

FIRST EXTRAORDINARY SESSION OF THE
SECOND REGULAR SESSION

HOUSE BILL NO. 49

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GREEN.

5896H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 620, RSMo, by adding thereto one new section relating to the Missouri minority business loan program.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 620, RSMo, is amended by adding thereto one new section, to be
2 known as section 620.1940, to read as follows:

**620.1940. 1. This section shall be known and may be cited as the "Missouri
2 Minority Business Loan Program".**

3 **2. As used in this section, the following terms mean:**

4 **(1) "Commission", the Missouri minority business advocacy commission**
5 **established under section 37.014;**

6 **(2) "Department", the department of economic development;**

7 **(3) "Member of a minority", any individual who has been subjected to racial or**
8 **ethnic prejudice or cultural bias because of his or her identity as a member of a group**
9 **without regard to his or her individual qualities. Such groups shall include, but not be**
10 **limited to, groups based on race, color, religion, sex, or national origin;**

11 **(4) "Minority business enterprise", a socially and economically disadvantaged**
12 **small business concern that is organized for profit, that is performing a commercially**
13 **useful function, and that is owned and controlled by another minority business enterprise**
14 **or one or more members of a minority, at least fifty percent of whom are resident citizens**
15 **of this state;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (5) "Owned and controlled", one or more entities control at least sixty percent of
17 the management and daily business operations of the business, and:

18 (a) For a corporation, one or more entities own at least sixty percent of the voting
19 stock; or

20 (b) For all other forms of businesses, one or more entities own at least sixty percent
21 of the business;

22 (6) "Qualified entity", a planning and development district, a small business
23 investment corporation, a bank-based community development corporation, or other entity
24 that meets the requirements established by the department;

25 (7) "Socially and economically disadvantaged small business concern", the same
26 meaning as under the Small Business Act, 15 U.S.C. Section 637(a). However, an
27 individual whose personal net worth exceeds five hundred thousand dollars shall not be
28 considered economically disadvantaged.

29 3. The department may loan or grant funds to a qualified entity for the purpose of
30 establishing revolving loan funds to assist in financing the economic development of
31 minority businesses. The moneys loaned or granted by the department shall be drawn
32 from the general revenue fund and shall not exceed twenty-nine million dollars in the
33 aggregate.

34 4. Qualified entities that receive moneys pursuant to this section shall use such
35 moneys to make loans to minority businesses consistent with requirements established by
36 the department. Such requirements shall include, at a minimum:

37 (1) The minority business shall be a private, for-profit enterprise;

38 (2) If the minority business enterprise is a proprietorship, the borrower shall be a
39 resident citizen of this state or, if the minority business enterprise is a corporation or
40 partnership, at least fifty percent of the owners shall be resident citizens of this state;

41 (3) The borrower shall have at least five percent equity interest in the minority
42 business enterprise;

43 (4) The borrower shall demonstrate an ability to repay the loan;

44 (5) The borrower shall not be in default of any previous loan from the state or
45 federal government;

46 (6) Loan proceeds shall be used for financing project costs associated with the
47 development or expansion of a small business including, but not limited to, fixed assets,
48 working capital, start-up costs, rental payments, interest expenses during construction, and
49 professional fees related to the project; and

50 (7) Loan proceeds shall not be used to pay off existing debt for loan consolidation
51 purposes; to finance the acquisition, construction, improvement, or operation of real

52 property held primarily for sale or investment; to provide for or free funds for speculation
53 in any kind of property; or as a loan to owners, partners, or stockholders of the applicant
54 that does not change ownership interests by the applicant. However, this shall not apply
55 to ordinary compensation for services rendered in the course of business.

56 5. The maximum amount that may be loaned to any one borrower shall not exceed
57 fifty percent of the total project costs or five million dollars, whichever is less. No loan
58 shall exceed seven years if for working capital, ten years if for machinery, or fifteen years
59 if for land and buildings. The interest rate on the loan may range from two percent below
60 to two percent above the Federal Reserve discount rate.

61 6. The commission shall review each loan before issuance, and no loan shall be
62 made to any borrower until the loan has been reviewed and approved by the commission.

63 7. If this program expires or is terminated, moneys not loaned or granted by the
64 department to qualified entities under this section and moneys not loaned by qualified
65 entities shall be deposited to the credit of the general revenue fund.

66 8. Notwithstanding any other provision under this section to the contrary, if federal
67 funds are not available for commitments made by a qualified entity to provide assistance
68 under any federal loan program administered by such qualified entity in coordination with
69 the Economic Development Administration, such qualified entity may use funds that are
70 not otherwise committed to provide assistance in its revolving loan fund for the purpose
71 of providing temporary funding for such commitments. If a qualified entity uses
72 uncommitted funds in its revolving loan fund to provide such temporary funding, the
73 district shall use funds repaid to the district under the temporarily funded federal loan
74 program to replenish the funds used to provide the temporary funding. Funds used by a
75 qualified entity to provide temporary funding under this subsection shall be repaid to the
76 qualified entity's revolving loan fund no later than twelve months after the date the
77 qualified entity provides the temporary funding. A qualified entity shall not use
78 uncommitted funds in its revolving loan fund to provide temporary funding under this
79 subsection on more than two occasions during a calendar year. A qualified entity may
80 provide temporary funding for multiple commitments on each such occasion. The
81 maximum aggregate amount of uncommitted funds in a revolving loan fund that may be
82 used for such purposes during a calendar year shall not exceed seventy percent of the
83 uncommitted funds in the revolving loan fund on the date the qualified entity first provides
84 temporary funding during the calendar year.

85 9. If the department determines that a qualified entity provides loans to minority
86 businesses in a manner inconsistent with the provisions of this section, the department shall
87 withhold the amount of such loans from any additional grant of funds under this section

88 to such qualified entity. If the department determines, after notifying such qualified entity
89 twice in writing and providing such qualified entity a reasonable opportunity to comply,
90 that a qualified entity has consistently failed to comply with this section, the department
91 shall declare such qualified entity in default under this section. Upon receipt of notice
92 thereof from the department, such qualified entity shall immediately cease providing loans
93 under this section, shall refund all funds held in its revolving loan fund to the department
94 for distribution to other qualified entities and, if required by the department, shall convey
95 all administrative and managerial control of loans provided by the qualified entity under
96 this section to the department.

97 **10. If the department determines that a qualified entity administering a revolving**
98 **loan fund under the provisions of this section is not actively engaged in lending as defined**
99 **by the rules and regulations of the department, the department shall notify such qualified**
100 **entity, the commission, and each legislative member whose district encompasses, in whole**
101 **or in part, the location of such qualified entity twice in writing; shall provide such qualified**
102 **entity a reasonable opportunity to take corrective action; and, if corrective action is not**
103 **taken, shall declare such qualified entity in default under this section. Upon receipt of**
104 **notice from the department, such qualified entity shall immediately cease providing loans**
105 **under this section; shall refund all funds held in its revolving loan fund to the department**
106 **for distribution to other qualified entities; and, if required by the department, shall convey**
107 **all administrative and managerial control of loans provided by the qualified entity under**
108 **this section to the department.**

109 **11. The department shall develop a program that will assist minority business**
110 **enterprises by guaranteeing bid, performance, and payment bonds that such minority**
111 **business enterprises are required to obtain in order to contract with federal agencies, state**
112 **agencies, or political subdivisions of the state. The department, as it determines necessary,**
113 **may secure letters of credit to guarantee bid, performance, and payment bonds under this**
114 **subsection. Moneys for such program shall be drawn from the moneys allocated under**
115 **subsection 3 of this section to assist the financing of minority economic development and**
116 **shall not exceed five million dollars in the aggregate.**

117 **12. The department may promulgate rules to implement the provisions of this**
118 **section. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
119 **created under the authority delegated in this section shall become effective only if it**
120 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
121 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
122 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
123 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**

124 **grant of rule making authority and any rule proposed or adopted after the effective date**
125 **of this section shall be invalid and void.**

126 **13. Under section 23.253 of the Missouri sunset act:**

127 **(1) The provisions of the new program authorized under this section shall**
128 **automatically sunset six years after the effective date of this section unless reauthorized by**
129 **an act of the general assembly;**

130 **(2) If such program is reauthorized, the program authorized under this section**
131 **shall automatically sunset twelve years after the effective date of the reauthorization of this**
132 **section; and**

133 **(3) This section shall terminate on September first of the calendar year immediately**
134 **following the calendar year in which the program authorized under this section is sunset.**

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