

Stricken language would be deleted from and underlined language would be added to present law.

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As Engrossed: H3/6/13
A Bill

HOUSE BILL 1229

By: Representatives Love, Gillam, Sabin, Leding, Lenderman, H. Wilkins, Word, Richey, Murdock

For An Act To Be Entitled

AN ACT TO PROVIDE ADDITIONAL ECONOMIC DEVELOPMENT OPPORTUNITIES; TO CREATE THE ARKANSAS MICROENTERPRISE DEVELOPMENT ACT; TO REGULATE LOANS AND GRANTS AWARDED UNDER A MICROENTERPRISE DEVELOPMENT PROGRAM; TO ESTABLISH THE MICROENTERPRISE LOAN AND INVESTMENT FUND; TO REQUIRE REPORTS TO THE GENERAL ASSEMBLY; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE A MICROENTERPRISE DEVELOPMENT PROGRAM; AND TO REGULATE LOANS AND GRANTS AWARDED UNDER A MICROENTERPRISE DEVELOPMENT PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 15, Chapter 5, is amended to add an additional subchapter to read as follows:

Subchapter 18 – Arkansas Microenterprise Development Act

15-5-1801. Title.

This subchapter shall be known and may be cited as the “Arkansas Microenterprise Development Act”.

15-5-1802. Legislative findings and purpose.

(a) The General Assembly finds that:

(1) Approximately eighty-eight percent (88%) of the business



entities in this state are microenterprises;

(2) Microenterprises employ over two hundred eighty thousand (280,000) people in Arkansas and make up nearly twenty-three percent (23%) of total private nonfarm employment;

(3) The viability of microenterprise is crucial to Arkansas's economy;

(4) Despite the central role of microenterprises in the state's economic growth, many microenterprises are financially underserved and face significant barriers in accessing suitable credit and lending facilities, hindering their ability to further grow, invest, and expand; and

(5) Providing additional funding for microfinance institutions will support the growth and development of microenterprises by providing access to capital and valuable business training for entrepreneurs.

(b) The purpose of this subchapter is to establish a microenterprise development program under which the Arkansas Development Finance Authority will provide public fiscal resources to assist financial institutions in overcoming the obstacles and constraints that exist in meeting the full range of the financing needs of Arkansas microenterprises.

15-5-1803. Definitions.

As used in this subchapter:

(1) "Intermediary" means a private, nonprofit entity significantly engaged in lending to microenterprises;

(2) "Microenterprise" means a business that has:

(A) Five (5) or fewer full-time employees;

(B) Less than five hundred thousand dollars (\$500,000) in gross annual revenues; and

(C) Its principal operations located in Arkansas; and

(3) "Microloan" means a loan of no more than fifty thousand dollars (\$50,000) from an intermediary to a microenterprise.

15-5-1804. Microenterprise Development Program.

(a) There is created within the Arkansas Development Finance Authority the Microenterprise Development Program.

(b) As part of the program, the authority may make direct loans to intermediaries for the purpose of:

(1) Enabling the intermediaries to provide microloans; or
(2) Providing assistance in marketing, management, or business operations to microenterprises.

15-5-1805. Applications for loans.

(a) To be eligible for a loan under the Microenterprise Development Program, an intermediary shall submit an application to the Arkansas Development Finance Authority.

(b) As part of the application required under subsection (a) of this section, an intermediary shall submit the following information to the authority:

(1) The intermediary's history of lending in the state, including without limitation the number of loans made and the number of delinquent loans;

(2) The number and type of microenterprises to which the intermediary proposes to make microloans;

(3) The size, range, and terms of the microloans the intermediary proposes to make;

(4) The other forms of credit available to the microenterprises that may receive microloans from the intermediary;

(5) A description of the geographic area the intermediary proposes to serve, including without limitation the economic, poverty, and unemployment characteristics of the geographic area;

(6) The assistance in marketing, management, or business operations the intermediary proposes to provide to microenterprises, if any; and

(7) The intermediary's plan to involve other entities or private lenders in assisting microenterprises, if any.

15-5-1806. Loans to intermediaries.

(a) In selecting intermediaries for loans and determining the amounts to be provided to each intermediary, the Arkansas Development Finance Authority shall consider the equitable distribution of funds available to microenterprises across the state.

(b) A loan made by the authority to an intermediary under this subchapter shall:

(1) Be for a term of ten (10) years; and

(2) Bear an interest rate not to exceed two (2) percentage points below the rate determined by the Secretary of the United States Department of the Treasury for obligations of the United States with a period of maturity of five (5) years, adjusted to the nearest one-eighth of one percent (0.125%).

(c)(1) The authority shall not require repayment of the interest or principal of a loan made to an intermediary under this subchapter during the first year of the loan.

(2)(A) The authority may defer repayment of a loan for a period of time longer than permitted under subdivision (c)(1) of this section if the authority determines that:

(i) The balance of the Microenterprise Loan and Investment Fund is at least fifty percent (50%) of the total assets of the fund, including the unpaid portion of all loans made from the fund; and

(ii) The intermediary will suffer significant economic harm that may result in the intermediary defaulting on the loan if the repayment of the loan is not deferred for a longer period.

(B) However, the authority shall not defer repayment of a loan for a period of more than two (2) years.

(d) Except as otherwise provided in this subchapter, the authority shall not charge a fee or require collateral other than an assignment of the notes receivable of the microloans with respect to a loan made to an intermediary under this subchapter.

(e) The authority shall make available for loans to intermediaries an amount equal to the sum appropriated by the General Assembly for loans to intermediaries under this subchapter.

15-5-1807. Requirements for intermediaries.

If an intermediary obtains a loan from the Arkansas Development Finance Authority under this subchapter, the intermediary shall:

(1) Use the loan solely for the purpose of making microloans;

(2) Match at least ten percent (10%) of the loan amount in cash or cash equivalents from sources other than the state;

(3) Establish a loan loss reserve fund; and

(4)(A) Maintain the loan loss reserve fund until all obligations

owed to the authority under this subchapter are repaid.

(B) The loan loss reserve fund of an intermediary shall be maintained at a level equal to at least fifteen percent (15%) of the outstanding balance of the microloans owed to the intermediary.

(C) After three (3) years of an intermediary's participation in the Microenterprise Development Program, the authority may reduce the loan loss reserve fund requirement under subdivision (4)(B) of this section to reflect the intermediary's actual average loan loss rate during the three-year period.

(D) However, the loan loss reserve fund shall not be reduced to less than ten percent (10%) of the outstanding balance of the microloans owed to the intermediary.

15-5-1808. Grants to intermediaries.

(a) As part of the Microenterprise Development Program, the Arkansas Development Finance Authority may provide a grant to an intermediary receiving a loan from the authority under this subchapter.

(b) A grant to an intermediary under this section shall:

(1) Be used to provide assistance to microenterprises in marketing, management, or business operations; and

(2) Not exceed twenty-five percent (25%) of the total outstanding balance of loans made by the authority to the intermediary under this subchapter.

(c) To be eligible for a grant under this section, an intermediary shall match at least twenty-five percent (25%) of the amount of the loan from the authority under this subchapter in cash or cash equivalents from sources other than the state.

15-5-1809. Microenterprise Loan and Investment Fund – Creation.

(a) The Arkansas Development Finance Authority shall establish a special restricted fund to be known as the "Microenterprise Loan and Investment Fund", which the authority shall administer and maintain for the purposes stated in this subchapter and in accordance with the authority's powers under § 15-5-207.

(b) All moneys deposited into the fund under this subchapter are cash funds restricted in their use and shall:

(1) Not be deposited into the State Treasury or deemed to be a part of the State Treasury for the purposes of any other statutory or constitutional provision; and

(2) Be held by the authority and used solely for the purposes stated under this subchapter.

(c) The fund shall consist of:

(1) Any revenue authorized by law;

(2) The receipts from the repayment of loans made by the authority to intermediaries under this subchapter;

(3) Any grants, gifts, and other donations made by any source to fund the Microenterprise Development Program; and

(4) Any interest or investment earnings on amounts held in the fund.

(d) The fund shall be used by the authority to provide loans to intermediaries under this subchapter.

15-5-1810. Reports.

Beginning three (3) years after the effective date of this subchapter and by October 1 of each year thereafter, the Arkansas Development Finance Authority shall submit to the General Assembly a report that includes the following information:

(1) The authority's evaluation of the effectiveness of the Microenterprise Development Program;

(2) The numbers and locations of the intermediaries funded to conduct microloan programs;

(3) The amounts of each loan made and grant awarded to intermediaries;

(4) A description of the matching contributions of each intermediary;

(5) The numbers and amounts of microloans made by the intermediaries to microenterprises;

(6) The repayment history of each intermediary;

(7) The growth or attrition of the Microenterprise Loan and Investment Fund; and

(8) Any recommendations for legislative changes that would improve the program.

15-5-1811. Rules.

(a) The Arkansas Development Finance Authority shall promulgate rules necessary to administer this subchapter.

(b) The authority may promulgate rules to establish criteria for intermediaries to qualify for loans made by the authority under this subchapter at a lower interest rate or to reduce the interest rate on an outstanding loan made by the authority under this subchapter.

/s/Love