

Chapter 43.168 RCW
RURAL WASHINGTON LOAN FUND

(Formerly: Washington state development loan fund committee)

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Public records: Chapter 42.56 RCW.

RCW 43.168.010 Findings—Declaration. The legislature finds that:

(1) The economic health and well-being of the state, particularly in areas of high unemployment, economic stagnation, and poverty, is of substantial public concern.

(2) The consequences of minimal economic activity and persistent unemployment and underemployment are serious threats to the safety, health, and welfare of residents of these areas, decreasing the value of private investments and jeopardizing the sources of public revenue.

(3) The economic and social interdependence of communities and the vitality of industrial and economic activity necessitates, and is in part dependent on preventing substantial dislocation of residents and rebuilding the diversification of the areas' economy.

(4) The ability to remedy problems in stagnant areas of the state is beyond the power and control of the regulatory process and influence of the state, and the ordinary operations of private enterprise without additional governmental assistance are insufficient to adequately remedy the problems of poverty and unemployment.

(5) The revitalization of depressed communities requires the stimulation of private investment, the development of new business ventures, the provision of capital to ventures sponsored by local organizations and capable of growth in the business markets, and assistance to viable, but under-financed, small businesses in order to create and preserve jobs that are sustainable in the local economy.

Therefore, the legislature declares there to be a substantial public purpose in providing capital to promote economic development and job creation in areas of economic stagnation, unemployment, and

poverty. To accomplish this purpose, the legislature hereby creates the rural Washington loan fund and vests in the department of commerce the authority to spend federal funds to stimulate the economy of distressed areas. [2023 c 470 § 2065; 1999 c 164 § 501; 1985 c 164 § 1.]

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

RCW 43.168.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of commerce.

(2) "Director" means the director of commerce.

(3) "Distressed area" means: (a) A rural county; (b) a county which has an unemployment rate which is twenty percent above the state average for the immediately previous three years; (c) a county that has a median household income that is less than seventy-five percent of the state median household income for the previous three years; (d) a metropolitan statistical area, as defined by the office of federal statistical policy and standards, United States department of commerce, in which the average level of unemployment for the calendar year immediately preceding the year in which an application is filed under this chapter exceeds the average state unemployment for such calendar year by twenty percent; or (e) an area within a county, which area: (i) Is composed of contiguous census tracts; (ii) has a minimum population of five thousand persons; (iii) has at least seventy percent of its families and unrelated individuals with incomes below eighty percent of the county's median income for families and unrelated individuals; and (iv) has an unemployment rate which is at least forty percent higher than the county's unemployment rate. For purposes of this definition, "families and unrelated individuals" has the same meaning that is ascribed to that term by the federal department of housing and urban development in its regulations authorizing action grants for economic development and neighborhood revitalization projects.

(4) "Fund" means the rural Washington loan fund.

(5) "Local development organization" means a nonprofit organization which is organized to operate within an area, demonstrates a commitment to a long-standing effort for an economic development program, and makes a demonstrable effort to assist in the employment of unemployed or underemployed residents in an area.

(6) "Project" means the establishment of a new or expanded business in an area which when completed will provide employment opportunities. "Project" also means the retention of an existing business in an area which when completed will provide employment opportunities.

(7) "Rural county" has the same meaning as provided in RCW 82.14.370. [2009 c 565 § 36; 2008 c 131 § 2; 2005 c 136 § 3; 1999 c 164 § 502; 1996 c 290 § 3; 1995 c 226 § 27; 1993 c 280 § 56; 1991 c 314 § 19; 1988 c 42 § 18; 1987 c 461 § 2; 1985 c 164 § 2.]

Effective date—2008 c 131: See note following RCW 43.160.020.

Savings—2005 c 136: "This act does not affect any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections." [2005 c 136 § 19.]

Effective date—2005 c 136: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005." [2005 c 136 § 20.]

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

Severability—Conflict with federal requirements—Effective date—1995 c 226: See notes following RCW 43.160.020.

Effective date—1993 c 280: See RCW 43.330.902.

Findings—1991 c 314: See note following RCW 43.160.020.

Severability—1988 c 42: See note following RCW 4.24.480.

RCW 43.168.040 Approval of applications for federal community development block grant funds for projects. Subject to the restrictions contained in this chapter, the director is authorized to approve applications of local governments for federal community development block grant funds which the local governments would use to make loans to finance business projects within their jurisdictions. Applications approved by the director under this chapter shall conform to applicable federal requirements. [2005 c 136 § 4; 1987 c 461 § 3; 1985 c 164 § 4.]

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.

RCW 43.168.050 Application approval—Conditions and limitations.

(1) The director may only approve an application providing a loan for a project which the director finds:

(a) Will result in the creation of employment opportunities, the maintenance of threatened employment, or development or expansion of business ownership by minorities and women;

(b) Will conform to federal rules and regulations governing the spending of federal community development block grant funds;

(c) Will be of public benefit and for a public purpose, and that the benefits, including increased or maintained employment, improved standard of living, the employment of disadvantaged workers, and development or expansion of business ownership by minorities and women, will primarily accrue to residents of the area;

(d) Will probably be successful;

(e) Would probably not be completed without the loan because other capital or financing at feasible terms is unavailable or the return on investment is inadequate.

(2) The director shall, subject to federal block grant criteria, give higher priority to economic development projects that contain provisions for child care.

(3) The director may not approve an application if it fails to provide for adequate reporting or disclosure of financial data to the director. The director may require an annual or other periodic audit of the project books.

(4) The director may require that the project be managed in whole or in part by a local development organization and may prescribe a management fee to be paid to such organization by the recipient of the loan or grant.

(5) The director may approve an application which results in a loan or grant of up to one million dollars.

(6) The director shall fix the terms and rates pertaining to fund loans.

(7) Should there be more demand for loans than funds available for lending, the director shall provide loans for those projects which will lead to the greatest amount of employment or benefit to a community. In determining the "greatest amount of employment or benefit" the director shall also consider the employment which would be saved by its loan and the benefit relative to the community, not just the total number of new jobs or jobs saved.

(8) To the extent permitted under federal law the director shall require applicants to provide for the transfer of all payments of principal and interest on loans to the fund created under this chapter. Under circumstances where the federal law does not permit the director to require such transfer, the director shall give priority to applications where the applicants on their own volition make commitments to provide for the transfer.

(9) The director shall not approve any application to finance or help finance a shopping mall.

(10) For loans not made to minority and women-owned businesses, the director shall make at least eighty percent of the appropriated funds available to projects located in distressed areas, and may make up to twenty percent available to projects located in areas not designated as distressed. For loans not made to minority and women-owned businesses, the director shall not make funds available to projects located in areas not designated as distressed if the fund's net worth is less than seven million one hundred thousand dollars.

(11) If an objection is raised to a project on the basis of unfair business competition, the director shall evaluate the potential impact of a project on similar businesses located in the local market area. A grant may be denied by the director if a project is not likely to result in a net increase in employment within a local market area.

(12) For loans to minority and women-owned businesses who do not meet the credit criteria, the director may consider nontraditional credit standards to offset past discrimination that has precluded full participation of minority or women-owned businesses in the economy. For applicants with high potential who do not meet the credit criteria, the director shall consider developing alternative borrowing methods. For applicants denied loans due to credit problems, the department shall provide financial counseling within available resources and provide referrals to credit rehabilitation services. In circumstances of competing applications, priority shall be given to

members of eligible groups which previously have been least served by this fund. [2005 c 136 § 5; 1993 c 512 § 12; 1990 1st ex.s. c 17 § 74; 1989 c 430 § 9; 1987 c 461 § 4; 1986 c 204 § 2; 1985 c 164 § 5.]

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

RCW 43.168.055 Application priorities. In addition to the requirements of RCW 43.168.050, the department shall, subject to applicable federal funding criteria, give priority to applications that capitalize or recapitalize an existing or new local revolving fund based on criteria established by the department. [1999 c 164 § 503.]

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

RCW 43.168.060 Local development organizations—Duties of department—Rules. The department is encouraged to work with local development organizations to promote applications for loans by the fund. The department shall also provide assistance to local development organizations and local governments to identify viable projects for consideration. The department shall adopt such rules and regulations as are appropriate for implementation of this chapter. [2005 c 136 § 6; 1985 c 164 § 6.]

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.

RCW 43.168.070 Processing of applications—Contents of applications. The director may receive and approve applications on a monthly basis but shall receive and approve applications on at least a quarterly basis for each fiscal year. The director shall make every effort to simplify the loan process for applicants. Department staff shall process and assist in the preparation of applications. Each application shall show in detail the nature of the project, the types and numbers of jobs to be created, wages to be paid to new employees, and methods to hire unemployed persons from the area. Each application shall contain a credit analysis of the business to receive the loan. The director may respond on short notice to applications of a serious or immediate nature. [2005 c 136 § 7; 1993 c 512 § 14; 1987 c 461 § 5; 1985 c 164 § 7.]

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.

RCW 43.168.090 Use of federal community development block grant funds. The department shall use for the fund an amount of federal community development block grant funds equal to the amount of state funds transferred or appropriated to the department for purposes of supplementing the department's block grant funds. [2005 c 136 § 8; 1985 c 164 § 9.]

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.

RCW 43.168.100 Entitlement community grants—Conditions. The director may make grants of state funds to local governments which qualify as "entitlement communities" under the federal law authorizing community development block grants. These grants may only be made on the condition that the entitlement community provide the director with assurances that it will: (1) Spend the grant moneys for purposes and in a manner which satisfies state constitutional requirements; (2) spend the grant moneys for purposes and in a manner which would satisfy federal requirements; and (3) spend at least the same amount of the grant for loans to businesses from the federal funds received by the entitlement community. [2005 c 136 § 9; 1993 c 512 § 15; 1986 c 204 § 1; 1985 c 164 § 10.]

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.

RCW 43.168.110 Rural Washington loan fund. There is established the rural Washington loan fund which shall be an account in the state treasury. All loan payments of principal and interest which are transferred under RCW 43.168.050 shall be deposited into the account. Moneys in the account may be spent only after legislative appropriation for loans under this chapter. Any expenditures of these moneys shall conform to federal law. [1999 c 164 § 504; 1992 c 235 § 11; 1985 c 164 § 11.]

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

RCW 43.168.120 Guidelines for use of funds for existing economic development revolving loan funds—Grants to local governments to assist existing economic development revolving loan funds. (1) The department shall develop guidelines for rural Washington loan funds to be used to fund existing economic development revolving loan funds. Consideration shall be given to the selection process for grantees, loan quality criteria, legal and regulatory issues, and ways to minimize duplication between rural Washington loan funds and local economic development revolving loan funds.

(2) If it appears that all of the funds appropriated to the fund for a biennium will not be fully granted to local governments within that biennium, the department may make available up to twenty percent of the eighty percent of the funds available to projects in distressed areas under RCW 43.168.050(10) for grants to local governments to assist existing economic development revolving loan funds in

distressed areas. The grants to local governments shall be utilized to make loans to businesses that meet the specifications for loans under this chapter. The local governments shall, to the extent permitted under federal law, agree to convey to the fund the principal and interest payments from existing loans that the local governments have made through their revolving loan funds. Under circumstances where the federal law does not permit the department to require such transfer, the department shall give priority to applications where the applicants on their own volition make commitments to provide for the transfer. [1999 c 164 § 505; 1987 c 461 § 6.]

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

RCW 43.168.130 Development of performance standards. The director shall develop performance standards for judging the effectiveness of the program. Such standards shall include, to the extent possible, examining the effectiveness of grants in regard to:

- (1) Job creation for individuals of low and moderate income;
- (2) Retention of existing employment;
- (3) The creation of new employment opportunities;
- (4) The diversification of the economic base of local communities;
- (5) The establishment of employee cooperatives;
- (6) The provision of assistance in cases of employee buy-outs of firms to prevent the loss of existing employment;
- (7) The degree of risk assumed by the fund, with emphasis on loans which did not receive financing from commercial lenders, but which are considered financially sound. [2005 c 136 § 10; 1998 c 245 § 52; 1987 c 461 § 7.]

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.

RCW 43.168.150 Minority and women-owned businesses—Application process—Joint loan guarantee program. Subject to the restrictions contained in this chapter, the director is authorized to approve applications of minority and women-owned businesses for loans or loan guarantees from the fund. Applications approved by the director under this chapter shall conform to applicable federal requirements. The director shall prioritize available funds for loan guarantees rather than loans when possible. The director may enter into agreements with other public or private lending institutions to develop a joint loan guarantee program for minority and women-owned businesses. If such a program is developed, the director may provide funds, in conjunction with the other organizations, to operate the program. This section does not preclude the director from making individual loan guarantees. To the maximum extent practicable, the funds available under this section shall be made available on an equal basis to minority and women-owned businesses. The director shall submit to the appropriate committees of the senate and house of representatives quarterly reports that detail the number of loans approved and the characteristics of the recipients by ethnic and gender groups. [2005 c 136 § 11; 1993 c 512 § 13.]

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.