

AMENDED IN SENATE APRIL 4, 2016

SENATE BILL

No. 936

Introduced by Senator Hertzberg

**(Coauthors: Senators ~~Anderson~~ Anderson, Cannella, Huff, and
Wieckowski)**

**(Coauthors: Assembly Members ~~Dodd~~ and Hadley Dodd,
Cristina Garcia, Hadley, Irwin, Kim, and Rodriguez)**

February 2, 2016

An act to amend and repeal Sections ~~63089.61~~ 63089.5, 63089.60, 63089.61, and 63089.62 of the Government Code, relating to business.

LEGISLATIVE COUNSEL'S DIGEST

SB 936, as amended, Hertzberg. California Small Business Expansion Fund: corporate guarantees.

Existing law, the Small Business Financial Assistance Act of 2013, establishes the California Small Business Expansion Fund, a continuously appropriated fund that includes General Fund moneys. The act requires guarantees made by small business financial development corporations to be backed by funds on deposit in the corporation's trust fund account or by receivables due from funds loaned from the corporation's trust fund account to another fund in state government, as specified, and requires these loan guarantees to be secured by a reserve of at least 20%, until January 1, 2018, and 25% thereafter, as specified.

This bill would reduce the required reserve to 10% indefinitely and would make conforming changes with respect to related statements of legislative intent.

Existing law prohibits the amount of guarantee liability outstanding at any one time from exceeding 5 times the amount of funds on deposit

in the expansion fund plus any receivables due from funds loaned from the expansion fund to another fund in state government as, specified, until January 1, 2018, and 4 times thereafter.

This bill would increase that maximum amount to 10 times the amount of funds on deposit in the expansion fund plus any receivables due from funds loaned from the expansion fund to another fund in state government as, specified, would apply that increased amount indefinitely, and would make conforming changes.

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

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

1 SECTION 1. Section 63089.5 of the Government Code, as
2 added by Section 4 of Chapter 537 of the Statutes of 2013, is
3 amended to read:

4 63089.5. (a) There is hereby continued in existence in the State
5 Treasury the California Small Business Expansion Fund. All or a
6 portion of the funds in the expansion fund may be paid out, with
7 the approval of the Department of Finance, to a financial institution
8 or financial company that will establish a trust fund and act as
9 trustee of the funds.

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

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

14 (2) To fund direct loans and other debt instruments.

15 (3) To pay administrative costs of corporations.

16 (4) To pay state support and administrative costs.

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

19 (c) The expansion fund and trust fund are created solely for the
20 purpose of receiving state, federal, or local government moneys,
21 and other public or private moneys to make loans, guarantees, and
22 other financial products that the California Small Business Finance
23 Center or a financial development corporation is authorized to
24 provide. The program manager shall provide written notice to the
25 Joint Legislative Budget Committee and to the Chief Clerk of the
26 Assembly and the Secretary of the Senate who shall provide a copy
27 of the notice to the relevant policy committees within 10 days of

1 any nonstate funds being deposited in the expansion fund. The
2 notice shall include the source, purpose, timeliness, and other
3 relevant information as determined by the bank board.

4 (d) (1) One or more accounts in the expansion fund and the
5 trust fund may be created by the program manager for corporations
6 participating in one or more programs authorized under this chapter
7 and Section 8684.2. Each account is a legally separate account,
8 and shall not be used to satisfy loan guarantees or other financial
9 product obligations of another corporation except when the
10 expansion fund or trust fund is shared by multiple corporations.

11 (2) The program manager may create one or more holding
12 accounts in the expansion fund or the trust fund, or in both, to
13 accommodate the temporary or permanent transfers of funds
14 pursuant to Section 63089.3.

15 (e) The amount of guarantee liability outstanding at any one
16 time shall not exceed five 10 times the amount of funds on deposit
17 in the expansion fund plus any receivables due from funds loaned
18 from the expansion fund to another fund in state government as
19 directed by the Department of Finance pursuant to a statute enacted
20 by the Legislature, including each of the trust fund accounts within
21 the trust fund.

22 ~~(f) This section shall remain in effect only until January 1, 2018,~~
23 ~~and as of that date is repealed, unless a later enacted statute, that~~
24 ~~is enacted before January 1, 2018, deletes or extends that date.~~

25 *SEC. 2. Section 63089.5 of the Government Code, as amended*
26 *by Section 8 of Chapter 132 of the Statutes of 2014, is repealed.*

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 ~~(e) 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 that the California Small Business Finance~~
7 ~~Center and a small business financial development corporation are~~
8 ~~authorized to provide.~~

9 ~~(d) One or more accounts in the expansion fund and the trust~~
10 ~~fund may be created by the program manager for corporations~~
11 ~~participating in one or more programs authorized under this chapter~~
12 ~~and Section 8684.2. Each account is a legally separate account,~~
13 ~~and shall not be used to satisfy loan guarantees or other financial~~
14 ~~product obligations of another corporation except when the~~
15 ~~expansion fund or trust fund is shared by multiple corporations.~~

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

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

24 *SEC. 3. Section 63089.60 of the Government Code, as added*
25 *by Section 4 of Chapter 537 of the Statutes of 2013, is amended*
26 *to read:*

27 63089.60. (a) The program manager shall recommend whether
28 the expansion fund and trust fund accounts are to be leveraged,
29 and if so, by how much. Upon the request of the corporation, the
30 program manager's decision may be repealed or modified by the
31 executive director or the bank board.

32 (b) The amount of guarantee liability outstanding at any one
33 time shall not exceed *five 10* times the amount of funds on deposit
34 in the expansion fund plus any receivables due from funds loaned
35 from the expansion fund to another fund in state government as
36 directed by the Department of Finance pursuant to a statute enacted
37 by the Legislature, including each of the trust fund accounts within
38 the trust fund.

1 ~~(e) 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 *SEC. 4. Section 63089.60 of the Government Code, as added*
5 *by Section 4 of Chapter 537 of the Statutes of 2013, is repealed.*

6 ~~63089.60. (a) The program manager shall recommend whether~~
7 ~~the expansion fund and trust fund accounts are to be leveraged,~~
8 ~~and if so, by how much. Upon the request of the corporation, the~~
9 ~~program manager's decision may be repealed or modified by the~~
10 ~~executive director or the bank board.~~

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

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

21 **SECTION 4.**

22 *SEC. 5. Section 63089.61 of the Government Code, as added*
23 *by Section 4 of Chapter 537 of the Statutes of 2013, is amended*
24 *to read:*

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

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

35 (c) The expansion fund and trust fund accounts shall be used to
36 guarantee obligations and other financial product obligations, to
37 pay the administrative costs of the corporations, and for other uses
38 pursuant to this chapter and Section 8684.2.

1 ~~SEC. 2.~~

2 *SEC. 6.* Section 63089.61 of the Government Code, as added
3 by Section 4 of Chapter 537 of the Statutes of 2013, is repealed.

4 ~~SEC. 3.~~

5 *SEC. 7.* Section 63089.62 of the Government Code, as added
6 by Section 4 of Chapter 537 of the Statutes of 2013, is amended
7 to read:

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

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

32 ~~SEC. 4.~~

33 *SEC. 8.* Section 63089.62 of the Government Code, as added
34 by Section 4 of Chapter 537 of the Statutes of 2013, is repealed.