costs or five million dollars, whichever is less. No loan
59 shall exceed seven years if for working capital, ten years if for machinery, or fifteen years
60 if for land and buildings. The interest rate on the loan may range from two percent below
61 or two percent above the Federal Reserve discount rate.

62 6. The commission shall review each loan before issuance, and no loan shall be
63 made to any borrower until the loan has been reviewed and approved by the commission.

64 7. If this program expires or is terminated, moneys not loaned or granted by the
65 department to qualified entities under this section and moneys not loaned by qualified
66 entities, shall be deposited to the credit of the general revenue fund.

67 8. Notwithstanding any other provision under this section to the contrary, if federal
68 funds are not available for commitments made by a qualified entity to provide assistance
69 under any federal loan program administered by such qualified entity in coordination with
70 the Economic Development Administration, such qualified entity may use funds that are
71 not otherwise committed to provide assistance in its loan revolving fund for the purpose
72 of providing temporary funding for such commitments. If a qualified entity uses
73 uncommitted funds in its loan revolving fund to provide such temporary funding, the
74 district shall use funds repaid to the district under the temporarily funded federal loan
75 program to replenish the funds used to provide the temporary funding. Funds used by a
76 qualified entity to provide temporary funding under this subsection shall be repaid to the
77 qualified entity's loan revolving fund no later than twelve months after the date the
78 qualified entity provides the temporary funding. A qualified entity shall not use
79 uncommitted funds in its loan revolving fund to provide temporary funding under this
80 subsection on more than two occasions during a calendar year. A qualified entity may
81 provide temporary funding for multiple commitments on each such occasion. The
82 maximum aggregate amount of uncommitted funds in a loan revolving fund that may be
83 used for such purposes during a calendar year shall not exceed seventy percent of the
84 uncommitted funds in the loan revolving fund on the date the qualified entity first provides
85 temporary funding during the calendar year.

86 9. If the department determines that a qualified entity provides loans to minority
87 businesses in a manner inconsistent with the provisions of this section, then the department
88 shall withhold the amount of such loans from any additional grant of funds under this

89 section to such qualified entity. If the department determines, after notifying such
90 qualified entity twice in writing and providing such qualified entity a reasonable
91 opportunity to comply, that a qualified entity has consistently failed to comply with this
92 subsection, the department shall declare such qualified entity in default under this section.
93 Upon receipt of notice thereof from the department, such qualified entity shall immediately
94 cease providing loans under this section, shall refund all funds held in its revolving loan
95 fund to the department for distribution to other qualified entities, and, if required by the
96 department, shall convey all administrative and management control of loans provided by
97 it under this section to the department.

98 10. If the department determines that a qualified entity administering a revolving
99 loan fund under the provisions of this subsection is not actively engaged in lending as
100 defined by the rules and regulations of the department, after notifying such qualified
101 entity, the commission, and each legislative member whose district such qualified entity is
102 located, in whole or in part, twice in writing and after providing such qualified entity a
103 reasonable opportunity to take corrective action, the department shall declare such
104 qualified entity in default under this section. Upon receipt of notice thereof from the
105 department, such qualified entity shall immediately cease providing loans under this
106 section, shall refund all funds held in its revolving loan fund to the department for
107 distribution to other qualified entities, and, if required by the department, shall convey all
108 administrative and management control of loans provided by it under this section to the
109 department.

110 11. The department shall develop a program that will assist minority business
111 enterprises by guaranteeing bid, performance, and payment bonds that such minority
112 business enterprises are required to obtain in order to contract with federal agencies, state
113 agencies, or political subdivisions of the state. The department, as it determines necessary,
114 may secure letters of credit to guarantee bid, performance, and payment bonds under this
115 subsection. Moneys for such program shall be drawn from the moneys allocated under
116 subsection 3 of this section to assist the financing of minority economic development and
117 shall not exceed five million dollars in the aggregate.

118 12. The department shall promulgate rules to implement the provisions of this
119 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is
120 created under the authority delegated in this section shall become effective only if it
121 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
122 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers
123 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
124 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the

125 **grant of rule making authority and any rule proposed or adopted after August 28, 2016,**
126 **shall be invalid and void.**

127 **13. Under section 23.253 of the Missouri sunset act:**

128 **(1) The provisions of the new program authorized under this section shall**
129 **automatically sunset six years after the effective date of this section unless reauthorized by**
130 **an act of the general assembly;**

131 **(2) If such program is reauthorized, the program authorized under this section**
132 **shall automatically sunset twelve years after the effective date of the reauthorization of this**
133 **section; and**

134 **(3) This section shall terminate on September first of the calendar year immediately**
135 **following the calendar year in which the program authorized under this section is sunset.**

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