Senate Bill No. 1116

CHAPTER 274

An act to amend, repeal, and add Section 44559.4 of the Health and Safety Code, relating to California Pollution Control Financing Authority.

[Approved by Governor September 7, 2012. Filed with Secretary of State September 7, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1116, Leno. California Pollution Control Financing Authority: Capital Access Loan Program.

The California Pollution Control Financing Authority Act establishes the Capital Access Loan Program for small businesses, administered by the California Pollution Control Financing Authority, which provides loans through participating financial institutions to qualifying small businesses. The authority is required to create a loss reserve account for each financial institution. The act requires a financial institution, if it decides to enroll a qualified loan under the act in order to obtain the protection against loss provided by its loss reserve account, to notify the authority in writing, as specified, within 10 days after the date on which the loan is made. The act requires a participating financial institution, when making a qualified loan that will be enrolled under the act, to require the qualified business to which the loan is made to pay a fee of not less than 2% of the principal amount of the loan, but not more than 3½% of the principal amount, for deposit in the loss reserve account.

This bill would instead require a financial institution, if it decides to enroll a qualified loan under the act in order to obtain the protection against loss provided by its loss reserve account, to notify the authority in writing, as specified, within 15 days after the date on which the loan is made. This bill would authorize the Executive Director of the California Pollution Control Financing Authority to authorize an additional 5 days for a financial institution to submit this written notification on a loan-by-loan basis for a reason limited to conditions beyond reasonable control of the financial institution. The bill also, until April 1, 2017, would instead require a participating financial institution, when making a qualified loan that will be enrolled under the act, to require the qualified business to which the loan is made to pay a fee of not less than 1% of the principal amount of the loan, but not more than 3½% of the principal amount, for deposit in the loss reserve account.

The people of the State of California do enact as follows:

SECTION 1. Section 44559.4 of the Health and Safety Code is amended to read:

44559.4. (a) If a financial institution that is participating in the Capital Access Loan Program established pursuant to this article decides to enroll a qualified loan under the program in order to obtain the protection against loss provided by its loss reserve account, it shall notify the authority in writing on a form prescribed by the authority, within 15 days after the date on which the loan is made, of all of the following:

(1) The disbursement of the loan.

(2) The dollar amount of the loan enrolled.

(3) The interest rate applicable to, and the term of, the loan.

(4) The amount of the agreed upon premium.

(b) The executive director may authorize an additional five days for a financial institution to submit the written notification described in subdivision (a) to the authority on a loan-by-loan basis for a reason limited to conditions beyond the reasonable control of the financial institution.

(c) The financial institution may make a qualified loan to be enrolled under the program to an individual, or to a partnership or trust wholly owned or controlled by an individual, for the purpose of financing property that will be leased to a qualified business that is wholly owned by that individual. In that case, the property shall be treated as meeting the requirements of paragraph (1) of subdivision (g) of Section 44559.1.

(d) When making a qualified loan that will be enrolled under the program, the participating financial institution shall require the qualified business to which the loan is made to pay a fee of not less than 1 percent of the principal amount of the loan, but not more than 3 ½ percent of the principal amount. The financial institution shall also pay a fee in an amount equal to the fee paid by the borrower. The financial institution shall deliver the fees collected under this subdivision to the authority for deposit in the loss reserve account for the institution. The financial institution may recover from the borrower the cost of its payments to the loss reserve account through the financing of the loan, upon the agreement of the financial institution and the borrower. The financial institution may cover the cost of borrower payments to the loan loss reserve account.

(e) When depositing fees collected under subdivision (d) to the credit of the loss reserve account for a participating financial institution, the authority shall do the following:

(1) If no matching funds are available under a federal capital access program or other source, the authority shall transfer to the loss reserve account an amount that is not less than the amount of the fees paid by the participating financial institution. However, if the qualified business is located within a severely affected community, the authority shall transfer to the loss reserve account an amount not less than 150 percent of the amount of the fees paid by the participating financial institution.

(2) If matching funds are available under a federal capital access program or other source, the authority shall transfer, on an immediate or deferred basis, to the loss reserve account the amount required by that federal program or other source. However, the total amount deposited into the loss reserve account shall not be less than the amount which would have been deposited in the absence of matching funds.

(f) This section shall remain in effect only until April 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before April 1, 2017, deletes or extends that date.

SEC. 2. Section 44559.4 is added to the Health and Safety Code, to read:

44559.4. (a) If a financial institution that is participating in the Capital Access Loan Program established pursuant to this article decides to enroll a qualified loan under the program in order to obtain the protection against loss provided by its loss reserve account, it shall notify the authority in writing on a form prescribed by the authority, within 15 days after the date on which the loan is made, of all of the following:

(1) The disbursement of the loan.

(2) The dollar amount of the loan enrolled.

(3) The interest rate applicable to, and the term of, the loan.

(4) The amount of the agreed upon premium.

(b) The executive director may authorize an additional five days for a financial institution to submit the written notification described in subdivision (a) to the authority on a loan-by-loan basis for a reason limited to conditions beyond the reasonable control of the financial institution.

(c) The financial institution may make a qualified loan to be enrolled under the program to an individual, or to a partnership or trust wholly owned or controlled by an individual, for the purpose of financing property that will be leased to a qualified business that is wholly owned by that individual. In that case, the property shall be treated as meeting the requirements of paragraph (1) of subdivision (g) of Section 44559.1.

(d) When making a qualified loan that will be enrolled under the program, the participating financial institution shall require the qualified business to which the loan is made to pay a fee of not less than 2 percent of the principal amount of the loan, but not more than 3 $\frac{1}{2}$ percent of the principal amount. The financial institution shall also pay a fee in an amount equal to the fee paid by the borrower. The financial institution shall deliver the fees collected under this subdivision to the authority for deposit in the loss reserve account for the institution. The financial institution may recover from the borrower the cost of its payments to the loss reserve account through the financing of the loan, upon the agreement of the financial institution and the borrower. The financial institution may cover the cost of borrower payments to the loan loss reserve account.

(e) When depositing fees collected under subdivision (d) to the credit of the loss reserve account for a participating financial institution, the authority shall do the following:

(1) If no matching funds are available under a federal capital access program or other source, the authority shall transfer to the loss reserve

account an amount that is not less than the amount of the fees paid by the participating financial institution. However, if the qualified business is located within a severely affected community, the authority shall transfer to the loss reserve account an amount not less than 150 percent of the amount of the fees paid by the participating financial institution.

(2) If matching funds are available under a federal capital access program or other source, the authority shall transfer, on an immediate or deferred basis, to the loss reserve account the amount required by that federal program or other source. However, the total amount deposited into the loss reserve account shall not be less than the amount which would have been deposited in the absence of matching funds.

(f) This section shall become operative on April 1, 2017.

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