

SENATE BILL No. 317

By Senator Faust-Goudeau

1-11

1 AN ACT relating to economic development; concerning promotion of
2 small businesses and community organizations in low income areas;
3 enacting the Kansas reinvestment act.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. Sections 1 through 11, and amendments thereto, may be
7 cited as the Kansas reinvestment act. The purpose of this act is to promote
8 job creation and economic development by small businesses in
9 impoverished areas of this state and promote the betterment of
10 communities in such areas by nonprofit and religious organizations.

11 Sec. 2. As used in this act, the following words and phrases shall
12 have the meanings ascribed to them herein:

13 (a) "Business" means any commercial enterprise which does not
14 engage in the activities listed in section 9, and amendments thereto.

15 (b) "Business renovation" means improving the existing physical
16 facilities of a business.

17 (c) "Department" means the department of commerce.

18 (d) "Fraudulent activity" means submitting false documentation to the
19 state of Kansas, the department or a third party contractor for purposes of
20 securing an award pursuant to this act, including, but not limited to: (1)
21 Overestimating goods or services for the intended purpose of receiving
22 extra funds; or (2) using awarded funds for purposes or in a manner
23 contrary to the provisions of this act.

24 (e) "Impoverished area" means a zip code area in Kansas in which the
25 median household income does not exceed 75% of the current state
26 median household income in the current year according to the United
27 States census bureau or official Kansas data.

28 (f) "New small business" means small businesses which have been in
29 existence more than 12 months and less than 18 months.

30 (g) "Nonprofit organization" means any organization:

31 (1) Organized and operated for the purpose of the relief of poverty,
32 distress or other condition of public concern within this state, financially
33 supporting the activities of an organization organized and operated for
34 such purposes or conferring direct benefits on the community at large;

35 (2) where no part of the net earnings of such organization inures to
36 the benefit of any private shareholder or individual member of such

1 organization; and

2 (3) that is either exempt from the payment of federal income taxes as
3 provided by sections 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6) or 501(c)
4 (7) of the federal internal revenue code of 1986, as amended, or is found
5 by the secretary to be organized and operated as a bona fide nonprofit
6 organization.

7 (h) "Religious organization" means any corporation, trust or
8 organization incorporated or established for religious purposes, or
9 established for charitable, hospital or educational purposes and engaged in
10 effectuating one or more of such purposes, that is affiliated with, operated
11 by or supervised or controlled by a corporation, trust or organization
12 incorporated or established for religious purposes and which has been
13 exempted from the payment of federal income taxes as provided by section
14 501(c)(3) or 501(d) of the federal internal revenue code of 1986, as
15 amended.

16 (i) "Secretary" means the secretary of commerce or the secretary's
17 designee.

18 (j) "Small business" means partnerships, sole proprietorships, limited
19 liability corporations or corporations which gross less than \$5,000,000 in
20 revenue annually and employ 100 or fewer employees.

21 Sec. 3. (a) There is hereby established the Kansas reinvestment
22 program, which shall be organized as a program within the department of
23 commerce and shall be administered by the secretary of commerce or the
24 secretary's designee.

25 (b) The secretary may contract with third parties, as otherwise
26 provided by law and permitted by this act, to carry out the provisions of
27 this act. The secretary shall, in the discretion of the secretary, award loans
28 to eligible businesses, religious organizations and nonprofit organizations
29 from the Kansas reinvestment fund in accordance with the provisions and
30 purposes of this act. The secretary is granted authority to enter into
31 agreements for awards of loans as permitted by this act beginning July 1,
32 2016, and ending June 30, 2020.

33 Sec. 4. (a) There is hereby created in the state treasury the Kansas
34 reinvestment act fund. The secretary shall administer the fund. All awards
35 by the secretary from the fund shall be for the purpose of promoting job
36 creation and economic development in accordance with the provisions of
37 this act and shall be made in accordance with appropriation acts upon
38 warrants of the director of accounts and reports issued pursuant to
39 vouchers approved by the secretary.

40 (b) Beginning in fiscal year 2016 and ending in fiscal year 2020,
41 \$1,250,000 shall be appropriated each fiscal year to the Kansas
42 reinvestment fund, for a total appropriation of \$5,000,000.

43 (c) Up to 10% of the amount appropriated to the Kansas reinvestment

1 fund each fiscal year may be used for administration of the fund by the
2 secretary. Subject to appropriations therefore, funds allocated for
3 administration shall be used for the salaries of necessary personnel and
4 equipment to administer the Kansas reinvestment act.

5 Sec. 5. To be eligible for an award under the provisions of this act:

6 (a) A business must:

7 (1) Be a small business or a new small business as defined in section
8 2, and amendments thereto;

9 (2) not be engaged in any of the business activities listed in section 9,
10 and amendments thereto;

11 (3) not be delinquent in filing any return with, or paying any tax due
12 to, the state of Kansas or the federal government;

13 (4) be located in or relocating to an impoverished area; and

14 (5) if a new small business, must submit a business plan to the
15 secretary that has been accepted or approved by the Kansas small business
16 development center and a financial institution approved by the secretary.

17 (b) An organization must:

18 (1) Be a nonprofit organization or a religious organization as defined
19 in section 2, and amendments thereto;

20 (2) employ no more than 100 employees or receive annual gross
21 revenues of no more than \$3,000,000; and

22 (3) be located in or relocating to an impoverished area.

23 (c) In lieu of eligibility pursuant to subsections (a) or (b), a business
24 or organization may be determined to be eligible by the secretary pursuant
25 to section 8, and amendments thereto.

26 Sec. 6. Eligible businesses may be awarded loans in a total amount
27 not to exceed \$100,000 for the following purposes:

28 (a) Business renovation;

29 (b) acquisition of business equipment;

30 (c) new structures attached to or on the same property of an existing
31 structure of the business;

32 (d) up to \$25,000 for relocation to an impoverished area; or

33 (e) up to \$20,000 for business marketing purposes.

34 Sec. 7. (a) An eligible business, religious organization or nonprofit
35 organization meeting the requirements of this act and located within or
36 relocating to an impoverished area may apply to the secretary to enter into
37 an agreement for an award pursuant to this act. The application shall be
38 submitted on a form and in a manner prescribed by the secretary, and shall
39 include evidence that the applicant is eligible for an award as permitted by
40 the requirements of this act.

41 (b) Upon receipt of an application, if the secretary finds that the
42 application is from an eligible applicant and meets the requirements of this
43 act, the secretary may enter into an agreement with the eligible applicant

1 for an award. In considering an applicant and any award, the secretary
2 shall consult with the municipal authorities responsible for economic
3 development in the municipality within which the applicant is located.

4 (c) The agreement between the eligible applicant and the secretary
5 shall be entered into before any award may be provided, and shall specify
6 that should the eligible applicant fail to comply with the terms set forth in
7 the agreement, the secretary may terminate the agreement and the funds
8 awarded shall be returned to the Kansas reinvestment act fund. If a small
9 business or new small business, the agreement shall specify that the
10 applicant shall provide at least annual business plan reports to the Kansas
11 small business development center and, if required by the secretary, make
12 such revisions to the business plan as recommended by the Kansas small
13 business development center. The agreement shall specify that the
14 applicant shall provide information requested by the secretary for the
15 purposes of fulfilling the provisions of this act.

16 (d) The agreement shall specify that funds awarded by the secretary
17 shall not be used for:

18 (1) Salaries of employees;

19 (2) personal vehicles or vehicles that will be used for less than 90%
20 business use; or

21 (3) payments for debts incurred for goods or services received prior
22 to receipt of the award.

23 (e) All agreements entered into by the secretary to award loans
24 pursuant to this act shall contain terms providing that any fraudulent
25 activity shall constitute a breach of the agreement and result in the
26 mandatory return of the full amount of awarded funds within 120 days. All
27 agreements shall contain terms prohibiting the sale of a business that
28 receives an award of funds pursuant to this act for a period of five years
29 from the date the funds are awarded unless the award amount is paid back
30 by the business prior to or as a requirement of the sale.

31 (f) Loan awards shall be made under the following terms, which shall
32 be specified in the agreement between the secretary and the award
33 recipient:

34 (1) A fixed interest rate of 1.99%;

35 (2) a term of repayment set by agreement between the recipient and
36 the secretary;

37 (3) a six-month grace period during which interest shall accrue but no
38 payments shall be due; and

39 (4) a provision for forgiveness of the remaining principal and interest
40 upon payment of 50% of the principal if the applicable provisions of this
41 act and terms of the agreement as required by this act have been met,
42 payments have been timely made and applicable business goals or other
43 conditions in furtherance of the purposes of this act mutually agreed upon

1 by the secretary and the award recipient have been achieved.

2 (g) The secretary shall set conditions under which loan payments may
3 be suspended for a period of time or the loan may be restructured where
4 circumstances beyond the control of the award recipient have resulted or
5 will result in financial hardship and the secretary finds such suspension or
6 restructuring will permit the award recipient to successfully meet the goals
7 of the award and this act. Suspension of payments or restructuring of the
8 loan under such circumstances shall not be considered a failure to meet
9 conditions for eligibility for forgiveness of principal pursuant to subsection
10 (f)(4).

11 Sec. 8. (a) A business that is not a small business or new small
12 business, as defined in section 2, and amendments thereto, or an
13 organization that does not meet the requirements of section 5 (b), and
14 amendments thereto, may apply to the secretary for an exemption from
15 certain requirements for eligibility for an award. To qualify for an
16 exemption, the applicant must be located in or relocating to an
17 impoverished area, must not be delinquent in filing any return with, or
18 paying any tax due to, the state of Kansas or the federal government, must
19 be in compliance with required filings with the state of Kansas and the
20 federal government and must not be engaged in the business activities
21 listed in section 9, and amendments thereto.

22 (b) An application for an exemption shall be considered by the
23 secretary and approval or disapproval in the secretary's discretion shall be
24 given within 30 days of submission of a completed application. In
25 reviewing such application, the secretary shall consider:

- 26 (1) The direct economic impact on the impoverished area;
27 (2) tangential benefits to other businesses in the impoverished area;
28 and
29 (3) the commitment by the applicant business to the community and
30 impoverished area.

31 (c) If the secretary approves the application for an exemption, an
32 award or awards may be granted by the secretary as otherwise provided by
33 this act, except that the total of all awards shall not exceed \$75,000.

34 Sec. 9. Businesses that engage in any of the following business
35 activities shall not be eligible for awards pursuant to this act:

- 36 (a) Activities of a sexually oriented business, as defined in K.S.A. 12-
37 770, and amendments thereto;
38 (b) sale at retail of alcoholic liquors, as defined in K.S.A. 41-102, and
39 amendments thereto;
40 (c) sales of cigarettes, pipe tobacco or pipes;
41 (d) loans utilizing title to vehicles as collateral; or
42 (e) check cashing services if offered by a business that is not a state
43 or national bank, savings and loan association, savings bank or credit

1 union.

2 Sec. 10. In the event any business awarded funds pursuant to this act
3 files for bankruptcy, the amount of such award shall be due to the Kansas
4 reinvestment act fund and exempt from any and all claims of any creditor,
5 except the department of revenue.

6 Sec. 11. The secretary may adopt rules and regulations to implement
7 and administer the provisions of this act.

8 Sec. 12. This act shall take effect and be in force from and after its
9 publication in the statute book