

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Murzin offered the following:

2  
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Section 288.1081, Florida Statutes, is created  
6 to read:

7 288.1081 Economic Gardening Business Loan Pilot Program.--

8 (1) There is created within the Office of Tourism, Trade,  
9 and Economic Development the Economic Gardening Business Loan  
10 Pilot Program. The purpose of the pilot program is to stimulate  
11 investment in Florida's economy by providing loans to expanding  
12 businesses in the state. As used in this section, the term  
13 "office" means the Office of Tourism, Trade, and Economic  
14 Development.

15 (2) The Legislature finds that it is vital to the overall  
16 health and growth of the state's economy to promote favorable

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17 conditions for expanding Florida businesses that demonstrate the  
18 ability to grow. The Legislature further finds that, due to the  
19 current extraordinary economic challenges confronting the state,  
20 there exists a paramount public purpose in expending state  
21 resources to stimulate investment in Florida's economy. It is  
22 therefore the intent of the Legislature that resources be  
23 provided for the pilot program.

24 (3) (a) To be eligible for a loan under the pilot program,  
25 an applicant must be a business eligible for assistance under  
26 the Economic Gardening Technical Assistance Pilot Program as  
27 provided in s. 288.1082(4) (a).

28 (b) A loan applicant must submit a written application to  
29 the loan administrator in the format prescribed by the loan  
30 administrator. The application must include:

31 1. The applicant's federal employer identification number,  
32 unemployment account number, and sales or other tax registration  
33 number.

34 2. The street address of the applicant's principal place  
35 of business in this state.

36 3. A description of the type of economic activity,  
37 product, or research and development undertaken by the  
38 applicant, including the six-digit North American Industry  
39 Classification System code for each type of economic activity  
40 conducted by the applicant.

41 4. The applicant's annual revenue, number of employees,  
42 number of full-time equivalent employees, and other information  
43 necessary to verify the applicant's eligibility for the pilot  
44 program under s. 288.1082(4) (a).

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45 5. The projected investment in the business, if any, that  
46 the applicant proposes in conjunction with the loan.

47 6. The total investment in the business from all sources,  
48 if any, that the applicant proposes in conjunction with the  
49 loan.

50 7. The number of net new full-time equivalent jobs that,  
51 as a result of the loan, the applicant proposes to create in  
52 this state as of December 31 of each year and the average annual  
53 wage of the proposed jobs.

54 8. The total number of full-time equivalent employees the  
55 applicant currently employs in this state.

56 9. The date that the applicant anticipates it needs the  
57 loan.

58 10. A detailed explanation of why the loan is needed to  
59 assist the applicant in expanding jobs in the state.

60 11. A statement that all of the applicant's available  
61 corporate assets are pledged as collateral for the amount of the  
62 loan.

63 12. A statement that the applicant, upon receiving the  
64 loan, agrees not to seek additional long-term debt without prior  
65 approval of the loan administrator.

66 13. A statement that the loan is a joint obligation of the  
67 business and of each person who owns at least 20 percent of the  
68 business.

69 14. Any additional information requested by the office or  
70 the loan administrator.

71 (c) The loan administrator, after verifying the accuracy  
72 of a submitted application, shall award the loan to the

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73 applicant if the administrator determines that the applicant, as  
74 compared to other applicants submitting applications, is in the  
75 best position to use the loan to continue making a successful  
76 long-term business commitment to the state.

77 (d) A borrower awarded a loan under this section and the  
78 loan administrator must enter into a loan agreement that  
79 provides for the borrower's repayment of the loan.

80 (4) The following terms apply to a loan received under the  
81 pilot program:

82 (a) The maximum amount of the loan is \$250,000.

83 (b) The proceeds of the loan may be used only for working  
84 capital purchases, employee training, or salaries for newly  
85 created jobs in the state.

86 (c) The security interest for the loan's collateral must  
87 pledge all of the borrower's available corporate assets to cover  
88 the amount of the loan and must be perfected by recording a lien  
89 under the Uniform Commercial Code.

90 (d) The period of the loan may not exceed 7 years.

91 (e) The interest rate of the loan is 2 percent. However,  
92 if the borrower does not create the projected number of jobs  
93 within 24 months after the loan is issued, the interest rate  
94 shall be increased for the remaining period of the loan to the  
95 prime rate published in the Wall Street Journal, as of the date  
96 specified in the loan agreement, plus 4 percent.

97 (f) For each month of the first 12 months of the loan,  
98 payment is due for interest only. Thereafter, payment for  
99 interest and principal is due each month until the loan is

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100 repaid in full. Interest and principal payments are based on the  
101 unpaid balance of the total loan amount.

102 (g) The borrower must remit payments to the loan  
103 administrator within the first 10 days of each month. The loan  
104 administrator shall charge the borrower a penalty for late  
105 payments, and the amount of the penalty must be specified in the  
106 loan agreement.

107 (5) (a) The office may designate one or more qualified  
108 entities to serve as loan administrators for the pilot program.  
109 A loan administrator must:

110 1. Be a Florida corporation not for profit incorporated  
111 under chapter 617 that has its principal place of business in  
112 the state.

113 2. Have 5 years of verifiable experience of lending to  
114 businesses in this state.

115 3. Submit an application to the office on forms prescribed  
116 by the office. The application must include the loan  
117 administrator's business plan for its proposed lending  
118 activities under the pilot program, including, but not limited  
119 to, a description of its outreach efforts, underwriting, credit  
120 policies and procedures, credit decision processes, monitoring  
121 policies and procedures, and collection practices; the  
122 membership of its board of directors; and samples of its  
123 currently used loan documentation. The application must also  
124 include a detailed description and supporting documentation of  
125 the nature of the loan administrator's partnerships with local  
126 or regional economic and business development organizations.

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127       (b) The office, upon selecting a loan administrator, shall  
128 enter into a grant agreement with the administrator to issue the  
129 available loans to eligible applicants. The grant agreement must  
130 specify the aggregate amount of the loans authorized for award  
131 by the loan administrator. The term of the grant agreement must  
132 be at least 4 years, except that the office may terminate the  
133 agreement earlier if the loan administrator fails to meet  
134 minimum performance standards set by the office. The grant  
135 agreement may be amended by mutual consent of both parties.

136       (c) The office shall disburse from the Economic  
137 Development Trust Fund to the loan administrator the  
138 appropriations provided for the pilot program. Disbursements to  
139 the loan administrator must not exceed the aggregate amount of  
140 the loans authorized in the grant agreement. The office may not  
141 disburse more than 50 percent of the aggregate amount of the  
142 loans authorized in the grant agreement until the office  
143 verifies the borrowers' use of the loan proceeds and the loan  
144 administrator's successful credit decisionmaking policies.

145       (d) A loan administrator is entitled to receive a loan  
146 origination fee, payable at closing, of 1 percent of each loan  
147 issued by the loan administrator and a servicing fee of 0.625  
148 percent per annum of the loan's outstanding principal balance,  
149 payable monthly. The loan administrator shall collect the  
150 servicing fee from the payments made by the borrower, first  
151 charging the fee against interest payments and then charging the  
152 remainder of the fee against repayments of principal.

153       (e) A loan administrator, after collecting the servicing  
154 fee in accordance with paragraph (d), shall remit the borrower's

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155 collected interest, principal payments, and charges for late  
156 payments to the office on a quarterly basis. If the borrower  
157 defaults on the loan, the loan administrator shall initiate  
158 collection efforts to seek repayment of the loan. The loan  
159 administrator, upon collecting payments for a defaulted loan,  
160 shall remit the payments to the office but, to the extent  
161 authorized in the grant agreement, may deduct the costs of the  
162 administrator's collection efforts. The office shall deposit all  
163 funds received under this paragraph in the General Revenue Fund.

164 (f) A loan administrator shall submit quarterly reports to  
165 the office that include the information required in the grant  
166 agreement. A quarterly report must include, at a minimum, the  
167 number of full-time equivalent jobs created as a result of the  
168 loans, the amount of wages paid to employees in the newly  
169 created jobs, and the locations and types of economic activity  
170 undertaken by the borrowers.

171 (6) The office shall adopt rules under ss. 120.536(1) and  
172 120.54 to administer this section. To the extent necessary to  
173 expedite implementation of the pilot program, the office may  
174 adopt initial emergency rules for the pilot program in  
175 accordance with s. 120.54(4).

176 (7) On June 30 and December 31 of each year, beginning in  
177 2009, the office shall submit a report to the Governor, the  
178 President of the Senate, and the Speaker of the House of  
179 Representatives that describes in detail the use of the loan  
180 funds. The report must include, at a minimum, the number of  
181 businesses receiving loans, the number of full-time equivalent  
182 jobs created as a result of the loans, the amount of wages paid

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183 to employees in the newly created jobs, the locations and types  
184 of economic activity undertaken by the borrowers, the amounts of  
185 loan repayments made to date, and the default rate of borrowers.

186 (8) Unexpended balances of appropriations provided for the  
187 pilot program shall not revert to the fund from which the  
188 appropriation was made at the end of a fiscal year but shall be  
189 retained in the Economic Development Trust Fund and be carried  
190 forward for expenditure for the pilot program during the  
191 following fiscal year. A loan administrator may not issue a new  
192 loan or enter into a loan agreement after June 30, 2011.

193 Balances of appropriations provided for the pilot program that  
194 remain unexpended as of July 1, 2011, shall revert to the  
195 General Revenue Fund.

196 (9) This section is repealed July 1, 2019, unless reviewed  
197 and reenacted by the Legislature before that date.

198 Section 2. Section 288.1082, Florida Statutes, is created  
199 to read:

200 288.1082 Economic Gardening Technical Assistance Pilot  
201 Program.--

202 (1) There is created within the Office of Tourism, Trade,  
203 and Economic Development the Economic Gardening Technical  
204 Assistance Pilot Program. The purpose of the pilot program is to  
205 stimulate investment in Florida's economy by providing technical  
206 assistance for expanding businesses in the state. As used in  
207 this section, the term "office" means the Office of Tourism,  
208 Trade, and Economic Development.

209 (2) The office shall contract with one or more entities to  
210 administer the pilot program under this section. The office

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211 shall award each contract in accordance with the competitive  
212 bidding requirements in s. 287.057 to an entity that  
213 demonstrates it has the ability to implement the pilot program  
214 on a statewide basis, has an outreach plan, and has the ability  
215 to provide counseling services, access to technology and  
216 information, marketing services and advice, business management  
217 support, and other similar services.

218 (3) A contracted entity administering the pilot program  
219 shall provide technical assistance for eligible businesses that  
220 includes, but is not limited to, the following:

221 (a) Access to free or affordable information services and  
222 consulting services, including information on markets,  
223 customers, and competitors, such as business databases,  
224 geographic information systems, and search engine marketing.

225 (b) Information on how to obtain infrastructure, including  
226 basic physical infrastructure; quality-of-life infrastructure,  
227 such as parks and open spaces; and intellectual infrastructure  
228 that provides educational opportunities to help a business  
229 maintain its competitiveness.

230 (c) Business connections, including interaction and  
231 exchange among business owners and resource providers, such as  
232 trade associations, think tanks, academic institutions, business  
233 roundtables, peer-to-peer learning sessions, and mentoring  
234 programs.

235 (4) (a) To be eligible for assistance under the pilot  
236 program, a business must be a for-profit, privately held,  
237 investment-grade business that employs at least 10 persons but  
238 not more than 99 persons, has maintained its principal place of

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239 business in the state for at least the previous 2 years,  
240 generates at least \$1 million but not more than \$50 million in  
241 annual revenue, qualifies for the tax refund program for  
242 qualified target industry businesses under s. 288.106, and,  
243 during the previous 2-year period, has increased its number of  
244 full-time equivalent employees in this state by at least 10  
245 percent.

246 (b) A contracted entity administering the pilot program,  
247 in selecting the eligible businesses to receive assistance,  
248 shall choose businesses in more than one industry cluster that  
249 are geographically distributed throughout the state or choose  
250 businesses in partnership with other businesses that are  
251 geographically distributed throughout the state.

252 (5) (a) A business receiving assistance under the pilot  
253 program must enter into an agreement with the contracted entity  
254 administering the program to establish the business' commitment  
255 to participation in the pilot program. The agreement must  
256 require, at a minimum, that the business:

257 1. Attend a minimum number of meetings between the  
258 business and the contracted entity administering the pilot  
259 program.

260 2. Report job creation data in the manner prescribed by  
261 the contracted entity administering the pilot program.

262 3. Provide financial data in the manner prescribed by the  
263 contracted entity administering the program.

264 (b) The office or the contracted entity administering the  
265 pilot program may prescribe additional reporting requirements in  
266 the agreement that are necessary to track the progress of the

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267 business and monitor the business' implementation of the  
268 assistance. The contracted entity shall report the information  
269 to the office on a quarterly basis.

270 (6) A contracted entity administering the pilot program is  
271 an economic development agency as defined in s. 288.075 that is  
272 authorized to promote the general business interests or  
273 industrial interests of the state.

274 (7) The office shall review the progress of a contracted  
275 entity administering the pilot program at least once each 6  
276 months and shall determine whether the contracted entity is  
277 meeting its contractual obligations for administration of the  
278 pilot program. The office may terminate and rebid a contract if  
279 the contracted entity does not meet its contractual obligations.

280 (8) On December 31 of each year, beginning in 2009, the  
281 office shall submit a report to the Governor, the President of  
282 the Senate, and the Speaker of the House of Representatives that  
283 describes in detail the progress of the pilot program. The  
284 report must include, at a minimum, the number of businesses  
285 receiving assistance, the number of full-time equivalent jobs  
286 created as a result of the assistance, if any, the amount of  
287 wages paid to employees in the newly created jobs, and the  
288 locations and types of economic activity undertaken by the  
289 businesses.

290 (9) The office may adopt rules under ss. 120.536(1) and  
291 120.54 to administer this section.

292 Section 3. By December 31, 2012, the Office of Program  
293 Policy Analysis and Government Accountability shall submit a  
294 report to the Governor, the President of the Senate, and the

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295 Speaker of the House of Representatives that evaluates the  
296 Economic Gardening Technical Assistance Pilot Program in s.  
297 288.1082, Florida Statutes, and the pilot program's  
298 effectiveness in expanding the targeted businesses.

299 Section 4. From the funds provided in a special  
300 appropriations act for the 2008-2009 fiscal year to the Office  
301 of Tourism, Trade, and Economic Development for implementation  
302 of this act, the office may expend up to \$1.5 million for  
303 implementation of the Economic Gardening Technical Assistance  
304 Pilot Program created in s. 288.1082, Florida Statutes.

305 Section 5. This act shall take effect upon becoming a law.  
306  
307

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309 **T I T L E A M E N D M E N T**

310 Remove the entire title and insert:

311 A bill to be entitled

312 An act relating to economic development; creating s.  
313 288.1081, F.S.; creating the Economic Gardening Business  
314 Loan Pilot Program within the Office of Tourism, Trade,  
315 and Economic Development; providing legislative findings  
316 and intent; providing a finding of paramount public  
317 purpose; providing eligibility criteria for the award of  
318 loans to certain businesses; providing application  
319 procedures; requiring loan agreements; providing terms of  
320 loans; providing for use of loan proceeds; requiring  
321 charges for late payments; providing criteria and  
322 application procedures for selection of loan

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323 administrators; requiring a loan administrator to enter  
324 into a grant agreement; providing for the disbursement of  
325 certain funds from the Economic Development Trust Fund;  
326 requiring fees for the loan administrator; providing for  
327 the collection and deposit of loan payments; requiring the  
328 loan administrator to submit a report to the office;  
329 requiring the office to adopt rules; authorizing the use  
330 of emergency rulemaking procedures; requiring the office  
331 to submit a report to the Governor and Legislature;  
332 providing for reversion and carryforward of certain  
333 unexpended appropriations; prohibiting new loans after a  
334 specified date; providing for future repeal; creating s.  
335 288.1082, F.S.; creating the Economic Gardening Technical  
336 Assistance Pilot Program within the office; requiring the  
337 office to contract for administration of the pilot  
338 program; requiring competitive procurement; requiring the  
339 provision of technical assistance to certain businesses;  
340 providing eligibility criteria for businesses to receive  
341 technical assistance; requiring the businesses to enter  
342 into agreements with the contracted entity administering  
343 the pilot program; requiring the businesses to report  
344 certain data; providing that a contracted entity is an  
345 economic development agency under certain provisions  
346 relating to confidentiality of records; providing for  
347 review of contracts; requiring the office to submit a  
348 report to the Governor and Legislature; authorizing the  
349 office to adopt rules; directing the Office of Program  
350 Policy Analysis and Government Accountability to submit a

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351 report to the Governor and Legislature; authorizing the  
352 expenditure of certain funds appropriated for the pilot  
353 program; providing an effective date.