

VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 640

An Act to amend the Code of Virginia by adding in Chapter 8 of Title 36 a section numbered 36-140.01, relating to Virginia Community Development Financial Institutions Fund and Program; report.

[S 1320]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 8 of Title 36 a section numbered 36-140.01 as follows:

§ 36-140.01. Virginia Community Development Financial Institutions Fund and Program; report.

A. For the purposes of this section:

"Financing" means (i) loans, grants, or forgivable loans that are used to start, expand, or support small businesses or nonprofit organizations; to provide operating and working capital to small businesses; or for property renovation or development or (ii) ancillary services related to such loans, grants, or forgivable loans, including technical assistance and credit counseling.

"Fund" means the Virginia Community Development Financial Institutions Fund described in subsection B.

"Microfinancing" means providing financing to small businesses in amounts of \$100,000 or less.

"Program" means the Virginia Community Development Financial Institutions Program described in subsection C.

"Qualifying institution" means a community development financial institution (CDFI), community development bank (CDB), or community development credit union that the Secretary of Commerce and Trade finds is (i) legally qualified to do business within the Commonwealth, (ii) subject to oversight by the applicable federal or state financial institution or insurance regulatory agencies, and (iii) eligible for certification by the U.S. Department of the Treasury as a CDFI.

B. There is hereby continued in the state treasury a special nonreverting fund known as the Virginia Community Development Financial Institutions Fund, originally established in Item 114, Chapter 552 of the Acts of Assembly of 2021, Special Session I. The Fund shall be continued on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of providing financing to qualifying institutions as part of the Program established by subsection C. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department of Housing and Community Development.

C. 1. There is hereby created the Virginia Community Development Financial Institutions Program to provide grants and loans to qualifying institutions to provide financing to support small businesses, housing development and rehabilitation projects, and community revitalization real estate projects in the Commonwealth. In providing financing to small businesses, qualifying institutions shall emphasize microfinancing.

2. a. Qualifying institutions shall be required, as a condition of receiving funds from the Program, to use such funds only for the purposes described in this section. Such funds shall be kept segregated by the qualifying institutions from all other funds. In the event that funds provided by the Program are used for any purpose other than those described in this section, the qualifying institution shall repay such funds to the Program.

b. Notwithstanding the provisions of subdivision a, (i) income in the form of interest, fees, or gains earned by a qualifying institution from providing financing and (ii) administrative costs incurred in administering Program funds shall not be subject to the restrictions provided by subdivision a.

D. The Department shall develop appropriate criteria and guidelines for the use of funding provided from the Fund and shall establish monitoring and accountability mechanisms for organizations receiving funding. Additionally, the Department shall (i) identify qualifying institutions based on criteria developed by the Department and in accordance with this section; (ii) ensure that grants and loans provided by the Program are utilized in a manner that aligns with the Program's goal of promoting housing and community development, capital access, housing access, and small business support; (iii) ensure that in using funds provided by the Program, qualifying institutions emphasize microfinancing to small businesses; (iv) establish a mechanism for obtaining repayment of misused funds in accordance with

subdivision C 2 a; and (v) utilize Program funds to promote collaborative and cooperative projects with public and private sector partners that align with the purposes of the Program.

E. On or before December 1 of each year, the Department shall submit a report to the Secretary of Commerce and Trade, the Governor, and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations. The report shall describe the number of projects funded; the geographic distribution of the projects; the costs of the Program; and the outcomes, including the number and total amount of loans, grants, and forgivable loans deployed, the number and type of jobs created or retained, and other community revitalization projects associated with the Program. The report shall also provide information on such other matters regarding the Fund as the Department may deem appropriate or other items as may be requested by any of the foregoing persons to whom such report is to be submitted.