

HB 1301

2011

1 A bill to be entitled
2 An act relating to economic development; creating s.
3 288.9619, F.S.; creating the Business Loan Guarantee
4 Program; defining terms; requiring the Office of Tourism,
5 Trade, and Economic Development to create a business loan
6 guarantee fund to provide loans to certain businesses;
7 providing for use of certain funds for the program;
8 providing maximum terms and amounts of loan guarantees;
9 providing procedures for the approval of loan guarantee
10 applications; requiring application fees; providing
11 procedures for the payment of loan guarantees to cover
12 investment losses; prohibiting disbursement of moneys for
13 investment losses under certain circumstances; providing
14 for use of loan repayments, interest earnings, and
15 application fees; authorizing partnerships with financial
16 institutions under certain circumstances; requiring the
17 office to establish guidelines and performance measures
18 for the program and criteria for the evaluation of funding
19 applications; requiring the office to submit annual
20 reports to the Governor and Legislature; providing for
21 future repeal of the program; amending 288.1081, F.S.;
22 revising provisions for the deposit of loan repayments
23 from the Economic Gardening Business Loan Pilot Program;
24 providing for use of the funds; repealing s. 288.9618,
25 F.S., relating to programs for the development of
26 microenterprises; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

Page 1 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1301-00

HB 1301

2011

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Section 1. Section 288.9619, Florida Statutes, is created to read:

288.9619 Business Loan Guarantee Program.—

(1) As used in this section, the term:

(a) "Business" means any business incorporated under the laws of the state.

(b) "Office" means the Office of Tourism, Trade, and Economic Development.

(2) There is created within the office the Business Loan Guarantee Program. The office shall create a business loan guarantee fund in the state. The office may use funds deposited in the Economic Development Trust Fund from the Economic Gardening Business Loan Pilot Program under s. 288.1081(5)(e) for capitalizing the business loan guarantee fund. Where feasible, the office shall cooperate with other organizations active in the study and support of business loan assistance.

(3)(a) The business loan guarantee fund may provide loan guarantees to offset a Florida-based mezzanine fund's portion of risk that prevents the mezzanine fund from making an investment, either debt or equity, in a business that:

1. Is a privately held, second-stage business;

2. Has revenues of at least \$5 million but not more than \$75 million;

3. Has earnings of at least \$1 million before interest, taxes, depreciation, and amortization;

4. Has a total debt-to-earnings ratio, before interest, taxes, depreciation, and amortization, of less than 3.0;

HB 1301

2011

57 5. Has proven and committed management teams;

58 6. Has a competitive advantage in market segment or
59 defensible niche position; and

60 7. Has a sound historical financial performance.

61 (b) Loan guarantees may be made:

62 1. For terms of up to 36 months; and

63 2. In amounts of up to 70 percent of a loan, not to exceed
64 \$500,000.

65 (4) The office shall review and must approve or deny a
66 Florida-based mezzanine fund's loan guarantee application within
67 30 days after receipt. The office shall impose upon each
68 Florida-based mezzanine fund seeking a loan guarantee an
69 application fee of 0.5 percent of the proposed loan guarantee.
70 The office shall use the application fees to pay the
71 administrative expenses of the program. If a Florida-based
72 mezzanine fund experiences a loss on an investment for which a
73 loan guarantee is provided under this section, the Florida-based
74 mezzanine fund must submit to the office audited financial
75 statements that demonstrate the investment's actual tax loss
76 experienced by the Florida-based mezzanine fund. The business
77 loan guarantee fund may not disburse moneys for any losses
78 experienced from a loan guarantee which exceed the moneys on
79 deposit in the business loan guarantee fund. Any loan
80 repayments, interest earnings, or unused application fees must
81 be used by the office to capitalize the business loan guarantee
82 fund for use as additional loan guarantees.

83 (5) The office may partner with a financial institution if
84 the financial institution agrees to place a meaningful amount of

85 its own capital resources at risk in a loan guarantee that is
 86 part of a loan guarantee made by the office.

87 (6) The office shall establish guidelines for
 88 administering the program and shall establish criteria for the
 89 competitive evaluation of applications for funding. The office
 90 shall establish performance measures for the program before
 91 providing grant moneys to any entity and shall report such
 92 measures and program outcomes annually to the Governor, the
 93 President of the Senate, and the Speaker of the House of
 94 Representatives. Performance measures shall include, but are not
 95 limited to, data on loan repayments and the status of the
 96 business receiving the loan during the loan term and for 2 years
 97 after repayment of the loan.

98 (7) This section is repealed July 1, 2017, unless reviewed
 99 and reenacted by the Legislature before that date.

100 Section 2. Paragraph (e) of subsection (5) of section
 101 288.1081, Florida Statutes, is amended to read:

102 288.1081 Economic Gardening Business Loan Pilot Program.—

103 (5)

104 (e) A loan administrator, after collecting the servicing
 105 fee in accordance with paragraph (d), shall remit the borrower's
 106 collected interest, principal payments, and charges for late
 107 payments to the office on a quarterly basis. If the borrower
 108 defaults on the loan, the loan administrator shall initiate
 109 collection efforts to seek repayment of the loan. The loan
 110 administrator, upon collecting payments for a defaulted loan,
 111 shall remit the payments to the office but, to the extent
 112 authorized in the grant agreement, may deduct the costs of the

HB 1301

2011

113 administrator's collection efforts. The office shall deposit all
114 funds received under this paragraph into the Economic
115 Development Trust Fund for purposes of ~~in~~ the Business Loan
116 Guarantee Program under s. 288.9619 ~~General Revenue Fund~~.

117 Section 3. Section 288.9618, Florida Statutes, is
118 repealed.

119 Section 4. This act shall take effect July 1, 2011.