

1 HB518
2 218973-3
3 By Representative Gray
4 RFD: Ways and Means Education
5 First Read: 17-MAR-22

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8 SYNOPSIS: Under existing law, there is no provision
9 for a program funded by the tax credits that
10 provides micro-loans to eligible small businesses.

11 This bill would create a small business
12 micro-loan program to provide micro-loans to
13 eligible small businesses in Alabama and provide
14 for micro-loan tax credits to fund the Alabama
15 Small Business Micro-Loan Program.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT

20
21 Relating to economic development to add Article 22,
22 commencing with Section 41-10-840, to Chapter 10 of Title 41,
23 Code of Alabama 1975; to create a small business micro-loan
24 program to provide micro-loans to eligible small businesses;
25 and to establish a micro-loan tax credit for the benefit of
26 the small business micro-loan program.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Article 22, commencing with Section
2 41-10-840, is added to Chapter 10 of Title 41, Code of Alabama
3 1975, to read as follows:

4 §41-10-840.

5 For the purposes of this article, the following
6 words shall have the following meanings:

7 (1) BUSINESS. A business entity organized for
8 profit.

9 (2) CORPORATION. The Alabama Innovation Corporation
10 created by Article 20, commencing with Section 41-10-800.

11 (3) ELIGIBLE SMALL BUSINESS. Any business that meets
12 all of the following:

13 a. The primary management of the business occurs
14 within the state.

15 b. Alabama is the primary residence of at least one
16 of the top executives of the business and the primary
17 residence of at least 75 percent of its employees.

18 c. The business has not employed more than 50
19 full-time employees, or their equivalents, in any year of the
20 business' existence.

21 d. The business has not had annual revenues in
22 excess of five hundred thousand (\$500,000) in any year of the
23 business' existence.

24 e. If owned by individuals, the individuals are
25 residents of the state and either U.S. citizens or permanent
26 resident aliens in the U.S.;

1 f. Less than 50 percent of the owners may own
2 venture capital operating companies, hedge funds, private
3 equity firms, or any combination of such entities.

4 g. The business is not a business described in 13
5 C.F.R. § 120.110(a) through (k) or (p), or a business that
6 currently owes any defaulted taxes to the state or to any of
7 its political subdivisions.

8 If a substantial portion of a business' assets or
9 liabilities are the same as those of a predecessor business,
10 then the corporation shall take into account the annual
11 revenues and employees of the predecessor in determining the
12 business' eligibility.

13 (4) MICRO-LOAN. A loan or convertible note made by
14 the corporation, or by an entity contracted by the corporation
15 to administer micro-loans, that meets all of the following
16 criteria:

17 a. Is for fifty thousand dollars (\$50,000) or less.

18 b. Has a maturity date no longer than seven years
19 following the date issued.

20 c. Accrues interest at an annualized rate not to
21 exceed nine percent.

22 (5) MICRO-LOAN TAX CREDIT. The tax credit provided
23 for in this article.

24 (6) NOTE. The loan or convertible note agreement
25 entered into by the corporation and an eligible small
26 business.

27 §41-10-841.

1 (a) The corporation may enter into a micro-loan note
2 with an eligible small business as provided in this section.

3 (1) The corporation may establish priorities,
4 guidelines, standards, and processes by which the micro-loans
5 contemplated in this article may be awarded.

6 (2) The corporation shall require an interested
7 business to complete an application on a form issued by the
8 corporation.

9 (b) Applications shall be considered by the board of
10 the corporation. Upon the approval of the board, the
11 corporation may execute a note and transfer proceeds of the
12 micro-loan to an approved eligible small business.

13 (c) Any micro-loan note executed by the corporation
14 under this article shall include, among other terms, all of
15 the following conditions:

16 (1) The proceeds of the micro-loan may only be used
17 by the eligible small business for the payment of the
18 following business-related expenses:

- 19 a. Inventory.
- 20 b. Supplies.
- 21 c. Machinery or equipment.
- 22 d. Rent.
- 23 e. Utilities.
- 24 f. Payroll for full-time employees, excluding any
25 owners.
- 26 g. Contracted services provided by non-owners
27 directly related to the development of the business,

1 including, but not limited to, marketing services, website or
2 application development services, accounting services
3 unrelated to a federal or state audit, and legal services
4 unrelated to threatened or actual litigation.

5 (2) The proceeds of the micro-loan may not be used
6 for the recoupment of a personal investment in the business,
7 the payment of taxes, or the repayment of a debt.

8 (3) The business remains an eligible small business
9 through the maturity date specified in the note.

10 (4) Any material default by the business shall
11 entitle the corporation to require immediate repayment of the
12 proceeds and accrued interest of the micro-loan.

13 (5) The business shall provide an annual report to
14 the corporation that identifies at least:

15 a. The amount and use of any expended micro-loan
16 proceeds.

17 b. The number of full-time employees, or their
18 equivalent, employed by the business.

19 c. The average compensation of all employees.

20 d. Financial statements for the business, including
21 the balance sheet and profit and loss statement.

22 e. Representations regarding the business'
23 compliance with the note.

24 (d)(1) The corporation shall identify, support, and
25 promote Alabama-based nonprofit organizations that provide
26 business and financial education programs to small businesses,
27 so that all borrowers under the micro-loan program, together

1 with businesses whose applications are not approved by the
2 corporation, have access to the programs.

3 (2) The corporation shall reserve at least 25
4 percent of the funds raised through micro-loan tax credits for
5 eligible small businesses that meet the qualifications of
6 Section 40-18-376.4(c). In the event applications are not
7 received from eligible small businesses that meet these
8 qualifications by the close of the second quarter of the
9 program year, the reserved funds shall be generally available
10 for micro-loans to other eligible small businesses under this
11 program.

12 (3) All loan payments made to the corporation by
13 eligible small businesses under the micro-loan program shall
14 be allocated for reuse within the micro-loan program.

15 (4) The corporation may contract with private
16 nonprofit entities for the administration of the micro-loan
17 program.

18 (5) The corporation may use funding from federal and
19 state grants, state appropriations, the micro-loan tax credit,
20 and any other lawful source to fund and promote the micro-loan
21 program.

22 §41-10-842.

23 (a) Beginning January 1 of each year, Alabama
24 taxpayers may claim a micro-loan tax credit for contributions
25 to the corporation to fund the micro-loan program. The
26 micro-loan tax credit may be used to offset any of the
27 following:

1 (1) Income taxes levied in Chapter 18 and as an
2 estimated payment of income taxes.

3 (2) The financial institution excise tax levied in
4 Chapter 16.

5 (3) The insurance premium tax levied in Chapter 4A
6 of Title 27.

7 (4) State license taxes levied by Article 2, Chapter
8 21.

9 (b) In no event shall the micro-loan tax credit
10 cause a taxpayer's tax liability to be reduced by more than 50
11 percent. Unused credits may be carried forward for no more
12 than five years.

13 (c) The tax credit shall be granted to taxpayers
14 using an online system administered by the Department of
15 Revenue. The online system shall allow taxpayers to agree to
16 make a cash contribution to the corporation to fund the
17 micro-loans contemplated in this article.

18 (d) The cumulative amount of tax credits issued
19 pursuant to this section shall not exceed five million dollars
20 (\$5,000,000) in a calendar year. The Department of Revenue
21 shall adopt rules to provide for the reservation of credits
22 and administration of the micro-loan tax credits.

23 (e) To the extent that a micro-loan tax credit is
24 used by a taxpayer, the taxpayer shall not be allowed any
25 state deduction that would have otherwise been allowed for the
26 taxpayer's contribution. Micro-loan tax credits may only be
27 claimed by the donating taxpayer and may not be assigned or

1 transferred to any other taxpayer. For purposes of this
2 section, a donating taxpayer includes a taxpayer who is a
3 shareholder of an Alabama S corporation or a partner or member
4 of a subchapter K entity that made a contribution to the
5 corporation.

6 (f) The Department of Finance shall adopt rules to
7 ensure that the micro-loan tax credit does not reduce the
8 distribution for the Alabama Special Mental Health Trust Fund
9 by using any unencumbered funds.

10 §41-10-843.

11 The corporation may adopt rules as necessary to
12 implement and administer this article.

13 Section 2. This act shall become effective
14 immediately following its passage and approval by the
15 Governor, or its otherwise becoming law.