

Requested by HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT (at the request of Business
for a Better Portland)

**PROPOSED AMENDMENTS TO
HOUSE BILL 4033**

1 On page 1 of the printed bill, delete lines 4 through 24 and delete pages
2 2 through 6 and insert:

3 **“SECTION 1. Purpose. It is the purpose of sections 1 to 7 of this 2020**
4 **Act that the State of Oregon shall make awards to qualified lending**
5 **institutions to fund lenders’ loan loss accounts for the purpose of in-**
6 **creasing lending to business owners and entrepreneurs who currently**
7 **lack access to capital to start or grow their businesses, including**
8 **businesses owned by women, minorities, veterans of the Armed Forces**
9 **of the United States, low income persons and persons operating busi-**
10 **nesses in rural areas of this state.**

11 **“SECTION 2. Definitions. As used in sections 1 to 7 of this 2020 Act,**
12 **unless the context requires otherwise:**

13 **“(1) ‘Loan loss account’ or ‘account’ means an account created by**
14 **a lender for the deposit of moneys awarded to the lender under section**
15 **3 of this 2020 Act out of which the lender may reimburse itself for**
16 **losses incurred due to defaults on reimbursable loans.**

17 **“(2) ‘Qualified business’ or ‘qualified borrower’ means a person that**
18 **enters into a reimbursable loan agreement with a lender awarded**
19 **moneys under section 3 of this 2020 Act.**

20 **“(3)(a) ‘Reimbursable loan’ means a loan or portion of a loan made**
21 **by a lender to a qualified business the losses from which are**

1 reimbursable from moneys in the lender's loan loss account.

2 “(b) ‘Reimbursable loan’ does not mean a loan:

3 “(A) With a variable interest rate.

4 “(B) With an annual interest rate that exceeds the prime rate plus
5 six percent.

6 “(C) For working capital for a term exceeding five years.

7 “(D) For capital assets for a term exceeding the useful life of the
8 assets.

9 “(E) That includes, in whole or in part, the refinancing of an ex-
10 isting loan made by the lender to the borrower.

11 “(F) That includes, in whole or in part, the refinancing of an ex-
12 isting personal loan not used for business purposes or that includes
13 cash out to the borrower.

14 “(G) For the purchase of real property that is not used for the
15 business operations of the borrower.

16 “(H) For the purchase of owner-occupied residential housing or for
17 the construction, improvement or purchase of residential housing
18 owned or to be owned by the borrower.

19 “(4) ‘RFP’ means a request for proposal.

20 “SECTION 3. RFP process for awards to lenders; lender require-
21 ments; review committee; approval criteria. (1)(a) The Oregon Busi-
22 ness Development Department shall, in accordance with this section,
23 make awards to lenders to fund the lenders’ loan loss accounts.

24 “(b) The awards shall be made through a competitive RFP process
25 administered by the department.

26 “(c) Of the moneys awarded as a result of any RFP process:

27 “(A) Not more than 10 percent may be awarded to any single lender.

28 “(B) Not more than 40 percent may be awarded for use by qualified
29 businesses within the combined external boundaries of Multnomah,
30 Washington and Clackamas Counties.

1 **“(2) A lender may submit a proposal for an award under this section**
2 **only if the lender:**

3 **“(a)(A) Is certified as a community development financial institu-**
4 **tion by the Community Development Financial Institutions Fund at**
5 **the United States Department of the Treasury;**

6 **“(B) Is a nonprofit corporation as defined in ORS 307.130; or**

7 **“(C) Is affiliated with:**

8 **“(i) An economic development district in Oregon designated by the**
9 **Economic Development Administration of the United States Depart-**
10 **ment of Commerce; or**

11 **“(ii) A local government as defined in ORS 174.116;**

12 **“(b) Has a physical presence in Oregon and at least five years of**
13 **lending experience; and**

14 **“(c) Is not a financial institution as defined in ORS 706.008.**

15 **“(3)(a) The department shall establish a committee to review pro-**
16 **posals submitted pursuant to this section.**

17 **“(b) The committee may include the following members:**

18 **“(A) Representatives of the financial services industry who are fa-**
19 **miliar with community development financial institutions.**

20 **“(B) Economic development professionals who have lending experi-**
21 **ence servicing rural or underserved entrepreneurs.**

22 **“(C) Representatives of federally recognized Indian tribes with**
23 **lending experience.**

24 **“(D) Any other persons who have knowledge or experience related**
25 **to the purposes for which awards are made under sections 1 to 7 of this**
26 **2020 Act.**

27 **“(4) The committee established under subsection (3) of this section**
28 **shall evaluate proposals according to the following criteria:**

29 **“(a) The number and value of loans closed by the lender during the**
30 **five-year period immediately preceding the date of submission of the**

1 lender's proposal;

2 “(b) The projected loan production over the performance period of
3 the award, including the projected number of loans, the proposed
4 principal amount of reimbursable loans that the lender would not
5 make but for the moneys awarded, and the jobs to be created and re-
6 tained by qualified borrowers;

7 “(c) How the award would increase the lender's capacity to make
8 loans to rural or underserved entrepreneurs;

9 “(d) The past performance of loans made by the lender;

10 “(e) The extent to which the lender provides technical assistance
11 and financial literacy services to borrowers; and

12 “(f) Any other criteria the department or committee considers
13 necessary or useful for evaluating a proposal.

14 “(5)(a) After reviewing proposals submitted in response to an RFP,
15 the committee shall make recommendations to the department as to
16 which lenders should receive an award and in what amount.

17 “(b) Upon receipt of the recommendations, the department may
18 approve the recommendations or consult with the committee for re-
19 consideration.

20 “(c) As soon as practicable after the awards are finalized, the de-
21 partment shall notify the lenders that submitted proposals of the re-
22 sults and offer the awards to the lenders whose proposals are accepted.

23 “SECTION 4. Agreements with lenders; terms. (1) The Oregon
24 Business Development Department shall enter into a written agree-
25 ment with each lender that accepts an award offered under section 3
26 of this 2020 Act.

27 “(2) A written agreement entered into pursuant to this section
28 must:

29 “(a) Provide for the creation of a loan loss account by the lender
30 for the deposit of moneys awarded under section 3 of this 2020 Act out

1 of which the lender may reimburse itself for losses incurred due to
2 defaults on reimbursable loans;

3 “(b) Provide that, notwithstanding ORS chapter 293 or 295, the
4 lender shall establish and maintain the loan loss account with a fi-
5 nancial institution, as defined in ORS 706.008, in accordance with such
6 policies as the department may adopt;

7 “(c) Require the lender to designate, when a loan is made, whether
8 the loan or a portion of the loan is a reimbursable loan;

9 “(d) Require the lender to deposit to the credit of the lender’s loan
10 loss account any fees directly related to the designation of the loan
11 as a reimbursable loan that the lender receives from a qualified bor-
12 rower when the lender makes the reimbursable loan to the qualified
13 borrower;

14 “(e) Provide that, upon default on a reimbursable loan, the lender
15 shall require the qualified borrower to liquidate the borrower’s assets
16 for the benefit of the lender before the lender may reimburse itself
17 from the lender’s loan loss account;

18 “(f) Provide that the liability of the State of Oregon and the de-
19 partment under the written agreement is limited to the amount of
20 moneys awarded and credited to the lender’s loan loss account; and

21 “(g) Require the lender to file an annual report in accordance with
22 section 5 of this 2020 Act.

23 “SECTION 5. Annual reporting by lenders. (1) Not later than July
24 31 of each year, each lender awarded moneys under section 3 of this
25 2020 Act shall, during the term of the written agreement entered into
26 under section 4 of this 2020 Act, provide a report to the Oregon Busi-
27 ness Development Department, on a form prescribed by the depart-
28 ment, for the period beginning on July 1 of the immediately preceding
29 year and ending on June 30 of the current year.

30 “(2) With respect to reimbursable loans made by the lender, the

1 **report shall set forth:**

2 **“(a) The number and total principal amount of all reimbursable**
3 **loans made by the lender;**

4 **“(b) For each reimbursable loan, the following information:**

5 **“(A) The interest rate and whether the rate is fixed or variable;**

6 **“(B) The term of the reimbursable loan; and**

7 **“(C) If made to finance a capital asset, the term of amortization**
8 **of the capital asset financed;**

9 **“(c) The principal amount loaned to qualified borrowers that the**
10 **lender would not have loaned but for the moneys awarded to the**
11 **lender under section 3 of this 2020 Act;**

12 **“(d) The ratio of the total principal amount of reimbursable loans**
13 **made by the lender to the moneys awarded to the lender under section**
14 **3 of this 2020 Act;**

15 **“(e) The amount of moneys withdrawn from the lender’s loan loss**
16 **account to reimburse the lender for losses incurred on reimbursable**
17 **loans; and**

18 **“(f) The amount of award moneys available in the lender’s loan loss**
19 **account.**

20 **“(3) With respect to qualified borrowers, the report shall set forth:**

21 **“(a) The businesses that qualified borrowers conduct in this state;**

22 **“(b) The cities and counties in which qualified borrowers use the**
23 **reimbursable loan proceeds;**

24 **“(c) The number of individuals employed by the qualified busi-**
25 **nesses;**

26 **“(d) Demographic data voluntarily reported by qualified borrowers,**
27 **including, but not limited to, whether a qualified business is owned**
28 **by a woman, a minority individual, a veteran of any branch of the**
29 **Armed Forces of the United States, the National Guard or other re-**
30 **serve component, a low income person or a person operating the**

1 **business in a rural area of this state; and**

2 **“(e) Outreach conducted by the lender to rural and underserved**
3 **communities.**

4 **“(4) The department may require any lender to include in the report**
5 **financial information that is identifiable with, or from, the financial**
6 **records of a borrower.**

7 **“SECTION 6. Release; repayment. (1)(a) A lender shall be released**
8 **from any obligation under a written agreement entered into under**
9 **section 4 of this 2020 Act, and may use for any purpose whatever any**
10 **balance in the lender’s loan loss account, if the lender has:**

11 **“(A) Performed under the written agreement entered into with the**
12 **Oregon Business Development Department for at least 10 years;**

13 **“(B) Attained during the 10-year period a ratio of total principal**
14 **amount of reimbursable loans made by the lender to moneys awarded**
15 **to the lender under section 3 of this 2020 Act of seven to one; and**

16 **“(C) Complied with the annual reporting requirements under sec-**
17 **tion 5 of this 2020 Act.**

18 **“(b) A release under this section does not absolve a lender of any**
19 **contractual obligations owed to a qualified borrower under a**
20 **reimbursable loan agreement.**

21 **“(2) A lender shall repay to the department for deposit in the Gen-**
22 **eral Fund the balance of moneys awarded to the lender under section**
23 **3 of this 2020 Act in the lender’s loan loss account, exclusive of fees**
24 **described in section 4 (2)(d) of this 2020 Act, if the department deter-**
25 **mines that:**

26 **“(a) The lender has not made a reimbursable loan for 24 consecutive**
27 **months;**

28 **“(b) The lender has become insolvent or has ceased lending oper-**
29 **ations in Oregon;**

30 **“(c) The lender has failed to perform in any material way under the**

1 **written agreement with the department;**

2 **“(d) The lender made material misrepresentations in the proposal**
3 **submitted under section 3 of this 2020 Act or in an annual report re-**
4 **quired under section 5 of this 2020 Act;**

5 **“(e) The lender has sold, transferred or assigned the loan loss ac-**
6 **count; or**

7 **“(f) The lender or the lender’s loan loss account portfolio has been**
8 **sold, transferred or assigned, in whole or part.**

9 **“SECTION 7. Annual report by the Oregon Business Development**
10 **Department. On or before September 15 of each year, the Oregon**
11 **Business Development Department shall submit, in the manner re-**
12 **quired under ORS 192.245, to the interim committees of the Legislative**
13 **Assembly related to economic development, a report that sets forth**
14 **the following information:**

15 **“(1) The number and total dollar amount of proposals for awards**
16 **received under section 3 of this 2020 Act;**

17 **“(2) The number of awards and the amount of moneys awarded**
18 **under section 3 of this 2020 Act;**

19 **“(3) Information described in section 3 (4)(b) of this 2020 Act from**
20 **the approved proposals;**

21 **“(4) Aggregated lender and qualified borrower data, including de-**
22 **mographic data reported by lenders under section 5 (3)(d) of this 2020**
23 **Act;**

24 **“(5) The aggregate performance of reimbursable loans;**

25 **“(6) The average interest rate, term and amount of reimbursable**
26 **loans;**

27 **“(7) The cities and counties in which qualified borrowers use the**
28 **reimbursable loan proceeds; and**

29 **“(8) Any other information the department considers necessary or**
30 **useful to include in the report.**

1 **SECTION 8. Appropriation.** There is appropriated to the Oregon
2 Business Development Department, for the biennium ending June 30,
3 2021, out of the General Fund, the amount of \$5 million, for the pur-
4 pose of implementing sections 1 to 7 of this 2020 Act.

5 **SECTION 9. Program evaluation; recommendations.** (1) Not later
6 than September 15, 2022, the interim committees of the Legislative
7 Assembly related to economic development shall evaluate the effec-
8 tiveness of the lender loan loss account program established under
9 sections 1 to 7 of this 2020 Act and develop recommendations for leg-
10 islation, including appropriations.

11 **“(2) In making the evaluation under subsection (1) of this section,**
12 **the interim committees shall:**

13 **“(a) Consult with lenders that have entered into written agreements**
14 **with the Oregon Business Development Department under section 4**
15 **of this 2020 Act and made reimbursable loans and with any other per-**
16 **sons the interim committees consider necessary or useful; and**

17 **“(b) Consider the annual reports submitted by the department un-**
18 **der section 7 of this 2020 Act and any other information the interim**
19 **committees consider necessary or useful.**

20 **SECTION 10. Section captions.** The section captions used in this
21 2020 Act are provided only for the convenience of the reader and do
22 not become part of the statutory law of this state or express any leg-
23 islative intent in the enactment of this 2020 Act.

24 **SECTION 11.** (1) There is allocated for the biennium ending June
25 30, 2021, from the Administrative Services Economic Development
26 Fund, to the Oregon Department of Administrative Services, the
27 amount of \$250,000 for distribution to the Oregon Entrepreneurs Net-
28 work in accordance with this section.

29 **“(2) Distributions made pursuant to this section may be used by the**
30 **Oregon Entrepreneurs Network solely for the following purposes:**

1 “(a) Qualitative one-on-one interviews with 75 entrepreneur
2 ecosystem participants, including regulated and nonregulated lenders,
3 located in all regions of this state, to better understand the ecosystem
4 and funding needs and gaps.

5 “(b) Two group meetings of diverse Oregon entrepreneurial
6 stakeholders to study stakeholder needs. Moneys in the fund may also
7 be used to make travel and time reimbursements to underrepresented
8 entrepreneurs.

9 “(c) To bring together a research team that will synthesize existing
10 analyses, and conduct a new analysis, of the economic needs of Oregon
11 small businesses and the impact of small businesses on the Oregon
12 economy.

13 “(d) Collaboration and information sharing with the Oregon Capital
14 Scan.

15 “(e) To fund technological infrastructure and the position of a
16 project manager charged with creating a statewide, connected and
17 engaged entrepreneurial ecosystem community.

18 “(f) To make recommendations for legislation to the interim com-
19 mittees of the Legislative Assembly related to economic development
20 no later than November 30, 2020.

21 “(3) The department may not make a distribution to the Oregon
22 Entrepreneurs Network under this section until the amount of lottery
23 funds allocated to the department under subsection (1) of this section
24 has been matched by at least \$150,000 received from private, nonprofit
25 or philanthropic sources to be used solely for the purposes set forth
26 in subsection (2) of this section.

27 “SECTION 12. (1) There is allocated for the biennium ending June
28 30, 2021, from the Administrative Services Economic Development
29 Fund, to the Oregon Business Development Department, the amount
30 of \$3 million for deposit in the Oregon Growth Fund established under

1 **ORS 284.890.**

2 **“(2) Notwithstanding ORS 284.890 (3), moneys deposited in the**
3 **Oregon Growth Fund under this section are continuously appropriated**
4 **to the department for the use of the Oregon Growth Board for the**
5 **following purposes:**

6 **“(a) To target entrepreneurs and emerging capital innovators;**

7 **“(b) To support economic growth through investments in loan**
8 **funds, venture capital funds, angel conferences and associated techni-**
9 **cal assistance;**

10 **“(c) To leverage private and other institutional dollars for invest-**
11 **ment in Oregon companies;**

12 **“(d) To make investments in early stage, small and first-time capi-**
13 **tal sources to support economic development; and**

14 **“(e) To help funds fill the capital gaps encountered by Oregon**
15 **businesses, especially in underserved communities, rural areas and**
16 **undersupported industry sectors.**

17 **“(3) Moneys deposited in the Oregon Growth Fund under this sec-**
18 **tion may not be used for any other purpose for which moneys in the**
19 **fund may be used under ORS 284.890, other than administrative costs**
20 **described in ORS 284.890 (5) that are directly related to this section.**

21 **“SECTION 13. This 2020 Act being necessary for the immediate**
22 **preservation of the public peace, health and safety, an emergency is**
23 **declared to exist, and this 2020 Act takes effect on its passage.”.**

24
