

ASSEMBLY BILL

No. 201

Introduced by Assembly Member Holden

January 29, 2013

An act to amend Sections 14010, 14021, and 14025 of the Corporations Code, relating to corporations.

LEGISLATIVE COUNSEL'S DIGEST

AB 201, as introduced, Holden. Small business financial development corporations.

Existing law, the California Small Business Financial Development Corporation Law, creates the California Small Business Board and the California Small Business Expansion Fund. Existing law authorizes the formation of small business financial development corporations to grant loans from, or guarantee loans made by a financial institution or financial company against, moneys awarded to the corporation from the expansion fund for the purpose of stimulating small business development. Existing law authorizes or requires the director designated by the Secretary of Business, Transportation and Housing to perform specified duties.

This bill would require the director to cause the names of the financial institutions and financial companies making direct loans under the program to be posted on the agency's Internet Web site. This bill would also make conforming changes based on the Governor's Reorganization Plan Number 2 of 2012.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 14010 of the Corporations Code is
2 amended to read:

3 14010. Unless the context otherwise requires, the definitions
4 in this section govern the construction of this part.

5 (a) “Corporation” or “the corporation” means any nonprofit
6 California small business financial development corporation created
7 pursuant to this part.

8 (b) “Financial institution” means banking organizations
9 including national banks and trust companies authorized to conduct
10 business in California and state-chartered commercial banks, trust
11 companies, and savings and loan associations.

12 (c) “Financial company” means banking organizations including
13 national banks and trust companies, savings and loan associations,
14 state insurance companies, mutual insurance companies, and other
15 banking, lending, retirement, and insurance organizations.

16 (d) “Expansion Fund” means the California Small Business
17 Expansion Fund.

18 (e) Unless otherwise defined by the director by regulation,
19 “small business loan” means a loan to a business defined as an
20 eligible small business as set forth in Section 121.3-10 of Part 121
21 of Chapter 1 of Title 13 of the Code of Federal Regulations,
22 including those businesses organized for agricultural purposes that
23 create or retain employment as a result of the loan. From time to
24 time, the director shall provide guidelines as to the preferred ratio
25 of jobs created or retained to total funds borrowed for guidance to
26 the corporations.

27 (f) “Employment incentive loan” means a loan to a qualified
28 business, as defined in subdivision (h) of Section 7082 of the
29 Government Code, or to a business located within an enterprise
30 zone, as defined in subdivision (b) of Section 7072 of the
31 Government Code.

32 (g) “Loan committee” means a committee appointed by the
33 board of directors of a corporation to determine the course of action
34 on a loan application pursuant to Section 14060.

35 (h) “Board of directors” means the board of directors of the
36 corporation.

37 (i) “Board” means the California Small Business Board.

1 (j) “Agency” means the ~~Business, Transportation and Housing~~
2 *Business and Consumer Services Agency*.

3 (k) “Director” means the person designated to this title by the
4 secretary.

5 (l) “Secretary” means the Secretary of ~~Business, Transportation~~
6 ~~and Housing Agency~~ *Business and Consumer Services*.

7 (m) “Trust fund” means the money from the expansion fund
8 that is held in trust by a financial institution or a financial company.
9 A trust fund is not a deposit of state funds and is not subject to the
10 requirements of Section 16506 of the Government Code.

11 (n) “Trust fund account” means an account within the trust fund
12 that is allocated to a particular small business financial
13 development corporation for the purpose of paying loan defaults
14 and claims on bond guarantees for a specific small business
15 financial development corporation.

16 (o) “Trustee” is the lending institution or financial company
17 selected by the office to hold and invest the trust fund. The
18 agreement between the agency and the trustee shall not be
19 construed to be a deposit of state funds.

20 SEC. 2. Section 14021 of the Corporations Code is amended
21 to read:

22 14021. The board consists of the following membership:

23 (a) The Secretary of ~~Business, Transportation and Housing~~
24 *Business and Consumer Services* or his or her designee.

25 (b) Six members appointed by the Governor, one of whom will
26 serve as chair of the board, who are actively involved in the
27 California small business community.

28 (c) Two persons actively involved in the business or agricultural
29 communities, one appointed by the Speaker of the Assembly and
30 one appointed by the Senate Committee on Rules.

31 (d) Two Members of the Legislature or their designees, one
32 appointed by the Speaker of the Assembly and one appointed by
33 the Senate Committee on Rules, shall serve on the board insofar
34 as it does not conflict with the duties of the legislators.

35 SEC. 3. Section 14025 of the Corporations Code is amended
36 to read:

37 14025. The director shall do all of the following:

38 (a) Administer this part.

1 (b) In accordance with program resources, stimulate the
2 formation of corporations and the use of branch offices for the
3 purposes of making this program accessible to all areas of the state.

4 (c) Expeditiously approve or disapprove the articles of
5 incorporation and any subsequent amendments to the articles of
6 incorporation of a corporation.

7 (d) Require each corporation to submit an annual written plan
8 of operation.

9 (e) Review reports from the ~~Department~~ *Division* of Financial
10 Institutions *within the Department of Business Oversight*, and
11 inform corporations as to what corrective action is required.

12 (f) Examine, or cause to be examined, at any reasonable time,
13 all books, records, and documents of every kind, and the physical
14 properties of a corporation. The inspection shall include the right
15 to make copies, extracts, and search records.

16 (g) *Cause the names of the financial institutions and financial*
17 *companies making direct loans under the program to be posted*
18 *on the agency's Internet Web site.*