

**Introduced by Senator Simitian**

February 20, 2008

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An act to amend Section 44559.4 of the Health and Safety Code, relating to the Capital Access Loan Program.

LEGISLATIVE COUNSEL'S DIGEST

SB 1311, as introduced, Simitian. California Pollution Control Financing Authority: Capital Access Loan Program.

Existing law establishes the Capital Access Loan Program for small businesses, administered by the California Pollution Control Financing Authority, which provides loans through participating financial institutions to qualifying small businesses. The authority is required to create a loss reserve account for each financial institution. The financial institution and the borrower are each required to pay a fee of an equal amount into the loss reserve account. The authority is required to contribute an amount not less than the total amount of the combined fees paid by the borrower and the participating financial institution, if no matching funds are available under a federal capital access program or other source.

This bill would reduce the contribution of the authority to an amount not less than the amount of fees paid by the participating financial institution.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 44559.4 of the Health and Safety Code
- 2 is amended to read:

1 44559.4. (a) ~~When~~*If* a financial institution ~~participates that~~  
2 *is participating* in the Capital Access Loan Program established  
3 pursuant to this article, ~~if the financial institution~~ decides to enroll  
4 a qualified loan under the program in order to obtain the protection  
5 against loss provided by its loss reserve account, ~~the financial~~  
6 ~~institution~~ *it* shall notify the authority in writing on a form  
7 prescribed by the authority, within 10 days after the date on which  
8 the loan is made, of all of the following:

- 9 (1) The disbursement of the loan.
- 10 (2) The dollar amount of the loan enrolled.
- 11 (3) The interest rate applicable to, and the term of, the loan.
- 12 (4) The amount of the agreed upon premium.

13 (b) The financial institution may make a qualified loan to be  
14 enrolled under the program to an individual, or to a partnership or  
15 trust wholly owned or controlled by an individual, for the purpose  
16 of financing property that will be leased to a qualified business  
17 that is wholly owned by that individual. In that case, the property  
18 shall be treated as meeting the requirements of paragraph (1) of  
19 subdivision ~~(f)~~ (g) of Section 44559.1.

20 (c) When making a qualified loan that will be enrolled under  
21 the program, the participating financial institution shall require  
22 the qualified business to which the loan is made to pay a fee of  
23 not less than 2 percent of the principal amount of the loan, but not  
24 more than 3 ½ percent of ~~such~~ *the* principal amount. The financial  
25 institution shall also pay a fee in an amount equal to the fee paid  
26 by the borrower. The financial institution shall deliver the fees  
27 collected under this subdivision to the authority for deposit in the  
28 loss reserve account for the institution. The financial institution  
29 may recover from the borrower the cost of its payments to the loss  
30 reserve account through the financing of the loan, upon the  
31 agreement of the financial institution and the borrower.

32 (d) When depositing fees collected under subdivision (c) to the  
33 credit of the loss reserve account for a participating financial  
34 institution, the authority shall do the following:

- 35 (1) If no matching funds are available under a federal capital  
36 access program or other source, the authority shall transfer to the  
37 loss reserve account an amount that is not less than the ~~total~~  
38 of the ~~combined~~ fees paid by the ~~borrower and the~~ participating  
39 financial institution. However, if the qualified business is located  
40 within a severely affected community, the authority shall transfer

1 to the loss reserve account an amount equal to 150 percent of the  
2 total amount of the fees paid by the borrower and the participating  
3 financial institution.

4 (2) If matching funds are available under a federal capital access  
5 program or other source, the authority shall transfer, on an  
6 immediate or deferred basis, to the loss reserve account the amount  
7 required by that federal program or other source. However, the  
8 total amount deposited into the loss reserve account shall not be  
9 less than the amount which would have been deposited in the  
10 absence of matching funds.

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