WEST VIRGINIA CODE: §5b-1-8

§5B-1-8. Financial assistance for small businesses during state of emergency.

(a) The Department of Commerce is authorized to make short-term, low-interest loans available to small businesses located in counties listed in a state declaration of a state of emergency. The purpose of these loans is to mitigate the effects of business losses resulting from the conditions giving rise to the state of emergency where other forms of compensation or relief are not available.

(b) For purposes of this section, an eligible, small business means a business with less than seventy-five full-time or full-time equivalent employees, operating lawfully within this state and in compliance with the state's tax, unemployment compensation and workers' compensation laws, and which meets the criteria specified by the Department of Commerce by rule for issuance of a loan.

(c) The loan program provided by this section shall only be available when the Governor makes a written finding, following a declaration of a state of emergency by either the Governor or the Legislature, that a substantial portion of small businesses within the relevant counties require emergency financial assistance and authorizes the Department of Commerce to issue loans through this program: Provided, That the authorization also identify an appropriate source of funding for the loans.

(d) Following the Governor's finding and authorization, an eligible, small business may make application for an emergency assistance loan at any time within the duration of a state of emergency, declared pursuant section six, article five, chapter fifteen of this code, and up to ninety days after the termination of the state of emergency. The application shall be made to the division or office designated by the Secretary of Commerce to administer the loan program. Only one loan will be permitted to a business for losses arising out of a declared state of emergency and shall only be available to a business that is located within a county identified in the declaration of the state of emergency. Eligibility provisions of this subsection may apply to any state of emergency, declared by the Governor or the Legislature, that is in effect upon the effective date of this section, but in no event shall loans be made for business losses incurred or originating prior to January 1, 2014.

(e) The source of principal for any loan provided under this section shall be from funds appropriated to the Civil Contingent Fund or from any other appropriation designated for or applicable to the purpose of providing state of emergency loans to small businesses. The principal amount of any loan provided under this section shall not exceed $20,000 and the interest rate of the loan shall be fixed at a rate equal to half of the federal prime interest rate published at the time of execution of a written agreement between the agency and the loan recipient. The period of duration for loans shall be not more than twenty-four months. The provision of loans is subject to the availability of funds and shall not exceed an aggregate amount of $2 million per declared state of emergency, unless a greater amount is authorized

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by subsequent appropriation of the Legislature.

(f) Payments of interest on loans provided pursuant to this section shall be credited to the general fund of the state. Payments of principal shall be credited back to the source of funding, or if the source of funding has expired, to the general revenue fund of the state.

(g) Loans will only be provided upon execution of a written agreement with the Department of Commerce, or with the authorized designee of the Secretary of Commerce. The duty to repay the principal and pay the interest constitutes a debt to the state. The Secretary of Commerce or his or her designated representative is authorized to enforce, by any legal means, the provisions of the written agreement and to pursue collection of any and all amounts due under the terms of the written agreement and any costs to the state for the collection.

(h) Following the effective date of this section, the Secretary of Commerce shall designate an office or division within the Department of Commerce to administer the loan program and shall, acting through the designated office or division, promulgate emergency rules and propose corresponding legislative rules for consideration and authorization by the legislature to describe and delineate the manner in which application for loans will be submitted and reviewed, the criteria for approval of loan applications, including, but not limited to, the credit history of the applicant, required security and other provisions necessary for the efficient administration of this program.

(i) When the Governor authorizes the Department of Commerce to issue loans hereunder following the declaration of a state of emergency, the Secretary of Commerce shall make a report to the Joint Committee on Government and Finance at the conclusion of each fiscal year in which the loan program is in effect and loans are outstanding, regarding the number of businesses that have applied for loans, the number of loans approved, the amounts awarded, the number of employees affected thereby and a financial statement including the balance of funds available and the aggregate amount of principal and interest outstanding and due to the state.

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