

SENATE BILL No. 7

By Senator Faust-Goudeau

1-6

1 AN ACT enacting the Kansas reinvestment act.

2

3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. Sections 1 through 12, and amendments thereto, may be
5 cited as the Kansas reinvestment act. The purpose of this act is to promote
6 job creation and economic development in impoverished areas of this state
7 and to promote the growth of communities in such areas by providing
8 financial assistance to small businesses and community organizations.

9 Sec. 2. As used in this act:

10 (a) "Business renovation" means improving the existing physical
11 facilities or physical structure of an "eligible business or organization."

12 (b) "Exempt business" means a business exempted from certain
13 requirements for eligibility for a loan under this act by the director
14 pursuant to the provisions of section 9, and amendments thereto.

15 (c) "Eligible business or organization" means a "small business,"
16 "new small business," "exempt business," "nonprofit organization," or
17 "religious organization" that meets the applicable requirements for
18 eligibility for an award of a loan under this act.

19 (d) "Director" means the director of the Kansas reinvestment act.

20 (e) "Small business" means a sole proprietorship, limited liability
21 corporation, partnership or corporation that receives less than \$3,500,000
22 in gross revenue annually and employs 50 or fewer employees and is not a
23 franchisee of a national business that has franchisees in more than one
24 state.

25 (f) "New small business" means a small business that has been in
26 existence for more than 12 months and less than 18 months.

27 (g) "Impoverished area" means a zip code area in which the median
28 income does not exceed 70% of the current state median income in the
29 current year according to the United States census bureau and official
30 Kansas data.

31 (h) "Fraudulent activity" means submitting false documentation to the
32 state of Kansas, the director or the director's designee or a third party
33 contractor approved by the director for purposes of securing an award
34 pursuant to this act, including, but not limited to: (1) Overestimating goods
35 or services for the intended purpose of receiving funds; or (2) using
36 awarded funds for purposes or in a manner contrary to the provisions of

1 this act.

2 (i) "Nonprofit organization" means any organization:

3 (1) Organized and operated for the purpose of the relief of poverty,
4 distress or other condition of public concern within this state, financially
5 supporting the activities of an organization organized and operated for
6 such purposes or conferring direct benefits on the community at large;

7 (2) where no part of the net earnings of such organization inures to
8 the benefit of any private shareholder or individual member of such
9 organization; and

10 (3) that is either exempt from the payment of federal income taxes as
11 provided by sections 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6) or 501(c)
12 (7) of the federal internal revenue code of 1986, as amended, or is found
13 by the director to be organized and operated as a bona fide nonprofit
14 organization.

15 (j) "Religious organization" means any corporation, trust or
16 organization:

17 (1) Incorporated or established for religious purposes, or established
18 for charitable, hospital or educational purposes and engaged in effectuating
19 one or more of such purposes;

20 (2) affiliated with, operated by or supervised or controlled by a
21 corporation, trust or organization incorporated or established for religious
22 purposes; and

23 (3) which has been exempted from the payment of federal income
24 taxes pursuant to section 501(c)(3) or 501(d) of the federal internal
25 revenue code of 1986, as amended.

26 (k) "Secretary" means the secretary of commerce.

27 Sec. 3. (a) There is hereby established the Kansas reinvestment
28 program, which shall be organized as a division within the department of
29 commerce. The secretary of commerce shall appoint a director to
30 administer the Kansas reinvestment program who shall be in the
31 unclassified service. The director's salary shall be equivalent to the salary
32 of a division head within the department of commerce.

33 (b) The director may contract with third parties, as otherwise
34 provided by law, to carry out the provisions of this act. Subject to
35 appropriation acts, the director may hire staff members who shall be in the
36 unclassified service.

37 (c) The director shall have authority to enter into agreements for
38 awarding loans to eligible businesses or organizations for the purposes of
39 and in accordance with the provisions of this act beginning on July 1,
40 2017, and ending on June 30, 2021.

41 Sec. 4. (a) There is hereby created in the state treasury the Kansas
42 reinvestment act fund. The director shall administer the fund. All
43 expenditures from the fund shall be for administration of this act as

1 provided in subsection (c) and for the purpose of promoting job creation
2 and economic development by awarding financial assistance to eligible
3 businesses or organizations in accordance with the provisions of this act
4 and shall be made in accordance with appropriation acts upon warrants of
5 the director of accounts and reports issued pursuant to vouchers approved
6 by the director or the director's designee.

7 (b) Subject to appropriation acts, beginning on July 1, 2017, and on
8 each following July 1 up to and including July 1, 2020, the director of
9 accounts and reports shall transfer \$5,000,000 from the general fund to the
10 Kansas reinvestment fund.

11 (c) Subject to appropriation acts, up to 10% of the amount transferred
12 to the Kansas investment fund each fiscal year may be used by the director
13 for the administration of the Kansas reinvestment program, including for
14 salaries of the director and any staff.

15 Sec. 5. (a) An eligible business or organization may apply to the
16 director to enter into an agreement for a loan pursuant to this act. The
17 application shall be submitted on a form and in a manner prescribed by the
18 director, and shall include evidence as specified by the director that the
19 applicant is eligible for an award as permitted by the requirements of this
20 act.

21 (b) Upon receipt of an application, if the director finds that the
22 applicant is an eligible business or organization meeting the requirements
23 of this act, the director may enter into an agreement with the eligible
24 business or organization for a loan in the amount and upon terms and
25 conditions in the director's discretion within the limitations and provisions
26 of this act. When considering an application, the director shall consult with
27 the municipal authorities responsible for economic development in the
28 municipality within which the applicant is located.

29 (c) Before awarding a loan, the director shall enter into an agreement
30 with the eligible business or organization. All agreements shall provide
31 that should the eligible business or organization fail to comply with the
32 terms set forth in the agreement, the director may terminate the agreement
33 and the funds awarded shall be returned to the Kansas reinvestment act
34 fund. All agreements shall provide that the applicant shall furnish the
35 director with information requested by the director for the purposes of
36 fulfilling the goals and ensuring compliance with the provisions of this act.
37 An award recipient shall make its books and records available for
38 inspection by the director or the director's designee at any time during
39 business hours.

40 (d) All agreements shall further specify that loan funds awarded by
41 the director shall not be used for:

42 (1) Salaries of employees;

43 (2) personal vehicles or vehicles that will be used for less than 90%

1 business use; or

2 (3) payments for debts incurred for goods or services received prior
3 to receipt of the award.

4 (e) All agreements shall contain terms providing that any fraudulent
5 activity by the loan recipient shall constitute a breach of the agreement and
6 result in the mandatory return of the full amount of awarded funds to the
7 director within 120 days. All agreements shall contain terms prohibiting
8 the sale of a business that has received a loan for a period of five years
9 from the date the loan is awarded unless the loan is paid back by the
10 business prior to or as a requirement of the sale.

11 (f) Loans shall be made under the following terms, which shall be
12 specified in the agreement between the director and the loan recipient:

13 (1) A fixed interest rate of 1.99%;

14 (2) a term of repayment set by agreement between the recipient and
15 the director;

16 (3) a six-month grace period during which interest shall accrue but no
17 payments shall be due; and

18 (4) a provision for forgiveness of the remaining principal and interest
19 upon payment of 50% of the principal, if the applicable provisions of this
20 act and terms of the agreement with the director have been met, loan
21 payments to the director have been timely made and applicable business
22 goals or other conditions in furtherance of the purposes of this act set forth
23 in the agreement between the director and the award recipient have been
24 achieved.

25 (g) The director shall set conditions under which loan payments may
26 be suspended for a period of time or the loan may be restructured where
27 circumstances beyond the control of the loan recipient have resulted or
28 will result in financial hardship and the director finds such suspension or
29 restructuring will permit the loan recipient to successfully meet the goals
30 of this act. Suspension of payments or restructuring of the loan under such
31 circumstances shall not be considered a failure to meet conditions for
32 eligibility for forgiveness of principal pursuant to subsection (f)(4).

33 Sec. 6. (a) In addition to other requirements under this act, to be
34 eligible to receive an award of a loan, a small business or new small
35 business shall meet the following requirements that shall be set forth in the
36 agreement with the director and an award recipient:

37 (1) Be located in or relocating to an impoverished area;

38 (2) meet the definition of a small business or new small business, as
39 applicable, set forth in section 2, and amendments thereto;

40 (3) not be delinquent in filing any return or paying any tax due to the
41 state of Kansas or the federal government; and

42 (4) submit to the director a business plan that has been accepted or
43 approved by:

1 (A) The Kansas small business development center or the federal
2 small business administration; and

3 (B) a bank or other financial institution approved by the director.

4 (b) In addition to other requirements under this act, to be eligible to
5 receive an award of a loan, a nonprofit organization or religious
6 organization shall meet the following requirements that shall be set forth in
7 the agreement with the director and a loan recipient:

8 (1) Be located in or relocating to an impoverished area;

9 (2) meet the definition of a nonprofit organization or religious
10 organization, as applicable, set forth in section 2, and amendments thereto;

11 (3) be current in required filings and in good standing with the federal
12 internal revenue service;

13 (4) be in good standing with regard to any filings due to the state of
14 Kansas; and

15 (5) employ no more than 25 employees and annually receive gross
16 revenues of no more than \$750,000.

17 Sec. 7. Loans awarded by the director shall be subject to the
18 following limitations:

19 (a) No religious organization or nonprofit business shall receive
20 awards totaling more than \$75,000;

21 (b) no small business shall receive awards totaling more than
22 \$100,000; and

23 (c) no new small business shall receive awards totaling more than
24 \$50,000.

25 Sec. 8. Loans to eligible businesses or organizations awarded by the
26 director shall be used for the following purposes, to be specified in the
27 agreement between the director and the award recipient:

28 (a) Business renovation;

29 (b) business equipment, including machinery, office equipment or
30 software;

31 (c) a new structure or structures;

32 (d) up to \$10,000 for relocation to an impoverished area; or

33 (e) up to \$20,000 for marketing.

34 Sec. 9. (a) A business, nonprofit organization or religious
35 organization that does not meet the applicable eligibility requirements set
36 forth in section 6(a)(2) or (b)(5), and amendments thereto, may apply to
37 the director for an exemption from one or more of those requirements. If
38 the director grants an exemption to the definition or part of the definition
39 of a "small business" pursuant to section 6(a)(2), and amendments thereto,
40 the director may also grant an exemption to the requirements of section
41 6(a)(4), and amendments thereto. No exemption shall be considered by the
42 director with regard to the business activity restrictions set forth in section
43 10, and amendments thereto.

1 (b) An application for an exemption shall be considered by the
2 director and approval or disapproval in the director's sole discretion shall
3 be given within 30 days of submission of a completed application. In
4 reviewing the application, the director shall consider:

5 (1) The direct economic impact on the impoverished area by the
6 applicant;

7 (2) tangential benefits to other businesses in the impoverished area
8 from an award to the applicant;

9 (3) the commitment by the applicant to the community of the
10 impoverished area; and

11 (4) information provided by local government authorities responsible
12 for economic development in the impoverished area regarding the impact
13 of an award.

14 (c) If the director approves the application for an exemption pursuant
15 to subsection (a), a loan or loans shall be granted to the applicant as
16 otherwise provided by this act, except that the total of all awards to the
17 applicant shall not exceed \$75,000 and the director may require terms
18 more favorable to the state than those set forth in section 5(f), and
19 amendments thereto, and need not provide a grace period or loan
20 forgiveness provision pursuant to section 5(f), and amendments thereto.

21 Sec. 10. Notwithstanding any other provision of this act, applicants
22 that engage in any of the following business activities shall not be eligible
23 for loans under this act:

24 (a) Nude or semi-nude dancing;

25 (b) pornography;

26 (c) sales of alcoholic liquor at retail, as defined in K.S.A. 41-102, and
27 amendments thereto;

28 (d) sales of cigarettes, pipe tobacco or pipes;

29 (e) loans utilizing title to vehicles as collateral; and

30 (f) check cashing.

31 Sec. 11. The director may enact rules and regulations as necessary to
32 carry out the provisions of this act.

33 Sec. 12. The provisions of this act shall expire on July 1, 2021.

34 Sec. 13. This act shall take effect and be in force from and after its
35 publication in the statute book.