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1 A bill to be entitled
2 An act relating to economic development; amending ss.
3 288.1081 and 288.1082, F.S.; establishing the Economic
4 Gardening Business Loan Program and the Economic Gardening
5 Technical Assistance Program as permanent programs;
6 revising conditions under which loan agreements may
7 provide borrowers with flexibility in meeting the
8 projected number of jobs; revising the method for
9 calculating the servicing fee payable to a loan
10 administrator; deleting a requirement that certain funds
11 be deposited in the General Revenue Fund; providing for
12 use of the funds; deleting an obsolete provision
13 authorizing the adoption of initial emergency rules;
14 deleting provision prohibiting the award of new loans
15 after a specified date; deleting provision for the
16 reversion of certain unexpended appropriations; deleting
17 provisions for future repeal of the loan program; revising
18 the date upon which the Office of Tourism, Trade, and
19 Economic Development must begin to submit annual reports
20 to the Governor and Legislature on the loan program and
21 technical assistance program; providing for retroactive
22 application of provisions revising the loan program;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:
26

27 Section 1. Section 288.1081, Florida Statutes, is amended
28 to read:

29 | 288.1081 Economic Gardening Business Loan ~~Pilot~~ Program.—

30 | (1) There is created within the Office of Tourism, Trade,
 31 | and Economic Development the Economic Gardening Business Loan
 32 | ~~Pilot~~ Program. The purpose of the ~~pilot~~ program is to stimulate
 33 | investment in Florida's economy by providing loans to expanding
 34 | businesses in the state. As used in this section, the term
 35 | "office" means the Office of Tourism, Trade, and Economic
 36 | Development.

37 | (2) The Legislature finds that it is vital to the overall
 38 | health and growth of the state's economy to promote favorable
 39 | conditions for expanding Florida businesses that demonstrate the
 40 | ability to grow. The Legislature further finds that, due to the
 41 | current extraordinary economic challenges confronting the state,
 42 | there exists a public purpose in expending state resources to
 43 | stimulate investment in Florida's economy. It is therefore the
 44 | intent of the Legislature that resources be provided for the
 45 | loan ~~pilot~~ program.

46 | (3) (a) To be eligible for a loan under the ~~pilot~~ program,
 47 | an applicant must be a business eligible for assistance under
 48 | the Economic Gardening Technical Assistance ~~Pilot~~ Program as
 49 | provided in s. 288.1082(4) (a).

50 | (b) A loan applicant must submit a written application to
 51 | the loan administrator in the format prescribed by the loan
 52 | administrator. The application must include:

53 | 1. The applicant's federal employer identification number,
 54 | unemployment account number, and sales or other tax registration
 55 | number.

56 | 2. The street address of the applicant's principal place

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57 | of business in this state.

58 | 3. A description of the type of economic activity,
59 | product, or research and development undertaken by the
60 | applicant, including the six-digit North American Industry
61 | Classification System code for each type of economic activity
62 | conducted by the applicant.

63 | 4. The applicant's annual revenue, number of employees,
64 | number of full-time equivalent employees, and other information
65 | necessary to verify the applicant's eligibility for the
66 | technical assistance ~~pilot~~ program under s. 288.1082(4)(a).

67 | 5. The projected investment in the business, if any, which
68 | the applicant proposes in conjunction with the loan.

69 | 6. The total investment in the business from all sources,
70 | if any, which the applicant proposes in conjunction with the
71 | loan.

72 | 7. The number of net new full-time equivalent jobs that,
73 | as a result of the loan, the applicant proposes to create in
74 | this state as of December 31 of each year and the average annual
75 | wage of the proposed jobs.

76 | 8. The total number of full-time equivalent employees the
77 | applicant currently employs in this state.

78 | 9. The date that the applicant anticipates it needs the
79 | loan.

80 | 10. A detailed explanation of why the loan is needed to
81 | assist the applicant in expanding jobs in the state.

82 | 11. A statement that all of the applicant's available
83 | corporate assets are pledged as collateral for the amount of the
84 | loan.

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

88 13. A statement that the loan is a joint obligation of the
 89 business and of each person who owns at least 20 percent of the
 90 business.

91 14. Any additional information requested by the office or
 92 the loan administrator.

93 (c) The loan administrator, after verifying the accuracy
 94 of a submitted application, shall award the loan to the
 95 applicant if the administrator determines that the applicant, as
 96 compared to other applicants submitting applications, is in the
 97 best position to use the loan to continue making a successful
 98 long-term business commitment to the state. The loan
 99 administrator also shall consider the following factors:

100 1. Whether the applicant has applied for or received
 101 incentives from local governments;

102 2. Whether the applicant has applied for or received
 103 waivers of taxes, impact fees, or other fees or charges by local
 104 governments; and

105 3. What other sources of investments or financing for the
 106 project that is the subject of the loan application will be
 107 available to the applicant.

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

111 (4) The following terms apply to a loan received under the
 112 ~~pilot~~ program:

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

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

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

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

122 (e) The interest rate of the loan is 2 percent. However,
123 if the borrower does not create the projected number of jobs
124 within the terms of the loan agreement, the interest rate shall
125 be increased for the remaining period of the loan to the prime
126 rate published in the Wall Street Journal, as of the date
127 specified in the loan agreement, plus 4 percentage points. The
128 loan agreement may provide flexibility in meeting the projected
129 number of jobs for delays due to governmental regulatory issues,
130 such as including, but not limited to, permitting and other
131 documented justifiable causes.

132 (f) For the first 12 months of the loan, payment is due
133 for interest only, payable during the twelfth month. Thereafter,
134 payment for interest and principal is due each month until the
135 loan is paid in full. Interest and principal payments are based
136 on the unpaid balance of the total loan amount.

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

139 A loan administrator must:

140 1. Be a Florida corporation not for profit incorporated

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141 | under chapter 617 which has its principal place of business in
142 | the state.

143 | 2. Have 5 years of verifiable experience of lending to
144 | businesses in this state.

145 | 3. Submit an application to the office on forms prescribed
146 | by the office. The application must include the loan
147 | administrator's business plan for its proposed lending
148 | activities under the ~~pilot~~ program, including, but not limited
149 | to, a description of its outreach efforts, underwriting, credit
150 | policies and procedures, credit decision processes, monitoring
151 | policies and procedures, and collection practices; the
152 | membership of its board of directors; and samples of its
153 | currently used loan documentation. The application must also
154 | include a detailed description and supporting documentation of
155 | the nature of the loan administrator's partnerships with local
156 | or regional economic and business development organizations.

157 | (b) The office, upon selecting a loan administrator, shall
158 | enter into a grant agreement with the administrator to issue the
159 | available loans to eligible applicants. The grant agreement must
160 | specify the aggregate amount of the loans authorized for award
161 | by the loan administrator. The term of the grant agreement must
162 | be at least 4 years, except that the office may terminate the
163 | agreement earlier if the loan administrator fails to meet
164 | minimum performance standards set by the office. The grant
165 | agreement may be amended by mutual consent of both parties.

166 | (c) The office shall disburse from the Economic
167 | Development Trust Fund to the loan administrator the
168 | appropriations provided for the loan ~~pilot~~ program.

169 Disbursements to the loan administrator must not exceed the
 170 aggregate amount of the loans authorized in the grant agreement.
 171 The office may not disburse more than 50 percent of the
 172 aggregate amount of the loans authorized in the grant agreement
 173 until the office verifies the borrowers' use of the loan
 174 proceeds and the loan administrator's successful credit
 175 decisionmaking policies.

176 (d) A loan administrator is entitled to receive a loan
 177 origination fee, payable at closing, of 1 percent of each loan
 178 issued by the loan administrator and a servicing fee of 0.625
 179 percent ~~per annum~~ of the loan's outstanding principal balance,
 180 payable monthly. During the first 12 months of the loan, the
 181 servicing fee shall be paid from the disbursement from the
 182 Economic Development Trust Fund, and thereafter the loan
 183 administrator shall collect the servicing fee from the payments
 184 made by the borrower, charging the fee against repayments of
 185 principal.

186 (e) A loan administrator, after collecting the servicing
 187 fee in accordance with paragraph (d), shall use ~~remit~~ the
 188 borrower's collected interest, principal payments, and charges
 189 for late payments to provide additional loans to eligible
 190 borrowers under this section ~~to the office on a quarterly basis.~~
 191 If the borrower defaults on the loan, the loan administrator
 192 shall initiate collection efforts to seek repayment of the loan.
 193 The loan administrator, upon collecting payments for a defaulted
 194 loan, may ~~shall remit the payments to the office but,~~ to the
 195 extent authorized in the grant agreement, ~~may~~ deduct the costs
 196 of the administrator's collection efforts, and shall use the

197 remaining payments to provide additional loans to eligible
 198 borrowers under this section. ~~The office shall deposit all funds~~
 199 ~~received under this paragraph in the General Revenue Fund.~~

200 (f) A loan administrator shall submit quarterly reports to
 201 the office which include the information required in the grant
 202 agreement. A quarterly report must include, at a minimum, the
 203 number of full-time equivalent jobs created as a result of the
 204 loans, the amount of wages paid to employees in the newly
 205 created jobs, and the locations and types of economic activity
 206 undertaken by the borrowers.

207 (6) All notes, mortgages, security agreements, letters of
 208 credit, or other instruments that are given to secure the
 209 repayment of loans issued in connection with the financing of
 210 any loan under the program, without regard to the status of any
 211 party thereto as a private party, are exempt from taxation by
 212 the state and its political subdivisions. The exemption granted
 213 in this subsection does not apply to any tax imposed by chapter
 214 220 on interest, income, or profits on debt obligations owned by
 215 corporations.

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

221 (8) On June 30 and December 31 of each year, beginning in
 222 2012 ~~2009~~, the office shall submit a report to the Governor, the
 223 President of the Senate, and the Speaker of the House of
 224 Representatives which describes in detail the use of the loan

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225 funds. The report must include, at a minimum, the number of
 226 businesses receiving loans, the number of full-time equivalent
 227 jobs created as a result of the loans, the amount of wages paid
 228 to employees in the newly created jobs, the locations and types
 229 of economic activity undertaken by the borrowers, the amounts of
 230 loan repayments made to date, and the default rate of borrowers.

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

238 ~~Balances of appropriations provided for the pilot program which
 239 remain unexpended as of July 1, 2011, shall revert to the
 240 General Revenue Fund.~~

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

243 Section 2. Section 288.1082, Florida Statutes, is amended
 244 to read:

245 288.1082 Economic Gardening Technical Assistance ~~Pilot~~
 246 Program.—

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

253 Trade, and Economic Development.

254 (2) The office shall contract with one or more entities to
 255 administer the technical assistance ~~pilot~~ program under this
 256 section. The office shall award each contract in accordance with
 257 the competitive bidding requirements in s. 287.057 to an entity
 258 that demonstrates the ability to implement the ~~pilot~~ program on
 259 a statewide basis, has an outreach plan, and has the ability to
 260 provide counseling services, access to technology and
 261 information, marketing services and advice, business management
 262 support, and other similar services. In selecting these
 263 entities, the office also must consider whether the entities
 264 will qualify for matching funds to provide the technical
 265 assistance.

266 (3) A contracted entity administering the ~~pilot~~ program
 267 shall provide technical assistance for eligible businesses which
 268 includes, but is not limited to:

269 (a) Access to free or affordable information services and
 270 consulting services, including information on markets,
 271 customers, and competitors, such as business databases,
 272 geographic information systems, and search engine marketing.

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

278 (4) (a) To be eligible for assistance under the ~~pilot~~
 279 program, a business must be a for-profit, privately held,
 280 investment-grade business that employs at least 10 persons but

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281 not more than 50 persons, has maintained its principal place of
282 business in the state for at least the previous 2 years,
283 generates at least \$1 million but not more than \$25 million in
284 annual revenue, qualifies for the tax refund program for
285 qualified target industry businesses under s. 288.106, and,
286 during 3 of the previous 5 years, has increased both its number
287 of full-time equivalent employees in this state and its gross
288 revenues.

289 (b) A contracted entity administering the ~~pilot~~ program,
290 in selecting the eligible businesses to receive assistance,
291 shall choose businesses in more than one industry cluster and,
292 to the maximum extent practicable, shall choose businesses that
293 are geographically distributed throughout Florida or are in
294 partnership with businesses that are geographically distributed
295 throughout Florida.

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

301 1. Attend a minimum number of meetings between the
302 business and the contracted entity administering the ~~pilot~~
303 program.

304 2. Report job creation data in the manner prescribed by
305 the contracted entity administering the ~~pilot~~ program.

306 3. Provide financial data in the manner prescribed by the
307 contracted entity administering the program.

308 (b) The office or the contracted entity administering the

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309 ~~pilot~~ program may prescribe in the agreement additional
310 reporting requirements that are necessary to track the progress
311 of the business and monitor the business's implementation of the
312 assistance. The contracted entity shall report the information
313 to the office on a quarterly basis.

314 (6) A contracted entity administering the ~~pilot~~ program is
315 authorized to promote the general business interests or
316 industrial interests of the state.

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

323 (8) On December 31 of each year, beginning in 2012 ~~2009~~,
324 the office shall submit a report to the Governor, the President
325 of the Senate, and the Speaker of the House of Representatives
326 which describes in detail the progress of the ~~pilot~~ program. The
327 report must include, at a minimum, the number of businesses
328 receiving assistance, the number of full-time equivalent jobs
329 created as a result of the assistance, if any, the amount of
330 wages paid to employees in the newly created jobs, and the
331 locations and types of economic activity undertaken by the
332 businesses.

333 (9) The office may adopt rules under ss. 120.536(1) and
334 120.54 to administer this section.

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335 Section 3. The amendments made by this act to s. 288.0181,
336 Florida Statutes, shall apply retroactively to loans awarded
337 before the effective date of this act.

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