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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2014

HB 4175

ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4175

(By Delegates Skaff, Barrett, Mr. Speaker,
Mr. Miley, Boggs, Hartman, White, Skinner, Lane,
Ellem, Ireland and Pasdon)

Passed March 6, 2014

In effect from its passage.

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H. B. 4175

(BY DELEGATES SKAFF, BARRETT, MR. SPEAKER,
MR. MILEY, BOGGS, HARTMAN, WHITE, SKINNER, LANE,
ELLEM, IRELAND AND PASDON)

[Passed March 6, 2014; in effect from its passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5B-1-8, relating to providing financial assistance to small businesses for losses arising during states of emergency; authorizing the Department of Commerce to provide short-term, low-interest loans to adversely-affected small businesses; specifying eligibility criteria; requiring written finding by the Governor; establishing an application process and time period; setting limits on the aggregate and individual amounts of loans and their duration and quantity; accounting for interest collected on program loans; requiring written loan agreement; declaring legal obligation to the state;

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authorizing actions to recover delinquent loans; authorizing and requiring the filing of emergency and legislative rules; and requiring the filing of annual reports.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §5B-1-8, to read as follows:

ARTICLE 1. DEPARTMENT OF COMMERCE.

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

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

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

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

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

39 (e) The source of principal for any loan provided under this
40 section shall be from funds appropriated to the Civil Contingent
41 Fund or from any other appropriation designated for or applica-
42 ble to the purpose of providing state of emergency loans to small
43 businesses. The principal amount of any loan provided under this
44 section shall not exceed \$20,000 and the interest rate of the loan
45 shall be fixed at a rate equal to half of the federal prime interest
46 rate published at the time of execution of a written agreement
47 between the agency and the loan recipient. The period of
48 duration for loans shall be not more than twenty-four months.
49 The provision of loans is subject to the availability of funds and
50 shall not exceed an aggregate amount of \$2 million per declared
51 state of emergency, unless a greater amount is authorized by
52 subsequent appropriation of the Legislature.

53 (f) Payments of interest on loans provided pursuant to this
54 section shall be credited to the general fund of the state. Pay-
55 ments of principal shall be credited back to the source of
56 funding, or if the source of funding has expired, to the general
57 revenue fund of the state.

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

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

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

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

Danny Wells

Chairman, House Committee

Rocky Fitzsimmons

Chairman, Senate Committee

Originating in the House.

In effect from its passage.

Bruce A. Braf

Clerk of the House of Delegates

Joseph M. Minard

Clerk of the Senate

Quayle

Speaker of the House of Delegates

Jeffrey V. ...

President of the Senate

The within is approved this the 1st
day of April, 2014.

Carl Ray Brubaker

Governor

PRESENTED TO THE GOVERNOR

MAR 20 2014

Time 11:05 am