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1 A bill to be entitled
2 An act relating to economic development; creating s.
3 288.1081, F.S.; creating the Economic Gardening
4 Business Loan Pilot Program within the Office of
5 Tourism, Trade, and Economic Development; providing
6 legislative findings and intent; providing eligibility
7 criteria for the award of loans to certain businesses;
8 providing application procedures; requiring loan
9 agreements; providing terms of loans; providing for
10 use of loan proceeds; providing criteria and
11 application procedures for the selection of loan
12 administrators; requiring a loan administrator to
13 enter into a grant agreement; providing for the
14 disbursement of certain funds from the Economic
15 Development Trust Fund; requiring fees for the loan
16 administrator; providing for the collection and
17 deposit of loan payments; requiring the loan
18 administrator to submit a report to the office;
19 requiring the office to adopt rules; authorizing the
20 use of emergency rulemaking procedures; requiring the
21 office to submit a report to the Governor and
22 Legislature; providing for reversion and carryforward
23 of certain unexpended appropriations; prohibiting new
24 loans after a specified date; providing for future
25 repeal; creating s. 288.1082, F.S.; creating the
26 Economic Gardening Technical Assistance Pilot Program
27 within the office; requiring the office to contract
28 for administration of the pilot program; requiring
29 competitive procurement; requiring the provision of

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30 technical assistance to certain businesses; providing
31 eligibility criteria for businesses to receive
32 technical assistance; requiring the businesses to
33 enter into agreements with the contracted entity
34 administering the pilot program; requiring the
35 businesses to report certain data; providing that the
36 contracted entity is an economic development agency;
37 providing for review of contracts; requiring the
38 office to submit a report to the Governor and
39 Legislature; authorizing the office to adopt rules;
40 directing the Office of Program Policy Analysis and
41 Government Accountability to submit a report to the
42 Governor and Legislature; authorizing the expenditure
43 of certain funds appropriated for the pilot program;
44 providing an effective date.

45
46 Be It Enacted by the Legislature of the State of Florida:

47
48 Section 1. Section 288.1081, Florida Statutes, is created
49 to read:

50 288.1081 Economic Gardening Business Loan Pilot Program.-

51 (1) There is created within the Office of Tourism, Trade,
52 and Economic Development the Economic Gardening Business Loan
53 Pilot Program. The purpose of the pilot program is to stimulate
54 investment in Florida's economy by providing loans to expanding
55 businesses in the state. As used in this section, the term
56 "office" means the Office of Tourism, Trade, and Economic
57 Development.

58 (2) The Legislature finds that it is vital to the overall

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59 health and growth of the state's economy to promote favorable
60 conditions for expanding Florida businesses that demonstrate the
61 ability to grow. The Legislature further finds that, due to the
62 current extraordinary economic challenges confronting the state,
63 there exists a public purpose in expending state resources to
64 stimulate investment in Florida's economy. It is therefore the
65 intent of the Legislature that resources be provided for the
66 pilot program.

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

71 (b) A loan applicant must submit a written application to
72 the loan administrator in the format prescribed by the loan
73 administrator. The application must include:

74 1. The applicant's federal employer identification number,
75 unemployment account number, and sales or other tax registration
76 number.

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

79 3. A description of the type of economic activity, product,
80 or research and development undertaken by the applicant,
81 including the six-digit North American Industry Classification
82 System code for each type of economic activity conducted by the
83 applicant.

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

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88 5. The projected investment in the business, if any, which
89 the applicant proposes in conjunction with the loan.

90 6. The total investment in the business from all sources,
91 if any, which the applicant proposes in conjunction with the
92 loan.

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

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

99 9. The date that the applicant anticipates it needs the
100 loan.

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

103 11. A statement that all of the applicant's available
104 corporate assets are pledged as collateral for the amount of the
105 loan.

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

109 13. A statement that the loan is a joint obligation of the
110 business and of each person who owns at least 20 percent of the
111 business.

112 14. Any additional information requested by the office or
113 the loan administrator.

114 (c) The loan administrator, after verifying the accuracy of
115 a submitted application, shall award the loan to the applicant
116 if the administrator determines that the applicant, as compared

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117 to other applicants submitting applications, is in the best
118 position to use the loan to continue making a successful long-
119 term business commitment to the state. The loan administrator
120 also shall consider the following factors:

121 1. Whether the applicant has applied for or received
122 incentives from local governments;

123 2. Whether the applicant has applied for or received
124 waivers of taxes, impact fees, or other fees or charges by local
125 governments; and

126 3. What other sources of investments or financing for the
127 project that is the subject of the loan application will be
128 available to the applicant.

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

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

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

135 (b) The proceeds of the loan may be used for working
136 capital purchases, employee training, or salaries for newly
137 created jobs in the state.

138 (c) The security interest for the loan's collateral
139 covering all of the borrower's available corporate assets to
140 cover the amount of the loan must be perfected by recording a
141 lien under the Uniform Commercial Code.

142 (d) The period of the loan is 4 years.

143 (e) The interest rate of the loan is 2 percent. However, if
144 the borrower does not create the projected number of jobs within
145 the terms of the loan agreement, the interest rate shall be

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146 increased for the remaining period of the loan to the prime rate
147 published in the Wall Street Journal, as of the date specified
148 in the loan agreement, plus 4 percentage points. The loan
149 agreement may provide flexibility in meeting the projected
150 number of jobs for delays due to governmental regulatory issues,
151 including, but not limited to, permitting.

152 (f) For the first 12 months of the loan, payment is due for
153 interest only, payable during the twelfth month. Thereafter,
154 payment for interest and principal is due each month until the
155 loan is paid in full. Interest and principal payments are based
156 on the unpaid balance of the total loan amount.

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

160 1. Be a Florida corporation not for profit incorporated
161 under chapter 617 which has its principal place of business in
162 the state.

163 2. Have 5 years of verifiable experience of lending to
164 businesses in this state.

165 3. Submit an application to the office on forms prescribed
166 by the office. The application must include the loan
167 administrator's business plan for its proposed lending
168 activities under the pilot program, including, but not limited
169 to, a description of its outreach efforts, underwriting, credit
170 policies and procedures, credit decision processes, monitoring
171 policies and procedures, and collection practices; the
172 membership of its board of directors; and samples of its
173 currently used loan documentation. The application must also
174 include a detailed description and supporting documentation of

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175 the nature of the loan administrator's partnerships with local
176 or regional economic and business development organizations.

177 (b) The office, upon selecting a loan administrator, shall
178 enter into a grant agreement with the administrator to issue the
179 available loans to eligible applicants. The grant agreement must
180 specify the aggregate amount of the loans authorized for award
181 by the loan administrator. The term of the grant agreement must
182 be at least 4 years, except that the office may terminate the
183 agreement earlier if the loan administrator fails to meet
184 minimum performance standards set by the office. The grant
185 agreement may be amended by mutual consent of both parties.

186 (c) The office shall disburse from the Economic Development
187 Trust Fund to the loan administrator the appropriations provided
188 for the pilot program. Disbursements to the loan administrator
189 must not exceed the aggregate amount of the loans authorized in
190 the grant agreement. The office may not disburse more than 50
191 percent of the aggregate amount of the loans authorized in the
192 grant agreement until the office verifies the borrowers' use of
193 the loan proceeds and the loan administrator's successful credit
194 decisionmaking policies.

195 (d) A loan administrator is entitled to receive a loan
196 origination fee, payable at closing, of 1 percent of each loan
197 issued by the loan administrator and a servicing fee of 0.625
198 percent per annum of the loan's outstanding principle balance,
199 payable monthly. During the first 12 months of the loan, the
200 servicing fee shall be paid from the disbursement from the
201 Economic Development Trust Fund, and thereafter the loan
202 administrator shall collect the servicing fee from the payments
203 made by the borrower, charging the fee against repayments of

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204 principal.

205 (e) A loan administrator, after collecting the servicing
206 fee in accordance with paragraph (d), shall remit the borrower's
207 collected interest, principal payments, and charges for late
208 payments to the office on a quarterly basis. If the borrower
209 defaults on the loan, the loan administrator shall initiate
210 collection efforts to seek repayment of the loan. The loan
211 administrator, upon collecting payments for a defaulted loan,
212 shall remit the payments to the office but, to the extent
213 authorized in the grant agreement, may deduct the costs of the
214 administrator's collection efforts. The office shall deposit all
215 funds received under this paragraph in the General Revenue Fund.

216 (f) A loan administrator shall submit quarterly reports to
217 the office which include the information required in the grant
218 agreement. A quarterly report must include, at a minimum, the
219 number of full-time equivalent jobs created as a result of the
220 loans, the amount of wages paid to employees in the newly
221 created jobs, and the locations and types of economic activity
222 undertaken by the borrowers.

223 (6) All notes, mortgages, security agreements, letters of
224 credit, or other instruments that are given to secure the
225 repayment of loans issued in connection with the financing of
226 any loan under the program, without regard to the status of any
227 party thereto as a private party, are exempt from taxation by
228 the state and its political subdivisions. The exemption granted
229 in this subsection does not apply to any tax imposed by chapter
230 220 on interest, income, or profits on debt obligations owned by
231 corporations.

232 (7) The office shall adopt rules under ss. 120.536(1) and

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233 120.54 to administer this section. To the extent necessary to
234 expedite implementation of the pilot program, the office may
235 adopt initial emergency rules for the pilot program in
236 accordance with s. 120.54(4).

237 (8) On June 30 and December 31 of each year, beginning in
238 2009, the office shall submit a report to the Governor, the
239 President of the Senate, and the Speaker of the House of
240 Representatives which describes in detail the use of the loan
241 funds. The report must include, at a minimum, the number of
242 businesses receiving loans, the number of full-time equivalent
243 jobs created as a result of the loans, the amount of wages paid
244 to employees in the newly created jobs, the locations and types
245 of economic activity undertaken by the borrowers, the amounts of
246 loan repayments made to date, and the default rate of borrowers.

247 (9) Unexpended balances of appropriations provided for the
248 pilot program shall not revert to the fund from which the
249 appropriation was made at the end of a fiscal year but shall be
250 retained in the Economic Development Trust Fund and be carried
251 forward for expenditure for the pilot program during the
252 following fiscal year. A loan administrator may not award a new
253 loan or enter into a loan agreement after June 30, 2011.

254 Balances of appropriations provided for the pilot program which
255 remain unexpended as of July 1, 2011, shall revert to the
256 General Revenue Fund.

257 (10) This section is repealed July 1, 2016, unless reviewed
258 and reenacted by the Legislature before that date.

259 Section 2. Section 288.1082, Florida Statutes, is created
260 to read:

261 288.1082 Economic Gardening Technical Assistance Pilot

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262 Program.—

263 (1) There is created within the Office of Tourism, Trade,
264 and Economic Development the Economic Gardening Technical
265 Assistance Pilot Program. The purpose of the pilot program is to
266 stimulate investment in Florida's economy by providing technical
267 assistance for expanding businesses in the state. As used in
268 this section, the term "office" means the Office of Tourism,
269 Trade, and Economic Development.

270 (2) The office shall contract with one or more entities to
271 administer the pilot program under this section. The office
272 shall award each contract in accordance with the competitive
273 bidding requirements in s. 287.057 to an entity that
274 demonstrates the ability to implement the pilot program on a
275 statewide basis, has an outreach plan, and has the ability to
276 provide counseling services, access to technology and
277 information, marketing services and advice, business management
278 support, and other similar services. In selecting these
279 entities, the office also must consider whether the entities
280 will qualify for matching funds to provide the technical
281 assistance.

282 (3) A contracted entity administering the pilot program
283 shall provide technical assistance for eligible businesses which
284 includes, but is not limited to:

285 (a) Access to free or affordable information services and
286 consulting services, including information on markets,
287 customers, and competitors, such as business databases,
288 geographic information systems, and search engine marketing.

289 (b) Development of business connections, including
290 interaction and exchange among business owners and resource

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291 providers, such as trade associations, think tanks, academic
292 institutions, business roundtables, peer-to-peer learning
293 sessions, and mentoring programs.

294 (4) (a) To be eligible for assistance under the pilot
295 program, a business must be a for-profit, privately held,
296 investment-grade business that employs at least 10 persons but
297 not more than 50 persons, has maintained its principal place of
298 business in the state for at least the previous 2 years,
299 generates at least \$1 million but not more than \$25 million in
300 annual revenue, qualifies for the tax refund program for
301 qualified target industry businesses under s. 288.106, and,
302 during 3 of the previous 5 years, has increased both its number
303 of full-time equivalent employees in this state and its gross
304 revenues.

305 (b) A contracted entity administering the pilot program, in
306 selecting the eligible businesses to receive assistance, shall
307 choose businesses in more than one industry cluster and, to the
308 maximum extent practicable, shall choose businesses that are
309 geographically distributed throughout Florida or are in
310 partnership with businesses that are geographically distributed
311 throughout Florida.

312 (5) (a) A business receiving assistance under the pilot
313 program must enter into an agreement with the contracted entity
314 administering the program to establish the business's commitment
315 to participation in the pilot program. The agreement must
316 require, at a minimum, that the business:

317 1. Attend a minimum number of meetings between the business
318 and the contracted entity administering the pilot program.

319 2. Report job-creation data in the manner prescribed by the

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320 contracted entity administering the pilot program.

321 3. Provide financial data in the manner prescribed by the
322 contracted entity administering the program.

323 (b) The office or the contracted entity administering the
324 pilot program may prescribe in the agreement additional
325 reporting requirements that are necessary to track the progress
326 of the business and monitor the business's implementation of the
327 assistance. The contracted entity shall report the information
328 to the office on a quarterly basis.

329 (6) A contracted entity administering the pilot program is
330 authorized to promote the general business interests or
331 industrial interests of the state.

332 (7) The office shall review the progress of a contracted
333 entity administering the pilot program at least once each 6
334 months and shall determine whether the contracted entity is
335 meeting its contractual obligations for administering the pilot
336 program. The office may terminate and rebid a contract if the
337 contracted entity does not meet its contractual obligations.

338 (8) On December 31 of each year, beginning in 2009, the
339 office shall submit a report to the Governor, the President of
340 the Senate, and the Speaker of the House of Representatives
341 which describes in detail the progress of the pilot program. The
342 report must include, at a minimum, the number of businesses
343 receiving assistance, the number of full-time equivalent jobs
344 created as a result of the assistance, if any, the amount of
345 wages paid to employees in the newly created jobs, and the
346 locations and types of economic activity undertaken by the
347 businesses.

348 (9) The office may adopt rules under ss. 120.536(1) and

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349 120.54 to administer this section.

350 Section 3. By December 31, 2012, the Office of Program
351 Policy Analysis and Government Accountability shall submit a
352 report to the Governor, the President of the Senate, and the
353 Speaker of the House of Representatives which evaluates the
354 Economic Gardening Technical Assistance Pilot Program in s.
355 288.1082, Florida Statutes, and the pilot program's
356 effectiveness in expanding the targeted businesses.

357 Section 4. From the funds specifically appropriated to fund
358 this act, up to \$1.5 million may be used to implement the
359 Economic Gardening Technical Assistance Pilot Program created in
360 section 2 of this act.

361 Section 5. This act shall take effect upon becoming a law.