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1  
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.