

By Senator Gibson

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1 A bill to be entitled
2 An act relating to the Florida Microfinance Act;
3 amending s. 288.9931, F.S.; revising legislative
4 intent and conforming provisions to changes made by
5 the act; amending s. 288.9932, F.S.; providing and
6 revising definitions; amending s. 288.9934, F.S.;
7 revising the Microfinance Loan Program; providing that
8 Enterprise Florida, Inc., rather than the Department
9 of Economic Opportunity, is responsible for entering
10 into funding agreements with loan administrators;
11 revising loan administrator qualifications and
12 contracting requirements; authorizing microloan
13 interest charges and fees; revising the loan
14 administrator's administrative servicing fee; revising
15 microloan eligibility; removing a study requirement;
16 conforming provisions; amending s. 288.9935, F.S.;
17 revising the Microfinance Guarantee Program; revising
18 requirements for the administrative contract between
19 the department and Enterprise Florida, Inc.; revising
20 eligibility and terms for loan guarantees; authorizing
21 surety bond guarantees; revising annual reporting
22 requirements; conforming provisions; amending s.
23 288.9936, F.S.; revising annual reporting requirements
24 for the Microfinance Loan Program; amending s.
25 288.9937, F.S.; revising the timeline for program
26 evaluation and reporting by the Office of Economic and
27 Demographic Research; providing an effective date.

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

30
31 Section 1. Section 288.9931, Florida Statutes, is amended
32 to read:

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33 288.9931 Legislative findings and intent.—The Legislature
34 finds that the ability of a microbusiness ~~entrepreneurs and~~
35 ~~small businesses~~ to access capital is vital to the overall
36 health and growth of this state's economy; however, access to
37 capital is limited by the lack of available credit for a
38 microbusiness ~~entrepreneurs and small businesses~~ in this state.
39 The Legislature further finds that a microbusiness in this state
40 ~~entrepreneurs and small businesses~~ could be assisted through the
41 creation of a program that will provide an avenue for the
42 microbusiness ~~entrepreneurs and small businesses in this state~~
43 to access credit. In addition ~~Additionally~~, the Legislature
44 finds that business management training, business development
45 training, and technical assistance are necessary to ensure that
46 a microbusiness receiving credit support develops ~~entrepreneurs~~
47 ~~and small businesses that receive credit develop~~ the skills
48 necessary to grow and achieve long-term financial stability. The
49 Legislature intends to expand job opportunities for this state's
50 workforce by expanding access to credit to a microbusiness
51 ~~entrepreneurs and small businesses~~. Furthermore, the Legislature
52 intends to avoid duplicating existing programs and to
53 coordinate, assist, augment, and improve access to those
54 programs for a microbusiness ~~entrepreneurs and small businesses~~
55 in this state.

56 Section 2. Section 288.9932, Florida Statutes, is amended
57 to read:

58 288.9932 Definitions.—As used in this part, the term:
59 (1) "Applicant" or "borrower" means a microbusiness ~~an~~
60 ~~entrepreneur or small business~~ that applies to a loan
61 administrator for a microloan.

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62 (2) "Department" means the Department of Economic
63 Opportunity.

64 (3)~~(2)~~ "Domiciled in this state" means authorized to do
65 business in this state and located in this state.

66 (4) "Entity" means a community development financing
67 institution, a surety provider as defined by the United States
68 Department of the Treasury, or a nonbank financial institution
69 specializing in microlending.

70 (5) "Lender" means a financial institution as defined in s.
71 655.005 or an entity as defined in subsection (4).

72 (6) "Loan administrator" means an entity that enters into a
73 contract with the department or Enterprise Florida, Inc.,
74 pursuant to s. 288.9934, to administer the Microfinance Loan
75 Program.

76 (7) "Loan Loss Reserve Fund" means a reserve pursuant to
77 the federal Small Business Administration Microloan Program or a
78 similar program.

79 (8) "Matching funds" means a source of capital obtained by
80 a lender to fund microloans pursuant to this part.

81 (9) "Microbusiness" means a small business that employs 5
82 or fewer persons, including the owner, and generates annual
83 gross revenues that average \$100,000 or less per year for the
84 preceding 2 years.

85 (10) "Microloans" or "microlending" means lending to a
86 microbusiness that is provided with training and technical
87 assistance as necessary to strengthen the ability of the
88 borrower to repay the microloan and effectively manage the
89 microbusiness. More than one lender may provide capital to
90 underwrite a single microloan.

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91 ~~(3) "Entrepreneur" means an individual residing in this~~
92 ~~state who desires to assume the risk of organizing, managing,~~
93 ~~and operating a small business in this state.~~

94 (11)(4) "Network" means the Florida Small Business
95 Development Center Network.

96 (12)(5) "Small business" has the same meaning as provided
97 in s. 288.703 ~~means a business, regardless of corporate~~
98 ~~structure, domiciled in this state which employs 25 or fewer~~
99 ~~people and generated average annual gross revenues of \$1.5~~
100 ~~million or less per year for the preceding 2 years. For the~~
101 ~~purposes of this part, the identity of a small business is not~~
102 ~~affected by name changes or changes in personnel.~~

103 (13) "Startup" means an enterprise that secures financing,
104 forms its business structure, and has been in operation for less
105 than 2 years.

106 (14) "Surety" means a written agreement between two parties
107 through which a bonding company guarantees the performance of
108 obligations covered by the agreement.

109 Section 3. Section 288.9934, Florida Statutes, is amended
110 to read:

111 288.9934 Microfinance Loan Program.—

112 (1) PURPOSE.—The Microfinance Loan Program is established
113 in the department to make short-term, fixed-rate microloans in
114 conjunction with business management training, business
115 development training, and technical assistance to
116 microbusinesses ~~entrepreneurs and newly established or growing~~
117 ~~small businesses~~ for startup costs, working capital, and the
118 acquisition of materials, supplies, furniture, fixtures, and
119 equipment. Participation in the loan program is intended to

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120 enable a microbusiness entrepreneurs and small businesses to
 121 access private financing upon completing the loan program.

122 ~~(2) DEFINITION.—As used in this section, the term “loan~~
 123 ~~administrator” means an entity that enters into a contract with~~
 124 ~~the department pursuant to this section to administer the loan~~
 125 ~~program.~~

126 ~~(2)(3) LOAN ADMINISTRATOR QUALIFICATIONS REQUEST FOR~~
 127 ~~PROPOSAL.—~~

128 (a) By April 1, 2017, Enterprise Florida, Inc., shall enter
 129 into a funding agreement with one or more eligible December 1,
 130 ~~2014, the department shall contract with at least one but not~~
 131 ~~more than three~~ entities to administer the loan program and for
 132 ~~a term of 3 years. The department shall award the contract in~~
 133 ~~accordance with the request for proposal requirements in s.~~
 134 ~~287.057 to an entity that:~~

135 1. Is a legal entity corporation registered and domiciled
 136 in this state;

137 ~~2. Does not offer checking accounts or savings accounts;~~
 138 ~~2.3.~~ Demonstrates that its board of directors and managers
 139 are experienced in microlending and small business finance and
 140 development;

141 ~~3.4.~~ Demonstrates that it has the technical skills and
 142 sufficient resources and expertise to:

143 a. Analyze and evaluate applications by microbusinesses
 144 ~~entrepreneurs and small businesses~~ applying for microloans;

145 b. Underwrite and service microloans provided pursuant to
 146 this part; and

147 c. Assess, provide, and coordinate ~~the provision of such~~
 148 business management training, business development training, and

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149 technical assistance as needed ~~required by this part~~;

150 ~~4.5.~~ Demonstrates that it has established viable, existing
151 partnerships with public and private nonstate funding sources,
152 economic development agencies, and workforce development and job
153 referral networks; and

154 ~~5.6.~~ Demonstrates that it has a plan that includes proposed
155 microlending activities under the loan program, including, but
156 not limited to, the types of microbusinesses ~~entrepreneurs and~~
157 ~~businesses~~ to be assisted and the size and range of microloans
158 ~~that loans~~ the loan administrator intends to make.

159 (b) ~~To ensure that~~ Prospective loan administrators must
160 submit the following information to Enterprise Florida, Inc.
161 ~~meet the requirements of subparagraphs (a)2.-6., the request for~~
162 ~~proposal must require submission of the following information:~~

163 1. A description of the types of microbusinesses in which
164 ~~entrepreneurs and small businesses~~ the loan administrator has
165 assisted ~~in the past~~, and the average size and terms of loans
166 made to those microbusinesses in the past to such entities;

167 2. A description of the experience of members of the board
168 of directors and managers in the areas of microlending and small
169 business finance and development;

170 3. A description of the loan administrator's underwriting
171 and credit policies and procedures, credit decisionmaking
172 process, monitoring policies and procedures, ~~and~~ collection
173 practices, and historical default rate, and samples of any
174 currently used loan documentation;

175 4. A description of the nonstate funding sources that will
176 be used by the loan administrator in conjunction with the state
177 funds to make microloans pursuant to this section;

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178 5. The loan administrator's three most recent financial
179 audits or, if no prior audits have been completed, the loan
180 administrator's three most recent unaudited financial
181 statements; and

182 6. A conflict of interest statement from the loan
183 administrator's board of directors certifying that a board
184 member, employee, or agent, or an immediate family member
185 thereof, or any other person connected to or affiliated with the
186 loan administrator, is not receiving or will not receive any
187 type of compensation or remuneration from a microbusiness that
188 receives ~~an entrepreneur or small business that has received or~~
189 ~~will receive~~ funds from the loan program. The department may
190 waive this requirement for good cause shown. As used in this
191 subparagraph, the term "immediate family" means a parent, child,
192 or spouse, or any other relative by blood, marriage, or
193 adoption, of a board member, employee, or agent of the loan
194 administrator.

195 (3) ~~(4)~~ CONTRACT AND AWARD OF FUNDS.—

196 (a) ~~The selected loan administrator must enter into a~~
197 ~~contract with the department for a term of 3 years to receive~~
198 ~~state funds for the loan program.~~ Funds appropriated to the
199 program must be reinvested and maintained as a long-term and
200 stable source of funding for the program. The amount of state
201 funds used in any microloan made pursuant to this part may not
202 exceed 50 percent of the total matching funds amount on a single
203 microloan amount. Enterprise Florida, Inc., ~~The department~~ shall
204 establish ~~financial~~ performance measures and objectives for the
205 loan program and for the loan administrator in order to maximize
206 the state funds awarded. The selected loan administrator must:

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207 1. Enter into a contract with Enterprise Florida, Inc., for
208 an initial term of 5 years to receive state funds for the loan
209 program.

210 2. Agree to a revolving loan fund structure.

211 (b) State funds may be used only to provide direct
212 microloans to microbusinesses ~~entrepreneurs and small businesses~~
213 according to the limitations, terms, and conditions provided in
214 this part. Except as provided in subsection (4) ~~(5)~~, state funds
215 may not be used to pay administrative costs, underwriting costs,
216 servicing costs, or any other costs associated with providing
217 microloans, business management training, business development
218 training, or technical assistance.

219 ~~(c) The loan administrator shall reserve 10 percent of the~~
220 ~~total award amount from the department to provide microloans~~
221 ~~pursuant to this part to entrepreneurs and small businesses that~~
222 ~~employ no more than five people and generate annual gross~~
223 ~~revenues averaging no more than \$250,000 per year for the last 2~~
224 ~~years.~~

225 ~~(d)1. Enterprise Florida, Inc., If the loan program is~~
226 ~~appropriated funding in a fiscal year, the department shall~~
227 ~~distribute such funds to the loan administrator within 30 days~~
228 ~~after of the execution of the contract by Enterprise Florida,~~
229 ~~Inc., the department and the loan administrator.~~

230 2. The total amount of funding allocated to the loan
231 administrator ~~in a fiscal year~~ may not exceed the amount
232 appropriated for the loan program ~~in the same fiscal year~~. If
233 the funds appropriated to the loan program ~~in a fiscal year~~
234 exceed the amount of state funds received by the loan
235 administrator, such excess funds shall revert to Enterprise

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236 Florida, Inc. ~~the General Revenue Fund.~~

237 ~~(e) Within 30 days of executing its contract with the~~
238 ~~department, the loan administrator must enter into a memorandum~~
239 ~~of understanding with the network:~~

240 ~~1. For the provision of business management training,~~
241 ~~business development training, and technical assistance to~~
242 ~~entrepreneurs and small businesses that receive microloans under~~
243 ~~this part; and~~

244 ~~2. To promote the program to underserved entrepreneurs and~~
245 ~~small businesses.~~

246 ~~(f) By September 1, 2014, the department shall review~~
247 ~~industry best practices and determine the minimum business~~
248 ~~management training, business development training, and~~
249 ~~technical assistance that must be provided by the network to~~
250 ~~achieve the goals of this part.~~

251 ~~(c)(g)~~ The loan administrator must meet the requirements of
252 this section, the terms of its contract with Enterprise Florida,
253 Inc. ~~the department,~~ and any other applicable state or federal
254 laws to be eligible to receive funds ~~in any fiscal year.~~ The
255 contract with the loan administrator must specify any sanctions
256 for the loan administrator's failure to comply with the contract
257 or this part.

258 ~~(4)(5)~~ COST OF FUNDS FEES.-

259 (a) Except as otherwise provided in this section,
260 Enterprise Florida, Inc., ~~the department may not charge fees or~~
261 ~~interest or require collateral from the loan administrator. The~~
262 ~~department may:~~

263 1. Use funds appropriated from the state for reasonable
264 costs associated with the creation of documentation necessary to

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265 administer microfinance programs.

266 2. Charge the loan administrator a variable interest that
267 will annually reset up to 50 percent of the prime rate published
268 in the Wall Street Journal, payable on a quarterly basis, as of
269 the start date specified in the contract for state funds
270 received under the loan program. Enterprise Florida, Inc., shall
271 require an assignment of the notes receivable of the microloans
272 made by the loan administrator as collateral. This collateral
273 can be pari passu or subordinate to prior liens, and Enterprise
274 Florida, Inc., shall reserve the right to require additional
275 collateral.

276 3. Charge a fee for the use of guarantee funds for a Loan
277 Loss Reserve Fund. Enterprise Florida, Inc., shall require an
278 assignment of the Loan Loss Reserve Fund as collateral. This
279 collateral can be pari passu or subordinate to prior liens, and
280 Enterprise Florida, Inc., shall reserve the right to require any
281 additional collateral. ~~charge an annual fee or interest of up to~~
282 ~~80 percent of the Federal Funds Rate as of the date specified in~~
283 ~~the contract for state funds received under the loan program.~~
284 ~~The department shall require as collateral an assignment of the~~
285 ~~notes receivable of the microloans made by the loan~~
286 ~~administrator under the loan program.~~

287 (b) The loan administrator is entitled to retain a one-time
288 administrative servicing fee of 5 ± percent of the total award
289 amount to offset the administrative costs of underwriting and
290 servicing microloans made pursuant to this part. This fee may
291 not be charged to or paid by microloan borrowers participating
292 in the loan program. Except as provided in paragraph (6) (c)
293 ~~(7) (e)~~, the loan administrator may not be required to return

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294 this fee to Enterprise Florida, Inc. ~~the department~~.

295 (c) The loan administrator may not charge interest, fees,
296 or costs except as authorized in subsection (8) ~~(9)~~.

297 (d) Except as provided in subsection (6) ~~(7)~~, the loan
298 administrator is not required to return the interest, fees, or
299 costs authorized under subsection (8), as long as the loan
300 administrator remains in compliance and good standing ~~(9)~~.

301 (5) ~~(6)~~ REPAYMENT OF AWARD FUNDS.—

302 (a) After collecting interest and any fees or costs
303 permitted under this section in satisfaction of all microloans
304 made pursuant to this part, the loan administrator shall remit
305 to Enterprise Florida, Inc., ~~the department~~ the microloan
306 principal collected from all microloans made with state funds
307 received under this part at the end of the contract, unless
308 provisions for contract renewal are provided. Repayment of
309 microloan principal to Enterprise Florida, Inc., ~~the department~~
310 may be deferred by Enterprise Florida, Inc., ~~the department~~ for
311 a period not to exceed the maturity date of the microloan terms
312 ~~6 months~~; however, the loan administrator may not provide a
313 microloan under this part after the contract with Enterprise
314 Florida, Inc., ~~the department~~ expires.

315 (b) If for any reason the loan administrator is unable to
316 make repayments to Enterprise Florida, Inc., ~~the department~~ in
317 accordance with the contract, Enterprise Florida, Inc., ~~the~~
318 ~~department~~ may accelerate maturity of the state funds awarded
319 and demand repayment in full. In this event, or if a loan
320 administrator violates this part or the terms of its contract,
321 the loan administrator shall surrender to Enterprise Florida,
322 Inc., ~~the department~~ possession of all collateral required

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323 pursuant to subsection (4) ~~(5)~~. Any loss or deficiency greater
324 than the value of the collateral may be recovered by Enterprise
325 Florida, Inc., ~~the department~~ from the loan administrator.

326 (c) In the event of a default as specified in the contract,
327 termination of the contract, or violation of this section, the
328 state may, in addition to any other remedy provided by law,
329 bring suit to enforce its interest.

330 ~~(d) A microloan borrower's default does not relieve the~~
331 ~~loan administrator of its obligation to repay an award to the~~
332 ~~department.~~

333 (6) ~~(7)~~ CONTRACT TERMINATION.—

334 (a) The loan administrator's contract with Enterprise
335 Florida, Inc., ~~the department~~ may be terminated by Enterprise
336 Florida, Inc. ~~the department~~, and the loan administrator
337 required to immediately return all uncommitted state funds
338 awarded, including any interest, fees, and pro rata costs it
339 would otherwise be entitled to retain pursuant to subsection (4)
340 ~~(5)~~ ~~for that fiscal year~~, upon a finding by Enterprise Florida,
341 Inc., ~~the department~~ that:

342 1. The loan administrator has, within the previous 5 years,
343 participated in a state-funded economic development program in
344 this or any other state and was found to have failed to comply
345 with the requirements of that program;

346 2. The loan administrator is currently in material
347 noncompliance with any statute, rule, or program administered by
348 Enterprise Florida, Inc., or the department;

349 3. The loan administrator or any member of its board of
350 directors, officers, partners, managers, or shareholders has
351 pled no contest to or been found guilty, regardless of whether

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352 adjudication was withheld, of any felony or any misdemeanor
353 involving fraud, misrepresentation, or dishonesty;

354 4. The loan administrator failed to meet or agree to the
355 terms of the contract with Enterprise Florida, Inc., ~~the~~
356 ~~department~~ or failed to meet this part; or

357 5. Enterprise Florida, Inc., ~~The department~~ finds that the
358 loan administrator provided fraudulent or misleading information
359 to Enterprise Florida, Inc. ~~the department~~.

360 (b) The loan administrator's contract with Enterprise
361 Florida, Inc., ~~the department~~ may be terminated by Enterprise
362 Florida, Inc., ~~the department~~ at any time for any reason upon 30
363 days' notice by Enterprise Florida, Inc. ~~the department~~. In such
364 a circumstance, the loan administrator shall return to
365 Enterprise Florida, Inc., all uncommitted ~~awarded~~ state funds
366 awarded ~~to the department~~ within 60 days after ~~of~~ the
367 termination. However, the loan administrator may retain any
368 interest, fees, or costs it has collected pursuant to subsection
369 (4) ~~(5)~~.

370 (c) The loan administrator's contract with Enterprise
371 Florida, Inc., ~~the department~~ may be terminated by the loan
372 administrator at any time for any reason upon 30 days' notice by
373 the loan administrator. In such a circumstance, the loan
374 administrator shall return to Enterprise Florida, Inc., all
375 uncommitted ~~awarded~~ state funds awarded ~~to the department~~,
376 including any interest, fees, and costs it has retained or would
377 otherwise be entitled to retain pursuant to subsection (4) ~~(5)~~,
378 within 30 days after ~~of~~ the termination.

379 (7) ~~(8)~~ AUDITS AND REPORTING.—

380 (a) The loan administrator shall annually submit to

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381 Enterprise Florida, Inc., ~~the department~~ a financial audit
 382 performed by an independent certified public accountant and an
 383 operational performance audit for the most recently completed
 384 fiscal year. Both audits must indicate whether any material
 385 weakness or instances of material noncompliance are indicated in
 386 the audit.

387 (b) The loan administrator shall submit quarterly reports
 388 to Enterprise Florida, Inc., ~~the department~~ as required by s.
 389 288.9936(2) ~~288.9936(3)~~.

390 (c) The loan administrator shall make its books and records
 391 related to the loan program available to the department or
 392 Enterprise Florida, Inc., or its designee for inspection upon
 393 reasonable notice.

394 ~~(8)(9)~~ ELIGIBILITY AND APPLICATION.—

395 (a) To be eligible for a microloan, an applicant must, at a
 396 minimum, be a microbusiness ~~an entrepreneur or small business~~
 397 located in this state.

398 (b) Microloans may not be made if the direct or indirect
 399 purpose or result of granting the microloan would be to:

400 1. Pay off any creditors of the applicant, including the
 401 refund of a debt owed to a small business investment company
 402 organized pursuant to 15 U.S.C. s. 681, unless the restructuring
 403 of the refinanced debt reflects a documented business purpose
 404 and improves cash flow or reduces debt service by at least 10
 405 percent;

406 2. Provide funds, directly or indirectly, for payment,
 407 distribution, or as a microloan to owners, partners, or
 408 shareholders of the applicant's business, except as ordinary
 409 compensation for services rendered;

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410 3. Finance the acquisition, construction, improvement, or
411 operation of real property which is, or will be, held primarily
412 for sale or investment;

413 4. Pay for lobbying activities; or

414 5. Replenish funds used for any of the purposes specified
415 in subparagraphs 1.-4.

416 (c) A microloan applicant shall submit an ~~a written~~
417 application in the format prescribed by the loan administrator
418 and Enterprise Florida, Inc., and shall pay an application fee
419 not to exceed \$50 to the loan administrator.

420 (d) The following minimum terms apply to a microloan made
421 by the loan administrator:

422 1. The amount of a microloan may not exceed \$50,000;

423 2. A borrower may not receive more than \$75,000 per year in
424 total microloans under this loan program;

425 3. A borrower may not receive more than two microloans per
426 year and may not receive more than five microloans in any 3-year
427 period under this loan program;

428 4. The proceeds of the microloan may be used only for
429 startup costs, working capital, tenant improvements, and the
430 acquisition of materials, supplies, furniture, fixtures, and
431 equipment;

432 5. The period of any microloan may not exceed 5 years ~~±~~
433 year;

434 6. The interest rate may not exceed the prime rate
435 published in the Wall Street Journal as of the date specified in
436 the microloan, plus 500 ~~1000~~ basis points;

437 7. All microloans must be personally guaranteed;

438 8. The borrower must complete ~~participate in~~ business

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439 management training, business development training, and
440 technical assistance as determined by the loan administrator in
441 the microloan agreement as a condition of initial funding. The
442 loan administrator shall determine the provider of training and
443 technical assistance. The cost of such training and technical
444 assistance must be reasonable and can be included in the
445 microloan and payable from matching funds;

446 9. The borrower shall provide such information as required
447 by the loan administrator, including ~~monthly~~ job creation and
448 financial data, in the manner prescribed by the loan
449 administrator; and

450 10. The loan administrator may collect fees for late
451 payments which are consistent with standard business lending
452 practices and may recover costs and fees incurred for any
453 collection efforts necessitated by a borrower's default.

454 (e) The department or Enterprise Florida, Inc., may ~~not~~
455 review any microloans made by the loan administrator pursuant to
456 this part before approval of the loan by the loan administrator.

457 ~~(9)~~ ~~(10)~~ STATEWIDE STRATEGIC PLAN.—In implementing this
458 section, the department shall be guided by the 5-year statewide
459 strategic plan adopted pursuant to s. 20.60(5). The department
460 shall promote and advertise the loan program by, among other
461 things, cooperating with government, nonprofit, and private
462 industry to organize, host, or participate in seminars and other
463 forums for microbusinesses ~~entrepreneurs and small businesses.~~

464 ~~(11) STUDY.—By December 31, 2014, the department shall~~
465 ~~commence or commission a study to identify methods and best~~
466 ~~practices that will increase access to credit to entrepreneurs~~
467 ~~and small businesses in this state. The study must also explore~~

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468 ~~the ability of, and limitations on, Florida nonprofit~~
469 ~~organizations and private financial institutions to expand~~
470 ~~access to credit to entrepreneurs and small businesses in this~~
471 ~~state.~~

472 (10) ~~(12)~~ CREDIT OF THE STATE.—With the exception of funds
473 appropriated to the loan program by the Legislature, the credit
474 of the state may not be pledged. The state is not liable or
475 obligated in any way for claims on the loan program or against
476 the loan administrator or the department.

477 Section 4. Section 288.9935, Florida Statutes, is amended
478 to read:

479 288.9935 Microfinance Guarantee Program.—

480 (1) PURPOSE.—The Microfinance Guarantee Program is
481 established in the department. The purpose of the program is to
482 stimulate access to credit for microbusinesses ~~entrepreneurs and~~
483 ~~small businesses~~ in this state by providing targeted guarantees
484 to loans or surety made to such microbusinesses ~~entrepreneurs~~
485 ~~and small businesses~~. Funds appropriated to the program must be
486 reinvested and maintained as a long-term and stable source of
487 funding for the program.

488 ~~(2) As used in this section, the term "lender" means a~~
489 ~~financial institution as defined in s. 655.005.~~

490 ~~(3)~~ CONTRACT.—The department must enter into a contract
491 with Enterprise Florida, Inc., to administer the Microfinance
492 Guarantee Program. In administering the program, Enterprise
493 Florida, Inc., must, ~~at a minimum~~:

494 (a) Establish eligibility requirements for lenders and
495 borrowers ~~lender and borrower eligibility requirements~~ in
496 addition to those provided in this section;

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497 (b) Determine a reasonable leverage ratio of loan or surety
 498 amounts guaranteed to state funds; however, the leverage ratio
 499 may not exceed 5 ~~3~~ to 1;

500 (c) Establish reasonable fees and interest;

501 (d) Promote the program to lenders ~~financial institutions~~
 502 that provide loans or surety to microbusinesses ~~entrepreneurs~~
 503 and ~~small businesses~~ in order to maximize the number of lenders
 504 throughout the state which participate in the program;

505 ~~(e) Enter into a memorandum of understanding with the~~
 506 ~~network to promote the program to underserved entrepreneurs and~~
 507 ~~small businesses;~~

508 (e) ~~(f)~~ Establish limits on the total amount of loan
 509 guarantees that a single lender can receive;

510 ~~(g) Establish an average loan guarantee amount for loans~~
 511 ~~guaranteed under this section;~~

512 (f) ~~(h)~~ Establish procedures to address default and payment
 513 of a guarantee ~~a risk-sharing strategy to be employed in the~~
 514 ~~event of a loan failure; and~~

515 (g) ~~(i)~~ Establish ~~financial~~ performance measures and
 516 objectives for the program in order to maximize the state funds.

517 (3) ALLOWABLE ADMINISTRATIVE COSTS.—Enterprise Florida,
 518 Inc., may not use funds appropriated from the state for costs
 519 associated with administering the guarantee program except as
 520 provided in this part.

521 (4) ELIGIBILITY AND APPLICATION.—

522 (a) Enterprise Florida, Inc., must provide the following
 523 minimum guarantee terms:

524 1. Total loan guarantee ~~Enterprise Florida, Inc., is~~
 525 ~~limited to providing loan guarantees for loans with total loan~~

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526 amounts of at least \$50,000 but ~~and~~ not more than \$250,000. A
527 ~~loan~~ guarantee may not exceed 50 percent of the total loan
528 amount, except that transactions originated by a community
529 development financing institution or a nonbank financial
530 institution may not exceed 75 percent.

531 2. Total surety bond amounts of at least \$25,000 but not
532 more than \$1 million. A guarantee may not exceed 25 percent of
533 the total surety amount.

534 3. Total Loan Loss Reserve Fund amounts of not more than
535 \$300,000. A Loan Loss Reserve Fund may not exceed 25 percent of
536 the total Small Business Association Microloan Program award
537 amount.

538 (b) ~~(5)~~ Enterprise Florida, Inc., may not guarantee a loan
539 if the direct or indirect purpose or result of the loan would be
540 to:

541 1. ~~(a)~~ Pay off any creditors of the applicant, including the
542 refund of a debt owed to a small business investment company
543 organized pursuant to 15 U.S.C. s. 681, unless the restructuring
544 of the refinanced debt reflects a documented business purpose
545 and improves cash flow or reduces debt service by at least 10
546 percent;

547 2. ~~(b)~~ Provide funds, directly or indirectly, for payment,
548 distribution, or as a loan to owners, partners, or shareholders
549 of the applicant's business, except as ordinary compensation for
550 services rendered;

551 3. ~~(c)~~ Finance the acquisition, construction, improvement,
552 or operation of real property which is, or will be, held
553 primarily for sale or investment;

554 4. ~~(d)~~ Pay for lobbying activities; or

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555 5.(e) Replenish funds used for any of the purposes
 556 specified in subparagraphs 1.-4. ~~paragraphs (a)-(d).~~

557 ~~(6) Enterprise Florida, Inc., may not use funds~~
 558 ~~appropriated from the state for costs associated with~~
 559 ~~administering the guarantee program.~~

560 (c)(7) To be eligible to receive a loan guarantee under the
 561 Microfinance Guarantee Program, a borrower must, ~~at a minimum:~~

562 1.(a) Be a microbusiness ~~an entrepreneur or small business~~
 563 located in this state; and

564 ~~(b) Employ 25 or fewer people;~~

565 ~~(c) Generate average annual gross revenues of \$1.5 million~~
 566 ~~or less per year for the last 2 years; and~~

567 2.(d) Meet any additional requirements established by
 568 Enterprise Florida, Inc.

569 (5) AUDITS AND REPORTING.-

570 (a)(8) By October 1 of each year, Enterprise Florida, Inc.,
 571 shall submit a complete and detailed annual report to the
 572 department for inclusion in the department's report required
 573 under s. 20.60(10). The report must, ~~at a minimum,~~ provide:

574 1.(a) A comprehensive description of the program, including
 575 an evaluation of its application and guarantee activities,
 576 recommendations for change, and identification of any other
 577 state programs that overlap with the program;

578 ~~(b) An assessment of the current availability of and access~~
 579 ~~to credit for entrepreneurs and small businesses in this state;~~

580 2.(e) A summary of the financial and employment results of
 581 the microbusinesses ~~entrepreneurs and small businesses~~ receiving
 582 ~~loan~~ guarantees, including the number of full-time equivalent
 583 jobs created as a result of the guaranteed loans and the amount

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584 of wages paid to employees in the newly created jobs;

585 3.~~(d)~~ Industry data about the borrowers, including the six-

586 digit North American Industry Classification System (NAICS)

587 code;

588 4.~~(e)~~ The name and location of lenders that receive ~~loan~~

589 guarantees;

590 5.~~(f)~~ The amount of state funds received by Enterprise

591 Florida, Inc.;

592 6. The amount of state funds allocated to guaranteed loans

593 or surety;

594 7.~~(g)~~ The number of ~~loan~~ guarantee applications received;

595 8.~~(h)~~ The number, duration, location, and amount of

596 guarantees made;

597 9.~~(i)~~ The number and amount of guaranteed loans or surety

598 outstanding, if any;

599 10.~~(j)~~ The number and amount of guaranteed loans with

600 payments overdue, if any;

601 11.~~(k)~~ The number and amount of guaranteed loans or surety

602 in default, if any;

603 12. The leverage achieved by a Loan Loss Reserve Fund, if

604 applicable;

605 13.~~(l)~~ The repayment history of the guaranteed loans or

606 surety made; ~~and~~

607 14. Demographic and other information as required by

608 Enterprise Florida, Inc.; and

609 15.~~(m)~~ An evaluation of the program's ability to meet the

610 ~~financial~~ performance measures and objectives specified in

611 subsection (2) ~~(3)~~.

612 (b) The department shall include in the report required by

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613 s. 20.60(10) the annual report provided by Enterprise Florida,
 614 Inc., pursuant to paragraph (5) (a).

615 (6)(9) CREDIT OF THE STATE OR ENTERPRISE FLORIDA, INC.—With
 616 the exception of funds appropriated to the guarantee program by
 617 the Legislature, the credit of the state or Enterprise Florida,
 618 Inc., may not be pledged ~~except for funds appropriated by law to~~
 619 ~~the Microfinance Guarantee Program.~~ The state is not liable or
 620 obligated in any way for claims on the program or against
 621 Enterprise Florida, Inc., or the department. The source of funds
 622 available to satisfy the payment obligations of Enterprise
 623 Florida, Inc., under the guarantee program is limited to funds
 624 available in the guarantee fund.

625 Section 5. Section 288.9936, Florida Statutes, is amended
 626 to read:

627 288.9936 Annual report of the Microfinance Loan Program.—

628 (1) The department shall include in the report required by
 629 s. 20.60(10) a complete and detailed annual report on the
 630 Microfinance Loan Program. The report must include:

631 (a) A comprehensive description of the program, including
 632 an evaluation of its application and funding activities,
 633 recommendations for change, and identification of any other
 634 state programs that overlap with the program;

635 (b) The lenders ~~financial institutions and the public and~~
 636 ~~private organizations and individuals~~ participating in the
 637 program;

638 ~~(c) An assessment of the current availability of and access~~
 639 ~~to credit for entrepreneurs and small businesses in this state;~~

640 (c)(d) A summary of ~~the~~ financial and employment results of
 641 the borrowers ~~entities~~ receiving microloans;

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642 (d)~~(e)~~ The number of full-time equivalent jobs created as a
643 result of the microloans and the amount of wages paid to
644 employees in the newly created jobs;

645 (e)~~(f)~~ The number and location of prospective loan
646 administrators that responded to the department request for
647 proposals;

648 (f)~~(g)~~ The amount of state funds received by the loan
649 administrator;

650 (g) The amount and source of matching funds used and amount
651 of borrower equity required for each microloan;

652 (h) The number of microloan applications received by the
653 loan administrator;

654 (i) The number, duration, and location of microloans made
655 by the loan administrator, including the aggregate number of
656 microloans made to minority business enterprises if available;

657 (j) The number and amount of microloans outstanding, if
658 any;

659 (k) The number and amount of microloans with payments
660 overdue, if any;

661 (l) The number and amount of microloans in default, if any;

662 (m) The repayment history of the microloans made;

663 (n) The repayment history and performance of funding
664 awards;

665 (o) Demographic and other information as required by
666 Enterprise Florida, Inc.;

667 (p)~~(q)~~ An evaluation of the program's ability to meet ~~the~~
668 ~~financial~~ performance measures and objectives specified in s.
669 288.9934; and

670 (q)~~(r)~~ A description and evaluation of the technical

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671 assistance and business management and development training
672 provided by the ~~network pursuant to its memorandum of~~
673 ~~understanding with the loan administrator, including the type of~~
674 training and technical assistance, number of hours of training
675 or technical assistance received, training or technical
676 assistance providers, and other relevant information.

677 ~~(2) The department shall submit the report provided to the~~
678 ~~department from Enterprise Florida, Inc., pursuant to s.~~
679 ~~288.9935(8) for inclusion in the department's annual report~~
680 ~~required under s. 20.60(10).~~

681 ~~(2)(3)~~ Enterprise Florida, Inc., ~~The department~~ shall
682 require at least quarterly reports from the loan administrator.
683 The loan administrator's report must include, at a minimum, the
684 number of microloan applications received, the number of
685 microloans made, the amount and interest rate of each microloan
686 made, the amount of technical assistance or business development
687 and management training provided, the number of full-time
688 equivalent jobs created as a result of the microloans, the
689 amount of wages paid to employees in the newly created jobs, the
690 six-digit North American Industry Classification System (NAICS)
691 code associated with the borrower's business, and the borrower's
692 locations.

693 ~~(4) The Office of Program Policy Analysis and Government~~
694 ~~Accountability shall conduct a study to evaluate the~~
695 ~~effectiveness and the Office of Economic and Demographic~~
696 ~~Research shall conduct a study to evaluate the return on~~
697 ~~investment of the State Small Business Credit Initiative~~
698 ~~operated in this state pursuant to 12 U.S.C. ss. 5701 et seq.~~
699 ~~The offices shall each submit a report to the President of the~~

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700 ~~Senate and the Speaker of the House of Representatives by~~
701 ~~January 1, 2015.~~

702 Section 6. Section 288.9937, Florida Statutes, is amended
703 to read:

704 288.9937 Evaluation of programs.—The Office of Economic and
705 Demographic Research shall analyze, evaluate, and determine the
706 economic benefits, as defined in s. 288.005, of the first 5 ~~3~~
707 years of the Microfinance Loan Program and the Microfinance
708 Guarantee Program. The analysis must also evaluate the number of
709 jobs created, the increase or decrease in personal income, and
710 the impact on state gross domestic product from the direct,
711 indirect, and induced effects of the state's investment. The
712 analysis must also identify any inefficiencies in the programs
713 and provide recommendations for changes to the programs. The
714 office shall submit a report to the President of the Senate and
715 the Speaker of the House of Representatives by January 1, 2020
716 ~~2018~~. This section expires January 31, 2020 ~~2018~~.

717 Section 7. This act shall take effect July 1, 2016.