WEST VIRGINIA CODE CHAPTER 7 ARTICLE 19

WV Legislature

§7-19-1. Definitions.

(a) "Agent" means the county commission or, where created, the county economic development program or the county economic development agency.

(b) "Eligible lending institution" means a financial institution that is eligible to make commercial loans, is a public depository of county funds and agrees to participate in the linked deposit program.

(c) "Eligible small business" means any business which employs fifty or fewer employees or has gross annual receipts of $2 million or less.

(d) "Linked deposit" means a certificate of deposit placed by the agent with an eligible lending institution at up to and including five percent below current market rates, as determined and calculated by the agent, provided the institution agrees to lend the value of such deposit, according to the deposit agreement provided for by this article, to eligible small businesses at up to and including five percent below the present borrowing rate applicable to each specific business at the time of the deposit of county funds in the institution.

WV Legislature

§7-19-2. Legislative findings.

The Legislature finds that many small businesses throughout the state are experiencing economic stagnation or decline, that high interest rates have caused small businesses in this state to suffer disproportionately in profitability and competition and that such high interest rates have fostered a serious increase in unemployment. The linked deposit program provided for by this article is intended to provide a countywide availability of lower cost funds for lending purposes that will materially contribute to the economic revitalization of this state. Accordingly, it is declared to be the public policy of the state to create through the linked deposit program an availability of lower-cost funds to inject needed capital into the business community, sustain or improve business profitability and protect the jobs of citizens of this state. This program is created to supplement the state linked deposit program.

WV Legislature

§7-19-3. Authority to invest; limitations on investment in linked deposits; loan cap.

County commissions are hereby authorized and empowered, in addition to all other powers and duties now conferred by law upon county commissions, to invest in linked deposits: Provided, That at the time of placement of the linked deposit not more than ten percent of the county's total investment portfolio is so invested. The amount of a reduced rate loan may not exceed $10,000 per job created or preserved as determined by the agent, subject to the availability of funds. This program is created to supplement the state linked deposit program and the agent is authorized to coordinate county linked deposits with the state program.

WV Legislature

§7-19-4. Applications for loan; priorities; loan package.

(a) An eligible lending institution that desires to receive a linked deposit shall accept and review applications for loans from eligible small businesses. The lending institution shall apply all usual lending standards to determine the credit worthiness of each eligible small business making an application.

(b) An eligible small business shall certify on its loan application that the reduced rate loan will be used exclusively to create new jobs or preserve existing jobs and employment opportunities. A reduced rate loan shall not be used to refinance existing debt, unless such action is done to prevent bankruptcy. Whoever knowingly makes a false statement concerning such application shall be prohibited from participating in the linked deposit loan program and shall be subject to the penalties provided for in section eight of this article.

(c) In considering which eligible small businesses should receive reduced rate loans, the eligible lending institution shall give priority to businesses in areas which are economically depressed and to the number of jobs to be created or preserved by the receipt of such loan.

(d) The eligible lending institution shall forward to the agent a linked deposit loan package, in the form and manner prescribed by the agent. The package shall include such information as required by the agent, including the amount of the loan requested and the number of jobs to be created or sustained by each eligible small business. The institution shall certify that each applicant is an eligible small business, and shall certify the present borrowing rate applicable to each specific eligible business.

WV Legislature

§7-19-5. Acceptance or rejection of loan package; deposit agreement.

(a) The agent may accept or reject a linked deposit loan package or any portion thereof, based on the ratio of county funds to be deposited to jobs to be sustained or created.

(b) Upon acceptance of the linked deposit loan package or any portion thereof, the agent may place certificates of deposit with the eligible lending institution at up to and including five percent below current market rates as determined by the agent. When necessary, the agent may place certificates of deposit prior to acceptance of a linked deposit loan package.

(c) The eligible lending institution shall enter into a deposit agreement with the agent, which agreement shall include requirements necessary to carry out the purposes of this article. Such requirements shall reflect the market conditions prevailing in the eligible lending institution's lending area. The agreement may include a specification of the period of time in which the lending institution is to lend funds upon the placement of a linked deposit and shall include provisions for the certificates of deposit to be placed for up to two-year maturities that may be renewed for up to an additional two years. Interest shall be paid at the times determined by the agent.

WV Legislature

§7-19-6. Rate of loan; certification and monitoring of compliance; reports.

(a) Upon the placement of a linked deposit with an eligible lending institution, such institution is required to lend such funds to each approved eligible small business listed in the linked deposit loan package required in subsection (d), section four of this article, and in accordance with the deposit agreement required by subsection (c), section five of this article. The loan shall be at up to and including five percent below the present borrowing rate applicable to each business. A certification of compliance with this section shall be required of the eligible lending institution in the form and manner prescribed by the agent.

(b) The agent shall take any and all steps necessary to implement the linked deposit program and monitor compliance of eligible lending institutions and eligible small businesses. The agent, the State Treasurer and the industrial development authority shall notify each other at least quarterly of the names of the businesses receiving financial assistance from their respective programs.

By January 1, April, July and October of each year, the agent shall report on the linked deposit program from the preceding calendar quarter to the county commission. The report shall set forth the linked deposits made by the county under the program during the quarter and shall include information regarding the nature, terms and amounts of the loans upon which the linked deposits were based and each small business to which a loan was made.

WV Legislature

§7-19-7. Liability of the county commission or its agent.

Neither the county commission or its agent is liable in any manner to any eligible lending institution for payment of the principal or interest on the loan to an eligible small business. A delay in payment or default on the part of an eligible small business does not in any manner affect the deposit agreement between the eligible lending institution and the county.

WV Legislature

§7-19-8. Penalties for violation of article.

Any violation of this article shall be deemed a misdemeanor and, any person convicted thereof shall be fined not less than $100 nor more than $500 and imprisoned in the county jail not less than one month nor more than one year.

WV Legislature