

**2009 DRAFTING REQUEST**

**Bill**

Received: **09/18/2009**

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB:

For: **Peter Barca (608) 266-5504**

By/Representing: **Cathy Friedl**

This file may be shown to any legislator: **NO**

Drafter: **csundber**

May Contact:

Addl. Drafters:

Subject: **Econ. Development - bus. dev.**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Barca@legis.wisconsin.gov**

Carbon copy (CC:) to: **christopher.sundberg@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Capital access program

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	csundber 10/16/2009	kfollett 10/16/2009		_____			
/P1	csundber 10/23/2009	kfollett 10/23/2009	mduchek 10/16/2009	_____	mbarman 10/16/2009		State
/1			mduchek 10/23/2009	_____	cduerst 10/23/2009	cduerst 10/26/2009	

FE Sent For:

↳ At Intro.

<END>

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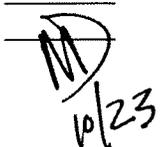
See attached

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/?	csundber 10/16/2009	kfollett 10/16/2009		_____			
/P1		1/kjf 10/23	mduchek 10/16/2009	_____	mbarman 10/16/2009		

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/?	csundber	1P/15f 10/15	 10/15	_____	_____		

FE Sent For:

<END>

# Bill Request Form

**Legislative Reference Bureau**  
One East Main Street, Suite 200  
Legal Section 266-3561

You may use this form or talk directly with the LRB attorney who will draft the bill.

Date 9/14/09

Legislator, agency, or other person requesting this draft Peter Barca

Person submitting request (name and phone number) Cathy Friedl 266-5504

Persons to contact for questions about this draft (names and phone numbers) Cathy Friedl (608-266-5504); Carla MacDonald (608-266-5504); James Sonnenman (507-458-2743)

Describe the problem, including any helpful examples. How do you want to solve the problem?

We want to provide select, small community development oriented banks the incentive to issue responsible loans that are just too risky to approve amidst today's tight credit market. This would be accomplished through a loan-loss reserve fund which will be pooled between the lending institution, lender, and applicable state department. The bill will be modeled on legislation, <sup>common</sup> called Capital Access Programs (CAP), introduced in Michigan, <sup>in Milwaukee.</sup> The bill will also take cues from the SBA's own CAP program. →

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.

→ we are looking to expand the Milwaukee program to Racine, Kenosha, Walworth Counties + 3 other counties up to Dept. of Commerce

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 2005 LRB-2345/1 or 2003 AB-67).

Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? YES NO

If yes: Anyone who asks? YES NO  
Any legislator? YES NO

Only the following persons \_\_\_\_\_

Do you consider this request urgent? YES NO If yes, please indicate why \_\_\_\_\_

Should we give this request priority over any pending request of this legislator, agency, or person?  
YES NO

## A Short Rundown of Capital Access Programs

Capital Access Programs (CAP) provide banks with the incentive to issue loans to small businesses and local non-profits which are just too risky to take on. The SBA has a similar program but many states—26 in all and 2 cities (including Milwaukee)—have found that the SBA program alone does not provide enough support to make up for the shrinking access to credit small businesses face, especially during today's economic downturn. In response, these states have created Capital Access Programs of their own, based primarily on the SBA model and the state of Michigan's (the first state to adopt this program in 1986).

In most or all CAP programs, states designate certain banks as "Community Development Financial Institutions" (CDFI) which become eligible for CAP support. A CDFI is considered a responsible lender or investor operating with a community development mission. The legwork in obtaining financing and final approval of the loan is though the CDFI institution and its own mechanisms, removing almost all government bureaucracy. The state basically just insures against a responsible, but risky, loan and leaves every detail to the issuer and loaned.

CAP support essentially helps a CDFI build a reserve against losses. The CDFI, the loaned, and the CAP institution (eg...state, treasury, or government sponsored cooperative) pool money that amounts to around 6-14% of the loan amount. Often the loaned and the CDFI will each put a quarter share into this pot and the CAP will match that amount; this would put public leverage of private financing in a range of 33:1 (3% of loan) to 14:1 (7% of loan). Ideally, the pool grows as more CAP sponsored loans are made. It can be either aggregated among CDFIs or assigned to an individual bank. The bank draws from the pool to make up for any losses on failed loans in the CAP program.

CAP is designed to provide small businesses and non-profits credit opportunities unavailable in today's tightened credit market. Because there are so many banks participating as CDFIs in the twenty-eight CAP programs currently underway in the United States, we can see how the demand for CAP-sponsored funds from small business has increased. The Opportunity Finance Network (OFN) reported that among participating CDFIs, 77% saw an increase in loan applications and 67% saw an increase in loan originations. The same study by the OFN also concluded that while demand for loans rose, a significant percentage of CDFIs reported a decrease in access to capital and capital liquidity. A CAP in Wisconsin would help CDFI designated banks build up loan reserves, freeing up additional capital for small business lending.

Milwaukee\* is one of the two cities in the country with a CAP program—along with New York City. This could be used as an important foundation when creating a statewide CAP program.

- [http://www.medconline.com/Loan\\_Programs.html#content2](http://www.medconline.com/Loan_Programs.html#content2)

PWB/jas

## **Capital Access Program-Milwaukee**

The Capital Access Program is structured as a public/private loan portfolio reserve program. Participating members, along with borrowers, set aside funds as a reserve against loan losses. This is accomplished through the creation of a loan loss reserve which enables banks to be more aggressive while prudently making and structuring loans. The bank makes the approval determination, structures the loan, and simply files a one page form with MEDC.

Each bank has funds earmarked in its name, and can withdraw funds from its CAP reserve to cover losses on any loans it enrolled in the program. The full amount in the bank's reserve is available to cover losses from any bank loan made under the program.

Payments ranging from 6 to 14% of the loan amount are made into each bank's reserve every time the bank makes a loan under the program. The borrower makes a premium payment, the bank matches that payment, and CAP matches the combined total of those two payments. The bank may recover the cost of its payment from the borrower through several means, such as a higher interest rate, up-front fees, or some other combination. These payments and fees can be financed as part of a loan.

For example, if the borrower pays the minimum 1.5% of the loan amount, the bank would match that with another 1.5%, and CAP would contribute 3%, for a total of 6%. At the maximum, the borrower would contribute 3.5%, the bank another 3.5% and CAP 7% for a total of 14%.

The reserve enables a bank to be more aggressive in making loans. If loans are paid off without loss, the bank preserves its reserve funds. While there is a clear incentive for banks to be prudent, the program enables lenders to be cautious while making riskier loans, since they can withstand a substantially higher loss rate than could be tolerated on a conventional loan portfolio.

### **List of Participating Banks**

Associated Bank  
JP Morgan Chase Bank  
Community Bank Group  
First Business Bank - Milwaukee  
Legacy Bank  
M&I Marshall & Ilsley Bank  
North Milwaukee State Bank  
Park Bank  
TCF National Bank  
Tri City National Bank  
US Bank  
Waukesha State Bank

Taken from [http://www.medconline.com/Loan\\_Programs.html](http://www.medconline.com/Loan_Programs.html)

## CAPITAL ACCESS PROGRAM

The Capital Access Program (CAP) is one of the Michigan Economic Development Corporation's (MEDC)<sup>SM</sup> innovative programs available to assist businesses with capital needs. The CAP uses small amounts of public resources to generate private bank financing, providing small Michigan businesses access to capital that might not otherwise be available.

Under the CAP, more than 11,211 loans have been provided to Michigan businesses over the past 22 years. The \$24.3 million in public/state/MEDC/MSF resources committed to the program supported approximately \$628.7 million in bank lending—a private/public ratio of 27 to one.

After a three year absence, the CAP was re-established in April of 2006 to continue assisting small businesses with their financing needs. The program can be used to finance most types of business (with the exceptions of construction, renovation, purchase of residential or rental housing, or rental property). The only restriction on the loan size or term is a maximum loan amount of \$5 million.

Participating banks throughout Michigan offer CAP loans directly to companies that need credit enhancement. Similar to a loan loss reserve fund, the bank, the company and the MEDC pay a small premium into a reserve that makes it possible for the company to receive fixed asset and working capital financing.

### DIRECT BANK-BUSINESS TRANSACTION

- CAP loans are private transactions between banks and borrowers
- MEDC plays no role in lending decisions nor in setting loan terms & conditions
- The bank assumes the risk of the loan

### FLEXIBLE, NON-BUREAUCRATIC

- CAP loans can be long- or short-term, term loans or lines of credit
- The bank has the flexibility to recast, extend or refinance the loan to address the needs of the business owner

### ELIGIBLE BORROWERS

- CAP loans are available to most businesses located and legally authorized to do business in Michigan that satisfy the bank's criteria
- Small businesses—less than 250 employees OR \$6 million in gross annual sales
- Must be for profit institutions

### PARTICIPATING FINANCIAL INSTITUTIONS

To date, 54 financial institutions in Michigan have signed on to participate. More are being added as the MEDC continues to market the program statewide. (Participants are shown on the following page.)

- Ann Arbor Commerce Bank
- Bank of Auburn Hills
- Bank of Lenawee
- Bank of Michigan
- Byron Bank
- Capitol National Bank
- Central Macomb Community Credit Union
- Century Bank and Trust
- Chelsea State Bank
- Chemical Bank
- ChoiceOne Bank
- Christian Financial Credit Union
- Citizens National Bank
- Citizens State Bank
- Comerica Bank
- Commercial Bank
- County National Bank
- Dart Bank
- Detroit Edison Credit Union
- Fifth Third Bank
- First National Bank in Howell
- First State Bank
- Grand Haven Bank
- The Huntington National Bank
- Huron Community Bank
- Independent Bank
- Ionia County National Bank
- Irwin Union Bank & Trust
- Isabella Bank & Trust
- Kent Commerce Bank
- Keystone Community Bank
- Lake-Osceola State Bank
- Lapeer County Bank and Trust
- LaSalle Bank Midwest
- Macomb Community Bank
- Macatawa Bank
- Main Street Bank
- Mercantile Bank of Michigan
- MidWest Financial Credit Union
- Muskegon Commerce Bank
- National City Bank
- NuUnion Credit Union
- Option 1 Credit Union
- Paragon Bank & Trust
- Peoples State Bank
- Portage Commerce Bank
- Southern Michigan Bank & Trust
- Sturgis Bank & Trust Company
- United Bank & Trust
- United Bank & Trust-Washtenaw
- University Bank
- Upper Peninsula State Bank
- West Michigan Community Bank
- West Shore Bank

For further information, contact the MEDC Customer Assistance Center at 517.373.9808 or [CAP@michigan.org](mailto:CAP@michigan.org).

### Capital Access Program State Laws

State	State Law	Date Enacted
<b>Arkansas</b>	Arkansas Statutes Annotated 15-5-1101 et seq.	1993
<b>California</b>	California Health & Safety Code § 44559.1 et seq.	1994
<b>Colorado*</b>	Colorado Revised Statutes 29-4-710.5 et seq.	1993
<b>Connecticut*</b>	Connecticut General Statutes § 8-167 et seq.	1993
<b>Florida*</b>	Florida Statutes 19-288.901 et seq.	1996
<b>Illinois*</b>	30 Illinois Compiled Statutes 750/9 et seq.	1997
<b>Indiana</b>	Indiana Code 4-4-26	1992
<b>Louisiana*</b>	Louisiana Revised Statutes 51.2311 et seq.	1998
<b>Massachusetts</b>	General Laws of Massachusetts chap. 23A, § 57	1993
<b>Michigan*</b>	Michigan Statutes Annotated 3.541 (201) et seq.	1986
<b>Minnesota</b>	Minnesota Statutes chapter 116J.876	1989
<b>New Hampshire</b>	New Hampshire Revised Statutes chap. 162-A:12	1992
<b>New York City*</b>	New York State Consolidated Laws chap. 15	1993
<b>North Carolina</b>	North Carolina 1993 Session Laws, chap. 769, § 28.1 (a7)	1994
<b>Ohio (Akron)*</b>	Ohio Revised Code 1.166	1995
<b>Oklahoma*</b>	74 Oklahoma Statutes 5085.2 et seq.	1992
<b>Oregon</b>	Oregon Revised Statutes 285B.126	1989
<b>Pennsylvania*</b>	73 Pennsylvania Statutes 376.2	1994
<b>Texas</b>	Texas Government Code chap. 481, subchap. BB, § 481.401 et seq.	1997
<b>Utah</b>	Utah Code Annotated 9-2-1303 et seq.	1991
<b>Vermont*</b>	Vermont Statutes Title 10, chap. 12, § 279	1993
<b>Virginia</b>	Virginia Code 9-228.5 et seq.	1996
<b>West Virginia*</b>	West Virginia Code 31-15A-1 et seq.	1991
<b>Wisconsin*</b>	Wisconsin Statutes chap. 560.03	1992

\* No specific CAP legislation; generic economic development statute used.

**Wisconsin Development Statute relating to Capital Access Programs (CAP):**

**560.03 Business and industrial development.** The department shall foster, encourage and advocate economic development programs designed to broaden and strengthen the economy of the state, and it shall provide specific leadership in the following instances among others:

(1) Support and assist the efforts of local business and industry, local government, state, regional and local development corporations, industrial committees, chambers of commerce, labor organizations and other similar public and private agencies to foster expansion of existing agricultural, commercial, industrial and mining enterprises, and initiate efforts to attract new enterprises, including working jointly with the department of agriculture, trade and consumer protection to develop deer farming under s. 93.46 (1) (am).

(2) Identify for the governor's attention those significant business and industrial problems which may be relieved by state action.

(3) Assist in the formulation and implementation of integrated economic and community development programs for northern Wisconsin and other areas or regions of the state and cooperate with and provide technical assistance to any organizations created for the purpose of aiding and encouraging an orderly, productive and coordinated development of the state.

(4) Assist in the formulation and development of a more intensive program to aid and expand the mining industry.

(4m) Provide, to communities in northern Wisconsin that are affected by mining, technical assistance with planning to diversify their economies.

(5) Provide advice and assistance to Wisconsin business and labor.

(6) Locate and maintain information on prime industrial sites, together with recommendations for developing and preserving such sites.

(7) Perform such other functions as the governor may direct to aid in the industrial development of the state.

(8) Help local units of government to plan and initiate development projects.

(9) Establish and operate a small business ombudsman clearinghouse for business and industry to facilitate the flow of information from other state and federal agencies, to assist state agencies in establishing methods to encourage the participation of small businesses in rule making under s. 227.114 (4) and to serve as ombudsman for small business stationary sources, as defined in s. 285.79 (1), in connection with the implementation of the federal clean air act, 42 USC 7401 to 7671q.

(10) Explore the feasibility of new programs which will address, but not be limited to, the following areas of concern:

(a) The capital development financing needs of business, industrial and agricultural enterprises.

(b) The creation of job opportunities in inner cities and other economically depressed areas.

(c) Credit assistance for business and economic development.

(d) Optimum utilization of federal programs designed to encourage and aid economic development.

(e) The potential of a program to promote and encourage inventions and technological innovations.

(11) Prepare and maintain comprehensive plans for the dynamic development of the economy of each area of the state in cooperation with representatives of the area.

(16) Publish and distribute a list of all aid programs and services made available by this state to its communities. The department shall charge and collect a fee to cover the cost of publication and distribution under this subsection.

(17) Assist new businesses and small businesses receiving economic development loans under s. 234.65 (1) (a) or the assistance of the Wisconsin Housing and Economic Development Authority in locating sources of venture capital and in obtaining the state and federal licenses and permits necessary for business operations.

**(18)** Develop and implement a plan to promote and increase exports, including agricultural products, and foreign investment in this state. The plan shall provide for the secretary to take a leadership role in assuring collaboration and coordination among international trade activities conducted by governmental entities to assure efficiency and to avoid duplication and may include provisions for participation in trade fairs and missions, establishment and maintenance of foreign trade offices and preparation of research on foreign markets for exports from this state and on opportunities for foreign investment in this state. The plan shall describe the allocation of funds for support staff in this state to implement the plan and for all other costs in implementing each provision of the plan. In developing and implementing the plan, the department shall consult with the department of agriculture, trade and consumer protection, the University of Wisconsin System, the technical college system and other public and private agencies and institutions supporting international trade education or activities. Any plan to establish a foreign trade office shall include the feasibility of establishing a system of graduated fees which a trade office may use to offset its operating costs, or a system of commissions for execution of successful transactions, or both.

**(19)** Establish a regulatory ombudsman center in the department to provide services as set forth in subch. III.

**(20)** Provide technical assistance to community development corporations, as defined in s. 234.94 (2), and to persons who are forming community development corporations.

**(21)** Promulgate rules for the rural hospital loan guarantee program, as required by s. 231.35 (7).

**(22)** Assist American Indian communities in economic development activities.

**(23)** Review business plans of persons who intend to apply for a permit under s. 170.12 and who have not previously engaged in commercial log raising. If the department determines, after the review, that the business plan is viable, the department shall approve the plan.

**(25)** In cooperation with the department of financial institutions and the board of regents of the University of Wisconsin System, provide education and other support to facilitate the development networks of bona fide angel investors, as defined in s. 71.07 (5d) (a) 1.

**(26)** In cooperation with the department of financial institutions and the board of regents of the University of Wisconsin System, annually conduct and publish the results of a study of Wisconsin businesses to determine new business formation trends and identify obstacles faced by new Wisconsin businesses and areas where changes in governmental policy may satisfy the needs of new Wisconsin businesses. As part of the study, the department of commerce shall conduct a survey of Wisconsin businesses.

Community Development Corporation (CDC) for purposes of the Capital Access Program (CAP) is a domestic corporation or partnership that is an intermediary for the provision of loans, investments, or financial counseling in Low-Income Communities (LICs) in the State of Wisconsin. To apply to become certified as a CAP CDC, an organization must submit an application to the Department of Commerce that demonstrates that the applicant meets each of the following requirements for the applicant to become certified:

1. Be a legal entity at the time of certification application and operate in primarily in the State of Wisconsin;
2. Have a primary purpose and mission of promoting community development as documented in its organizational documents, a board resolution, or publically distributed materials;
3. Provide financial products to small businesses as documented by its financial statements;
4. Primarily serve one or more geographic areas in the State of Wisconsin that display economic distress as defined by the US Department of the Treasury Community Development Financial Institutions Fund program definition.
5. Maintain accountability to its defined geographic service area. Accountability is established by having at least 20% of the Board members living working, or representing the interests of the Low Income people served in the areas defined in #4 above;
6. Be a non-government entity and not be under control of any government entity unless it is a Native American tribal governing body or any business created by the governing body.



In: 10/16/09 Wanted. 1st thing Monday AM

State of Wisconsin  
2009 - 2010 LEGISLATURE

PI  
LRB-3484/2 RMNR  
CTS... kjf

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Gen

1 AN ACT ...; relating to: directing the Department of Commerce to award grants  
2 to community development corporations to establish capital access programs,  
3 providing an exemption from emergency rule-making procedures, requiring  
4 the exercise of rule-making authority, and making an appropriation.

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***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a later version.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

5 SECTION 1. 20.143 (1) (c) of the statutes, as affected by 2009 Wisconsin Acts 2  
6 and 28, is amended to read:  
7 20.143 (1) (c) Wisconsin development fund; grants, loans, reimbursements, and  
8 assistance. Biennially, the amounts in the schedule for grants under s. ~~ss.~~ 560.145  
9 and 560.047; for grants and loans under s. 560.275 (2) and subch. V of ch. 560; for  
10 reimbursements under s. 560.167; for the costs specified in s. 560.607; for the loan

1 under 1999 Wisconsin Act 9, section 9110 (4); and for the grants under 1995  
2 Wisconsin Act 27, section 9116 (7gg), 1995 Wisconsin Act 119, section 2 (1), 1997  
3 Wisconsin Act 27, section 9110 (6g), 2003 Wisconsin Act 33, section 9109 (1d) and  
4 (2q), 2007 Wisconsin Act 20, section 9108 (4u), (6c), (7c), (7f), (8c), (8i), (9i), and (10q),  
5 2009 Wisconsin Act 2, section 9110 (2) and (3), and 2009 Wisconsin Act 28, section  
6 9110 (17q).

**History:** 1979 c. 361; 1981 c. 20, 21, 349; 1983 a. 27, 83, 192, 381; 1985 a. 29 ss. 169 to 204, 3202 (14); 1985 a. 120, 332, 334; 1987 a. 27, 109, 317, 318, 399, 403; 1989  
a. 31, 185, 237, 317, 325, 335, 336, 342, 359; 1991 a. 39, 259, 261, 269, 315; 1993 a. 5, 16, 75, 110, 232, 437; 1995 a. 27 ss. 483, 505 to 517, 608s, 609g, 609j, 964, 965, 977,  
987, 988, 990 to 993, 1080b, 1085b, 1086b, 9116 (5); 1995 a. 116, 119, 216, 227; 1997 a. 9, 27, 35, 215, 237, 252, 310; 1999 a. 9, 84, 106, 185, 186; 2001 a. 16, 109; 2003 a.  
33 ss. 292c to 297m, 593 to 600, 602 to 604; 2003 a. 255, 256; 2005 a. 25 ss. 150m to 156, 331; 2005 a. 45, 358; 2007 a. 20, 125, 225; 2009 a. 2, 16, 28; s. 13.92 (2) (i).

7 **SECTION 2.** 560.047 of the statutes is created to read:

8 **560.047 Capital access program grants.** (1) In this section, “community  
9 development corporation” has the meaning given under s. 234.94 (2).

10 (2) From the appropriation under s. 20.143 (1) (c), the department shall award  
11 annual grants to not more than 5 eligible community development corporations for  
12 the purpose of creating capital access programs to encourage lending to small and  
13 medium-sized businesses and to local nonprofit agencies. The amount of each grant  
14 may not exceed \$150,000, and the department shall require each grantee to obtain  
15 funding from sources other than the state to match the amount of the grant. Grant  
16 recipients shall use the grant proceeds, in conjunction with premiums paid by  
17 eligible borrowers and eligible lenders, to establish reserve pools to reduce risk to  
18 lenders for loans to small and medium-sized businesses and to local nonprofit  
19 agencies. The department shall enter into an agreement with a grant recipient that  
20 specifies the uses for the grant proceeds and reporting and auditing requirements.

21 (3) A community development corporation is eligible for a grant under this  
22 section only if all of the following apply:

1 (a) The community development corporation<sup>✓</sup> has as its primary purpose and  
2 mission the promotion of community development primarily in a limited geographic  
3 area of this state that is experiencing economic distress.

4 (b) The community development corporation<sup>✓</sup> has an existing portfolio of  
5 revolving loans to small businesses.

6 (4) The department<sup>✓</sup> shall promulgate rules necessary to administer this  
7 section, including rules that establish eligibility criteria for lenders and borrowers  
8 who wish to participate in a capital access program funded by a grant under this  
9 section.

10 **SECTION 3. Nonstatutory provisions.**

11 <sup>← create auto ref ✓</sup>  
(1) The department of commerce shall submit in proposed form the rules  
12 required under section 560.047 (3) of the statutes, as created by this act, to the  
13 legislative council staff under section 227.15 (1) of the statutes no later than the first  
14 day of the 6th month beginning after the effective date of this subsection.

15 (2) Using the emergency rules procedure under section 227.24<sup>✓</sup> of the statutes,  
16 the department<sup>of commerce ✓</sup> shall promulgate the rules required under section 560.047 (3) of the  
17 statutes, as created by this act, for the period before the effective date of the rules  
18 submitted under subsection (1)<sup>a.f. ✓</sup>. The department shall promulgate these emergency  
19 rules no later than the first day of the 6th month beginning after the effective date  
20 of this subsection. Notwithstanding section 227.24 (1) (c) and (2) of the statutes,  
21 these emergency rules may remain in effect until July 1, 2011, or the date on which  
22 permanent rules take effect, whichever is sooner. Notwithstanding section 227.24  
23 (1) (a) and (3) of the statutes, the department is not required to provide evidence that  
24 promulgating a rule under this subsection as an emergency rule is necessary for the

1 preservation of the public peace, health, safety, or welfare and is not required to  
2 provide a finding of emergency for a rule promulgated under this subsection.

3 **SECTION 4. Fiscal changes.**

4 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation  
5 to the department of commerce under section 20.143 (1) (c) of the statutes, as affected  
6 by the acts of 2009, the dollar amount is increased by \$750,000 for the second fiscal  
7 year of the fiscal biennium in which this subsection takes effect to provide funding  
8 for grants under section 560.047 of the statutes, as created by this act.

**History:** 1979 c. 361; 1981 c. 20, 21, 349; 1983 a. 27, 83, 192, 381; 1985 a. 29 ss. 169 to 204, 3202 (14); 1985 a. 120, 332, 334; 1987 a. 27, 109, 317, 318, 399, 403; 1989 a. 31, 185, 237, 317, 325, 335, 336, 342, 359; 1991 a. 39, 259, 261, 269, 315; 1993 a. 5, 16, 75, 110, 232, 437; 1995 a. 27 ss. 483, 505 to 517, 608s, 609g, 609j, 964, 965, 977, 987, 988, 990 to 993, 1080b, 1085b, 1086b, 9116 (5); 1995 a. 116, 119, 216, 227; 1997 a. 9, 27, 35, 215, 237, 252, 310; 1999 a. 9, 84, 106, 185, 186; 2001 a. 16, 109; 2003 a. 33 ss. 292c to 297m, 593 to 600, 602 to 604; 2003 a. 255, 256; 2005 a. 25 ss. 150m to 156t, 331; 2005 a. 45, 358; 2007 a. 20, 125, 225; 2009 a. 2, 16, 28; s. 13.92 (2) (i).

9

(END)

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

10/23 Redraft LRB-3484/P1

Only 1 grantee: Wis Business Development Finance Corporation

Change max grant to \$ 350,000



2009 BILL

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

INSA

Regen

1 AN ACT *to amend* 20.143 (1) (c); and *to create* 560.047 of the statutes; **relating**  
2 **to:** directing the Department of Commerce to award grants to community  
3 development corporations to establish capital access programs, providing an  
4 exemption from emergency rule-making procedures, requiring the exercise of  
5 rule-making authority, and making an appropriation.

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a later version.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

6 SECTION 1. 20.143 (1) (c) of the statutes, as affected by 2009 Wisconsin Acts 2  
7 and 28, is amended to read:  
8 20.143 (1) (c) *Wisconsin development fund; grants, loans, reimbursements, and*  
9 *assistance.* Biennially, the amounts in the schedule for grants under ~~s.~~ ss. 560.145  
10 and 560.047; for grants and loans under s. 560.275 (2) and subch. V of ch. 560; for

1 reimbursements under s. 560.167; for the costs specified in s. 560.607; for the loan  
 2 under 1999 Wisconsin Act 9, section 9110 (4); and for the grants under 1995  
 3 Wisconsin Act 27, section 9116 (7gg), 1995 Wisconsin Act 119, section 2 (1), 1997  
 4 Wisconsin Act 27, section 9110 (6g), 2003 Wisconsin Act 33, section 9109 (1d) and  
 5 (2q), 2007 Wisconsin Act 20, section 9108 (4u), (6c), (7c), (7f), (8c), (8i), (9i), and (10q),  
 6 2009 Wisconsin Act 2, section 9110 (2) and (3), and 2009 Wisconsin Act 28, section  
 7 9110 (17q).

8 SECTION 2. 560.047 of the statutes is created to read:

9 **560.047 Capital access program grants.** (1) In this section, "community  
 10 development corporation" has the meaning given under s. 234.94 (2).

11 (2) From the appropriation under s. 20.143 (1) (c), the department shall award  
 12 annual grants to not more than 5 eligible community development corporations for  
 13 the purpose of creating capital access programs to encourage lending to small and  
 14 medium-sized businesses and to local nonprofit agencies. The amount of each grant  
 15 may not exceed \$150,000, and the department shall require each grantee to obtain  
 16 funding from sources other than the state to match the amount of the grant. Grant  
 17 recipients shall use the grant proceeds, in conjunction with premiums paid by  
 18 eligible borrowers and eligible lenders, to establish reserve pools to reduce risk to  
 19 lenders for loans to small and medium-sized businesses and to local nonprofit  
 20 agencies. The department shall enter into an agreement with a grant recipient that  
 21 specifies the uses for the grant proceeds and reporting and auditing requirements.

22 (3) A community development corporation is eligible for a grant under this  
 23 section only if all of the following apply:

INS  
2-9

INS  
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(a) The community development corporation has as its primary purpose and mission the promotion of community development primarily in a limited geographic area of this state that is experiencing economic distress. *recipient*

(b) The community development corporation has an existing portfolio of revolving loans to small businesses. *recipient*

(4) The department shall promulgate rules necessary to administer this section, including rules that establish eligibility criteria for lenders and borrowers who wish to participate in a capital access program funded by a grant under this section.

**SECTION 3. Nonstatutory provisions.**

(1) The department of commerce shall submit in proposed form the rules required under section 560.047 (3) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 6th month beginning after the effective date of this subsection.

(2) Using the emergency rules procedure under section 227.24 of the statutes, the department of commerce shall promulgate the rules required under section 560.047 (3) of the statutes, as created by this act, for the period before the effective date of the rules submitted under subsection (1). The department shall promulgate these emergency rules no later than the first day of the 6th month beginning after the effective date of this subsection. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, these emergency rules may remain in effect until July 1, 2011, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is

1 not required to provide a finding of emergency for a rule promulgated under this  
2 subsection.

3 **SECTION 4. Fiscal changes.**

4 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation  
5 to the department of commerce under section 20.143 (1) (c) of the statutes, as affected  
6 by the acts of 2009, the dollar amount is increased by \$<sup>750,000</sup>~~750,000~~ for the second fiscal  
7 year of the fiscal biennium in which this subsection takes effect to provide funding  
8 for grants under section 560.047 of the statutes, as created by this act.

9 (END)

**Insert A:**

✓ This bill directs the Department of Commerce (department) to award grants to Wisconsin Business Development Finance Corporation (corporation) for the purpose of funding capital access programs to encourage lending to small and medium-sized businesses and to local nonprofit agencies. The corporation may distribute grant proceeds only to recipients with an existing portfolio of revolving loans to small businesses and whose primary purpose and mission is the promotion of community development in a limited geographic area of this state that is experiencing economic distress.

Recipients of grant proceeds from the corporation must use the grant proceeds to establish reserve pools to reduce risk to lenders. Under the bill, the corporation must require each recipient of grant proceeds to obtain funding from sources other than the state to match the amount of the grant proceeds received.

The bill limits the total amount of grants awarded in a fiscal year to \$350,000, and increases an appropriation of general purpose revenue to the department by \$350,000 for fiscal year 2010-11.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

**Insert 2-9:**

no \$ (1) From the appropriation under s. 20.143 (1) (c), the department shall award grants to Wisconsin Business Development Finance Corporation for the purpose of funding capital access programs to encourage lending to small and medium-sized businesses and to local nonprofit agencies. Wisconsin Business Development Finance Corporation may distribute grant proceeds to a recipient if all of the following apply:

**Insert 3-5:**

X (2) Wisconsin Business Development Finance Corporation shall require each recipient of grant proceeds to obtain funding from sources other than the state to match the amount of the grant proceeds received from the corporation. Recipients of grant proceeds shall use the grant proceeds, in conjunction with premiums paid by eligible borrowers and eligible lenders, to establish reserve pools to reduce risk to

lenders for loans to small and medium-sized businesses and to local nonprofit agencies.

(3) The total amount of grants awarded under this section in a fiscal year may not exceed \$350,000. The department shall enter into an agreement with Wisconsin Business Development Finance Corporation that specifies the uses for the grant proceeds and reporting and auditing requirements and shall promulgate rules necessary to administer this section, including rules that establish eligibility criteria for lenders and borrowers who wish to participate in a capital access program funded by grant proceeds.

**Duerst, Christina**

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**From:** Friedl, Cathy  
**Sent:** Monday, October 26, 2009 4:03 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-3484/1 Topic: Capital access program

Please Jacket LRB 09-3484/1 for the ASSEMBLY.