

# House Bill 2981

Sponsored by Representative CLEM (at the request of Jordan Schweiger, founder, Young Entrepreneur's Success (YES) Fund)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes Economic and Community Development Department to create reserve fund for nonprofit organizations engaged in alternative lending. Creates Alternative Capital Access Fund. Appropriates moneys in fund to department for making payments to loss reserve accounts.

## A BILL FOR AN ACT

1  
2 Relating to nonprofit organizations; and appropriating money.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. As used in sections 1 to 6 of this 2007 Act:**

5 (1) **"Loss reserve account" means an account in the State Treasury or any financial in-**  
6 **stitution that is established and maintained by the Economic and Community Development**  
7 **Department for the benefit of a qualified entity participating in the Alternative Capital Ac-**  
8 **cess Program established under sections 1 to 6 of this 2007 Act.**

9 (2) **"Qualified entity" means an organization that is recognized as tax exempt under**  
10 **section 501(c)(3) of the Internal Revenue Code of 1986.**

11 (3) **"Qualified loan" means a loan or portion of a loan made by a qualified entity to a**  
12 **person for any business activity that has its primary economic effect in Oregon. The term**  
13 **does not mean:**

14 (a) **A loan for the construction or purchase of residential housing.**

15 (b) **A loan for purchase of real property that is not used for the business operations of**  
16 **the borrower.**

17 (c) **A loan for the refinancing of an existing loan when and to the extent that the out-**  
18 **standing balance is not increased.**

19 **SECTION 2. (1)(a) A qualified entity may apply to the Economic and Community Devel-**  
20 **opment Department to participate in the Alternative Capital Access Program established in**  
21 **sections 1 to 6 of this 2007 Act.**

22 (b) **The qualified entity shall apply in a manner determined by the department. The de-**  
23 **partment may not charge a fee for the application.**

24 (2) **If the department accepts a qualified entity into the program, the department shall**  
25 **enter into a contract with the entity. The contract shall provide:**

26 (a) **For the creation of a loss reserve account by the department for the benefit of the**  
27 **qualified entity.**

28 (b) **That the department will fund the loss reserve account with an amount that equals**  
29 **10 percent of the qualified entity's total loan corpus.**

30 (c) **That the department will pay moneys in the loss reserve account, not exceeding an**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 amount equal to the total amount credited to the loss reserve account, to the qualified entity  
 2 to reimburse the entity for any financial loss incurred as a result of a loan made under the  
 3 Alternative Capital Access Program established by sections 1 to 6 of this 2007 Act.

4 (d) That the liability of the State of Oregon and the Economic and Community Develop-  
 5 ment Department to the qualified entity under the contract is limited to the amount of  
 6 money credited to the loss reserve account of the entity.

7 (e) That the qualified entity shall provide such information as the department may re-  
 8 quire, including financial information that is identifiable with, or identifiable from, the fi-  
 9 nancial records of a particular customer who is the recipient of a qualified loan.

10 (f) For such other terms as the department may require.

11 **SECTION 3.** (1) The Economic and Community Development Department shall establish  
 12 a loss reserve account for each qualified entity with which the department enters into a  
 13 contract under section 2 of this 2007 Act.

14 (2) The loss reserve account for a qualified entity shall consist of moneys transferred to  
 15 the account from the Alternative Capital Access Fund under section 6 of this 2007 Act.

16 (3) Notwithstanding ORS chapter 293 or 295, the department may establish and maintain  
 17 loss reserve accounts with any financial institution under such policies as the department  
 18 may adopt.

19 (4) All moneys in a loss reserve account established under sections 1 to 6 of this 2007  
 20 Act are the property of the State of Oregon.

21 **SECTION 4.** (1) When a qualified entity has contracted with the Economic and Commu-  
 22 nity Development Department and decides to enroll a qualified loan under the Alternative  
 23 Capital Access Program established under sections 1 to 6 of this 2007 Act in order to obtain  
 24 the protection against loss provided by its loss reserve account, the qualified entity shall  
 25 notify the department of the loan within 30 days after the loan is made. The notification shall  
 26 be in writing on a form prescribed by the department.

27 (2) The Economic and Community Development Department shall establish procedures  
 28 under which qualified entities participating in the Alternative Capital Access Program es-  
 29 tablished by sections 1 to 6 of this 2007 Act may submit claims for reimbursement for losses  
 30 incurred as a result of qualified loan defaults.

31 (3) Costs for which a qualified entity may be reimbursed from its loss reserve account  
 32 include loan principal, accrued interest on the principal, actual and necessary costs of seek-  
 33 ing recovery of the principal amount and interest thereon and any other related costs.

34 (4) A qualified entity may seek reimbursement of loan losses prior to the liquidation of  
 35 collateral from defaulted loans. The qualified entity shall repay its loss reserve account for  
 36 any moneys received as reimbursement under this section if the qualified entity recovers  
 37 moneys from the borrower or from the liquidation of collateral for the defaulted loan.

38 (5) The Economic and Community Development Department may adopt rules necessary  
 39 to carry out the provisions of sections 1 to 6 of this 2007 Act.

40 **SECTION 5.** (1) The Economic and Community Development Department shall annually  
 41 prepare a report conforming to generally accepted accounting principles that describe the  
 42 financial condition of the Alternative Capital Access Fund established in section 6 of this 2007  
 43 Act.

44 (2) The reports required under this section shall be submitted to the Governor and to the  
 45 appropriate committees as determined by the President of the Senate and the Speaker of the

1 **House of Representatives.**

2 **SECTION 6. (1) There is established in the State Treasury, separate and distinct from the**  
 3 **General Fund, the Alternative Capital Access Fund. Interest earned by the fund shall be**  
 4 **credited to the fund. All moneys in the fund are continuously appropriated to the Economic**  
 5 **and Community Development Department for the purpose of making payments to loss re-**  
 6 **serve accounts established under sections 1 to 6 of this 2007 Act.**

7 **(2) Moneys in the Alternative Capital Access Fund, with the approval of the State**  
 8 **Treasurer, may be invested as provided in ORS 293.701 to 293.820, and the earnings from such**  
 9 **investment shall be credited to the Alternative Capital Access Fund.**

10 **(3) The Alternative Capital Access Fund shall consist of:**

11 **(a) Moneys appropriated to the fund by the Legislative Assembly.**

12 **(b) Interest and investment earnings on the moneys in the fund.**

13 **(c) Moneys from any grant made to the fund by any federal agency.**

14 **(d) Moneys returned to the fund from loss reserve accounts or other sources.**

15 **(4) The Economic and Community Development Department may charge administrative**  
 16 **costs to the fund to pay for actual and necessary administrative expenses incurred by the**  
 17 **department in administering the fund and establishing and maintaining loss reserve accounts**  
 18 **under sections 1 to 6 of this 2007 Act.**

19 **(5) The fund may not be used to retire any debt. Except upon approval of the Legislative**  
 20 **Assembly or, if the Legislative Assembly is not in session, the Emergency Board, the fund**  
 21 **may not be used to pay administrative expenses of the department. Expenses that are project**  
 22 **related may not be considered to be administrative expenses of the department.**

23 **SECTION 7. (1) There is allocated for the biennium beginning July 1, 2007, from the Ad-**  
 24 **ministrative Services Economic Development Fund, to the Economic and Community Del-**  
 25 **velopment Department, \$50,000 for the purposes of establishing and maintaining loss reserve**  
 26 **accounts under sections 1 to 6 of this 2007 Act.**

27 **(2) The allocation of moneys from the Administrative Services Economic Development**  
 28 **Fund under this section is subject to the requirements of section 4, Article XV of the Oregon**  
 29 **Constitution, for deposit of specified amounts of the net proceeds from the Oregon State**  
 30 **Lottery into the Education Stability Fund and into the Parks and Natural Resources Fund**  
 31 **and shall be made only after satisfaction or payment of:**

32 **(a) Amounts allocated to Westside lottery bonds issued under ORS 391.140 or to the re-**  
 33 **serves or any refunding related to the Westside lottery bonds in accordance with the priority**  
 34 **for allocation and disbursement established by ORS 391.130;**

35 **(b) All liens, pledges or other obligations relating to lottery bonds or refunding lottery**  
 36 **bonds that are due or payable during the biennium for which an allocation is to be made; and**

37 **(c) Amounts required by any other pledges of, or liens on, net proceeds from the Oregon**  
 38 **State Lottery.**