

## CHAPTER 176

**AN ACT** concerning financial assistance to certain businesses and amending P.L.1999, c.239 (C.52:27D-443 et seq.).

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.1999, c.239 (C.52:27D-443) is amended to read as follows:

C.52:27D-443 Short title.

1. This act shall be known and may be cited as the "New Jersey Women's Micro-Business Credit Act."

2. Section 2 of P.L.1999, c.239 (C.52:27D-444) is amended to read as follows:

C.52:27D-444 Findings, declarations relative to financial assistance to certain women's businesses.

2. The Legislature finds and declares that:

- a. Micro-business loans are usually granted to those businesses that are mostly sole proprietorships with five or fewer employees, that require an initial capital outlay of less than \$35,000 to start a new business or expand an existing business, utilize loans in amounts of less than \$15,000 with most loans being paid back on time, and experience a default rate that is often no higher than on commercial loans;

- b. Experience in numerous other states and in certain urban areas in New Jersey has shown that "micro lending," or carefully underwriting small loans to individual entrepreneurs with well-developed, realistic business plans, has been successful in helping individuals, without regard to geographical location, to start micro-businesses;

- c. Nonprofit community-based development corporations have the experience of providing the training and technical assistance that is necessary for prospective entrepreneurs to establish a viable business;

- d. While the New Jersey Economic Development Authority currently manages several programs to promote the development of micro and small businesses in the State and the New Jersey Development Authority for Small Businesses, Minorities' and Women's Enterprises has a peer group micro-lending program in place which targets urban areas of the State, there is a need to establish a separate micro-business credit program to provide new and innovative ways to assist more unemployed women and underemployed women in all areas of the State to enter or reenter the marketplace and to recognize that nonprofit community-based development corporations and certain Statewide women's business organizations have the experience of providing the training and technical assistance that is necessary for prospective entrepreneurs to establish a viable business; and

- e. It is appropriate to establish a micro-business credit program that would target only those potential female entrepreneurs who have little or no prior business experience, are self-motivated and are willing to undertake an extensive training program and receive other kinds of technical assistance in order to gain the necessary experience to start a successful business through grants given to certified nonprofit community development corporations and certain Statewide women's business organizations, and the Department of Community Affairs which has experience in evaluating and monitoring community development corporations and which already manages a number of programs through its Division on Women to assist women to improve their lives is the appropriate State agency to accomplish these goals.

3. Section 3 of P.L.1999, c.239 (C.52:27D-445) is amended to read as follows:

C.52:27D-445 Definitions relative to financial assistance to certain women's businesses.

3. As used in this act:

"Act" means the "New Jersey Women's Micro-Business Credit Act."

"Certified nonprofit community development corporation" or "certified corporation" means a nonprofit community development corporation, established pursuant to Title 15 of the Revised Statutes, Title 15A of the New Jersey Statutes, or other law of this State, and certified by the department pursuant to section 6 of this act to receive grants for the purpose of issuing loans,

loan guarantees, or both, and providing training and technical assistance to qualified recipients;

"Commissioner" means the Commissioner of Community Affairs;

"Department" means the Department of Community Affairs;

"Grant" means money given to a certified nonprofit community development corporation or a Statewide organization by the department for the purpose of issuing loans, loan guarantees, or both, pursuant to section 4 of this act;

"Loan" means a loan made or guaranteed to a qualified recipient under the terms and conditions set forth by a certified nonprofit community development corporation or a Statewide organization;

"Program" means the New Jersey Women's Micro-Business Credit Program established pursuant to section 4 of P.L.1999, c.239 (C.52:27D-446);

"Qualified recipient" means one or more women who intend to establish a business enterprise which is to be independently owned and operated solely by the woman or women, as appropriate, who have little or no prior business experience and each having a gross annual personal income of an amount less than 350 percent of the official poverty line, as determined by the Director of the federal Office of Management and Budget. A qualified recipient may conduct a business enterprise on a part-time basis, from a residence, or both; and

"Statewide organization" means an organization whose primary objective is to support and encourage business ownership by women and which maintains a visible Statewide presence.

4. Section 4 of P.L.1999, c.239 (C.52:27D-446) is amended to read as follows:

C.52:27D-446 "New Jersey Women's Micro-Business Credit Program."

4. a. There is created, in the department, a "New Jersey Women's Micro-Business Credit Program." The program shall be established by the department. The program shall consist of grants to certified corporations or a Statewide organization for the following purposes:

(1) issuing loans, loan guarantees, or both, to qualified recipients;

(2) providing training and technical assistance to qualified recipients; and

(3) payment of reasonable administrative expenses as approved by the commissioner, except that such expenses shall not amount to greater than 20 percent of the grant.

b. To implement the program, the department shall provide grants to certified corporations or a Statewide organization from such moneys that the department determines are necessary to effectively implement the program, in response to the demand for the program, and from other assistance programs administered by the department or by other State agencies or authorities, or from such other moneys as may be made available for the program pursuant to P.L.1999, c.239 (C.52:27D-443 et seq.).

c. The commissioner shall designate areas for the location of up to four certified corporations or a Statewide organization as part of the program. In selecting the areas for the certified corporations, the commissioner shall strive to allocate the areas in an equitable manner to achieve representation from the northern, central, southern and shore regions of the State. In selecting the areas in each region for the location of the certified corporations, the department shall consider the following factors: comparative unemployment or underemployment; an economic environment conducive to the establishment of businesses built around qualified businesses; the need for assistance in creating qualified businesses where such activity will protect or enhance a small business economy; the level of anticipated financial and other participation of county economic development agencies, municipal economic development agencies or business organizations, and county or municipal educational and nonprofit organizations; and their ability to provide the necessary services in each region. In selecting a Statewide organization, the department shall consider the following factors: comparative unemployment or underemployment in area served; an economic environment conducive to the establishment of businesses built around qualified businesses; the need for assistance in creating qualified businesses where such activity will protect or enhance a small business economy; the level of anticipated financial and other participation of county economic development agencies, municipal economic development agencies or business organizations, and county or municipal educational and nonprofit organizations; and their ability to provide the necessary services

Statewide.

d. The department shall, to the greatest extent feasible, coordinate its efforts to implement the program with other State or federal agencies or authorities including, but not limited to, the New Jersey Development Authority for Small Businesses, Minorities' and Women's Enterprises established pursuant to P.L.1985, c.386 (C.34:1B-47 et seq.), the New Jersey Economic Development Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), and the Department of Human Services and shall enter into agreements to leverage the moneys in the program with moneys that may be available from other sources of financing including, but not limited to, the Fund for Community Economic Development and the Statewide Loan Pool for Business as established by the New Jersey Economic Development Authority.

e. The department shall, to the greatest extent feasible, advertise the program to community development organizations in the northern, central, southern and shore regions of the State or Statewide. In order to advertise and promote the program, the department is authorized to organize or participate in the organization of a nonprofit corporation, which is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code. Such nonprofit corporation must directly further the statutory mission of the department and the intent of P.L.1999, c.239 (C.52:27D-443 et seq.). Expenses incurred by such nonprofit corporations shall be payable from funds raised by the nonprofit corporation, and no liability or obligation, in tort or contract, shall be incurred by the department for the operation of the nonprofit corporation. The nonprofit corporation shall obtain private counsel and shall not be represented by the department or indemnified by the department.

5. Section 5 of P.L.1999, c.239 (C.52:27D-447) is amended to read as follows:

C.52:27D-447 Use of program moneys.

5. a. The department shall use the moneys in the program as established and for the purposes designated pursuant to section 4 of P.L.1999, c.239 (C.52:27D-446).

b. In determining the criteria for making grants to the certified corporations or the Statewide organization, the department shall, in addition to applying customary underwriting criteria, also consider:

(1) the plan and scope of business training and technical assistance to be provided to qualified recipients;

(2) the plan and scope of other services to be provided to qualified recipients;

(3) geographic representation among the regions chosen, pursuant to subsection b. of section 4 of P.L.1999, c.239 (C.52:27D-446);

(4) the ability of the certified corporation or the Statewide organization, with its plan, to monitor and provide financial oversight of recipients of loans, to administer a revolving loan fund, and to investigate and qualify financing proposals and to service credit accounts;

(5) the sources and the sufficiency of operating funds, other than those provided herein, for the certified corporation or the Statewide organization; and

(6) the intent of the certified corporation or the Statewide organization, as set forth in its plan and written indications of local institutional support, to provide services to qualified recipients in the region within which it is located.

c. Loan funds may be used by a certified corporation or the Statewide organization to:

(1) satisfy matching requirements for other State, federal, or private funding only if funding is intended and used for the purpose of providing or enhancing the certified corporation's or Statewide organization's ability to provide and administer loans, technical assistance, or business training to qualified recipients;

(2) establish a revolving loan fund from which the certified corporation or the Statewide organization may issue loans to qualified recipients, provided that a single loan amount, as part of a loan agreement, does not exceed \$5,000, or issue additional loans to qualified recipients which have completed payments on an earlier loan, under terms and conditions of the certified corporation or the Statewide organization; or

(3) carry out the purposes of the provisions as provided in both paragraphs (1) and (2) of this subsection.

- d. Loan funds created by a certified corporation or a Statewide organization shall not be:
  - (1) loaned for relending or investment in stocks, bonds, or other securities or for property not intended for use in production by the recipient of the loan; or
  - (2) used to refinance a nonperforming loan held by a financial institution or to pay the operating costs of a certified corporation or a Statewide organization; however, interest income earned from the proceeds of a loan may be used to pay operating expenses.
- e. Certified corporations or the Statewide organization are required to contribute cash from other sources to leverage and secure loans from the program. Contributions provided by the certified corporation or a Statewide organization must be in a ratio of at least \$1 from other sources for each \$3 in loans from the program and at least \$1 from other sources for each \$4 for training, technical assistance and administrative expenses from the program. These contributions may come from a public or private source other than the program and may be in the form of loans or grants.
- f. Loans made by a certified corporation or a Statewide organization to a qualified recipient shall be made pursuant to a loan agreement and may be amortization or term loans, bear interest at less than the market rate, be renewable, and contain other terms and conditions considered appropriate by the department that are consistent with the purposes of P.L.1999, c.239 (C.52:27D-443 et seq.) and with rules and regulations promulgated by the department to implement P.L.1999, c.239.
- g. (1) Unless subject to federal law, rule or regulation, each certified corporation or the Statewide organization that receives a grant under P.L.1999, c.239 (C.52:27D-443 et seq.) shall undergo an audit, at its own expense, at least once every two years. The certified corporation or a Statewide organization shall submit a copy of the audit to the department.
- (2) If an audit is performed under a requirement of federal law, rule or regulation, the department shall waive the audit required in this subsection with respect to all issues addressed by the federal audit report. However, the department may require an audit of matters that are not, in the department's judgment, addressed by the federal report including, but not limited to, verification of compliance with requirements specific to the program, such as job-generation standards and reporting.
- h. The department may use up to five percent of the funds received from the General Fund for the purposes of implementing the program, as pursuant to P.L.1999, c.239 (C.52:27D-443 et seq.), for administrative costs.

6. Section 6 of P.L.1999, c.239 (C.52:27D-448) is amended to read as follows:

C.52:27D-448 Certification of nonprofit community development corporation or Statewide organization.

- 6. The department may certify a nonprofit community development corporation or a Statewide organization when it determines that the development corporation or the Statewide organization:
  - a. has developed a viable plan for providing training, access to financing, and technical assistance for qualified recipients;
  - b. has demonstrated an ability to successfully provide training and technical assistance to qualified recipients;
  - c. has broad-based community support within a region and has demonstrated support from other regional entities to provide assistance with service delivery and financial aspects; and
  - d. has an adequate source of operating capital.

7. Section 7 of P.L.1999, c.239 (C.52:27D-449) is amended to read as follows:

C.52:27D-449 Additional powers of department.

- 7. a. The department shall have, in addition to the powers enumerated in section 9 of P.L.1966, c.293 (C.52:27D-9), the power to enter into written agreements, including, but not limited to, limited partnership agreements with one or more professional investors or small business investment corporations, or inter-agency agreements with one or more State agencies

or authorities for the purposes of establishing a pool of additional moneys which is to be used exclusively for grants to certified corporations or a Statewide organization for the sole purpose of providing loans to qualified recipients.

b. The department may also accept grants, donations, and other private and public funds, including payments of interest on loans made by the department and use such moneys received under this subsection for the purposes of the program.

8. Section 8 of P.L.1999, c.239 (C.52:27D-450) is amended to read as follows:

C.52:27D-450 Preparation of reports on program.

8. The department shall prepare a report within two years following the effective date of P.L.1999, c.239 (C.52:27D-443 et seq.), and not later than September 15 of each third year thereafter. The report shall include, but not be limited to: a description of the demand for the program from qualified recipients; the number of qualified recipients the program has assisted; the efforts made by the department and the certified corporations or the Statewide organization to promote the program; the efforts of the certified corporations or the Statewide organization to establish a pool of funds from private and public sources; the total amount of loans issued by the certified corporations or the Statewide organization; and an assessment of the effectiveness of the program in meeting the goals of this act. The department shall submit its reports to the Governor and the Legislature, along with any recommendations to improve the effectiveness of the program.

9. Section 9 of P.L.1999, c.239 (C.52:27D-451) is amended to read as follows:

C.52:27D-451 Rules, regulations.

9. The department shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as may be necessary to effectuate the purposes of P.L.1999, c.239 (C.52:27D-443 et seq.) including, but not limited to: the criteria and procedures concerning certification of certified corporations or the Statewide organization; the criteria and procedures for selecting from competing grant applications and for awarding grants to certified corporations or the Statewide organization; the criteria and procedures to be followed by certified corporations or the Statewide organization in administering revolving loan funds supported by the program; the criteria for determining the terms and conditions of loans and loan repayments; the criteria for determining nonperformance and declaring default in the administration of loans; and the criteria and procedures to be followed by certified corporations or the Statewide organization in providing training and technical assistance to qualified recipients.

10. This act shall take effect immediately.

Approved December 22, 2004.