



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2698

by Rep. Arthur Turner

SYNOPSIS AS INTRODUCED:

30 ILCS 750/9-3	from Ch. 127, par. 2709-3
30 ILCS 750/9-4	from Ch. 127, par. 2709-4
30 ILCS 750/9-4.2	from Ch. 127, par. 2709-4.2
30 ILCS 750/9-4.3	from Ch. 127, par. 2709-4.3

Amends the Build Illinois Act. Provides that the Department of Commerce and Economic Opportunity may also make loans or equity investments to small businesses with moneys in the State Small Business Credit Initiative Fund (currently, the Department make only make such loans and equity investments with moneys in the Build Illinois Bond Fund, the Illinois Capital Revolving Fund, or the Illinois Equity Revolving Fund). Provides that the Department of Commerce and Economic Opportunity may make loans to small businesses of up to \$2,000,000 (currently, \$750,000) per project. Provides that moneys collected from the fees imposed under this Act connected with the Capital Fund shall be deposited into the Capital Fund. Provides that loans under the minority, veteran, female, and persons with a disability loan program shall not exceed \$400,000 (currently, \$100,000) without a waiver from the Director of Commerce and Economic Opportunity. Effective immediately.

LRB100 08759 HLH 18897 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Build Illinois Act is amended by changing
5 Sections 9-3, 9-4, 9-4.2, and 9-4.3 as follows:

6 (30 ILCS 750/9-3) (from Ch. 127, par. 2709-3)

7 Sec. 9-3. Powers and duties. The Department has the power:

8 (a) To make loans or equity investments to small
9 businesses, and to make loans or grants or investments to or
10 through financial intermediaries. The loans and investments
11 shall be made from appropriations from the Build Illinois Bond
12 Fund, Illinois Capital Revolving Loan Fund, State Small
13 Business Credit Initiative Fund, or Illinois Equity Revolving
14 Fund for the purpose of promoting the creation or retention of
15 jobs within small businesses or to modernize or maintain
16 competitiveness of firms in Illinois. The grants shall be made
17 from appropriations from the Build Illinois Bond Fund or
18 Illinois Capital Revolving Loan Fund for the purpose of
19 technical assistance.

20 (b) To make loans to or investments in businesses that have
21 received federal Phase I Small Business Innovation Research
22 grants as a bridge while awaiting federal Phase II Small
23 Business Innovation Research grant funds.

1 (c) To enter into interagency agreements, accept funds or
2 grants, and engage in cooperation with agencies of the federal
3 government, local units of government, universities, research
4 foundations, political subdivisions of the State, financial
5 intermediaries, and regional economic development corporations
6 or organizations for the purposes of carrying out this Article.

7 (d) To enter into contracts, financial intermediary
8 agreements, or any other agreements or contracts with financial
9 intermediaries necessary or desirable to further the purposes
10 of this Article. Any such agreement or contract may include,
11 without limitation, terms and provisions including, but not
12 limited to loan documentation, review and approval procedures,
13 organization and servicing rights, and default conditions.

14 (e) To fix, determine, charge and collect any premiums,
15 fees, charges, costs and expenses, including without
16 limitation, any application fees, commitment fees, program
17 fees, financing charges, collection fees, training fees, or
18 publication fees in connection with its activities under this
19 Article and to accept from any source any gifts, donations, or
20 contributions of money, property, labor, or other things of
21 value to be held, used, and applied to carry out the purposes
22 of this Article. All fees, charges, collections, gifts,
23 donations, or other contributions shall be deposited into the
24 Illinois Capital Revolving Loan Fund, or the State Small
25 Business Credit Initiative Fund.

26 (f) To establish application, notification, contract, and

1 other forms, procedures, rules or regulations deemed necessary
2 and appropriate.

3 (g) To consent, subject to the provisions of any contract
4 with another person, whenever it deems it necessary or
5 desirable in the fulfillment of the purposes of this Article,
6 to the modification or restructuring of any financial
7 intermediary agreement, loan agreement or any equity
8 investment agreement to which the Department is a party.

9 (h) To take whatever actions are necessary or appropriate
10 to protect the State's interest in the event of bankruptcy,
11 default, foreclosure, or noncompliance with the terms and
12 conditions of financial assistance or participation provided
13 hereunder or to otherwise protect or affect the State's
14 interest, including the power to sell, dispose, lease or rent,
15 upon terms and conditions determined by the Director to be
16 appropriate, real or personal property which the Department may
17 receive as a result thereof.

18 (i) To deposit any "Qualified Securities" which have been
19 received by the Department as the result of any financial
20 intermediary agreement, loan, or equity investment agreement
21 executed in the carrying out of this Act, with the Office of
22 the State Treasurer and held by that office until agreement to
23 transfer such qualified security shall be certified by the
24 Director of Commerce and Economic Opportunity.

25 (j) To assist small businesses that seek to apply for
26 public or private capital in preparing the application and to

1 supply them with grant information, plans, reports,
2 assistance, or advice on development finance and to assist
3 financial intermediaries and participating lenders to build
4 capacity to make debt or equity investments through
5 conferences, workshops, seminars, publications, or any other
6 media.

7 (k) To provide for staff, administration, and related
8 support required to manage the programs authorized under this
9 Article and pay for staffing and administration from the
10 Illinois Capital Revolving Loan Fund, or the State Small
11 Business Credit Initiative Fund, as appropriated by the General
12 Assembly. Administration responsibilities may include, but are
13 not limited to, research and identification of credit
14 disadvantaged groups; design of comprehensive statewide
15 capital access plans and programs addressing capital gap and
16 capital marketplace structure and information barriers;
17 direction, management, and control of specific projects; and
18 communicate and cooperation with public development finance
19 organizations and private debt and equity sources.

20 (l) To exercise such other powers as are necessary or
21 incidental to the foregoing.

22 (Source: P.A. 94-91, eff. 7-1-05.)

23 (30 ILCS 750/9-4) (from Ch. 127, par. 2709-4)

24 Sec. 9-4. Intermediary agreements and loans. Any loan made
25 pursuant to this Article shall:

1 (a) Be made only if a participating lender or other
2 investor also provides a portion of the financing with respect
3 to the project. The participating lender's or other investor's
4 risk assumption may be in the form of a loan, letter of credit,
5 guarantee, loan participation, bond purchase, or any other form
6 approved by the Department;

7 (b) Finance no more than the lesser of 25% of the total
8 amount of any single project, or \$2,000,000 ~~\$750,000~~ for any
9 single project, unless such limitations are waived by the
10 Director, upon a finding that such waiver is appropriate to
11 accomplish the purposes of this Article;

12 (c) Be made only if the Department determines, on the basis
13 of all information available to it, that the project would not
14 be undertaken unless the loan is provided;

15 (d) Be protected by security which may include, as
16 available, first or second mortgage positions on real or
17 personal property, royalty payments on sales of products or
18 services, or any other security satisfactory to the Department
19 to secure payment of the loan agreement. Personal notes or
20 guarantees may be required from persons owning more than 20
21 percent of the small business;

22 (e) Be in such amount and form and contain such terms and
23 provisions with respect to property insurance, repairs,
24 alterations, payment of taxes and assessments, delinquency
25 charges, default remedies, additional security, and other
26 matters as the Department shall determine adequate to protect

1 the public interest;

2 (f) Be made to a business approved by the Department as
3 responsible and creditworthy;

4 (g) Be reviewed by the credit review committee established
5 by the Department pursuant to this Article;

6 (h) Be made only after the Department has made a
7 determination that the loan agreement will cause a project to
8 be undertaken which has the potential to create or retain
9 substantial employment or to modernize or improve the
10 competitiveness of the firm in relation to the amount of the
11 loan;

12 (i) Be made with businesses that have certified the project
13 is a new plant start-up, modernization, or expansion or a new
14 venture opportunity and is not relocation of an existing
15 business from another site within the State unless that
16 relocation results in substantial employment growth.

17 (Source: P.A. 88-422.)

18 (30 ILCS 750/9-4.2) (from Ch. 127, par. 2709-4.2)

19 Sec. 9-4.2. Illinois Capital Revolving Loan Fund.

20 (a) There is hereby created the Illinois Capital Revolving
21 Loan Fund, hereafter referred to in this Article as the
22 "Capital Fund" to be held as a separate fund within the State
23 Treasury.

24 The purpose of the Capital Fund is to finance intermediary
25 agreements, administration, technical assistance agreements,

1 loans, grants, or investments in Illinois. In addition, funds
2 may be used for a one time transfer in fiscal year 1994, not to
3 exceed the amounts appropriated, to the Public Infrastructure
4 Construction Loan Revolving Fund for grants and loans pursuant
5 to the Public Infrastructure Loan and Grant Program Act.
6 Investments, administration, grants, and financial aid shall
7 be used for the purposes set for in this Article. Loan
8 financing will be in the form of loan agreements pursuant to
9 the terms and conditions set forth in this Article. All loans
10 shall be conditioned on the project receiving financing from
11 participating lenders or other investors. Loan proceeds shall
12 be available for project costs, except for debt refinancing.

13 (b) There shall be deposited in the Capital Fund such
14 amounts, including but not limited to:

15 (i) All receipts, including dividends, principal and
16 interest payments and royalties, from any applicable loan,
17 intermediary, or technical assistance agreement made from
18 the Capital Fund or from direct appropriations from the
19 Build Illinois Bond Fund or the Build Illinois Purposes
20 Fund (now abolished) or the General Revenue Fund by the
21 General Assembly entered into by the Department;

22 (ii) All proceeds of assets of whatever nature received
23 by the Department as a result of default or delinquency
24 with respect to loan agreements made from the Capital Fund
25 or from direct appropriations by the General Assembly,
26 including proceeds from the sale, disposal, lease or rental

1 of real or personal property which the Department may
2 receive as a result thereof;

3 (iii) Any appropriations, grants or gifts made to the
4 Capital Fund;

5 (iv) Any income received from interest on investments
6 of moneys in the Capital Fund;

7 (v) All moneys resulting from the collection of
8 premiums, fees, charges, costs, and expenses in connection
9 with the Capital Fund as described in subsection (e) of
10 Section 9-3.

11 (c) The Treasurer may invest moneys in the Capital Fund in
12 securities constituting obligations of the United States
13 Government, or in obligations the principal of and interest on
14 which are guaranteed by the United States Government, in
15 obligations the principal of and interest on which are
16 guaranteed by the United States Government, or in certificates
17 of deposit of any State or national bank which are fully
18 secured by obligations guaranteed as to principal and interest
19 by the United States Government.

20 (Source: P.A. 94-91, eff. 7-1-05; 94-392, eff. 8-1-05; 95-331,
21 eff. 8-21-07.)

22 (30 ILCS 750/9-4.3) (from Ch. 127, par. 2709-4.3)

23 Sec. 9-4.3. Minority, veteran, female and disability
24 loans.

25 (a) In the making of loans for minority, veteran, female or

1 disability small businesses, as defined below, the Department
2 is authorized to employ different criteria in lieu of the
3 general provisions of subsections (b), (d), (e), (f), (h), and
4 (i) of Section 9-4.

5 Minority, veteran, female or disability small businesses,
6 for the purpose of this Section, shall be defined as small
7 businesses that are, in the Department's judgment, at least 51%
8 owned and managed by one or more persons who are minority or
9 female or who have a disability or who are veterans.

10 (b) Loans made pursuant to this Section:

11 (1) Shall not exceed \$400,000 ~~\$100,000~~ or 50% of the
12 business project costs unless the Director of the
13 Department determines that a waiver of these limits is
14 required to meet the purposes of this Act.

15 (2) Shall only be made if, in the Department's
16 judgment, the number of jobs to be created or retained is
17 reasonable in relation to the loan funds requested.

18 (3) Shall be protected by security. Financial
19 assistance may be secured by first, second or subordinate
20 mortgage positions on real or personal property, by royalty
21 payments, by personal notes or guarantees, or by any other
22 security satisfactory to the Department to secure
23 repayment. Security valuation requirements, as determined
24 by the Department, for the purposes of this Section, may be
25 less than required for similar loans not covered by this
26 Section, provided the applicants demonstrate adequate

1 business experience, entrepreneurial training or
2 combination thereof, as determined by the Department.

3 (4) Shall be in such principal amount and form and
4 contain such terms and provisions with respect to security,
5 insurance, reporting, delinquency charges, default
6 remedies, and other matters as the Department shall
7 determine appropriate to protect the public interest and
8 consistent with the purposes of this Section. The terms and
9 provisions may be less than required for similar loans not
10 covered by this Section.

11 (Source: P.A. 99-143, eff. 7-27-15.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.