

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

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

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

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

49 288.1081 Economic Gardening Business Loan Pilot Program.--

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

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

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

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

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

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

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

83 4. The applicant's annual revenue, number of employees,
84 number of full-time equivalent employees, and other information

85 necessary to verify the applicant's eligibility for the pilot
86 program under s. 288.1082(4) (a).

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

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

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

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

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

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

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

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

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

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

113 (c) The loan administrator, after verifying the accuracy
114 of a submitted application, shall award the loan to the
115 applicant if the administrator determines that the applicant, as
116 compared to other applicants submitting applications, is in the
117 best position to use the loan to continue making a successful
118 long-term business commitment to the state.

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

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

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

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

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

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

133 (e) The interest rate of the loan is 2 percent. However,
134 if the borrower does not create the projected number of jobs
135 within 24 months after the loan is issued, the interest rate
136 shall be increased for the remaining period of the loan to the
137 prime rate published in the Wall Street Journal, as of the date
138 specified in the loan agreement, plus 4 percent.

139 (f) For each month of the first 12 months of the loan,
140 payment is due for interest only. Thereafter, payment for

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141 interest and principal is due each month until the loan is
142 repaid in full. Interest and principal payments are based on the
143 unpaid balance of the total loan amount.

144 (g) The borrower must remit payments to the loan
145 administrator within the first 10 days of each month. The loan
146 administrator shall charge the borrower a penalty for late
147 payments, and the amount of the penalty must be specified in the
148 loan agreement.

149 (5) (a) The office may designate one or more qualified
150 entities to serve as loan administrators for the pilot program.

151 A loan administrator must:

152 1. Be a Florida corporation not for profit incorporated
153 under chapter 617 that has its principal place of business in
154 the state.

155 2. Have 5 years of verifiable experience of lending to
156 businesses in this state.

157 3. Submit an application to the office on forms prescribed
158 by the office. The application must include the loan
159 administrator's business plan for its proposed lending
160 activities under the pilot program, including, but not limited
161 to, a description of its outreach efforts, underwriting, credit
162 policies and procedures, credit decision processes, monitoring
163 policies and procedures, and collection practices; the
164 membership of its board of directors; and samples of its
165 currently used loan documentation. The application must also
166 include a detailed description and supporting documentation of
167 the nature of the loan administrator's partnerships with local
168 or regional economic and business development organizations.

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169 (b) The office, upon selecting a loan administrator, shall
170 enter into a grant agreement with the administrator to issue the
171 available loans to eligible applicants. The grant agreement must
172 specify the aggregate amount of the loans authorized for award
173 by the loan administrator. The term of the grant agreement must
174 be at least 4 years, except that the office may terminate the
175 agreement earlier if the loan administrator fails to meet
176 minimum performance standards set by the office. The grant
177 agreement may be amended by mutual consent of both parties.

178 (c) The office shall disburse from the Economic
179 Development Trust Fund to the loan administrator the
180 appropriations provided for the pilot program. Disbursements to
181 the loan administrator must not exceed the aggregate amount of
182 the loans authorized in the grant agreement. The office may not
183 disburse more than 50 percent of the aggregate amount of the
184 loans authorized in the grant agreement until the office
185 verifies the borrowers' use of the loan proceeds and the loan
186 administrator's successful credit decisionmaking policies.

187 (d) A loan administrator is entitled to receive a loan
188 origination fee, payable at closing, of 1 percent of each loan
189 issued by the loan administrator and a servicing fee of 0.625
190 percent per annum of the loan's outstanding principal balance,
191 payable monthly. The loan administrator shall collect the
192 servicing fee from the payments made by the borrower, first
193 charging the fee against interest payments and then charging the
194 remainder of the fee against repayments of principal.

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

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197 collected interest, principal payments, and charges for late
198 payments to the office on a quarterly basis. If the borrower
199 defaults on the loan, the loan administrator shall initiate
200 collection efforts to seek repayment of the loan. The loan
201 administrator, upon collecting payments for a defaulted loan,
202 shall remit the payments to the office but, to the extent
203 authorized in the grant agreement, may deduct the costs of the
204 administrator's collection efforts. The office shall deposit all
205 funds received under this paragraph in the General Revenue Fund.

206 (f) A loan administrator shall submit quarterly reports to
207 the office that include the information required in the grant
208 agreement. A quarterly report must include, at a minimum, the
209 number of full-time equivalent jobs created as a result of the
210 loans, the amount of wages paid to employees in the newly
211 created jobs, and the locations and types of economic activity
212 undertaken by the borrowers.

213 (6) The office shall adopt rules under ss. 120.536(1) and
214 120.54 to administer this section. To the extent necessary to
215 expedite implementation of the pilot program, the office may
216 adopt initial emergency rules for the pilot program in
217 accordance with s. 120.54(4).

218 (7) On June 30 and December 31 of each year, beginning in
219 2009, the office shall submit a report to the Governor, the
220 President of the Senate, and the Speaker of the House of
221 Representatives that describes in detail the use of the loan
222 funds. The report must include, at a minimum, the number of
223 businesses receiving loans, the number of full-time equivalent
224 jobs created as a result of the loans, the amount of wages paid

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

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

235 Balances of appropriations provided for the pilot program that
 236 remain unexpended as of July 1, 2011, shall revert to the
 237 General Revenue Fund.

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

240 Section 2. Section 288.1082, Florida Statutes, is created
 241 to read:

242 288.1082 Economic Gardening Technical Assistance Pilot
 243 Program.--

244 (1) There is created within the Office of Tourism, Trade,
 245 and Economic Development the Economic Gardening Technical
 246 Assistance Pilot Program. The purpose of the pilot program is to
 247 stimulate investment in Florida's economy by providing technical
 248 assistance for expanding businesses in the state. As used in
 249 this section, the term "office" means the Office of Tourism,
 250 Trade, and Economic Development.

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

253 shall award each contract in accordance with the competitive
254 bidding requirements in s. 287.057 to an entity that
255 demonstrates it has the ability to implement the pilot program
256 on a statewide basis, has an outreach plan, and has the ability
257 to provide counseling services, access to technology and
258 information, marketing services and advice, business management
259 support, and other similar services.

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

263 (a) Access to free or affordable information services and
264 consulting services, including information on markets,
265 customers, and competitors, such as business databases,
266 geographic information systems, and search engine marketing.

267 (b) Information on how to obtain infrastructure, including
268 basic physical infrastructure; quality-of-life infrastructure,
269 such as parks and open spaces; and intellectual infrastructure
270 that provides educational opportunities to help a business
271 maintain its competitiveness.

272 (c) Business connections, including interaction and
273 exchange among business owners and resource providers, such as
274 trade associations, think tanks, academic institutions, business
275 roundtables, peer-to-peer learning sessions, and mentoring
276 programs.

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

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281 business in the state for at least the previous 2 years,
282 generates at least \$1 million but not more than \$50 million in
283 annual revenue, qualifies for the tax refund program for
284 qualified target industry businesses under s. 288.106, and,
285 during the previous 2-year period, has increased its number of
286 full-time equivalent employees in this state by at least 10
287 percent.

288 (b) A contracted entity administering the pilot program,
289 in selecting the eligible businesses to receive assistance,
290 shall choose businesses in more than one industry cluster that
291 are geographically distributed throughout the state or choose
292 businesses in partnership with other businesses that are
293 geographically distributed throughout the state.

294 (5) (a) A business receiving assistance under the pilot
295 program must enter into an agreement with the contracted entity
296 administering the program to establish the business' commitment
297 to participation in the pilot program. The agreement must
298 require, at a minimum, that the business:

299 1. Attend a minimum number of meetings between the
300 business and the contracted entity administering the pilot
301 program.

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

304 3. Provide financial data in the manner prescribed by the
305 contracted entity administering the program.

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

309 business and monitor the business' implementation of the
310 assistance. The contracted entity shall report the information
311 to the office on a quarterly basis.

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

316 (7) The office shall review the progress of a contracted
317 entity administering the pilot program at least once each 6
318 months and shall determine whether the contracted entity is
319 meeting its contractual obligations for administration of the
320 pilot program. The office may terminate and rebid a contract if
321 the contracted entity does not meet its contractual obligations.

322 (8) On December 31 of each year, beginning in 2009, the
323 office shall submit a report to the Governor, the President of
324 the Senate, and the Speaker of the House of Representatives that
325 describes in detail the progress of the pilot program. The
326 report must include, at a minimum, the number of businesses
327 receiving assistance, the number of full-time equivalent jobs
328 created as a result of the assistance, if any, the amount of
329 wages paid to employees in the newly created jobs, and the
330 locations and types of economic activity undertaken by the
331 businesses.

332 (9) The office may adopt rules under ss. 120.536(1) and
333 120.54 to administer this section.

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

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337 Speaker of the House of Representatives that evaluates the
338 Economic Gardening Technical Assistance Pilot Program in s.
339 288.1082, Florida Statutes, and the pilot program's
340 effectiveness in expanding the targeted businesses.

341 Section 4. From the funds provided in a special
342 appropriations act for the 2008-2009 fiscal year to the Office
343 of Tourism, Trade, and Economic Development for implementation
344 of this act, the office may expend up to \$1.5 million for
345 implementation of the Economic Gardening Technical Assistance
346 Pilot Program created in s. 288.1082, Florida Statutes.

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