

A-Engrossed
House Bill 3605

Ordered by the House February 5
Including House Amendments dated February 5

Sponsored by Representative DOHERTY, Senator BONAMICI; Representatives BEYER, DEMBROW, EDWARDS, FREDERICK, HOYLE, HUFFMAN, KOTEK, MAURER, TOMEI (Presession filed.)

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.

[Deletes] **Creates exception to** maximum loan amount permitted from Oregon Business Development Fund for applicants proposing business development projects. Increases maximum amount of loan that may be approved by Director of Oregon Business Development Department. *[Removes security and collateral requirements for business development loans.]*

Sunsets on July 1, 2011.

Appropriates moneys from Tax Amnesty Fund or General Fund to Oregon Business Development Fund.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the Oregon Business Development Fund; creating new provisions; amending ORS
3 285B.059 and 285B.080; appropriating money; and declaring an emergency.

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

5 **SECTION 1.** ORS 285B.059 is amended to read:

6 285B.059. (1) The Oregon Business Development Commission may approve a business develop-
7 ment project proposed in an application filed under ORS 285B.050 to 285B.098 if, after investigation,
8 the commission finds that:

9 (a) The proposed business development project is feasible and a reasonable risk from practical
10 and economic standpoints, and that the loan has reasonable prospect of repayment.

11 (b) The applicant can provide good and sufficient collateral for the loan.

12 (c) Moneys in the Oregon Business Development Fund are or will be available for the proposed
13 business development project.

14 (d) There is a need for the proposed business development project.

15 (e) The applicant has not received or entered into a contract or contracts exceeding \$1 million
16 with the commission, under authority of ORS 285B.050 to 285B.098, for the previous 365 days.

17 (2)(a) **Except as provided in paragraph (b) of this subsection,** the total amount of moneys
18 loaned from the fund for *[any]* a business development project *[shall]* **may** not exceed 50 percent of
19 the cost of the project.

20 **(b) The total amount of moneys loaned from the fund for a business development project**
21 **may exceed 50 percent of the cost of the project if two or more lenders have denied requests**
22 **from the applicant to commit to participate in the financing of more than 50 percent of the**
23 **cost of the project and the only other available financing totals less than 50 percent of the**
24 **cost of the project.**

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 (3)(a) *[Except when the applicant is a county or municipality or when there are payments other*
2 *than the scheduled principal and interest payments, no money shall]* **Except as provided in para-**
3 **graph (b) of this subsection, moneys may not** be loaned from the fund for *[any]* a business de-
4 velopment project unless there exists a commitment from a commercial or private lender, or a local
5 development group, to participate in the financing of the project.

6 **(b) Moneys may be loaned from the fund for a business development project without a**
7 **commitment from a commercial or private lender, or a local development group, to partic-**
8 **ipate in the financing of the project if:**

9 **(A) The applicant is a county or municipality;**

10 **(B) There are payments other than the scheduled principal and interest payments; or**

11 **(C) Two or more lenders have denied requests from the applicant to commit to partic-**
12 **ipate in the financing of the project and the applicant has no other available financing.**

13 (4) To encourage private sector and local development group participation in the financing of
14 business development projects, the commission may subordinate the security position of the fund to
15 that of other lenders.

16 (5) In each fiscal year of a biennium, not less than 15 percent of all moneys available for lending
17 from the fund *[are]* **is** reserved for loans to certified emerging small business enterprises which are
18 located in or draw their workforces from within distressed areas as determined by the Oregon
19 Business Development Department in cooperation with the Employment Department of this state.
20 Any amounts reserved for loans to such businesses that are not loaned in one fiscal year shall be
21 added to the amount reserved for loans to such businesses in the subsequent fiscal year. If the
22 Oregon Business Development Department is unable to obtain a sufficient number of approvable
23 applications to meet the requirements of this subsection, it may, notwithstanding the limitations
24 imposed by ORS 285B.050 (2)(g)(B), make loans to service and retail businesses operated by emerging
25 small business enterprises.

26 **SECTION 2.** ORS 285B.080 is amended to read:

27 285B.080. (1) The Oregon Business Development Commission may appoint the Director of the
28 Oregon Business Development Department as the commission's representative and agent in all mat-
29 ters pertaining to ORS 285B.050 to 285B.098.

30 (2) The director shall ensure that all provisions of ORS 285B.050 to 285B.098 are complied with
31 and that appropriately trained personnel are employed to properly administer the fiscal and other
32 portions of ORS 285B.050 to 285B.098.

33 (3) The director shall have the authority in the director's sole discretion to approve loans for
34 business development projects in the amount of *[\$100,000]* **\$250,000** or less and to disburse funds for
35 such projects.

36 **SECTION 3.** ORS 285B.059, as amended by section 1 of this 2010 Act, is amended to read:

37 285B.059. (1) The Oregon Business Development Commission may approve a business develop-
38 ment project proposed in an application filed under ORS 285B.050 to 285B.098 if, after investigation,
39 the commission finds that:

40 (a) The proposed business development project is feasible and a reasonable risk from practical
41 and economic standpoints, and that the loan has reasonable prospect of repayment.

42 (b) The applicant can provide good and sufficient collateral for the loan.

43 (c) Moneys in the Oregon Business Development Fund are or will be available for the proposed
44 business development project.

45 (d) There is a need for the proposed business development project.

1 (e) The applicant has not received or entered into a contract or contracts exceeding \$1 million
2 with the commission, under authority of ORS 285B.050 to 285B.098, for the previous 365 days.

3 [(2)(a)] (2) *[Except as provided in paragraph (b) of this subsection,]* The total amount of moneys
4 loaned from the fund for a business development project may not exceed 50 percent of the cost of
5 the project.

6 [(b) *The total amount of moneys loaned from the fund for a business development project may ex-*
7 *ceed 50 percent of the cost of the project if two or more lenders have denied requests from the applicant*
8 *to commit to participate in the financing of more than 50 percent of the cost of the project and the only*
9 *other available financing totals less than 50 percent of the cost of the project.]*

10 [(3)(a)] (3) *[Except as provided in paragraph (b) of this subsection,]* **Except when the applicant**
11 **is a county or municipality or when there are payments other than the scheduled principal**
12 **and interest payments,** moneys may not be loaned from the fund for a business development
13 project unless there exists a commitment from a commercial or private lender, or a local develop-
14 ment group, to participate in the financing of the project.

15 [(b) *Moneys may be loaned from the fund for a business development project without a commitment*
16 *from a commercial or private lender, or a local development group, to participate in the financing of*
17 *the project if:]*

18 [(A) *The applicant is a county or municipality;]*

19 [(B) *There are payments other than the scheduled principal and interest payments; or]*

20 [(C) *Two or more lenders have denied requests from the applicant to commit to participate in the*
21 *financing of the project and the applicant has no other available financing.]*

22 (4) To encourage private sector and local development group participation in the financing of
23 business development projects, the commission may subordinate the security position of the fund to
24 that of other lenders.

25 (5) In each fiscal year of a biennium, not less than 15 percent of all moneys available for lending
26 from the fund is reserved for loans to certified emerging small business enterprises which are lo-
27 cated in or draw their workforces from within distressed areas as determined by the Oregon Busi-
28 ness Development Department in cooperation with the Employment Department of this state. Any
29 amounts reserved for loans to such businesses that are not loaned in one fiscal year shall be added
30 to the amount reserved for loans to such businesses in the subsequent fiscal year. If the Oregon
31 Business Development Department is unable to obtain a sufficient number of approvable applications
32 to meet the requirements of this subsection, it may, notwithstanding the limitations imposed by ORS
33 285B.050 (2)(g)(B), make loans to service and retail businesses operated by emerging small business
34 enterprises.

35 **SECTION 4.** ORS 285B.080, as amended by section 2 of this 2010 Act, is amended to read:

36 285B.080. (1) The Oregon Business Development Commission may appoint the Director of the
37 Oregon Business Development Department as the commission's representative and agent in all mat-
38 ters pertaining to ORS 285B.050 to 285B.098.

39 (2) The director shall ensure that all provisions of ORS 285B.050 to 285B.098 are complied with
40 and that appropriately trained personnel are employed to properly administer the fiscal and other
41 portions of ORS 285B.050 to 285B.098.

42 (3) The director shall have the authority in the director's sole discretion to approve loans for
43 business development projects in the amount of [~~\$250,000~~] **\$100,000** or less and to disburse funds for
44 such projects.

45 **SECTION 5.** The amendments to ORS 285B.059 and 285B.080 by sections 3 and 4 of this

1 **2010 Act become operative on July 1, 2011.**

2 **SECTION 6. In addition to and not in lieu of any other appropriation, there is appropri-**
3 **ated to the Oregon Business Development Department, for the biennium ending June 30,**
4 **2011, out of the Tax Amnesty Fund created under section 7, chapter 710, Oregon Laws 2009,**
5 **the amount of \$_____ for the purpose of carrying out the provisions of ORS 285B.050 to**
6 **285B.098.**

7 **SECTION 7. This 2010 Act being necessary for the immediate preservation of the public**
8 **peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect**
9 **on its passage.**

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