

House Bill 2993

Sponsored by Representative CLEM (at the request of Jordan Schweiger)

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**.

Requires Economic and Community Development Department to establish Junior Borrowers Access to Necessary Capital Insurance Policy program. Authorizes department to create reserve fund for nonprofit organizations engaged in alternative lending. Creates Junior Borrowers Access to Necessary Capital Insurance Policy Fund. Appropriates moneys in fund to department for making payments to loss reserve accounts.

Sunsets program January 2, 2020.

Allocates moneys from Administrative Services Economic Development Fund to department to implement program.

A BILL FOR AN ACT

1
2 Relating to nonprofit organizations; creating new provisions; amending ORS 295.101; and appropri-
3 ating money.

4 Whereas Oregon's young entrepreneurs play an important role in growing Oregon's economy;
5 and

6 Whereas an investment that promotes the entrepreneurial spirit among Oregon's young people
7 is likely to pay significant dividends in the future; and

8 Whereas Oregon's young entrepreneurs frequently have little or no credit history, which results
9 in difficulties accessing capital; and

10 Whereas the state has an interest in fostering economic growth now and in the future by as-
11 sisting Oregon's young entrepreneurs in obtaining access to capital; now, therefore,

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

SECTION 1. As used in sections 1 to 6 of this 2009 Act:

14 (1) **"Junior BANC Insurance Policy Fund" means the Junior Borrowers Access to Nec-**
15 **essary Capital Insurance Policy Fund established in section 6 of this 2009 Act.**

16 (2) **"Loan corpus" means the amount of funds in the possession of a qualified entity that**
17 **the Economic and Community Development Department determines is available for loans to**
18 **young entrepreneurs for business activity that has its primary economic effect in Oregon.**

19 (3) **"Loss reserve account" means:**

20 (a) **An account in any financial institution that is established and maintained by the de-**
21 **partment for the benefit of an approved qualified entity; or**

22 (b) **An accounting practice, performed by the department, that reserves funds in the**
23 **Junior BANC Insurance Policy Fund for the exclusive benefit of the approved qualified entity.**

24 (4) **"Program" means the Junior Borrowers Access to Necessary Capital Insurance Policy**
25 **program established in sections 1 to 6 of this 2009 Act.**

26 (5) **"Qualified entity" means an organization:**

27 (a) **That is recognized as tax exempt under section 501(c)(3) of the Internal Revenue Code**
28 **of 1986; and**

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 (b) Whose primary mission is to identify young entrepreneurs and provide them with the
 2 tools necessary to start and run a business, including assistance in the provision of seed
 3 capital.

4 **SECTION 2.** (1) A qualified entity may apply to the Economic and Community Develop-
 5 ment Department, in a manner determined by the department, to participate in the Junior
 6 Borrowers Access to Necessary Capital Insurance Policy program. The department may not
 7 charge a fee for the application.

8 (2) If the department approves the application, the department shall:

9 (a) Determine the amount of the approved qualified entity's loan corpus. Except as pro-
 10 vided in section 4 (1) of this 2009 Act, the department shall enroll in the program the total
 11 amount of funds in the approved qualified entity's loan corpus; and

12 (b) Enter into a two-year contract with the approved qualified entity. The contract shall
 13 provide:

14 (A) That the department will create a loss reserve account in an amount that equals five
 15 percent of the approved qualified entity's loan corpus that is enrolled in the program.

16 (B) That the approved qualified entity will reserve funds in an amount that equals five
 17 percent of the approved qualified entity's loan corpus that is enrolled in the program.

18 (C) That the department will pay moneys from the loss reserve account to the approved
 19 qualified entity, not exceeding an amount equal to 50 percent of the losses incurred as a re-
 20 sult of a defaulted loan made under the program.

21 (D) That the liability of the State of Oregon and the department to the approved qualified
 22 entity under the contract is limited to the amount of moneys credited to the loss reserve
 23 account of the entity.

24 (E) That all funds in a loss reserve account remain the property of the State of Oregon.

25 (F) For such other terms as the department may require.

26 (3) If the department does not approve the application, the department shall:

27 (a) Provide the qualified entity with a statement of the reasons for the department's re-
 28 fusals to approve the application; or

29 (b) Require the qualified entity to submit additional information concerning the applica-
 30 tion as may be necessary.

31 **SECTION 3.** (1) The Economic and Community Development Department shall establish
 32 procedures under which approved qualified entities may submit claims for reimbursement for
 33 losses incurred as a result of loan defaults.

34 (2) Losses for which an approved qualified entity may be reimbursed from the entity's
 35 loss reserve account include loan principal, accrued interest on the principal, actual and
 36 necessary costs of seeking recovery of the principal amount and interest thereon and any
 37 other loan-related losses.

38 (3) An approved qualified entity may seek reimbursement of loan losses prior to the liq-
 39 uidation of any collateral from defaulted loans. The entity shall repay its loss reserve ac-
 40 count, in a manner determined by the department, for any moneys received as
 41 reimbursement under this section if the entity recovers moneys from the borrower or from
 42 the liquidation of collateral for the defaulted loan.

43 **SECTION 4.** (1) The Economic and Community Development Department may decline to
 44 approve the application of a qualified entity to participate in the Junior Borrowers Access
 45 to Necessary Capital Insurance Policy program or may decline to enroll in the program the

1 total amount of an approved qualified entity's loan corpus if the cost of creating the loss
2 reserve account for the entity would exceed the available funds, less administrative costs, in
3 the Junior BANC Insurance Policy Fund.

4 (2) An approved qualified entity may apply to the department, in a manner determined
5 by the department, to have the entity's loan corpus increased.

6 (3) If an approved qualified entity loses its status as a qualified entity, any funds in the
7 entity's loss reserve account shall revert to the Junior BANC Insurance Policy Fund.

8 (4) The department may adopt rules necessary to carry out the provisions of sections 1
9 to 6 of this 2009 Act. The rules adopted under this section may include, but are not limited
10 to:

11 (a) Criteria to be used in determining whether to approve the application of a qualified
12 entity to participate in the program, including the existence of adequate lending controls and
13 experience in small business lending and loan administration;

14 (b) A description of financial information that a qualified entity is required to submit as
15 part of the application process;

16 (c) A methodology for calculating an approved qualified entity's loan corpus;

17 (d) Procedures by which an approved qualified entity will reserve five percent of the en-
18 tity's loan corpus that is enrolled in the program;

19 (e) A requirement that an approved qualified entity enter into legally enforceable con-
20 tracts with borrowers;

21 (f) Procedures for increasing the amount of an approved qualified entity's loan corpus;
22 and

23 (g) A definition of "young entrepreneur" for purposes of the program.

24 **SECTION 5.** (1) The Economic and Community Development Department shall annually
25 prepare a report conforming to generally accepted accounting principles that describes the
26 financial condition of the Junior BANC Insurance Policy Fund.

27 (2) The annual report required under this section shall be submitted to the Governor and
28 to the appropriate legislative committees as determined by the President of the Senate and
29 the Speaker of the House of Representatives.

30 **SECTION 6.** (1) There is established in the State Treasury, separate and distinct from the
31 General Fund, the Junior Borrowers Access to Necessary Capital Insurance Policy Fund.
32 Interest earned by the Junior BANC Insurance Policy Fund shall be credited to the fund.
33 All moneys in the fund are continuously appropriated to the Economic and Community De-
34 velopment Department for the purposes of creating loss reserve accounts under sections 1
35 to 6 of this 2009 Act and paying actual and necessary expenses incurred by the department
36 in administering the Junior Borrowers Access to Necessary Capital Insurance Policy pro-
37 gram.

38 (2) Moneys in the Junior BANC Insurance Policy Fund, with the approval of the State
39 Treasurer, may be invested as provided in ORS 293.701 to 293.820 and the earnings from such
40 investment shall be credited to the fund.

41 (3) The Junior BANC Insurance Policy Fund shall consist of:

42 (a) Moneys allocated or appropriated to the fund by the Legislative Assembly;

43 (b) Interest and investment earnings on the moneys in the fund;

44 (c) Moneys from any grant made to the fund by any federal agency; and

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

1 (4) If the burden of administering the program requires the department to hire an addi-
 2 tional employee, the pro rata costs of that employee may be included as administrative costs
 3 under subsection (1) of this section.

4 **SECTION 7.** (1) There is allocated to the Economic and Community Development De-
 5 partment from the Administrative Services Economic Development Fund the amount iden-
 6 tified in subsection (2) of this section.

7 (2) Notwithstanding any other law limiting expenditures, the amount of \$50,000 is estab-
 8 lished for the biennium beginning July 1, 2009, as the maximum limit for payment of expenses
 9 by the Economic and Community Development Department from the Administrative Services
 10 Economic Development Fund for the purpose of funding the Junior Borrowers Access to
 11 Necessary Capital Insurance Policy Fund in order to carry out the provisions of sections 1
 12 to 6 of this 2009 Act.

13 (3) The allocation of moneys from the Administrative Services Economic Development
 14 Fund under this section is subject to the requirements in section 4, Article XV of the Oregon
 15 Constitution, for deposit of specified amounts of the net proceeds from the Oregon State
 16 Lottery into the Education Stability Fund and into the Parks and Natural Resources Fund
 17 and shall be made only after satisfaction or payment of:

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

21 (b) All liens, pledges or other obligations relating to lottery bonds or refunding lottery
 22 bonds that are due or payable during the biennium beginning July 1, 2009; and

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

25 (4) The funds allocated under this section are continuously available to the department
 26 until expended for the purposes specified in sections 1 to 6 of this 2009 Act.

27 **SECTION 8.** ORS 295.101 is amended to read:

28 295.101. (1) The following public funds are not subject to the provisions of ORS 295.001 to
 29 295.108:

30 (a) Funds that are deposited for the purpose of paying principal, interest or premium, if any, on
 31 bonds, as defined in ORS 286A.001 and 287A.001, and related costs or securing a borrowing related
 32 to an agreement for exchange of interest rates entered into under ORS 286A.110 or 287A.335.

33 (b) Funds that are invested in authorized investments under provisions of law other than ORS
 34 295.001 to 295.108. Funds invested under ORS 293.701 to 293.820 are invested in authorized invest-
 35 ments for purposes of this subsection from the time the funds are transferred by the State Treasurer
 36 to a third party under the terms of a contract for investment or administration of the funds that
 37 requires such a transfer until the time the funds are returned to the treasurer or paid to another
 38 party under the terms of the contract.

39 (c) Negotiable certificates of deposit purchased by the State Treasurer under ORS 293.736 or
 40 by an investment manager under ORS 293.741.

41 **(d) Funds maintained in a loss reserve account under sections 1 to 6 of this 2009 Act.**

42 (2) Notwithstanding subsection (1) of this section, funds deposited by a custodial officer under
 43 ORS 294.035 (3)(d) are subject to the provisions of ORS 295.001 to 295.108.

44 **SECTION 9.** ORS 295.101, as amended by section 8 of this 2009 Act, is amended to read:

45 295.101. (1) The following public funds are not subject to the provisions of ORS 295.001 to

1 295.108:

2 (a) Funds that are deposited for the purpose of paying principal, interest or premium, if any, on
3 bonds, as defined in ORS 286A.001 and 287A.001, and related costs or securing a borrowing related
4 to an agreement for exchange of interest rates entered into under ORS 286A.110 or 287A.335.

5 (b) Funds that are invested in authorized investments under provisions of law other than ORS
6 295.001 to 295.108. Funds invested under ORS 293.701 to 293.820 are invested in authorized invest-
7 ments for purposes of this subsection from the time the funds are transferred by the State Treasurer
8 to a third party under the terms of a contract for investment or administration of the funds that
9 requires such a transfer until the time the funds are returned to the treasurer or paid to another
10 party under the terms of the contract.

11 (c) Negotiable certificates of deposit purchased by the State Treasurer under ORS 293.736 or
12 by an investment manager under ORS 293.741.

13 *[(d) Funds maintained in a loss reserve account under sections 1 to 6 of this 2009 Act.]*

14 (2) Notwithstanding subsection (1) of this section, funds deposited by a custodial officer under
15 ORS 294.035 (3)(d) are subject to the provisions of ORS 295.001 to 295.108.

16 **SECTION 10. The amendments to ORS 295.101 by section 9 of this 2009 Act become op-**
17 **erative on January 2, 2020.**

18 **SECTION 11. The Economic and Community Development Department may not enter**
19 **into a contract with an approved qualified entity under sections 1 to 6 of this 2009 Act on**
20 **or after January 2, 2018.**

21 **SECTION 12. (1) Sections 1 to 6 of this 2009 Act are repealed on January 2, 2020.**

22 **(2) The repeal of sections 1 to 6 of this 2009 Act does not affect any contractual obli-**
23 **gations existing on the date of the repeal between the Economic and Community Develop-**
24 **ment Department and qualifying entities approved for participation in the Junior Borrowers**
25 **Access to Necessary Capital Insurance Policy program established under sections 1 to 6 of**
26 **this 2009 Act.**

27 **(3) Unobligated funds remaining in the Junior Borrowers Access to Necessary Capital**
28 **Insurance Policy Fund on January 2, 2020, shall be returned to the Administrative Services**
29 **Economic Development Fund.**

30