

AMENDED IN SENATE JULY 8, 2013
AMENDED IN SENATE JUNE 18, 2013
AMENDED IN SENATE JUNE 5, 2013
AMENDED IN ASSEMBLY APRIL 17, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1247

Introduced by Assembly Member Medina

February 22, 2013

An act to repeal and add Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code, and to amend Section 8684.2 of, and to add Chapter 6 (commencing with Section 63088) to Division 1 of Title 6.7 to, to repeal Sections 63089.5, 63089.60, 63089.61, and 63089.62 of, the Government Code, relating to business, making an appropriation therefor, and declaring the urgency thereof to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1247, as amended, Medina. Business investments: Small Business Financial Assistance Act of 2013.

Existing law, the California Small Business Financial Development Corporation Law, creates the California Small Business Board and the California Small Business Expansion Fund, a continuously appropriated fund, which includes General Fund moneys. 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, as defined, against, moneys awarded to the corporation from the expansion fund for the purpose of stimulating

small business development. Existing law authorizes a director designated by the Secretary of Business, Transportation and Housing to perform specified duties under that law. A violation of certain conflict-of-interest provisions by the director and other persons, as specified, is a crime.

This bill would revise and recast these provisions, and would transfer the administration of the California Small Business Financial Development Corporation Law to the California Infrastructure and Economic Development Bank (I-Bank) and a program manager designated by the executive director of the I-Bank, as specified. The bill would expand the definitions of “financial institution” and “financial company” for those purposes. Because the above-described conflict-of-interest provisions would apply to the members of the I-Bank’s board of directors, the program manager, the executive director, and other officers and employees, as specified, the bill would extend the application of a crime, and impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Because this bill would expand the purposes for which a continuously appropriated fund is expended, the bill would make an appropriation.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. Chapter 1 (commencing with Section 14000) of
- 2 Part 5 of Division 3 of Title 1 of the Corporations Code is repealed.
- 3 SEC. 2. Chapter 1 (commencing with Section 14000) is added
- 4 to Part 5 of Division 3 of Title 1 of the Corporations Code, to read:

1 CHAPTER 1. CALIFORNIA SMALL BUSINESS FINANCIAL
2 DEVELOPMENT CORPORATIONS

3
4 Article 1. Introduction

5
6 14000. This chapter shall be known and may be cited as the
7 California Small Business Financial Development Corporation
8 Law.

9 14001. (a) It is the intent of the Legislature in enacting this
10 chapter to promote the economic development of small businesses
11 through the California Small Business Finance Center by making
12 available capital, general management assistance, and other
13 resources, including financial services, personnel, and business
14 education to small business entrepreneurs, including women,
15 veteran, and minority owned businesses, for the purpose of
16 promoting the health, safety, and social welfare of the citizens of
17 California, to eliminate unemployment of the economically
18 disadvantaged of the state, and to stimulate economic development,
19 employment, minority group, women, and disabled persons
20 entrepreneurship.

21 (b) It is the further intent of the Legislature to provide a flexible
22 means to mobilize and commit all available and potential resources
23 in the various regions of the state to fulfill these objectives,
24 including federal, state, and local public resources, and private
25 debt and equity investment.

26 (c) It is the further intent of the Legislature that corporations
27 operating pursuant to this law, shall to the maximum extent
28 feasible, coordinate with other job and business development
29 efforts within their region directed toward implementing the
30 purpose of this chapter.

31 (d) It is the further intent of the Legislature to provide expanded
32 resources allowing participation by small and emerging contractors
33 in state public works contracts. Increased access to surety bonding
34 resources will assist in supporting participation by those firms in
35 public works contracts, and by stimulating increased participation
36 by small firms, the state will benefit from increased competition
37 and lower bid costs.

38 14002. If any provision of this chapter or the application thereof
39 to any person or circumstances is held invalid, this invalidity shall
40 not affect other provisions or applications of the chapter which

1 can be given effect without the invalid provision or application,
2 and to this end the provisions of this chapter are severable.

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4

Article 2. Definitions

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6 14003. Unless the context otherwise requires, the definitions
7 in this section shall govern the construction of this chapter.

8 (a) "Bank" means the California Infrastructure and Economic
9 Development Bank.

10 (b) "Bank board" means the board of directors of the California
11 Infrastructure and Economic Development Bank.

12 (c) "Board of directors" means the board of directors of the
13 corporation.

14 (d) "California Small Business Finance Center" means the
15 governmental unit with the administrative responsibility for
16 programs authorized pursuant to Section 63088.5 of the
17 Government Code and this chapter.

18 (e) "Corporation" means any nonprofit California small business
19 financial development corporation created pursuant to this chapter,
20 or pursuant to Chapter 1 (commencing with Section 32000) of
21 Division 15.5 of the Financial Code.

22 (f) "Directives and requirements" means a document adopted
23 by the bank board setting forth policy direction as well as key rules
24 governing a particular subject area.

25 (g) "Executive director" means the executive director of the
26 Infrastructure and Economic Development Bank.

27 (h) "Expansion fund" means the California Small Business
28 Expansion Fund.

29 (i) "Financial company" means banking organizations, including
30 national banks and trust companies, savings and loan associations,
31 certified community development financial institutions,
32 microbusiness lenders, state insurance companies, mutual insurance
33 companies, and other public and private banking, lending,
34 retirement, and insurance organizations.

35 (j) "Financial institution" means regulated banking
36 organizations, including national banks and trust companies
37 authorized to conduct business in the state and state-chartered
38 commercial banks, trust companies, credit unions, and savings and
39 loan associations.

1 (k) “Financial product” means the type of financial assistance
2 described in Section 63088.5 of the Government Code.

3 (l) “Loan committee” means a committee appointed by the board
4 of directors of a corporation to determine the course of action on
5 a loan application pursuant to Chapter 6 (commencing with Section
6 63088) of Division 1 of Title 6.7 of the Government Code.

7 (m) “Microbusiness lender” means a microbusiness lender as
8 defined in Section 13997.2 of the Government Code.

9 ~~(n)~~

10 (n) “Program Manager” means the manager of the California
11 Small Business Finance Center as designated to this title by the
12 executive director of the bank.

13 ~~(o)~~

14 (o) “Trust fund” means the money from the expansion fund that
15 is held in trust by a financial institution or financial company. A
16 trust fund is not a deposit of state funds and is not subject to the
17 requirements of Section 16506 of the Government Code.

18 ~~(p)~~

19 (p) “Trust fund account” means an account within the trust fund
20 that is either allocated to a particular corporation or shared by
21 multiple corporations for the purpose of paying loan defaults and
22 claims on bond guarantees or other financial products and program
23 uses provided in this chapter.

24

25 Article 3. Program Manager

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27 14004. (a) The program manager shall do all of the following:

28 (1) Administer this chapter.

29 (2) Make recommendations to the executive director and the
30 bank board on the approval or disapproval of the articles of
31 incorporation. This determination shall be based upon the
32 following:

33 (A) Review of the articles of incorporation and bylaws of the
34 corporation to determine whether they contain the provisions
35 required by this chapter and conform with the directives and
36 requirements adopted by the bank board pursuant to this chapter.

37 (B) A determination as to whether the legislative intent
38 expressed in Section 14001 shall be served by the proposed
39 corporation.

1 (C) A determination as to whether the responsibility, character,
2 and general fitness of the individuals who will manage the
3 corporation are such as to command the confidence of the state
4 and to warrant the belief that the business of the proposed
5 corporation will be honestly and efficiently conducted in
6 accordance with the intent and purpose of this chapter and that
7 they include representatives of the financial and business
8 community, as well as the economically disadvantaged.

9 (D) A determination by the program manager that there is
10 significant need for a new corporation.

11 (3) Have the accounts of each corporation formed under this
12 chapter audited as of the close of business on June 30 of each year.
13 Material audit exceptions that are not corrected by the corporation
14 within a reasonable period of time may result in the suspension or
15 termination of the corporation pursuant to Section 63089.3 of the
16 Government Code.

17 (4) Have the portfolio of each corporation audited a minimum
18 of once a year. Material audit exceptions that are not corrected by
19 the corporation within a reasonable period of time may result in
20 the suspension or termination of the corporation pursuant to Section
21 63089.3 of the Government Code.

22 (5) Review reports from the Department of Business Oversight
23 and inform corporations as to what corrective action is required.

24 (6) Examine, or cause to be examined, at any reasonable time,
25 all books, records, and documents of every kind, and the physical
26 properties of a corporation. The inspection shall include the right
27 to make copies, extracts, and search records.

28 (b) The program manager may attend and participate at
29 corporation meetings. The program manager, or his or her designee,
30 shall be an ex officio, nonvoting representative on the board of
31 directors and loan committees of each corporation. The program
32 manager shall meet through telecommunication or in person with
33 the board of directors of each corporation at least once each fiscal
34 year, commencing January 1, 2014.

35 14004.1. (a) The California Small Business Board is hereby
36 continued and created as an advisory board to the California
37 Infrastructure and Economic Development Bank Board, the
38 executive director, and the program manager. The California Small
39 Business Board may also advise the Governor and the Small
40 Business Advocate regarding issues and programs affecting

1 California’s small business community, including, but not limited
2 to, business innovation and expansion, export finance, state
3 procurement, management and technical assistance, venture capital,
4 and financial assistance.

5 (b) The California Small Business Board consists of the
6 following membership:

7 (1) The Director of Finance or his or her designee.

8 (2) The Director of the Office of the Small Business Advocate
9 or his or her designee.

10 (3) The Treasurer or his or her designee.

11 (4) A representative from two different corporations selected
12 by the corporations.

13 (5) Two members appointed by the Governor, one of whom
14 will serve as chair of the California Small Business Board, who
15 are actively involved in the California small business community.

16 (6) Two persons actively involved in the business or agricultural
17 communities, one appointed by the Speaker of the Assembly and
18 one appointed by the Senate Committee on Rules.

19 (7) Two Members of the Legislature, or their designees, one
20 appointed by the Speaker of the Assembly and one appointed by
21 the Senate Committee on Rules, so long as it does not conflict with
22 the duties of their duties as legislators.

23 (c) The California Small Business Board shall advise the
24 program manager on matters regarding this chapter and Chapter
25 6 (commencing with Section 63088) of Division 1 of Title 6.7 of
26 the Government Code.

27 (d) The public members of the California Small Business Board,
28 at the discretion of the bank board, may be reimbursed per diem
29 and travel expenses pursuant to state law.

30 14004.2. The bank board shall approve new corporations
31 recommended by the program manager, based on an examination
32 of each of the following:

33 (a) Review of the articles of incorporation and bylaws of the
34 corporation to determine whether they contain the provisions
35 required by this chapter and conform with the directives and
36 requirements adopted by the bank board pursuant to this chapter.

37 (b) Determination as to whether the legislative intent expressed
38 in Section 14001 will be served by the proposed corporation.

39 (c) Determination as to whether the responsibility, character,
40 and general fitness of the individuals who will manage the

1 corporation are able to command the confidence of the state and
 2 to warrant the belief that the business of the proposed corporation
 3 will be honestly and efficiently conducted in accordance with the
 4 intent and purpose of this chapter and that they include
 5 representatives of the financial and business community, as well
 6 as the economically disadvantaged.

7 (d) Determination of the program manager that there is
 8 significant need for a new corporation.

9

Article 4. New Corporations

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11

12 14005. Upon approval by the bank board to become a
 13 corporation, an entity shall adopt or amend its articles of
 14 incorporation to comply with the following:

15 (a) The name of the corporation shall include the words “small
 16 business financial development corporation,” except for those
 17 corporations formed pursuant to this chapter prior to 2002, which
 18 may also be called “small business development corporations,” or
 19 those formed prior to 1985, which may also be called “rural or
 20 urban development corporations.”

21 (b) The purposes for which the corporation is formed, which
 22 shall be those specified in Section 14001. This requirement shall
 23 not be deemed to preclude a statement of powers.

24 (c) A geographical description of the corporation’s primary
 25 service area.

26 (d) The name and addresses of seven or more persons who are
 27 to act in the capacity of directors until the selection of their
 28 successors.

29 (e) That the corporation is organized pursuant to the California
 30 Small Business Financial Development Corporation Law.

31 14006. If the bank board concurs with the findings of the
 32 program manager pursuant to Section 14004, the bank board shall
 33 direct the program manager to approve the articles of incorporation
 34 and endorse the approval thereon and forward the same to the
 35 Secretary of State for his or her approval and filing. Likewise, the
 36 program manager shall review all amendments to the articles of
 37 incorporation to ensure consistency with the purposes of this
 38 chapter.

39 14007. (a) The corporation’s existence as a small business
 40 development corporation begins upon the filing of the articles with

1 the Secretary of State and continues perpetually, unless otherwise
2 expressly provided for by law.

3 (b) If a corporation is terminated from participation in all
4 programs, in order to continue its existence as a nonprofit
5 corporation pursuant to the Nonprofit Public Benefit Corporation
6 Law (Part 2 (commencing with Section 5110) of Division 2 of
7 Title 1 of the Corporations Code), the corporation shall amend its
8 articles of incorporation in accordance with Chapter 8
9 (commencing with Section 5180) of Part 2 of Division 2 of Title
10 1 to remove the provisions required by Section 14005, including
11 an amendment to remove the words “small business financial
12 development corporation,” “small business development
13 corporation,” or “rural or urban development corporation,” as
14 applicable, from the corporate name, and shall no longer be
15 registered with the Secretary of State as a small business financial
16 development corporation. A corporation shall not enjoy any of the
17 benefits of a small business financial development corporation
18 following suspension.

19 14009. (a) Each corporation shall have provisions establishing
20 a grievance procedure for employees, clients, or potential clients,
21 to appeal a decision or obtain redress of an action done by the staff
22 or loan committee of the corporation. The procedures shall be
23 established in writing during the probationary period of a new
24 corporation.

25 (b) The bylaws of the corporation shall authorize the removal
26 of officers only by a two-thirds vote of the directors of the
27 corporation.

28 14011. The Nonprofit Public Benefit Corporation Law (Part
29 2 (commencing with Section 5110) of Division 2 of this title)
30 applies to corporations formed under this chapter, except as to
31 matters otherwise provided for in this chapter.

32 14012. For six months following the establishment of a
33 corporation, commencing upon filing of the articles of
34 incorporation with the Secretary of State, a corporation shall be
35 on probation. While on probation, a corporation may be suspended
36 if suspension is recommended by the program manager and
37 affirmed by the executive director. This suspension is
38 nonappealable and not subject to the procedures for suspension
39 applicable to a corporation not on probation.

Article 5. Corporation Board

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14013. The corporate powers of a corporation shall be exercised by the board of directors.

14014. The bank shall enter into a contract with each corporation that shall require that:

(a) A person may not serve on a board of directors who is not a resident of, or person conducting business in, the primary service area described in the articles of incorporation.

(b) A board of directors shall include representatives from all of the following:

- (1) The financial community.
- (2) The business community.
- (3) The economically disadvantaged.

(c) Not more than one employee of the corporation may serve on the board of directors at any one time.

(d) A person who has a financial interest related to a matter over which the board of directors has authority may not make, participate in making, or in any way attempt to influence that matter.

14015. If any director ceases to meet the qualifications established in Section 14014, he or she shall immediately vacate his or her position as a director and the position shall be deemed vacant.

14016. If any vacancy occurs in the elective membership of the board of directors through death, resignation, or otherwise, the remaining directors shall elect a person representing the appropriate category to fill the vacancy for the unexpired term.

14017. The bank board shall direct the program manager to establish new small business financial development corporations pursuant to the directives and requirements. The directives and requirements shall include steps to achieve a goal of ensuring that small businesses in all areas of the state would have reasonable access to the financial products authorized by Chapter 6 (commencing with Section 63088) of Division 1 of Title 6.7 of the Government Code for which they are eligible.

1 Article 6. Corporations, Miscellaneous

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3 14018. Every corporation shall provide for, and maintain a
4 central staff to perform, all administrative requirements of the
5 corporation, including all those functions required of a corporation
6 by the contract and this chapter.

7 14019. Reasonable costs incurred by a corporation in the
8 creation and maintenance of a central staff shall be paid to the
9 corporation from state funds, including a portion of the interest
10 earned on the expansion fund and the corporation's trust fund
11 account, if the corporation has a trust fund account, otherwise, on
12 the expansion fund.

13 14020. A corporation shall report to the program manager, or
14 his or her designated representative, all statistical and other reports
15 required by this chapter and Chapter 6 (commencing with Section
16 63088) of Division 1 of Title 6.7 of the Government Code,
17 including responses to audit reports, budget requirements, and
18 other information relating to the establishment, monitoring, and
19 suspension or termination of a corporation.

20 14021. A corporation shall make a report to the program
21 manager, as required by Chapter 6 (commencing with Section
22 63088) of Division 1 of Title 6.7 of the Government Code.

23
24 Article 7. Conflict of Interest

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26 14022. It shall be unlawful for a member of the bank board or
27 for the executive director, program manager, or any person who
28 is an officer, director, contractor, or employee of a corporation, or
29 who is a member of a loan committee, or who is an employee of
30 the California Infrastructure and Economic Development Bank to
31 do any of the following:

32 (a) Ask for, consent, or agree to receive, any commission,
33 emolument, gratuity, money, property, or thing of value for his or
34 her own use, benefit, or personal advantage, for procuring or
35 endeavoring to procure for any person, partnership, joint venture,
36 association, or corporation, any loan, guarantee, financial, or other
37 assistance from any corporation.

38 (b) Borrow money, property, or to benefit knowingly, directly
39 or indirectly, from the use of the money, credit, or property of any
40 corporation.

1 (c) Make, maintain, or attempt to make or maintain, a deposit
2 of the funds of a corporation with any other corporation or
3 association on condition, or with the understanding, expressed or
4 implied, that the corporation or association receiving the deposit
5 shall pay any money or make a loan or advance, directly or
6 indirectly, to any person, partnership, joint venture, association,
7 or corporation, other than to a corporation formed under this
8 chapter.

9 14023. It shall be unlawful for a member of the bank board or
10 for the executive director, program manager, or any person who
11 is an officer or director of a corporation, or who is an employee
12 of the California Infrastructure and Economic Development Bank
13 to purchase or receive, or to be otherwise interested in the purchase
14 or receipt, directly or indirectly, of any asset of a corporation,
15 without paying to the corporation the fair market value of the asset
16 at the time of the transaction.

17 14024. Violation of any provision of this article shall constitute
18 a felony.

19 SEC. 3. Section 8684.2 of the Government Code is amended
20 to read:

21 8684.2. (a) It is the intent of the Legislature:

22 (1) To provide the Governor with appropriate emergency powers
23 in order to enable utilization of available emergency funding to
24 provide guarantees for interim loans to be made by lending
25 institutions, in connection with relief provided for those persons
26 affected by disasters or a state of emergency in affected areas
27 during periods of disaster relief assistance, for the purpose of
28 supplying interim financing to enable small businesses to continue
29 operations pending receipt of federal disaster assistance.

30 (2) That the Governor should utilize this authority to prevent
31 business insolvencies and loss of employment in areas affected by
32 these disasters.

33 (b) In addition to the allocations authorized by Section 8683
34 and the loan guarantee provisions of Section 63089.90, the
35 Governor may allocate funds made available for the purposes of
36 this chapter, in connection with relief provided, in affected areas
37 during the period of federal disaster relief, to the Small Business
38 Expansion Fund for use by the California Infrastructure and
39 Economic Development Bank, pursuant to Chapter 1 (commencing
40 with Section 14000) of Part 5 of Division 3 of Title 1 of the

1 Corporations Code and Chapter 6 (commencing with Section
2 63088) of Division 1 of Title 6.7 of this code, to provide guarantees
3 for low-interest interim loans to be made by lending institutions
4 for the purpose of providing interim financing to enable small
5 businesses that have suffered actual physical damage or significant
6 economic losses, as a result of the disaster or state of emergency
7 for which funding under this section is made available, to continue
8 or resume operations pending receipt of loans made or guaranteed
9 by the federal Small Business Administration. The maximum
10 amount of any loan guarantee funded under this paragraph shall
11 be limited by the directives and requirements and shall not exceed
12 two hundred thousand dollars (\$200,000). Each loan guarantee
13 shall not exceed 95 percent of the loan amount, except that a loan
14 guarantee may be for 100 percent of the loan amount if the
15 applicant can demonstrate that access to business records pertinent
16 to the loan application has been precluded by official action
17 prohibiting necessary reentry into the affected business premises
18 or that those business records pertinent to the loan application have
19 been destroyed. The term of the loan shall be determined by the
20 lending institution providing the loan or shall be made payable on
21 the date the proceeds of a loan made or guaranteed by the federal
22 Small Business Administration with respect to the same damage
23 or loss are made available to the borrower, whichever event first
24 occurs.

25 (c) Loan guarantees for which the initial 12-month term has
26 expired and for which an application for disaster assistance funding
27 from the federal Small Business Administration is still pending
28 may be extended until the Small Business Administration has
29 reached a final decision on the application. Applications for interim
30 loans shall be processed in an expeditious manner. Wherever
31 possible, lending institutions shall fund nonconstruction loans
32 within 60 calendar days of application. Loan guarantees for loans
33 that have been denied funding by the federal Small Business
34 Administration, may be extended by the financial institution
35 provided that the loan is for no longer than a maximum of seven
36 years, if the business demonstrates the ability to repay the loan
37 with an extended loan term, and a new credit analysis is provided.
38 All loans extended under this provision shall be repaid in
39 installments of principal and interest, and be fully amortized over
40 the term of the loan. Nothing in this section shall preclude the

1 lender from charging reasonable administrative fees in connection
2 with the loan.

3 (d) Allocations pursuant to this section shall, for purposes of
4 all provisions of law, be deemed to be for extraordinary emergency
5 or disaster response operation costs, as provided in Section 8690.6,
6 incurred by state employees assigned to work on the financial
7 development corporation program.

8 (e) The California Infrastructure and Economic Development
9 Bank may adopt directives and requirements to implement the loan
10 guarantee program authorized by this section.

11 (f) As long as there are any outstanding small business disaster
12 loan guarantees, as authorized by Section 8684.2 or 63089.90, the
13 bank shall provide a report to the Legislature on loan guarantees
14 approved and rejected by gender, ethnic group, type of business
15 and location, and each participating loan institution. The report
16 may be combined with the report required in Section 63089.98.

17 SEC. 4. Chapter 6 (commencing with Section 63088) is added
18 to Division 1 of Title 6.7 of the Government Code, to read:

19

20 CHAPTER 6. SMALL BUSINESS FINANCIAL ASSISTANCE ACT OF
21 2013

22

23 Article 1. Introduction

24

25 63088. (a) This chapter shall be known, and may be cited, as
26 the Small Business Financial Assistance Act of 2013.

27 (b) Notwithstanding any other provision of this division, this
28 chapter shall not apply to any other activities, powers, and duties
29 of the bank under any of the other chapters of this division.

30 63088.1. The Legislature finds all of the following:

31 (a) Small businesses form the core of the California economy
32 and that it is in the interest of the state to increase opportunities
33 for entrepreneurs, the self-employed, and microbusiness and small
34 business owners to have better access to capital and other technical
35 resources.

36 (b) Unemployment in California is a matter of statewide concern
37 requiring concerted public and private action to develop
38 employment opportunities for the disadvantaged, unemployed
39 persons, veterans, and youth.

1 (c) It is necessary to direct additional capital, general
2 management assistance, business education, and other resources
3 to encourage the development of small business opportunities,
4 particularly for minorities, women, and disabled persons, to
5 alleviate unemployment.

6
7 Article 2. Definitions
8

9 63088.3. Unless the context otherwise requires, the definitions
10 in this section shall govern the construction of this chapter. The
11 definitions provided in this section shall only apply to this chapter
12 and not to any other chapter of this division.

13 (a) “Bank” means the California Infrastructure and Economic
14 Development Bank.

15 (b) “Bank board” means the board of directors of the California
16 Infrastructure and Economic Development Bank.

17 (c) “Board of directors” means the board of directors of a
18 corporation.

19 (d) “California Small Business Finance Center” means the
20 governmental unit with the administrative responsibility for
21 programs authorized pursuant to Section 63088.5 and this chapter.

22 (e) “Corporation” means any nonprofit California small business
23 financial development corporation created pursuant to Chapter 1
24 (commencing with Section 14000) of Part 5 of Division 3 of Title
25 1 of the Corporations Code, or pursuant to Chapter 1 (commencing
26 with Section 32000) of Division 15.5 of the Financial Code.

27 (f) “Directives and requirements” means a document adopted
28 by the bank board setting forth policy direction as well as key rules
29 governing a particular subject area.

30 (g) “Employment incentive loan” means a loan to a qualified
31 business or to a business located within an enterprise zone, as
32 defined in subdivision (d) of Section 7072.

33 (h) “Executive director” means the executive director of the
34 California Infrastructure and Economic Development Bank.

35 (i) “Expansion fund” means the California Small Business
36 Expansion Fund.

37 (j) “Financial company” means banking organizations, including
38 national banks and trust companies, savings and loan associations,
39 certified community development financial institutions,
40 microbusiness lenders, state insurance companies, mutual insurance

1 companies, and other public and private banking, lending,
2 retirement, and insurance organizations.

3 (k) “Financial institution” means regulated banking
4 organizations, including national banks and trust companies
5 authorized to conduct business in California and state-chartered
6 commercial banks, trust companies, credit unions, and savings and
7 loan associations.

8 (l) “Financial product” means the type of financial assistance
9 described in Section 63088.5.

10 (m) “Loan committee” means a committee appointed by the
11 board of directors of a corporation to determine the course of action
12 on a loan application pursuant to this chapter.

13 (n) “*Microbusiness lender*” means a microbusiness lender as
14 defined in Section 13997.2 of the Government Code.

15 ~~(n)~~

16 (o) “Program manager” means the manager of the California
17 Small Business Finance Center as designated to this title by the
18 executive director of the California Infrastructure and Economic
19 Development Bank.

20 ~~(o)~~

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

30 ~~(p)~~

31 (q) “Trust fund” means the moneys from the expansion fund
32 that is held in trust by a financial institution or financial company.
33 A trust fund is not a deposit of state funds and is not subject to the
34 requirements of Section 16506.

35 ~~(q)~~

36 (r) “Trustee” means the lending institution or financial company
37 selected by the bank board to hold and invest the trust funds, or
38 selected by a predecessor agency to the bank, if applicable. An
39 agreement made pursuant to this chapter and the trustee shall not
40 be construed to be a deposit of state funds.

1 ~~(t)~~
2 (s) “Trust fund account” means an account within the trust fund
3 that is either allocated to a particular corporation or shared by
4 multiple corporations for the purpose of paying loan defaults and
5 claims on bond guarantees or other financial products and program
6 uses provided in this chapter.

7
8 Article 3. Purpose
9

10 63088.5. (a) There is within the Governor’s Office of Business
11 and Economic Development the California Infrastructure and
12 Economic Development Bank, which shall, among other things,
13 administer the California Small Business Financial Center that
14 administers programs to assist businesses seeking new capital
15 resources.

16 (b) Pursuant to this chapter and Chapter 1 (commencing with
17 Section 14000) of Part 5 of Title 1 of the Corporations Code, the
18 bank board may continue programs funded by the Small Business
19 Expansion Fund or establish one or more programs administered
20 under contract with small business financial development
21 corporations. Programs established pursuant to this chapter or
22 Chapter 1 (commencing with Section 14000) of Part 5 of Title 1
23 of the Corporations Code may include the following types of
24 financial products:

- 25 (1) Loan guarantees and other credit enhancements.
- 26 (2) Direct loans and other debit instruments.
- 27 (3) Disaster loan guarantees.
- 28 (4) Surety bond guarantees.

29 (c) In all of their state-funded programs, the corporations shall,
30 to the extent practicable, be complementary to, and not competitive
31 with, commercial lenders and other state and federal programs.

32 (d) In carrying out this chapter the program manager, the
33 executive director, and the bank board may call on the California
34 Small Business Board for advice and recommendations. All actions
35 by the California Small Business Board are advisory.

36 (e) The California Small Business Board may also advise the
37 Governor and the Small Business Advocate regarding issues and
38 programs affecting California’s small business community,
39 including, but not limited to, business innovation and expansion,

1 export finance, state procurement, management and technical
2 assistance, venture capital, and financial assistance.

3 63088.6. To implement its responsibilities, a corporation shall
4 undertake program activities that shall include, but not be limited
5 to, the following:

6 (a) Outreach to low-resource small businesses and
7 microbusinesses. The corporations located in rural areas shall give
8 priority to low-resource farmers and rural and agriculturally related
9 businesses.

10 (b) Collaboration with other organizations and lenders to identify
11 and assist those businesses that are creditworthy but face
12 impediments to accessing conventional sources because of reasons,
13 such as low equity, inadequate collateral, unacceptable legal
14 structure (such as a co-op or nonprofit organization), management
15 inadequacies, and language problems.

16 (c) To the extent possible, bringing all possible financial
17 resources (low-interest lenders, BIDCOs, MESBICs, other
18 guarantors, etc.) to bear on the borrower’s problems.

19 (d) Technical assistance to businesses receiving loans or
20 guarantees that will maximize the probability of loan repayment.

21 (e) Ongoing strategies for increasing program resources through
22 private sector involvement and nonstate funds.

23 (f) A program for collecting and liquidating defaulted loans so
24 that the corporations can qualify to become full-service lenders
25 under the Small Business Administration. Corporations located in
26 rural areas shall, in addition, try to qualify for lender status under
27 the United States Department of Agriculture’s Rural Development
28 and Farm Services Agency.

29 (g) Become an agent for other financial institutions and financial
30 companies.

31

32 Article 4. Administrative Structure

33

34 63089. The bank board shall adopt directives and requirements
35 concerning the implementation of this chapter and pursuant to
36 Chapter 1 (commencing with Section 14000) of Part 5 of Division
37 3 of Title 1 of the Corporations Code. Any regulations adopted
38 pursuant to Chapter 1 (commencing with Section 14000) of Part
39 5 of Division 3 of Title 1 of the Corporations Code, as that chapter
40 read on January 1, 2013, shall remain in effect until the bank board

1 adopts directives and requirements relating to the specific policy
2 or activity, but in no case beyond June 1, 2015.

3 63089.1. The program manager acting under the guidance of
4 the executive director shall do all of the following:

5 (a) Administer this chapter.

6 (b) Enter into a contract between the bank and each corporation
7 for services to be provided by the corporations for one or more
8 programs under this chapter and Chapter 1 (commencing with
9 Section 14000) of Part 5 of Division 3 of Title 1 of the
10 Corporations Code.

11 (c) In accordance with available resources, allow the use of
12 branch offices for the purposes of making these programs under
13 this chapter accessible to all areas of the state.

14 (d) Require each corporation to submit an annual written plan
15 of operation.

16 (e) Authorize the distribution, transfer, and withholding of
17 moneys in the expansion fund and trust funds.

18 (f) Authorize the investment of expansion and trust fund moneys.

19 (g) Oversee the operations of one or more programs authorized
20 pursuant to this chapter.

21 (h) Act as liaison between corporations, other state and federal
22 agencies, lenders, and the Legislature.

23 (i) Act as secretary to the California Small Business Board, and
24 attend meetings of the California Small Business Board and the
25 bank board.

26 (j) Attend and participate at corporation meetings. The program
27 manager or his or her designee shall be an ex officio, nonvoting
28 representative on the board of directors and loan committees of
29 each corporation. The program manager shall confer with the board
30 of directors of each corporation as appropriate and necessary to
31 carry out his or her duties, but in no case shall the program manager
32 confer less than once each fiscal year.

33 (k) Assist corporations in applying for public and private funding
34 opportunities, and in obtaining program support from the business
35 community.

36 63089.2. The use of state funds paid out to the trust fund and
37 the return on those funds from investment pursuant to Section
38 63089.56 is conditional pursuant to Sections 63089.3 and 63089.57.
39 Each corporation shall enter into a written signed agreement with
40 the bank to provide program management services for one or more

1 programs authorized under this chapter and Chapter 1 (commencing
2 with Section 14000) of Part 5 of Division 3 of Title 1 of the
3 Corporations Code. Agreements with the corporations entered into
4 pursuant to this chapter are exempt from the requirements of
5 Sections 10295, and 10335 to 10381, inclusive, of the Public
6 Contracts Code. The agreement shall, at a minimum, govern the
7 activities in which the corporation engages, the investment of state
8 funds and its return, and the budgeted administrative expenses the
9 corporations may incur. In the event the program manager and
10 corporation do not reach an agreement, or the program manager
11 finds the corporation has violated the terms of an active agreement,
12 the program manager may take any action under Section 63089.3
13 or 63089.57, or any other action as appropriate. In the event the
14 program manager and corporation do not reach agreement or the
15 program manager finds the corporation has violated the terms of
16 an active agreement, the corporation shall have no authority to
17 withdraw or encumber the moneys in the trust fund or the return
18 of those funds by the issuance of guarantees, commitments for
19 other financial products, or by incurring expenses against the fund
20 and its return in any manner whatsoever, and the program manager
21 may take any action under Section 63089.3 or 63089.57, or any
22 other action as appropriate. Any guarantee or other encumbrance
23 made by the corporation in violation of this section shall be null
24 and void, and the state, the bank, the expansion fund, or the trust
25 fund will not be liable therefor.

26 63089.3. (a) The program manager may temporarily suspend
27 the guarantee authority or other financial product authority of a
28 corporation if in the determination of the program manager a
29 corporation has substantially failed to comply with any of the
30 requirements in subdivision (b) causing irreparable harm to the
31 program, the corporation's guarantee or any other financial
32 products authority. The notice of temporary suspension sent to the
33 corporation shall specify the reasons for the action.

34 (1) As used in this section, "guarantee or any other financial
35 products authority" means the authority to make or guarantee or
36 administer any other financial products that encumber funds in a
37 trust fund account, any account or subaccount under the direct
38 control of the bank or other state entity, or the expansion fund.

39 (2) The program manager shall make one of the determinations
40 specified in subdivision (b) within 30 days of the effective date of

1 the temporary suspension, unless the corporation and the program
2 manager mutually agree to an extension. The corporation shall
3 have the opportunity to submit written material to the program
4 manager addressing the items stated in the temporary suspension
5 notice. If the program manager does not make any determinations
6 within 30 days, the temporary suspension shall be reversed. The
7 corporation's yearly contract shall remain in effect during the
8 period of temporary suspension, and the corporation shall continue
9 to receive reimbursement of necessary operating expenses.

10 (b) Failure of a corporation to substantially comply with the
11 following may result in the suspension or termination of a
12 corporation:

13 (1) Directives and requirements adopted by the bank board, for
14 implementing the California Small Business Development
15 Corporation Law (Chapter 1 (commencing with Section 14000)
16 of Part 5 of Division 3 of Title 1 of the Corporations Code) and
17 this chapter.

18 (2) Failure to meet any fiscal, audit, or portfolio requirement,
19 as contained in the directives and requirements.

20 (3) Failure to significantly meet any milestones or scope of work
21 as contained in the performance contract between the corporation
22 and the bank.

23 (4) Any other action in the opinion of the program manager that
24 causes irreparable harm to the corporation, the expansion fund, or
25 the trust fund.

26 (c) Pursuant to subdivisions (a) and (b), the program manager
27 may take any of the following actions:

28 (1) Terminate the temporary suspension.

29 (2) Terminate the temporary suspension subject to the
30 corporation's adoption of a specified remedial action plan approved
31 by the program manager.

32 (3) Continue the temporary suspension of guarantee and other
33 financial product authority until a specified time.

34 (4) Terminate the corporation's authority to administer specified
35 loan guarantees or other financial products.

36 (5) Terminate the corporation's authority to remain a corporation
37 authorized pursuant to the California Small Business Development
38 Corporation Law (Chapter 1 (commencing with section 14000) of
39 Part 5 of Division 3 of Title 1 of the Corporations Code) and this
40 chapter.

1 (d) The program manager shall make one of the determinations
2 specified in subdivision (c) within 30 days of the effective date of
3 the temporary suspension notice, unless the corporation and the
4 program manager mutually agree to an extension. If the program
5 manager does not make any determinations within 30 days, the
6 temporary suspension shall be negated. The corporation's yearly
7 contract shall remain in effect during the period of temporary
8 suspension, and the corporation shall continue to receive
9 reimbursement of necessary operating expenses.

10 (e) The actions contained in paragraphs (3) to (5), inclusive, of
11 subdivision (c) require a finding that irreparable harm will occur
12 unless the action is taken, and a finding that the corporation has
13 failed to comply with the California Small Business Development
14 Corporation Law (Chapter 1 (commencing with Section 14000)
15 of Part 5 of Division 3 of Title 1 of the Corporations Code) and
16 this chapter.

17 (f) In considering any action specified in subdivision (c), the
18 program manager shall consider, along with other criteria as
19 specified in subdivision (b), the corporation's history and past
20 performance.

21 (g) If the program manager decides to take any action pursuant
22 to paragraphs (3) to (5), inclusive, of subdivision (c), the program
23 manager shall transfer all funds subject to the action, whether
24 encumbered or not, in the trust fund account of the suspended or
25 terminated corporation into either the expansion fund, or either
26 permanently or temporarily transfer the funds to the trust fund
27 account of another corporation, unless an appeal is received from
28 the corporation pursuant to subdivision (h).

29 (h) If the program manager intends to transfer funds as specified
30 in paragraph (g), the corporation shall be notified of the funds
31 transfer 10 days before the effective date of the transfer. The
32 corporation shall have the right to appeal the program manager's
33 decision to the executive director within that 10-day period by
34 sending written notice to the executive director. Once the executive
35 director receives notice that the action is being appealed, the
36 program manager's funds transfer shall be stayed.

37 (i) The corporation shall have the opportunity to submit written
38 material to the executive director addressing the actions and
39 findings stated in the program manager's determination. The
40 executive director shall consider and make a final determination

1 on the appeal within 30 days of receiving the appeal notice from
2 the corporation, or such longer time as agreed to by the executive
3 director and the corporation. The executive director may elect to
4 take any of the actions listed in subdivision (j). The action of the
5 program manager shall remain in effect until the executive director
6 issues a decision. The corporation's performance contract shall
7 remain in effect during the appeal period, and the corporation shall
8 continue to receive reimbursement of necessary operating expenses.

9 (j) Pursuant to subdivision (i), the executive director may
10 independently take action or seek the advice and recommendation
11 of the small business board prior to taking any of the following
12 actions:

13 (1) Rescind the action taken by the program manager.

14 (2) Modify the action taken by the program manager subject to
15 the adoption by the corporation of a specified remedial action plan
16 approved by the executive director.

17 (3) Affirm the action taken by the program manager.

18 (k) Following the executive director's concurrence any action
19 pursuant to paragraphs (3) to (5), inclusive, of subdivision (c), the
20 program manager shall transfer all funds subject to the action,
21 whether encumbered or not, in the trust fund account of the
22 suspended or terminated corporation into either the expansion
23 fund, or either permanently or temporarily transfer the funds to
24 the trust fund account of another corporation. The corporation shall
25 be notified of the funds transfer 10 days before the effective date
26 of the transfer. The corporation shall have the right to appeal the
27 executive director's decision to the bank board within that 10-day
28 period by sending written notice to the chair of the bank board.
29 Once the chair of the bank board receives notice that the executive
30 director's determination is being appealed, the program manager's
31 funds transfer shall be stayed.

32 (l) The corporation shall have the opportunity to submit written
33 material to the bank board addressing the actions and findings
34 stated in the executive director's determination. The bank board
35 shall consider and make a final determination on the appeal within
36 30 days of receiving the appeal notice from the corporation, or
37 such longer time as agreed to by the chair of the bank board and
38 the corporation. The action of the executive director shall remain
39 in effect until the bank board issues a decision. The corporation's
40 performance contract shall remain in effect during the appeal

1 period, and the corporation shall continue to receive reimbursement
2 of necessary operating expenses.

3 (m) Pursuant to subdivision (l), the bank board may
4 independently take action or seek the advice and recommendation
5 of the California Small Business Board prior to taking any of the
6 following actions:

7 (1) Rescind the action taken by the executive director.

8 (2) Modify the action taken by the executive director subject to
9 the adoption by the corporation of a specified remedial action plan
10 acceptable to the executive director.

11 (3) Affirm the action taken by the executive director. The
12 decision of the bank board is final.

13 (n) Following the bank board's concurrence with the executive
14 director's determination consistent with any action pursuant to
15 paragraphs (3) to (5), inclusive, of subdivision (c), transfer all
16 funds subject to the action, whether encumbered or not, in the trust
17 fund account of the suspended or terminated corporation into either
18 the expansion fund, or either permanently or temporarily transfer
19 the funds to the trust fund account of another corporation. The
20 corporation shall be notified of the funds transfer 10 days before
21 the effective date of the transfer.

22 (o) Notwithstanding Section 63089.53, in the event a final
23 determination was made by the program manager, the executive
24 director or the bank board, whichever is applicable, to temporarily
25 transfer the funds of the corporation to the expansion fund or to
26 the trust fund account of another corporation, upon compliance
27 with all requirements of that final determination as determined by
28 the executive director, the transferred funds shall be returned to
29 the corporations trust fund account. While the funds of a
30 corporation's trust fund account reside in the expansion fund, use
31 of the principal on the funds shall be governed by the implementing
32 directives and requirements specifying use of funds in the
33 expansion fund. Interest on the funds moved from a corporation's
34 trust fund account upon temporary withdrawal shall be limited to
35 payment of the corporation's administrative expenses, as contained
36 in the contract between the corporation and the bank pursuant to
37 this chapter.

38 (p) Following a final determination of termination of all
39 activities of an active corporation, in order to continue its existence
40 as a nonprofit corporation pursuant to the Nonprofit Public Benefit

1 Corporation Law (Part 2 (commencing with Section 5110) of
2 Division 2 of Title 1 of the Corporations Code), the corporation
3 must amend its articles of incorporation in accordance with Chapter
4 8 of Part 2 of Division 2 of the Corporations Code to remove the
5 provisions required by Section 14005 of the Corporations Code,
6 including an amendment to remove the words “small business
7 financial development corporation,” “small business development
8 corporation,” or “rural or urban development corporation,” as
9 applicable, from the corporate name and shall no longer be
10 registered with the Secretary of State as a small business financial
11 development corporation. A corporation shall not enjoy any of the
12 benefits of a small business financial development corporation
13 following suspension.

14 63089.4. The bank is authorized to:

15 (a) Approve new corporations recommended by the program
16 manager.

17 (b) Enter into contracts with corporations for program
18 management services.

19 (c) Select a financial institution or financial company to act as
20 trustee of the trust fund as specified in this chapter.

21 (d) Invest expansion fund and trust fund moneys as specified
22 in this chapter.

23 (e) Affirm, modify, or rescind the determinations of the program
24 manager and the executive director as specified in this chapter.

25 (f) Adopt directives and requirements as specified in this chapter.

26 (g) Authorize new financial product programs pursuant to the
27 provisions of this chapter.

28

29 Article 5. Expansion Fund and Trust Fund

30

31 63089.5. (a) There is hereby continued in existence in the State
32 Treasury the California Small Business Expansion Fund. All or a
33 portion of the funds in the expansion fund may be paid out, with
34 the approval of the Department of Finance, to a financial institution
35 or financial company that will establish a trust fund and act as
36 trustee of the funds.

37 (b) The expansion fund and the trust fund shall be used for the
38 following purposes:

39 (1) To pay defaulted loan guarantee or surety bond losses, or
40 other financial product defaults or losses.

- 1 (2) To fund direct loans and other debt instruments.
- 2 (3) To pay administrative costs of corporations.
- 3 (4) To pay state support and administrative costs.
- 4 (5) To pay those costs necessary to protect a real property
- 5 interest in a financial product default.
- 6 (c) The expansion fund and trust fund are created solely for the
- 7 purpose of receiving state, federal, or local government moneys,
- 8 and other public or private moneys to make loans, guarantees, and
- 9 other financial products pursuant to this chapter.
- 10 (d) One or more accounts in the expansion fund and the trust
- 11 fund may be created by the program manager for corporations
- 12 participating in one or more programs authorized under this
- 13 chapter. Each account is a legally separate account, and shall not
- 14 be used to satisfy loan guarantees or other financial product
- 15 obligations of another corporation except when the expansion fund
- 16 or trust fund is shared by multiple corporations.
- 17 (e) The amount of guarantee liability outstanding at any one
- 18 time shall not exceed five times the amount of funds on deposit in
- 19 the expansion fund plus any receivables due from funds loaned
- 20 from the expansion fund to another fund in state government as
- 21 directed by the Department of Finance pursuant to a statute enacted
- 22 by the Legislature, including each of the trust fund accounts within
- 23 the trust fund.
- 24 (f) This section shall remain in effect only until January 1, 2018,
- 25 and as of that date is repealed, unless a later enacted statute, that
- 26 is enacted before January 1, 2018, deletes or extends that date.
- 27 63089.5. (a) There is hereby continued in existence in the State
- 28 Treasury the California Small Business Expansion Fund. All or a
- 29 portion of the funds in the expansion fund may be paid out, with
- 30 the approval of the Department of Finance, to a financial institution
- 31 or financial company that will establish a trust fund and act as
- 32 trustee of the funds.
- 33 (b) The expansion fund and the trust fund shall be used for the
- 34 following purposes:
- 35 (1) To pay defaulted loan guarantee or surety bond losses, or
- 36 other financial product defaults or losses.
- 37 (2) To fund direct loans and other debt instruments.
- 38 (3) To pay administrative costs of corporations.
- 39 (4) To pay state support and administrative costs.

1 (5) To pay those costs necessary to protect a real property
2 interest in a financial product default.

3 (c) The expansion fund and trust fund are created solely for the
4 purpose of receiving state, federal, or local government moneys,
5 and other public or private moneys to make loans, guarantees, and
6 other financial products pursuant to this chapter.

7 (d) One or more accounts in the expansion fund and the trust
8 fund may be created by the program manager for corporations
9 participating in one or more programs authorized under this
10 chapter. Each account is a legally separate account, and shall not
11 be used to satisfy loan guarantees or other financial product
12 obligations of another corporation except when the expansion fund
13 or trust fund is shared by multiple corporations.

14 (e) The amount of guarantee liability outstanding at any one
15 time shall not exceed four times the amount of funds on deposit
16 in the expansion fund plus any receivables due from funds loaned
17 from the expansion fund to another fund in state government as
18 directed by the Department of Finance pursuant to a statute enacted
19 by the Legislature, including each of the trust fund accounts within
20 the trust fund.

21 (f) This section shall become operative on January 1, 2018.

22 63089.51. (a) All money deposited in the expansion fund is
23 hereby continuously appropriated, without regard to fiscal years,
24 for the purposes of this chapter.

25 (b) Except as specified in subdivision (b) of Section 63089.54,
26 the state or the bank shall not be liable or obligated in any way
27 beyond the state money that is allocated in the expansion fund
28 from moneys from the General Fund appropriated for those
29 purposes.

30 63089.52. (a) The ~~program manager~~ *manager*, at his or her
31 discretion, with the approval of the executive director, may request
32 the trustee to invest those moneys in the trust fund in any of the
33 securities described in Section 16430. Returns from these
34 investments shall be deposited in the expansion fund and shall be
35 used to support the programs of this chapter.

36 (b) Any investments made in securities described in Section
37 16430 shall be governed by the investment policy approved by the
38 bank board.

39 63089.53. ~~(a)~~ Except as specified in subdivision (b)
40 of Section 63089.54, the state or the bank shall not be liable or

1 obligated in any way beyond the money that is allocated and
2 deposited in the trust fund accounts.

3 63089.54. (a) There is hereby created in the State Treasury
4 the Small Business Disaster Recovery Loan Loss Reserve Account,
5 as part of the expansion fund. This account shall be used to pay
6 for losses resulting from loan guarantees issued pursuant to
7 subdivision (a) of Section 63089.90 or subdivision (b) of this
8 section, and disaster loan guarantees and other credit enhancement
9 defaults issued prior to the effective date of this section that are in
10 default.

11 (b) Any lending institution that issues a loan that is guaranteed
12 by resources in this account shall be fully reimbursed for the
13 guaranteed portion of principal and interest that result from a loan
14 or loans that are in default. If there are insufficient funds in this
15 account to fully satisfy all claimants, the full faith of the resources
16 in the General Fund are pledged to satisfy the obligations of this
17 account. This account may only guarantee as much loan dollar
18 value as is specifically authorized by the Director of Finance with
19 the concurrence of the Governor. This account shall receive all
20 moneys transferred pursuant to Section 63089.55, and any
21 unencumbered balances transferred to the California Small
22 Business Expansion Fund pursuant to Chapters 11 and 12 of the
23 First Extraordinary Session of the Statutes of 1989, and Chapter
24 1525 of the Statutes of 1990, as of July 1, 1992.

25 (c) The Governor may utilize this authority to prevent business
26 insolvencies and loss of employment in an area affected by a state
27 of emergency within the state and declared a disaster by the
28 President of the United States, by the Administrator of the United
29 States Small Business Administration, or by the United States
30 Secretary of Agriculture, or declared to be in a state of emergency
31 by the Governor of California.

32 63089.55. The Director of Finance, with the approval of the
33 Governor, may transfer moneys in the Special Fund for Economic
34 Uncertainties to the California Small Business Expansion Fund
35 for use as authorized by the bank board, in an amount necessary
36 to make loan guarantees pursuant to Section 8684.2 and this
37 chapter.

38 63089.56. (a) The funds in the expansion fund shall be paid
39 out to trust fund accounts by the Treasurer on funds drawn by the
40 Controller and requisitioned by the program manager, pursuant to

1 the purposes of this chapter. The program manager may transfer
2 funds allocated from the expansion fund to accounts, established
3 solely to receive the funds, in financial institutions or financial
4 companies designated by the bank to act as trustee. The financial
5 institutions or financial companies so designated shall be approved
6 by the state for the receipt of state deposits. Interest earned on the
7 trust fund accounts in financial institutions or financial companies
8 may be utilized by the corporations or the bank pursuant to the
9 purposes of this chapter.

10 (b) The program manager may reallocate funds held within a
11 corporation's trust fund account.

12 (1) The program manager shall reallocate funds based on which
13 corporation is most effectively using its guarantee funds. If funds
14 are withdrawn from a less effective corporation as part of a
15 reallocation, the program manager shall make that withdrawal only
16 after giving consideration to that corporation's fiscal solvency, its
17 ability to honor loan guarantee defaults, and its ability to maintain
18 a viable presence within the region it serves. Reallocation of funds
19 shall occur no more frequently than once per fiscal year. Any
20 decision made by the program manager pursuant to this subdivision
21 may be appealed to the executive director unless otherwise
22 specified. The executive director has the authority to repeal or
23 modify any decision to reallocate funds.

24 (2) The program manager may authorize a corporation to exceed
25 the leverage ratio specified in Section 63089.5 or subdivision (a)
26 of Section 63089.62, pending the annual reallocation of funds
27 pursuant to this section. However, no corporation shall be permitted
28 to exceed an outstanding guarantee liability of more than specified
29 in subdivision (a) of Section 63089.62 after a reallocation is made.

30 (c) Except as specified in subdivision (e), the program manager
31 shall allocate and transfer money to trust fund accounts based on
32 performance-based criteria. The criteria shall include, but not be
33 limited to, the following:

34 (1) The default record of the corporation.

35 (2) The number and amount of loans guaranteed by a
36 corporation.

37 (3) The number and amount of loans made by a corporation if
38 state funds were used to make those loans.

39 (4) The number and amount of surety bonds guaranteed by a
40 corporation.

1 (5) The number and amount of other financial product activity.

2 (6) The number of jobs created or retained due to the financial
3 product activity.

4 (d) The criteria specified in subdivision (c) shall not apply to a
5 corporation that has been in existence for five years or less. If not
6 already adopted, the bank board shall develop directives and
7 requirements specifying the basis for transferring account funds
8 to those corporations that have been in existence for five years or
9 less.

10 (e) Any decision made by the program manager pursuant to this
11 section may be appealed to the executive director within 15 days
12 of notice of the proposed action. The executive director may repeal
13 or modify any reallocation and transfer decisions made by the
14 program manager. The appealing corporation shall submit, in
15 writing, the specific area or areas of appeal and set forth any
16 recommendation to the executive director for consideration. The
17 executive director shall render a final decision within five business
18 days of receiving the written appeal.

19 (f) Any decision made by the executive director shall be
20 appealable in writing to the bank board within 15 days of the
21 executive director's decision, or such longer period as agreed to
22 between the executive director and the corporation. The bank board
23 shall make a final reallocation or transfer decision within 30 days
24 of receiving the appeal, or such longer period agreed to between
25 the executive director and the corporation.

26 (g) In the event of an appeal under this section, all allocations
27 or transfers of money to trust fund accounts shall be on hold
28 pending resolution by the executive director or bank board, as
29 applicable.

30 63089.57. Pursuant to this chapter and any directives and
31 requirements adopted pursuant to this chapter, the state has residual
32 interest in the funds deposited by the state to a trust fund account
33 and to the return on these funds from investments. On dissolution,
34 suspension, or termination of the corporation, these funds shall be
35 withdrawn by the program manager from the trust fund account
36 and returned to the expansion fund or temporarily transferred to
37 another trust fund account. This provision shall be contained in
38 the trust instructions to the trustee.

39 63089.58. Each trust fund account shall consist of a loan
40 guarantee account, and, upon recommendation by the program

1 manager, a bond guarantee account or other financial product
2 account, each of which is a legally separate account, and the assets
3 of one account shall not be used to satisfy loan guarantees or other
4 financial product obligations of another corporation, except when
5 a trust fund account is designated by the program manager to be
6 shared by multiple corporations. The amount of funds allocated
7 to a bond guarantee account shall be pursuant to the directives and
8 requirements. A corporation shall not use trust fund accounts to
9 secure a corporate indebtedness. State funds deposited in the trust
10 fund accounts, with the exception of guarantees established
11 pursuant to this chapter, shall not be subject to liens or
12 encumbrances of the corporation or its creditors.

13 63089.59. (a) The financial institution or financial company
14 that is to act as trustee of the trust fund shall be designated by the
15 bank. The corporation shall not receive money on deposit to
16 support guarantees or other financial products issued under this
17 chapter without the approval of the program manager.

18 (b) State funds may not be used to finance an expense incurred
19 by a corporation in a location not approved pursuant to the contract
20 between the bank and the corporation. The prohibition against use
21 of state funds also applies to the location of satellite offices, and
22 the area served from a corporation office.

23 (c) Except as otherwise provided in this chapter, the trust fund
24 account shall be used solely to make loans, guarantee bonds and
25 loans, and provide other financial products approved by the
26 corporation that meet the financial product criteria of the directives
27 and requirements. Except as provided in subdivision (b) of Section
28 63089.54, the state or the bank shall not be liable or obligated in
29 any way as a result of the allocation of state moneys to a trust fund
30 account beyond the state moneys that are allocated and deposited
31 in the fund pursuant to this chapter, and that are not otherwise
32 withdrawn by the state pursuant to this chapter.

33 63089.60. (a) The program manager shall recommend whether
34 the expansion fund and trust fund accounts are to be leveraged,
35 and if so, by how much. Upon the request of the corporation, the
36 program manager's decision may be repealed or modified by the
37 executive director or the bank board.

38 (b) The amount of guarantee liability outstanding at any one
39 time shall not exceed five times the amount of funds on deposit in
40 the expansion fund plus any receivables due from funds loaned

1 from the expansion fund to another fund in state government as
2 directed by the Department of Finance pursuant to a statute enacted
3 by the Legislature, including each of the trust fund accounts within
4 the trust fund.

5 (c) This section shall remain in effect only until January 1, 2018,
6 and as of that date is repealed, unless a later enacted statute, that
7 is enacted before January 1, 2018, deletes or extends that date.

8 63089.60. (a) The program manager shall recommend whether
9 the expansion fund and trust fund accounts are to be leveraged,
10 and if so, by how much. Upon the request of the corporation, the
11 program manager's decision may be repealed or modified by the
12 executive director or the bank board.

13 (b) The amount of guarantee liability outstanding at any one
14 time shall not exceed four times the amount of funds on deposit
15 in the expansion fund plus any receivables due from funds loaned
16 from the expansion fund to another fund in state government as
17 directed by the Department of Finance pursuant to a statute enacted
18 by the Legislature, including each of the trust fund accounts within
19 the trust fund, unless the program manager has permitted a higher
20 leverage ratio for an individual corporation pursuant to subdivision
21 (b) of Section 63089.56.

22 (c) This section shall become operative on January 1, 2018.

23 63089.61. (a) The corporate guarantee shall be backed by
24 funds on deposit in the corporation's trust fund account, or by
25 receivables due from funds loaned from the corporation's trust
26 fund account to another fund in state government, as directed by
27 the Department of Finance pursuant to a statute enacted by the
28 Legislature.

29 (b) Loan guarantees shall be secured by a reserve of at least 20
30 percent to be determined by the program manager unless a higher
31 leverage ratio for an individual corporation has been approved
32 pursuant to subdivision (b) of Section 63089.56.

33 (c) The expansion fund and trust fund accounts shall be used to
34 guarantee obligations and other financial product obligations, to
35 pay the administrative costs of the corporations, and for other uses
36 pursuant to this chapter.

37 (d) This section shall remain in effect only until January 1, 2018,
38 and as of that date is repealed, unless a later enacted statute, that
39 is enacted before January 1, 2018, deletes or extends that date.

1 63089.61. (a) The corporate guarantee shall be backed by
2 funds on deposit in the corporation's trust fund account, or by
3 receivables due from funds loaned from the corporation's trust
4 fund account to another fund in state government, as directed by
5 the Department of Finance pursuant to a statute enacted by the
6 Legislature.

7 (b) Loan guarantees shall be secured by a reserve of at least 25
8 percent to be determined by the program manager, unless a higher
9 leverage ratio has been approved for an individual corporation
10 pursuant to subdivision (b) of Section 63089.56.

11 (c) The expansion fund and trust fund accounts shall be used to
12 guarantee obligations and other financial product obligations, to
13 pay the administrative costs of the corporations, and for other uses
14 pursuant to this chapter.

15 (d) This section shall become operative on January 1, 2018.

16 63089.62. (a) It is the intent of the Legislature that the
17 corporations make maximum use of their statutory authority to
18 guarantee loans and surety bonds, and administer other financial
19 products, including the authority to secure loans with a minimum
20 loan loss reserve of only 20 percent, unless the program manager
21 authorizes a higher leverage ratio for an individual corporation
22 pursuant to subdivision (b) of Section 63089.56, so that the
23 financing needs of small business may be met as fully as possible
24 within the limits of corporations' trust fund account balance.

25 (b) Any corporation that serves an area declared to be in a state
26 of emergency by the Governor or a disaster area by the President
27 of the United States, the Administrator of the United States Small
28 Business Administration, or the United States Secretary of
29 Agriculture shall increase the portfolio of loan guarantees where
30 the dollar amount of the loan is less than one hundred thousand
31 dollars (\$100,000), so that at least 15 percent of the dollar value
32 of loans guaranteed by the corporation is for those loans. The
33 corporation shall comply with this requirement within one year of
34 the date the emergency or disaster is declared. Upon application
35 of a corporation, the executive director may waive or modify the
36 rule for the corporation if the corporation demonstrates that it made
37 a good faith effort to comply and failed to locate lending
38 institutions in the region that the corporation serves that are willing
39 to make guaranteed loans in that amount.

1 (c) This section shall remain in effect only until January 1, 2018,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2018, deletes or extends that date.

4 63089.62. (a) It is the intent of the Legislature that the
5 corporations make maximum use of their statutory authority to
6 guarantee loans and surety bonds, and administer other financial
7 products, including the authority to secure loans with a minimum
8 loan loss reserve of only 25 percent, unless the program manager
9 authorizes a higher leverage ratio for an individual corporation
10 pursuant to subdivision (b) of Section 63089.56, so that the
11 financing needs of small business may be met as fully as possible
12 within the limits of corporations' trust fund account balance.

13 (b) Any corporation that serves an area declared to be in a state
14 of emergency by the Governor or a disaster area by the President
15 of the United States, the Administrator of the United States Small
16 Business Administration, or the United States Secretary of
17 Agriculture shall increase the portfolio of loan guarantees where
18 the dollar amount of the loan is less than one hundred thousand
19 dollars (\$100,000), so that at least 15 percent of the dollar value
20 of loans guaranteed by the corporation is for those loans. The
21 corporation shall comply with this requirement within one year of
22 the date the emergency or disaster is declared. Upon application
23 of a corporation, the program manager may waive or modify the
24 rule for the corporation if the corporation demonstrates that it made
25 a good faith effort to comply and failed to locate lending
26 institutions in the region that the corporation serves that are willing
27 to make guaranteed loans in that amount.

28 (c) This section shall become operative on January 1, 2018.

29
30 Article 6. Corporations, Miscellaneous

31
32 63089.65. (a) A corporation shall establish one or more loan
33 committees, each of which shall be composed of five or more
34 persons, a majority of whom shall be experienced in banking and
35 lending operations.

36 (b) A loan committee shall review applications to the corporation
37 for a loan or guarantee and shall do each of the following:

38 (1) Determine the feasibility of the proposed transaction. The
39 loan committee shall recommend approval of the application only

1 upon a determination that there is a reasonable chance that the loan
2 will be repaid.

3 (2) On the basis of that determination, recommend to the board
4 of directors any action that the loan committee deems appropriate
5 under the circumstances, or, in the event that approval authority
6 has been delegated to the loan committee by the board of directors,
7 approve or disapprove the loan application.

8 (c) A loan committee shall expeditiously act to accept or reject
9 loan applications.

10 (d) A person who has a financial interest related to a matter over
11 which the loan committee has authority may not make, participate
12 in making, or in any way attempt to influence that matter.

13 63089.66. Unless delegated to its loan committee, the
14 corporation's board of directors, upon a recommendation from its
15 loan committee, shall do all of the following:

16 (a) Emphasize consideration to applications that will increase
17 employment of disadvantaged, disabled, or unemployed persons,
18 or increase employment of youth residing in areas of high youth
19 unemployment and high youth delinquency.

20 (b) Give consideration to applications from traditional and
21 safety-net providers of Medi-Cal services that will promote access
22 to quality medical care for individuals enrolled in Medi-Cal
23 managed health care networks that are contracting with or owned
24 or operated by a county board of supervisors, a county health
25 commission, or a county health authority organized pursuant to
26 Section 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, or
27 14087.9605 of the Welfare and Institutions Code.

28 63089.67. A corporation may charge the borrower or financial
29 institution a loan fee or credit enhancement fee on all loans made
30 or guaranteed by the corporation to defray the operating expenses
31 of the corporation. The amount of the fee shall be determined by
32 the directives and requirements.

33

34

Article 7. Loan Guarantees

35

36 63089.70. (a) The Small Business Expansion Fund, which is
37 hereby continued in existence, shall, among other things, provide
38 guarantees to loans offered by financial institutions and financial
39 companies to small businesses.

1 (b) The Legislature finds and declares that the Small Business
2 Loan Guarantee Program has enabled participating small businesses
3 that do not qualify for conventional business loans or Small
4 Business Administration loans to secure funds to expand their
5 businesses. These small businesses would not have been able to
6 expand their businesses in the absence of the program. The program
7 has also provided valuable technical assistance to small businesses
8 to ensure growth and stability. The study commissioned by former
9 Section 14069.6 of the Corporations Code, as added by Chapter
10 919 of the Statutes of 1997, documented the return on investment
11 of the program and the need for its services. The value of the
12 program has also been recognized by the Governor through
13 proposals contained in the May Revision to the Budget Act of
14 2000 for the 2000–01 fiscal year.

15 (c) A corporation shall not issue a loan or guarantee, unless it
16 determines that the following conditions are satisfied:

17 (1) There is no probability that the loan would be granted by a
18 financial company or financial institution under reasonable terms
19 and conditions and the borrower has demonstrated a reasonable
20 prospect of repayment.

21 (2) The loan proceeds will be used exclusively in this state.

22 (3) The loan qualifies as a small business loan or an employment
23 incentive loan.

24 (4) The borrower has a minimum equity interest in the business
25 as determined by the directives and requirements.

26 (5) As a result of the loan, the jobs generated or retained
27 demonstrate reasonable conformance to any directives and
28 requirements specifying employment criteria.

29 63089.71. (a) Among other priorities, corporations shall give
30 high priority to the issuance of loan guarantees to small business
31 incubators and to businesses that lease space in incubators.

32 (b) For the purposes of this section, “incubator” means a facility
33 that allows new small businesses to increase their probability of
34 success by sharing needed capital equipment, services, and
35 facilities, which may include, but are not limited to, the following:

36 (1) Reception and meeting area.

37 (2) Secretarial services, such as collating, telephone answering,
38 or mailhandling.

39 (3) Accounting and bookkeeping services.

40 (4) Research libraries.

- 1 (5) Onsite financial and management counseling.
- 2 (6) Parking.
- 3 (7) Flexible lease arrangements for flexible space.
- 4 (8) Computer or word processing facilities.
- 5 (9) Day care facilities.
- 6 (10) Office furniture rentals.
- 7 (11) A graduation policy sometimes requiring firms to leave
- 8 after three to five years in a subsidized, nurturing environment.
- 9 (12) Employee training and placement services.

10 (c) Among other priorities, corporations shall give high priority
11 to marketing their services to Phase 1 or Phase 2 Small Business
12 Innovation Research (SBIR) recipients and providing loan
13 guarantees, whenever possible.

14
15 Article 8. Direct Lending and Other Debt Instruments

16
17 63089.80. (a) A corporation may utilize funds for direct
18 lending or other debt instruments pursuant to the directives and
19 requirements.

20 (b) The amount of funds available for direct lending and other
21 debt instruments shall be determined by the directives and
22 requirements. In its capacity as a direct lender, the corporation
23 may sell in the secondary market the guaranteed portion of each
24 loan, if guaranteed, so as to raise additional funds for direct lending.

25 (c) To execute the direct loan and other debt instrument
26 programs established in this chapter, the bank may loan trust funds
27 to a corporation for the express purpose of lending those funds to
28 an identified borrower. The loan authorized by the bank to the
29 corporation shall be on terms similar to the loan between the
30 corporation and the borrower.

31 (d) The amount of the loan may be in excess of the amount of
32 a loan to any individual borrower, but actual disbursements
33 pursuant to the bank loan agreement shall be required to be
34 supported by a loan agreement between the borrower and the
35 corporation in an amount at least equal to the requested
36 disbursement. The loan between the bank and the corporation shall
37 be evidenced by a credit agreement. In the event that any loan
38 between the corporation and borrower is not guaranteed by a
39 governmental agency, the portion of the credit agreement
40 attributable to that loan shall be secured by assignment of any note,

1 executed in favor of the corporation by the borrower to the bank.
2 The terms and conditions of the credit agreement shall be similar
3 to the loan agreement between the corporation and the borrower,
4 which shall be collateralized by the note between the corporation
5 and the borrower.

6 (e) In the absence of fraud on the part of the corporation, the
7 liability of the corporation to repay the loan to the bank is limited
8 to the repayment received by the corporation from the borrower,
9 except in a case where the United States Department of Agriculture
10 requires exposure by the corporation in rule or regulation. The
11 corporation may use trust funds for loan repayment to the bank if
12 the corporation has exhausted a loan loss reserve created for this
13 purpose. Interest and principal received by the bank from the
14 corporation shall be deposited into the same account from which
15 the funds were originally borrowed.

16 (f) Upon the approval of the program manager, a corporation
17 shall be authorized to borrow trust funds from the bank for the
18 purpose of relending those funds to small businesses. A corporation
19 shall demonstrate to the program manager that it has the capacity
20 to administer a direct loan program, and has procedures in place
21 to limit the default rate for loans to startup businesses. The
22 percentage of any trust fund account to be used for the direct
23 lending pursuant to this subdivision shall be established in the
24 directives and requirements.

25 (g) A corporation shall not issue a direct loan or other financial
26 product, unless and until it determines that all of the following
27 conditions are satisfied:

28 (1) The direct loan or other financial product assistance would
29 not be granted by a financial company or financial institution under
30 reasonable terms and conditions and the borrower has demonstrated
31 a reasonable prospect of repayment.

32 (2) The loan or financial product proceeds will be used
33 exclusively in this state.

34 (3) The direct loan or financial product qualifies as a small
35 business loan or employment incentive loan.

36 (4) The borrower has a minimum equity interest in the business
37 as determined by the directives and requirements.

38 (5) As a result of the direct loan or other debt instrument, the
39 jobs generated or retained demonstrate reasonable conformance
40 to any directives and requirements specifying employment criteria.

1 (h) The maximum loan or other debt instrument amount to a
2 small business shall be set by the directives and requirements. In
3 the absence of fraud on the part of the corporation, the repayment
4 obligation pursuant to the loan or other debt instrument to the
5 corporation shall be limited to the amount of funds received by
6 the corporation for the loan or other debt instrument to the small
7 business and any other funds received from the bank that are not
8 disbursed. The corporation shall be authorized to charge a fee to
9 the small business borrower, in an amount determined pursuant to
10 the directives and requirements. The programs provided for in this
11 subdivision shall be available in all geographic areas of the state.
12

13 Article 9. Disaster Loan Guarantees
14

15 63089.90. (a) Pursuant to Section 8684.2 and the contract
16 between a corporation and the bank, a corporation may, in an area
17 affected by a state of emergency within the state and declared a
18 disaster by the President of the United States, the Administrator
19 of the United States Small Business Administration, or the United
20 States Secretary of Agriculture, or declared to be in a state of
21 emergency by the Governor of California, provide loan guarantees
22 from funds allocated in Section 63089.55 to small businesses,
23 small farms, nurseries, and agriculture-related enterprises that have
24 suffered actual physical damage or significant economic injury as
25 a result of the disaster.

26 (b) The bank board may adopt directives and requirements to
27 implement the disaster loan guarantee program authorized by this
28 section. Any regulations adopted under Chapter 1 (commencing
29 with Section 14000) of Part 5 of Division 3 of Title 1 of the
30 Corporations Code shall remain in effect until the bank adopts
31 directives and requirements.

32 (c) A corporation shall not issue a disaster loan guarantee unless
33 and until it determines that the following conditions are satisfied:

34 (1) The borrower cannot reasonably obtain a loan without some
35 form of credit enhancement.

36 (2) The borrower has demonstrated a reasonable prospect of
37 repayment.

38 (3) The guaranteed loan will be used exclusively in this state.

39 (4) The disaster loan qualifies as a small business loan or
40 employment incentive loan.

1 (d) Allocations pursuant to subdivision (a) shall be deemed to
2 be for extraordinary emergency or disaster response operations
3 costs incurred by the issuance of disaster loan guarantees.

4
5
6

Article 10. Surety Bond Guarantees

7 63089.95. In furtherance of the purposes set forth in Section
8 63088.1 of this code and Section 14001 of the Corporations Code,
9 a corporation may do any one or more of the following activities,
10 but only to the extent that the activities are authorized pursuant to
11 the contract between the bank and corporation: guarantee, endorse,
12 or act as surety on the bonds, notes, contracts, or other obligations
13 of, or assist financially, any person, firm, corporation, or
14 association, and may establish and regulate the terms and
15 conditions with respect to any such loans or financial assistance
16 and the charges for interest and service connected therewith, except
17 that the corporation shall not make or guarantee any loan, unless
18 and until it determines:

19 (a) There is no probability that the loan or other financial
20 assistance would be granted by a financial institution or financial
21 company under reasonable terms or conditions, and the borrower
22 has demonstrated a reasonable prospect of repayment of the loan.

23 (b) The loan proceeds will be used exclusively in this state.

24 (c) The loan qualifies as a small business loan or an employment
25 incentive loan.

26 (d) The borrower has a minimum equity interest in the business
27 as determined by the directives and requirements.

28 (e) As a result of the loan, the jobs generated or retained
29 demonstrate reasonable conformance to the directives and
30 requirements specifying employment criteria.

31 63089.96. (a) In addition to the authority granted by Section
32 63089.95, pursuant to the directives and requirements a corporation
33 may act as guarantor on a surety bond for any small business
34 contractor, including, but not limited to, women, minority, and
35 disabled veteran contractors.

36 (b) The provisions of subdivision (a) allowing a corporation to
37 act as a guarantor on surety bonds may be funded through
38 appropriate state or federal funding sources. Federal funds shall
39 be deposited in the Federal Trust Fund in the State Treasury in
40 accordance with Section 16360, for transfer to the expansion fund.

Article 11. Reporting

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63089.97. Each corporation shall provide to the program manager, in a format prescribed by him or her, the following data and reports:

(a) A summary of all outstanding loans, bonds, and other credit enhancements to which a corporation guarantee, as authorized by this chapter, is attached, on a schedule determined by the program manager.

(b) A summary of all outstanding loans and other debt instruments made by a corporation, as authorized by this chapter, on a schedule determined by the program manager.

(c) A summary of all outstanding other financial project obligations made by a corporation, as authorized by this chapter, on a schedule of determined by the program manager.

(d) Statement of economic interests from each designated person pursuant to Section 87302.

(e) No later than July 31 of each fiscal year, commencing January 1, 2014, each of the following documents:

(1) A copy of the corporation board approved budget for the current fiscal year.

(2) Projected fiscal year summary of authorized program activities including loans, loan guarantees, bond guarantees, and other financial product activity supported by the expansion fund.

(3) A copy of the written plan of operation or strategic plan for the current fiscal year as approved by the corporations board of directors.

(4) A copy of the current and valid articles of incorporation and bylaws of the corporation with noted amendments from the prior fiscal year.

(f) No later than October 31 of each year commencing January 1, 2014, a copy of the corporation's prior fiscal year audit, auditor findings, if any, and finding responses.

(g) Any other statistical and other data, reports, or other information required by the directives and requirements or the program manager.

63089.98. (a) Annually, not later than January 1 of each year commencing January 1, 2014, the program manager shall prepare and submit to the Governor and the Legislature, pursuant to Section 9795, a report for the preceding fiscal year ending June 30,

1 containing the expansion fund and trust fund financial product
2 activity of each corporation, including all of the following:

3 (1) Loans, guarantees, and other financial products awarded
4 and outstanding balances.

5 (2) Default and loss statistics.

6 (3) Employment data.

7 (4) Ethnicity and gender data of participating contractors and
8 other entities, and experience of surety insurer participants in the
9 bond guarantee program.

10 (5) Significant events.

11 (b) The program manager shall post the report on the bank's
12 Internet Web site.

13 SEC. 5. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.

22 SEC. 6. This act is an urgency statute necessary for the
23 immediate preservation of the public peace, health, or safety within
24 the meaning of Article IV of the Constitution and shall go into
25 immediate effect. The facts constituting the necessity are:

26 It is necessary that this bill take effect immediately in order to
27 provide, as is necessary to timely implement the Governor's
28 reorganization plan, for a better managed and more efficient
29 transition of small business assistance programs from the soon to
30 be defunct Business, Transportation and Housing Agency to the
31 California Infrastructure and Economic Development Bank within
32 the Governor's Office of Business and Economic Development.