

# Enrolled Senate Bill 1017

Sponsored by Senator BONAMICI, Representative DOHERTY; Senators BATES, BURDICK, COURTNEY, DEVLIN, DINGFELDER, EDWARDS, GEORGE, HASS, METSGER, MONNES ANDERSON, MONROE, PROZANSKI, ROSENBAUM, SCHRADER, TELFER, VERGER, WINTERS, Representatives CANNON, CLEM, GREENLICK, HARKER, NATHANSON (Presession filed.)

CHAPTER .....

## AN ACT

Relating to loans for economic development; creating new provisions; amending ORS 285B.059, 285B.080, 285B.746 and 285B.749; appropriating money; limiting expenditures; and declaring an emergency.

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

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

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

- (a) The proposed business development project is feasible and a reasonable risk from practical and economic standpoints, and that the loan has reasonable prospect of repayment.
- (b) The applicant can provide good and sufficient collateral for the loan.
- (c) Moneys in the Oregon Business Development Fund are or will be available for the proposed business development project.
- (d) There is a need for the proposed business development project.
- (e) The applicant has not received or entered into a contract or contracts exceeding \$1 million with the commission, under authority of ORS 285B.050 to 285B.098, for the previous 365 days.

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

**(b) The total amount of moneys loaned from the fund for a business development project may exceed 50 percent of the cost of the project if two or more lenders have denied requests from the applicant to commit to participate in the financing of the project and the applicant has no other available financing.**

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

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

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

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

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

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

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

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

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

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

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

**SECTION 3.** ORS 285B.746 is amended to read:

285B.746. (1) The Oregon Business Development Department may approve a loan requested in an application filed under ORS 285B.743 if, after investigation, it finds that:

(a) The applicant is enrolled in a small business management program with a small business development center or certified entity;

(b) The applicant has prepared a business plan for the business, which has been reviewed by a small business development center or other entity certified by the department to review business plans; and

(c) The applicant is not effectively owned or controlled by another business entity or other person that, either by itself or when combined with the applicant, is not eligible for a loan under ORS 285B.740 to 285B.758.

(2) In addition to the requirements for loan approval described in subsection (1) of this section, in order to obtain a loan under ORS 285B.740 to 285B.758, an applicant must also satisfy *[two]* **one** of the following conditions:

*[(a) The business or proposed business, at the time of application, must not have been operating for more than 36 months.]*

*[(b)]* **(a)** The business must have annual revenues of *[less than \$175,000]* **\$500,000 or less** in the 12-month period immediately preceding the date of application.

*[(c)]* **(b)** The business or proposed business *[is]* **must be** owned, in whole or in part, by a person certified as having a severe disability by the Department of Human Services or the Commission for the Blind.

**SECTION 4.** ORS 285B.749 is amended to read:

285B.749. (1) The Oregon Business Development Department may approve an entrepreneurial development loan under ORS 285B.740 to 285B.758 if, after investigation, it finds that:

(a) The loan has a reasonable prospect of repayment from cash flow and collateral and *[that the loan is fully secured by collateral value]* **is secured by good and sufficient collateral;** and

(b) The applicant provides equity funds for the project in the form of cash or property in an amount equal to or greater than 20 percent of the amount of the loan.

(2) The department shall determine the amount of the initial loan and any subsequent loan to the borrower. The maximum of all loans to a borrower from the Oregon Entrepreneurial Development Loan Fund may not exceed \$70,000.

(3) Entrepreneurial development loans shall be made for a period not exceeding five years at a rate of interest that does not exceed 18 percent per annum.

**SECTION 5.** ORS 285B.059, as amended by section 1 of this 2010 Act, is amended to read:

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

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

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

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

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

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

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

*[(b) The total amount of moneys loaned from the fund for a business development project may exceed 50 percent of the cost of the project if two or more lenders have denied requests from the applicant to commit to participate in the financing of the project and the applicant has no other available financing.]*

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

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

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

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

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

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

(5) In each fiscal year of a biennium, not less than 15 percent of all moneys available for lending from the fund is reserved for loans to certified emerging small business enterprises which are located in or draw their workforces from within distressed areas as determined by the Oregon Business Development Department in cooperation with the Employment Department of this state. Any amounts reserved for loans to such businesses that are not loaned in one fiscal year shall be added to the amount reserved for loans to such businesses in the subsequent fiscal year. If the Oregon Business Development Department is unable to obtain a sufficient number of approvable applications

to meet the requirements of this subsection, it may, notwithstanding the limitations imposed by ORS 285B.050 (2)(g)(B), make loans to service and retail businesses operated by emerging small business enterprises.

**SECTION 6.** ORS 285B.080, as amended by section 2 of this 2010 Act, is amended to read:

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

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

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

**SECTION 7.** ORS 285B.746, as amended by section 3 of this 2010 Act, is amended to read:

285B.746. (1) The Oregon Business Development Department may approve a loan requested in an application filed under ORS 285B.743 if, after investigation, it finds that:

(a) The applicant is enrolled in a small business management program with a small business development center or certified entity;

(b) The applicant has prepared a business plan for the business, which has been reviewed by a small business development center or other entity certified by the department to review business plans; and

(c) The applicant is not effectively owned or controlled by another business entity or other person that, either by itself or when combined with the applicant, is not eligible for a loan under ORS 285B.740 to 285B.758.

(2) In addition to the requirements for loan approval described in subsection (1) of this section, in order to obtain a loan under ORS 285B.740 to 285B.758, an applicant must also satisfy *[one]* **two** of the following conditions:

**(a) The business or proposed business, at the time of application, must not have been operating for more than 36 months.**

*[(a)]* **(b)** The business must have annual revenues of [~~\$500,000 or less~~] **less than \$175,000** in the 12-month period immediately preceding the date of application.

*[(b)]* **(c)** The business or proposed business must be owned, in whole or in part, by a person certified as having a severe disability by the Department of Human Services or the Commission for the Blind.

**SECTION 8.** ORS 285B.749, as amended by section 4 of this 2010 Act, is amended to read:

285B.749. (1) The Oregon Business Development Department may approve an entrepreneurial development loan under ORS 285B.740 to 285B.758 if, after investigation, it finds that:

(a) The loan has a reasonable prospect of repayment from cash flow and collateral and *[is secured by good and sufficient collateral]* **that the loan is fully secured by collateral value**; and

(b) The applicant provides equity funds for the project in the form of cash or property in an amount equal to or greater than 20 percent of the amount of the loan.

(2) The department shall determine the amount of the initial loan and any subsequent loan to the borrower. The maximum of all loans to a borrower from the Oregon Entrepreneurial Development Loan Fund may not exceed \$70,000.

(3) Entrepreneurial development loans shall be made for a period not exceeding five years at a rate of interest that does not exceed 18 percent per annum.

**SECTION 9.** The amendments to ORS 285B.059, 285B.080, 285B.746 and 285B.749 by sections 5 to 8 of this 2010 Act become operative on July 1, 2011.

**SECTION 10.** In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Business Development Department, for the biennium ending June 30, 2011, out of the General Fund, the amount of \$3,000,000 to be deposited in the Oregon Busi-

ness Development Fund established under ORS 285B.092 for the purposes described in ORS 285B.092.

**SECTION 11.** Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 2 (1), chapter 721, Oregon Laws 2009, for the biennium beginning July 1, 2009, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Oregon Business Development Department for business, innovation and trade, is increased by \$31,538.

**SECTION 12.** If House Bill 3698 becomes law, section 10 of this 2010 Act is amended to read:

**Sec. 10.** In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Business Development Department, for the biennium ending June 30, 2011, out of the General Fund, the amount of [\$3,000,000] **\$5,000,000** to be deposited in the Oregon Business Development Fund established under ORS 285B.092 for the purposes described in ORS 285B.092.

**SECTION 13.** This 2010 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect on its passage.

Passed by Senate February 23, 2010

.....  
Secretary of Senate

.....  
President of Senate

Passed by House February 24, 2010

.....  
Speaker of House

Received by Governor:

.....M.,....., 2010

Approved:

.....M.,....., 2010

.....  
Governor

Filed in Office of Secretary of State:

.....M.,....., 2010

.....  
Secretary of State