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LC00386

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- SMALL BUSINESS CAPITAL ACCESS PROGRAM

Introduced By: Representatives Blazejewski, Valencia, Slater, Serpa, and Silva

Date Introduced: March 03, 2011

Referred To: House Small Business

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 64.14

4 SMALL BUSINESS CAPITAL ACCESS PROGRAM

5 **42-64.14-1. Short title.** – This chapter shall be known and may be cited as the “Small
6 Business Capital Access Program.”

7 **42-64.14-2. Definitions.** – As used in this chapter, the following words and terms shall
8 have the following meanings unless the context clearly indicates another or different meaning or
9 intent:

10 (1) “Agency” means the Rhode Island economic development corporation;

11 (2) “Borrower” means any business that receives a loan, with respect to which a reserve
12 is created in accordance with this section;

13 (3) “Business” means the carrying on of any business activity for profit, whether as a
14 corporation, partnership, sole proprietorship or otherwise;

15 (4) “Financial institution” means any bank, trust company, savings bank, savings and
16 loan association or cooperative bank, chartered by the state or any national banking association,
17 federal savings and loan association or federal savings bank; provided, however, that the financial
18 institution has its principal office located in this state;

1 (5) “Loan” means, without limitation, a sale and lease back, a financial lease, a
2 conditional sale or any other arrangement that is in the nature of a loan;

3 (6) “Participating financial institution” means any financial institution participating in the
4 program established by this section;

5 (7) “Program” means small business capital access program established by this section;

6 (8) “Small business” means a business entity, including its affiliate, that: (i) Is
7 independently owned and operated; (ii) Has a principal place of business in this state; and (iii)
8 Would be defined as a “small business” under applicable federal law, as established by the United
9 States Code and promulgated from time to time by the United States Small Business
10 Administration.

11 **42-64.14-3. Loss reserve account.** – (a) Each time a participating financial institution
12 originates a loan to a small business borrower after the effective date of this chapter, said
13 institution shall set aside an amount specified by the agency or its agent, which amount shall not
14 be less than one and one-half percent (1.5%) nor more than three and one-half percent (3.5%) of
15 the principal amount of the loan, into a loss reserve which said institution shall maintain
16 applicable to all such loans by said institution to small business borrowers pursuant to the
17 program.

18 (b) At the time of the making of such loan to a small business borrower, the participating
19 financial institution shall obtain from said borrower an amount equal to the reserve contribution
20 made by the participating financial institution with respect to such loan as provided in subsection
21 (a) and shall set aside such amount into said loss reserve maintained by the participating financial
22 institution applicable to all such loans by said participating financial institution to borrowers
23 pursuant to the program. The participating financial institution may obtain such amount as
24 payment from the borrower or may advance the amount to the borrower as part of the loan.

25 **42-64.14-4. Certification.** – After such loan to a small business borrower has been made,
26 the participation financial institution shall certify to the agency or its agent, in such fashion and
27 with such supporting information as the agency or its agent shall prescribe, that it has made such
28 loan and has set aside its contribution and the equal contribution of the borrower into said loss
29 reserve.

30 **42-64.14-5. Matching loss reserve.** – (a) The agency or its agent shall, after such
31 certification as provided in section 42-64.14-4, transfer to the participating financial institution an
32 amount equal to the contributions of the participating financial institution and the borrower or
33 such additional amount up to one hundred fifty percent (150%) of such contributions as
34 determined by the agency or its agent, and the participating financial institution shall set aside

1 such amount received into said loss reserve.

2 (b) In the event the participating financial institution suffers a loss on any such loan, it
3 may, in its discretion, draw upon the funds in such loss reserve to repay the loan in whole or in
4 part.

5 **42-64.14-6. Loss reserve account earnings or interest.** – All amounts set aside by the
6 participating financial institution into said loss reserve shall be deposited by it in an account at
7 said institution. All earnings or interest on said loss reserve account shall be added to the
8 principal of said loss reserve account and held as additional loss reserve; provided, however, that
9 the agency or its agent may require at any time and from time to time that a portion or all of the
10 accrued earnings or interest remaining in said loss reserve account be paid to the agency or its
11 agent to be used to defray the costs of administering the program.

12 **42-64.14-7. Business activities.** -- Any loan made under this program shall be used
13 predominantly for business activities within this state.

14 **42-64.14-8. Passive real estate.** – No loan or loans in an aggregate principal amount in
15 excess of five hundred thousand dollars (\$500,000) shall be provided to a borrower under the
16 program and no small business borrower under the program shall be provided a loan under the
17 program for passive real estate purposes.

18 **42-64.14-9. Agreement.** – Any financial institution desiring to become a participating
19 financial institution shall execute an agreement in such form as the agency or its agent may
20 prescribe, which agreement shall contain the terms and provisions set forth in R.I.G.L chapter 42-
21 64.16 inclusive, and such other terms as the agency or its agent may deem necessary or
22 appropriate.

23 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- SMALL BUSINESS CAPITAL
ACCESS PROGRAM

- 1 This act would establish a new program which would assist small Rhode Island
- 2 businesses obtain loans.
- 3 This act would take effect upon passage.

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