

HR 549

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SENATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1999



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SENATE BILL NO. 549

(By Senator OLIVERIO, ET AL)



PASSED MARCH 12, 1999

In Effect NINETY DAYS FROM Passage

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FOR

Senate Bill No. 549

(SENATORS OLIVERIO, MCKENZIE, MINEAR,
UNGER, HUNTER AND SPROUSE, *original sponsors*)

[Passed March 12, 1999; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, four and five, article twenty-four, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the small business environmental loan program; providing a definition of pollution prevention; providing loan conditions for projects that are at a minimum seventy-five percent pollution prevention; and authorizing the director to accept gifts, donations and contributions for the revolving loan account.

Be it enacted by the Legislature of West Virginia:

That sections two, four and five, article twenty-four, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 24. SMALL BUSINESS ENVIRONMENTAL LOAN PROGRAM.

§22-24-2. Definitions.

1 (a) "Authority" means the West Virginia economic
2 development authority established in article fifteen,
3 chapter thirty-one of this code.

4 (b) "Director" means the director of the West Virginia
5 division of environmental protection.

6 (c) "Division" means the West Virginia division of
7 environmental protection as established in article one of
8 this chapter.

9 (d) "Eligible borrower" means a small business as
10 defined in subsection (g) of this section that is required or
11 needs to conduct a qualifying environmental project as
12 defined in subsection (f) of this section. An eligible
13 borrower also means a small business that desires to
14 refinance the remaining balance of a debt that was
15 incurred between the first day of January, one thousand
16 nine hundred ninety-two, and until two years after the
17 effective date of this article, and that meets, or would have
18 met, at the time of the original loan application, the
19 requirements of this subsection. The refinancing option is
20 not available for applications received by the authority
21 more than three years after the effective date of this
22 article. Funds available for refinanced loans may not, at
23 any time, exceed forty percent of the total funds available
24 plus the outstanding balance of funded loans.

25 (e) "Environmental project" means:

26 (1) Any environmental equipment purchases and instal-
27 lations of the equipment;

28 (2) Any associated transportation, technical or consulting
29 services for installation or modification of environmental
30 equipment;

31 (3) Any equipment, purchase and installation necessary
32 to effect a process change that in the director's judgment
33 yields significant environmental benefits; or

34 (4) Any combination of subdivisions (1), (2) or (3) of this
35 subsection.

36 (f) "Pollution prevention" means the reduction or
37 elimination of pollutants at the source through process
38 modification, material substitution, in-process recycling,
39 reduction of raw material use or other source reduction or
40 elimination opportunities.

41 (g) "Qualifying environmental project" means an envi-
42 ronmental project as described in subsection (e) of this
43 section that is to be undertaken at a location in West
44 Virginia and used for the purpose of:

45 (1) Effecting pollution elimination, minimization,
46 prevention, recycling or abatement measures;

47 (2) Improving conditions or operations environmentally
48 or substantially improving compliance with local, city,
49 state, interstate or federal rules, regulations or laws
50 pertaining to the environment and human health; or

51 (3) Purchasing equipment to establish environmental
52 information, computing, consulting or laboratory services.

53 (h) "Small business" means a business that:

54 (1) Is properly registered with the appropriate agencies
55 to do business in this state;

56 (2) Is actively conducting business in this state;

57 (3) Is current with all workers' compensation and
58 unemployment premiums and state taxes; and

59 (4) Employs less than fifty full-time employees as
60 defined in subsection (i) of this section within the entire
61 company, business or corporation inside and outside this
62 state.

63 (i) "Total number of full-time employees" means all full-
64 time employees, plus all part-time employees counted as
65 full-time employee equivalents, plus all full and part-time
66 equivalent employees providing any type of service by
67 contract or by any other arrangement.

§22-24-4. Loan conditions.

1 A loan made to an eligible borrower as provided by this
2 article shall:

3 (a) Have an interest rate not to exceed one half of the
4 federal prime interest rate, but in no case may the annual
5 rate be less than four percent: *Provided*, That environmen-
6 tal loan projects that have been determined by the director
7 to be at a minimum, seventy five percent "pollution
8 prevention", shall be authorized an additional one half of
9 one percent annual interest rate reduction and the annual
10 interest for these special pollution prevention qualifying
11 environmental projects may be as low as three and one-
12 half percent;

13 (b) Have repayment terms not to exceed ten years;

14 (c) Have collateral terms acceptable to the authority; and

15 (d) Be in an amount of not less than five thousand dollars
16 nor more than one hundred fifty thousand dollars; but in
17 no case may the amount exceed ninety percent of the cost
18 of the project.

§22-24-5. Small business environmental revolving loan account.

1 (a) The small business environmental revolving loan
2 account is hereby continued in the authority and shall be
3 made available for environmental loans defined by this
4 article for any type of qualifying environmental project.
5 Loans may be issued only during the five-year period
6 commencing on the effective date of this article unless the
7 time period is otherwise extended by the Legislature. The
8 administration of this loan program is authorized for one
9 year beyond the last payment date for any outstanding
10 loan.

11 (b) The environmental revolving loan account shall be
12 funded by appropriations from the Legislature and, at the

13 director's discretion, by using portions of penalties and
14 fines that are collected from various sources, including
15 violators that economically benefited by noncompliance
16 and the director is also authorized to accept gifts, dona-
17 tions, contributions, bequests or devises of money, security
18 or property for deposit in the account: *Provided*, That the
19 maximum value of all active outstanding loans, combined
20 with funds in reserve at any time, may not exceed five
21 million dollars.

22 (c) Interest income from the small business environmen-
23 tal loan program as well as appropriations from the
24 Legislature shall be used to defray the operating costs of
25 the program, including, but not limited to, administration,
26 facilities, salaries and travel. Any excess interest income
27 shall be used to reestablish the loan program to its maxi-
28 mum authorized limit of five million dollars, with addi-
29 tional excesses returned to the state's general revenue
30 account. If interest income is not projected to provide the
31 necessary operating funds for all aspects of the small
32 business environmental loan program for any one year, the
33 authority shall request the necessary funding in the annual
34 budget request.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *approved* this the *7th*
April
Day of, 1998
[Signature]
Governor

PRESENTED TO THE

GOVERNOR

Date 3/25/99

Time 1:51 pm