

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

27 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:

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.

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
71 s. 655.005 or an entity as defined in subsection (4).

72 (6) "Loan administrator" means an entity that enters into
73 a 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.

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
 107 parties through which a bonding company guarantees the
 108 performance of 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
 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
 129 enter into a funding agreement with one or more eligible
 130 ~~December 1, 2014, the department shall contract with at least~~

131 ~~one but not more than three~~ entities to administer the loan
132 program and ~~for a term of 3 years. The department~~ shall award
133 the contract ~~in accordance with the request for proposal~~
134 ~~requirements in s. 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
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
155 proposed microlending activities under the loan program,
156 including, but not limited to, the types of microbusinesses

157 ~~entrepreneurs and businesses~~ to be assisted and the size and
 158 range of microloans that ~~loans~~ the loan administrator intends to
 159 make.

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

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

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

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

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

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

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

196 (3)~~(4)~~ CONTRACT AND AWARD OF FUNDS.—

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

- 208 1. Enter into a contract with Enterprise Florida, Inc.,

209 for an initial term of 5 years to receive state funds for the
 210 loan program.

211 2. Agree to a revolving loan fund structure.

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

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

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

231 2. The total amount of funding allocated to the loan
 232 administrator ~~in a fiscal year~~ may not exceed the amount
 233 appropriated for the loan program ~~in the same fiscal year~~. If
 234 the funds appropriated to the loan program ~~in a fiscal year~~

235 exceed the amount of state funds received by the loan
 236 administrator, such excess funds shall revert to Enterprise
 237 Florida, Inc. ~~the General Revenue Fund.~~

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

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

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

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

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

259 ~~(4)(5)~~ COST OF FUNDS FEES.-

260 (a) Except as otherwise provided in this section,

261 Enterprise Florida, Inc., ~~the department may not charge fees or~~
262 ~~interest or require collateral from the loan administrator. The~~
263 ~~department may:~~

264 1. Use funds appropriated from the state for reasonable
265 costs associated with the creation of documentation necessary to
266 administer microfinance programs.

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

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

287 ~~administrator under the loan program.~~

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

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

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

303 (5) (6) ~~REPAYMENT OF AWARD FUNDS.~~—

304 (a) After collecting interest and any fees or costs
 305 permitted under this section in satisfaction of all microloans
 306 made pursuant to this part, the loan administrator shall remit
 307 to Enterprise Florida, Inc., ~~the department~~ the microloan
 308 principal collected from all microloans made with state funds
 309 received under this part at the end of the contract, unless
 310 provisions for contract renewal are provided. Repayment of
 311 microloan principal to Enterprise Florida, Inc., ~~the department~~
 312 may be deferred by Enterprise Florida, Inc., ~~the department~~ for

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313 a period not to exceed the maturity date of the microloan terms
314 ~~6 months~~; however, the loan administrator may not provide a
315 microloan under this part after the contract with Enterprise
316 Florida, Inc., ~~the department~~ expires.

317 (b) If for any reason the loan administrator is unable to
318 make repayments to Enterprise Florida, Inc., ~~the department~~ in
319 accordance with the contract, Enterprise Florida, Inc., ~~the~~
320 ~~department~~ may accelerate maturity of the state funds awarded
321 and demand repayment in full. In this event, or if a loan
322 administrator violates this part or the terms of its contract,
323 the loan administrator shall surrender to Enterprise Florida,
324 Inc., ~~the department~~ possession of all collateral required
325 pursuant to subsection (4) ~~(5)~~. Any loss or deficiency greater
326 than the value of the collateral may be recovered by Enterprise
327 Florida, Inc., ~~the department~~ from the loan administrator.

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

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

335 (6) ~~(7)~~ CONTRACT TERMINATION.—

336 (a) The loan administrator's contract with Enterprise
337 Florida, Inc., ~~the department~~ may be terminated by Enterprise
338 Florida, Inc. ~~the department~~, and the loan administrator

339 required to immediately return all uncommitted state funds
340 awarded, including any interest, fees, and pro rata costs it
341 would otherwise be entitled to retain pursuant to subsection (4)
342 ~~(5) for that fiscal year~~, upon a finding by Enterprise Florida,
343 Inc., ~~the department~~ that:

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

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

351 3. The loan administrator or any member of its board of
352 directors, officers, partners, managers, or shareholders has
353 pled no contest to or been found guilty, regardless of whether
354 adjudication was withheld, of any felony or any misdemeanor
355 involving fraud, misrepresentation, or dishonesty;

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

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

362 (b) The loan administrator's contract with Enterprise
363 Florida, Inc., ~~the department~~ may be terminated by Enterprise
364 Florida, Inc., ~~the department~~ at any time for any reason upon 30

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365 days' notice by Enterprise Florida, Inc. ~~the department~~. In such
366 a circumstance, the loan administrator shall return to
367 Enterprise Florida, Inc., all uncommitted ~~awarded~~ state funds
368 awarded ~~to the department~~ within 60 days after ~~of~~ the
369 termination. However, the loan administrator may retain any
370 interest, fees, or costs it has collected pursuant to subsection
371 (4) ~~(5)~~.

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

381 (7) ~~(8)~~ AUDITS AND REPORTING.—

382 (a) The loan administrator shall annually submit to
383 Enterprise Florida, Inc., ~~the department~~ a financial audit
384 performed by an independent certified public accountant and an
385 operational performance audit for the most recently completed
386 fiscal year. Both audits must indicate whether any material
387 weakness or instances of material noncompliance are indicated in
388 the audit.

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

391 288.9936(2) ~~288.9936(3)~~.

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

396 ~~(8)(9)~~ ELIGIBILITY AND APPLICATION.—

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

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

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

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

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

415 4. Pay for lobbying activities; or

416 5. Replenish funds used for any of the purposes specified

417 in subparagraphs 1.-4.

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

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

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

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

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

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

434 5. The period of any microloan may not exceed 5 years ~~±~~
 435 ~~year~~;

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

439 7. All microloans must be personally guaranteed;

440 8. The borrower must complete ~~participate in~~ business
 441 management training, business development training, and
 442 technical assistance as determined by the loan administrator in

443 the microloan agreement as a condition of initial funding. The
444 loan administrator shall determine the provider of training and
445 technical assistance. The cost of such training and technical
446 assistance must be reasonable and can be included in the
447 microloan and payable from matching funds;

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

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

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

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

466 ~~(11) STUDY.—By December 31, 2014, the department shall~~
467 ~~commence or commission a study to identify methods and best~~
468 ~~practices that will increase access to credit to entrepreneurs~~

469 ~~and small businesses in this state. The study must also explore~~
470 ~~the ability of, and limitations on, Florida nonprofit~~
471 ~~organizations and private financial institutions to expand~~
472 ~~access to credit to entrepreneurs and small businesses in this~~
473 ~~state.~~

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

479 Section 4. Section 288.9935, Florida Statutes, is amended
480 to read:

481 288.9935 Microfinance Guarantee Program.—

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

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

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

495 Florida, Inc., must, ~~at a minimum:~~

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

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

502 (c) Establish reasonable fees and interest;

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

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

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

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

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

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

519 (3) ALLOWABLE ADMINISTRATIVE COSTS.—Enterprise Florida,
 520 Inc., may not use funds appropriated from the state for costs

521 associated with administering the guarantee program except as
522 provided in this part.

523 (4) ELIGIBILITY AND APPLICATION.—

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

526 1. Total loan guarantee Enterprise Florida, Inc., is
527 limited to providing loan guarantees for loans with total loan
528 amounts of at least \$50,000 but ~~and~~ not more than \$250,000. A
529 loan guarantee may not exceed 50 percent of the total loan
530 amount, except that transactions originated by a community
531 development financing institution or a nonbank financial
532 institution may not exceed 75 percent.

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

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

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

543 1. ~~(a)~~ Pay off any creditors of the applicant, including
544 the refund of a debt owed to a small business investment company
545 organized pursuant to 15 U.S.C. s. 681, unless the restructuring
546 of the refinanced debt reflects a documented business purpose

547 and improves cash flow or reduces debt service by at least 10
548 percent;

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

553 3.(e) Finance the acquisition, construction, improvement,
554 or operation of real property which is, or will be, held
555 primarily for sale or investment;

556 4.(d) Pay for lobbying activities; or

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

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

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

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

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

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

570 2.(d) Meet any additional requirements established by
571 Enterprise Florida, Inc.

572 (5) AUDITS AND REPORTING.-

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

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

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

584 2.(c) A summary of the financial and employment results of
585 the microbusinesses ~~entrepreneurs and small businesses~~ receiving
586 ~~loan~~ guarantees, including the number of full-time equivalent
587 jobs created as a result of the guaranteed loans and the amount
588 of wages paid to employees in the newly created jobs;

589 3.(d) Industry data about the borrowers, including the
590 six-digit North American Industry Classification System (NAICS)
591 code;

592 4.(e) The name and location of lenders that receive ~~loan~~
593 guarantees;

594 5.(f) The amount of state funds received by Enterprise
595 Florida, Inc.;

596 6. The amount of state funds allocated to guaranteed loans
597 or surety;

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

599 8.~~(h)~~ The number, duration, location, and amount of
600 guarantees made;

601 9.~~(i)~~ The number and amount of guaranteed loans or surety
602 outstanding, if any;

603 10.~~(j)~~ The number and amount of guaranteed loans with
604 payments overdue, if any;

605 11.~~(k)~~ The number and amount of guaranteed loans or surety
606 in default, if any;

607 12. The leverage achieved by a Loan Loss Reserve Fund, if
608 applicable;

609 13.~~(l)~~ The repayment history of the guaranteed loans or
610 surety made; ~~and~~

611 14. Demographic and other information as required by
612 Enterprise Florida, Inc.; and

613 15.~~(m)~~ An evaluation of the program's ability to meet the
614 ~~financial~~ performance measures and objectives specified in
615 subsection (2) ~~(3)~~.

616 (b) The department shall include in the report required by
617 s. 20.60(10) the annual report provided by Enterprise Florida,
618 Inc., pursuant to paragraph (5) (a).

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

625 program or against Enterprise Florida, Inc., or the department.
626 The source of funds available to satisfy the payment obligations
627 of Enterprise Florida, Inc., under the guarantee program is
628 limited to funds available in the guarantee fund.

629 Section 5. Section 288.9936, Florida Statutes, is amended
630 to read:

631 288.9936 Annual report of the Microfinance Loan Program.—

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

635 (a) A comprehensive description of the program, including
636 an evaluation of its application and funding activities,
637 recommendations for change, and identification of any other
638 state programs that overlap with the program;

639 (b) The lenders ~~financial institutions and the public and~~
640 ~~private organizations and individuals~~ participating in the
641 program;

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

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

647 (d)(e) The number of full-time equivalent jobs created as
648 a result of the microloans and the amount of wages paid to
649 employees in the newly created jobs;

650 (e)(f) The number and location of prospective loan

651 administrators that responded to the department request for
 652 proposals;

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

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

657 (h) The number of microloan applications received by the
 658 loan administrator;

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

662 (j) The number and amount of microloans outstanding, if
 663 any;

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

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

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

669 (n) The repayment history and performance of funding
 670 awards;

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

673 (p)~~(e)~~ An evaluation of the program's ability to meet the
 674 financial performance measures and objectives specified in s.
 675 288.9934; and

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

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677 assistance and business management and development training
678 provided by the ~~network pursuant to its memorandum of~~
679 ~~understanding with the~~ loan administrator, including the type of
680 training and technical assistance, number of hours of training
681 or technical assistance received, training or technical
682 assistance providers, and other relevant information.

683 ~~(2) The department shall submit the report provided to the~~
684 ~~department from Enterprise Florida, Inc., pursuant to s.~~
685 ~~288.9935(8) for inclusion in the department's annual report~~
686 ~~required under s. 20.60(10).~~

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

699 ~~(4) The Office of Program Policy Analysis and Government~~
700 ~~Accountability shall conduct a study to evaluate the~~
701 ~~effectiveness and the Office of Economic and Demographic~~
702 ~~Research shall conduct a study to evaluate the return on~~

703 ~~investment of the State Small Business Credit Initiative~~
 704 ~~operated in this state pursuant to 12 U.S.C. ss. 5701 et seq.~~
 705 ~~The offices shall each submit a report to the President of the~~
 706 ~~Senate and the Speaker of the House of Representatives by~~
 707 ~~January 1, 2015.~~

708 Section 6. Section 288.9937, Florida Statutes, is amended
 709 to read:

710 288.9937 Evaluation of programs.—The Office of Economic
 711 and Demographic Research shall analyze, evaluate, and determine
 712 the economic benefits, as defined in s. 288.005, of the first 5
 713 ~~3~~ years of the Microfinance Loan Program and the Microfinance
 714 Guarantee Program. The analysis must also evaluate the number of
 715 jobs created, the increase or decrease in personal income, and
 716 the impact on state gross domestic product from the direct,
 717 indirect, and induced effects of the state's investment. The
 718 analysis must also identify any inefficiencies in the programs
 719 and provide recommendations for changes to the programs. The
 720 office shall submit a report to the President of the Senate and
 721 the Speaker of the House of Representatives by January 1, 2020
 722 ~~2018~~. This section expires January 31, 2020 ~~2018~~.

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