

ORIGINAL HOUSE
BILL NO. HB0046

ENROLLED ACT NO. 5, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2022 BUDGET SESSION

AN ACT relating to the Wyoming Economic Development Act; amending the Wyoming partnership challenge loan program; authorizing loans for business succession and succession planning; amending limits for loan amounts under the program; authorizing contract lending for businesses and specifying loan requirements; amending and renaming bridge financing provisions; consolidating the guarantee loan participation into the bridge financing program; prohibiting new guarantee loan participations and new loan guarantees as specified; making conforming amendments; specifying applicability; requiring rulemaking; requiring a report; and providing for effective dates.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 9-12-301(a)(vi) through (viii) and by creating new paragraphs (xi) and (xii), 9-12-302(a) and 9-12-304(a)(intro), (i), (b)(i), (d), (e)(intro), (f)(intro) and by creating new subsections (j) and (k) are amended to read:

9-12-301. Definitions.

(a) As used in this article:

(vi) "~~Bridge~~Fifty-fifty (50-50) financing program" means the provision of financing for that portion of the total project cost ~~which that~~ is calculated by subtracting from the total project cost the sum of ~~ownership the business's debt, and equity.~~ The council shall not consider a proposal in which the bridge fifty-fifty (50-50) financing component exceeds ~~thirty-five percent (35%)~~ fifty percent (50%) of the total project cost or ~~one million dollars (\$1,000,000.00)~~ two million five hundred thousand dollars (\$2,500,000.00), whichever is

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less, and the business does not contribute more than fifteen percent (15%) of the total project cost;

(vii) "Guarantee loan participation" means a provision of financing by the council in which the council participates with a lender that has secured a federal guaranteed loan to guarantee repayment of a loan made to a business. The maximum participation by the council shall be fifty percent (50%) of the loan or two million dollars (\$2,000,000.00), whichever is less. The council shall not participate in a new guarantee loan participation under this article on and after July 1, 2022 as provided in W.S. 9-12-304(e);

(viii) "Loan guarantee" means a provision of financing by the council in which the council guarantees a portion of a bank loan made to a business. The council shall not issue a loan guarantee under this article on and after July 1, 2022 as provided in W.S. 9-12-304(f);

(xi) "Contract financing" means a provision of financing for a business to gain liquidity and in which the business assigns the proceeds of a valid contract as collateral for the financing;

(xii) "Succession financing" means a provision of financing to be used to assist in the transition or succession of a business that has been in existence for not less than seven (7) years immediately before the transfer or succession to a new owner of the business.

9-12-302. Wyoming partnership challenge loan program; creation; rulemaking; administration account.

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(a) The council shall establish and administer a partnership challenge loan program under this article and may contract for necessary professional services. Loans authorized under the program shall be limited, except as otherwise provided under W.S. 9-12-304(c) through ~~(h)~~~~(k)~~, to community development organizations and state development organizations and made in accordance with the provisions of W.S. 9-12-304. Any community development organization or state development organization may submit an application to the council to participate in the program on forms prescribed by and subject to rules promulgated by the council.

9-12-304. Criteria for loans.

(a) Except as otherwise provided under subsections (c) through ~~(h)~~~~(k)~~ of this section, loans under this article may only be made by the council to community development organizations and state development organizations which meet the following eligibility criteria:

(i) The community development organization or state development organization will contribute an amount of cash or cash equivalent ~~at least equal to~~ not less than twenty percent (20%) of the loan it receives under this article to a program of investment in its area of local economic development;

(b) Loans, loan commitments or loan guarantees or any combination thereof shall be made under this article only:

(i) If the total amount to:

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~~(A) A~~ single community development organization, or to a business for an economic disaster loan as provided under subsection (c) of this section, does not exceed ~~five hundred thousand dollars (\$500,000.00),~~ one million dollars (\$1,000,000.00);

~~(B) if the total amount to A~~ business for ~~bridge-fifty-fifty (50-50)~~ financing as provided under subsection (d) of this section does not exceed ~~one million dollars (\$1,000,000.00),~~ two million five hundred thousand dollars (\$2,500,000.00) or fifty percent (50%) of the total project cost, whichever is less;

~~(C) if the total amount to State~~ development organizations does not exceed three million five hundred thousand dollars (\$3,500,000.00); ~~if the amount to a business for a federally guaranteed loan as provided under subsection (e) of this section does not exceed two million dollars (\$2,000,000.00), if the amount to a business for a loan guarantee does not exceed one hundred thousand dollars (\$100,000.00) per loan guaranteed or eighty percent (80%) of any net loan loss by the bank, whichever is less,~~

~~(D) if the amount to A~~ business for a Wyoming main street loan participation as provided under subsection (g) of this section does not exceed one hundred thousand dollars (\$100,000.00);

~~(E) or if the amount to A~~ business for a natural gas fueling infrastructure loan as provided under subsection (h) of this section does not exceed seventy-five percent (75%) of the total project cost or one million dollars (\$1,000,000.00), whichever is less;

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(F) A business for a contract financing loan as provided under subsection (j) of this section does not exceed two hundred thousand dollars (\$200,000.00); or

(G) A business for a succession financing loan as provided under subsection (k) of this section does not exceed five hundred thousand dollars (\$500,000.00).

(d) Any business may apply to the council for ~~bridge~~ fifty-fifty (50-50) financing as defined in W.S. 9-12-301(a)(vi). The council shall prescribe the form and contents of ~~such~~the application. The council shall review each application and make a determination as soon as practicable. In the event of a default for any loan made under this subsection, liability shall be shared proportionately between the state and the lending institution in the same percentage as the source of the loan. The interest of the state and the lending institution shall have priority over any claim of the business receiving the bridge financing or any other third party.

(e) Before July 1, 2022, any business may apply to the council for a guarantee loan participation as defined in W.S. 9-12-301(a)(vii). The council shall prescribe the form and contents of the application. The council shall review each application and make a determination as soon as practicable. No guarantee loan participations shall be issued on and after July 1, 2022. The council shall structure any guarantee loan participation so that in the event of default of any loan which is participated in under this subsection:

(f) Before July 1, 2022, any business may apply to the council for a loan guarantee as defined in W.S. 9-12-301(a)(viii). The council shall prescribe the form

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and contents of the application. The council shall review each application and make a determination as soon as practicable. No loan guarantees shall be issued on and after July 1, 2022. The council shall structure any loan guarantee so that in the event of default of any loan that is guaranteed under this subsection:

(j) Any business may apply to the council for a contract financing loan as defined in W.S. 9-12-301(a)(xi). The council shall prescribe the form and contents of the application. The council shall review each application and make a determination as soon as practicable. In the event of a default, the state shall have priority over any claim of the business receiving the contract financing loan. The council shall not issue a loan under this subsection unless the business agrees to assign the proceeds of a contract to the council as collateral for the loan. The council shall not issue a loan under this subsection unless the business provides not less than two (2) letters from financial institutions denying an application or request for financing. Upon completion of the contract, the council shall retain sufficient proceeds of the contract used as collateral to retire the loan and any outstanding interest and shall remit any remaining proceeds to the business. All loans issued under this subsection shall not exceed one million dollars (\$1,000,000.00) in the aggregate at any one (1) time. In evaluating applications for a contract financing loan under this subsection, the council shall consider whether the contract to be used as collateral will have sufficient proceeds to pay off the loan balance and the likelihood of the successful completion of the contract.

(k) Any business or person seeking to purchase a business may apply to the council for a succession

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financing loan as defined in W.S. 9-12-301(a)(xii). The council shall prescribe the form and contents of the application. The council shall review each application and make a determination as soon as practicable. The council shall participate with a lending institution to make a succession financing loan to a business under this subsection, provided that the participation rate of the council shall not exceed fifty percent (50%) of the total loan amount. The interest of the state and the lending institution shall have priority over any claim of the business receiving the succession financing loan or any other third party. The council shall not issue a loan under this subsection unless the business to be purchased and for which the loan is issued has been in operation for not less than seven (7) years directly preceding the application for a loan. The council may require the person or business seeking the loan to pledge revenues from the business as collateral for the loan or for the repayment of the loan. In evaluating applications for a succession financing loan under this subsection, the council shall consider the financial health of the business and the person seeking to purchase the business, including whether the business will generate sufficient revenues to repay the loan.

Section 2.

(a) This act shall:

(i) Apply to any loan issued under the partnership challenge loan program on and after the effective date of this section;

(ii) Not affect any guarantee loan participation structured or financed before July 1, 2022;

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(iii) Not affect any loan guarantee made or guaranteed before July 1, 2022.

(b) On and after July 1, 2022, the Wyoming business council shall not authorize, approve, structure, guarantee or finance:

(i) A guarantee loan participation defined under W.S. 9-12-301(a)(vii) and authorized under W.S. 9-12-304(e);

(ii) A loan guarantee defined under W.S. 9-12-301(a)(viii) and authorized under W.S. 9-12-304(f).

Section 3. The Wyoming business council shall report to the joint minerals, business and economic development interim committee not later than fifteen (15) days after all guarantee loan participations defined by W.S. 9-12-301(a)(vii) and authorized by W.S. 9-12-304(e) and all loan guarantees defined by W.S. 9-12-301(a)(viii) and authorized by W.S. 9-12-304(f) are completed and retired. The committee may consider any legislation necessary after receiving the report, including the repeal of W.S. 9-12-301(a)(vii) and (viii) and 9-12-304(e) and (f).

Section 4. The Wyoming business council shall promulgate any rules necessary to implement this act.

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Section 5.

(a) Except as provided in subsection (b) of this section, this act is effective July 1, 2022.

(b) Sections 4 and 5 are effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk