

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 271
Finance Committee Substitute Adopted 6/4/97

Short Title: Small Business Capital & Growth Act.

(Public)

Sponsors:

Referred to: Appropriations.

February 27, 1997

A BILL TO BE ENTITLED

AN ACT TO CREATE AT LEAST TWENTY-FIVE THOUSAND JOBS FOR NORTH CAROLINA BY PROVIDING ACCESS TO CAPITAL FOR SMALL AND MEDIUM-SIZED NORTH CAROLINA BUSINESSES THROUGH LOAN GUARANTEES.

The General Assembly of North Carolina enacts:

Section 1. This act is the Small Business Capital and Growth Act of 1997.

Section 2. Part 2 of Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-437B. Capital Access Loan Guarantee Fund.

(a) Creation; Purpose. – The Capital Access Loan Guarantee Fund is created as a special revenue account in the Department of Commerce to provide loan guarantees to qualified North Carolina businesses, as defined in G.S. 53A-37. Revenue in the Fund does not revert at the end of a fiscal year, and interest and other investment income earned by the Fund accrues to the Fund.

(b) Capital Access Loan Guarantee Program. – The Capital Access Loan Guarantee Fund shall be used to guarantee private loans made by federally insured lending institutions to qualified North Carolina businesses for capital costs of business start-ups and expansions. A loan guarantee from the Fund may not exceed ninety percent

1 (90%) of the unpaid balance of the loan. The loan guarantees shall be in amounts no less
2 than twenty-five thousand dollars (\$25,000) per business and no more than one hundred
3 fifty thousand dollars (\$150,000) per business. The loan proceeds must be used to
4 acquire, construct, or improve capital assets and may not be used for operating expenses.
5 The term of the loan may not exceed 20 years and the loan must be callable at up to seven
6 years. The loan applicant must invest equity of at least ten percent (10%) of the project
7 amount. The Fund shall charge a fee of one percent (1%) of the guaranteed amount of a
8 loan.

9 (c) Conditions for Loan Guarantees. – The Department of Commerce shall assure
10 that all loan guarantees provided from the Fund are consistent with sound business
11 practices by requiring that the loans be collateralized, that the applicants have sound
12 credit ratings and meet experience standards set by the Department, and that financing
13 not be speculative. The Department of Commerce shall assure that guaranteed loans
14 meet standards such that the loans can be sold on the secondary market.

15 The Fund shall guarantee only loans that will result in the creation of new jobs. The
16 amount of loan guarantees should not exceed twenty thousand dollars (\$20,000) per job
17 to be created, on average. The Department shall require as a condition of receiving a loan
18 guarantee from the Fund that jobs to be created by a business as a result of the loan
19 guarantee must meet the wage standard established in G.S. 105-129.4(b). The
20 Department may waive or alter this minimum wage requirement if the area in which the
21 jobs are to be created has an especially severe rate of unemployment or in similar cases
22 involving extreme circumstances.

23 (d) Priority of Financing. – In choosing businesses to finance, the Department of
24 Commerce shall give priority to start-up businesses; businesses that engage primarily in
25 manufacturing, processing, warehousing, wholesaling, research and development, or a
26 service-related industry; businesses that will create high-quality jobs; and businesses that
27 cannot obtain sufficient financing through traditional financial institutions. The
28 Department shall assign a lower priority to real estate related businesses as defined in
29 G.S. 105-163.010 and to businesses that engage primarily in providing a professional
30 service as defined in Chapter 55B of the General Statutes, construction or contracting,
31 selling or leasing at retail, providing personal grooming or cosmetic services, or offering
32 any form of entertainment, amusement, recreation, or athletic or fitness activity for which
33 an admission or a membership is charged. The Department shall not finance a business
34 engaged as a substantial part of its business in the purchase, sale, or development, or
35 purchasing, selling, or holding for investment of commercial paper, notes, other
36 indebtedness, financial instruments, securities, or real property, or otherwise in making
37 investments. The Department shall not finance a business formed for the primary
38 purpose of acquiring all or part of the stock or assets of one or more existing businesses.

39 (e) Application. – A participating lender may apply to the Department of
40 Commerce for a loan guarantee on behalf of a loan applicant. The application must
41 include the following:

42 (1) Borrower's name.

43 (2) Borrower's address and business address, if it is different.

1 (3) Documentation that the borrower is a qualified North Carolina business
2 as defined in G.S. 53A-37.

3 (4) Loan amount.

4 (5) Terms of the loan.

5 (6) Purpose of the loan.

6 (7) Documentation of the number of jobs to be created as a result of the
7 financing and the expected average wage the jobs will pay.

8 (8) Any other information required by the Department of Commerce.

9 (f) Administration. – All loan guarantees must be approved by the Department of
10 Commerce. The total amount of loan guarantees issued may not exceed 10 times the
11 amount of money in the Fund. The Department may not pledge any money other than
12 money in the Fund for payment of a loss. No action by the Department constitutes the
13 creation of a debt secured by a pledge of the taxing power or of the faith and credit of the
14 State or any of its political subdivisions. The face of each guarantee issued must contain
15 a statement that the Department is obligated to pay the guarantee only from the revenue
16 in the Fund and that neither the taxing power nor the faith and credit of the State or any
17 of its political subdivisions is pledged in payment of the guarantee.

18 (g) Disbursements. – The Department of Commerce shall pay a participating
19 lender the amount owed under a guarantee on a defaulted loan upon certification of the
20 lender that all collateral for that loan that can be reasonably liquidated has been
21 liquidated.

22 (h) Reports. – The Department of Commerce shall report annually to the General
23 Assembly concerning the applications made to the Fund and the loan guarantees made
24 from the Fund, and the impact of the guarantees on job creation in the State. The
25 Department of Commerce shall also report quarterly to the Joint Legislative Commission
26 on Governmental Operations and the Fiscal Research Division on the use of the moneys
27 in the Fund, including information regarding to whom loan guarantees were made, in
28 what amounts, and for what purposes."

29 Section 3. There is appropriated from the General Fund to the Capital Access
30 Loan Guarantee Fund created by this act the sum of twenty-five million dollars
31 (\$25,000,000) for the 1997-98 fiscal year and the sum of twenty-five million dollars
32 (\$25,000,000) for the 1998-99 fiscal year to be used as provided in this act. It is the
33 intent of the General Assembly that this appropriation represents nonrecurring funds and
34 shall not become part of the Department of Commerce's continuation budget after the
35 1997-99 fiscal biennium.

36 Section 4. This act becomes effective July 1, 1997.