

CHAPTER 120

GOVERNMENT - STATE

SENATE BILL 20-222

BY SENATOR(S) Winter and Bridges, Cooke, Crowder, Danielson, Fenberg, Fields, Foote, Gardner, Ginal, Hansen, Hisey, Lee, Lundeen, Marble, Moreno, Pettersen, Rankin, Rodriguez, Scott, Smallwood, Sonnenberg, Tate, Todd, Williams A., Woodward, Zenzinger, Garcia;
also REPRESENTATIVE(S) Young and Will, Arndt, Benavidez, Bird, Bockenfeld, Buck, Buckner, Buentello, Caraveo, Champion, Cutter, Duran, Esgar, Exum, Froelich, Garnett, Geitner, Herod, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, Kraft-Tharp, Landgraf, Liston, Lontine, McCluskie, McKean, McLachlan, Melton, Michaelson Jenet, Mullica, Pelton, Roberts, Saine, Sandridge, Singer, Sirota, Snyder, Soper, Tipper, Titone, Valdez A., Valdez D., Van Winkle, Weissman, Williams D., Wilson, Woodrow, Becker.

AN ACT

CONCERNING A GRANT PROGRAM FOR SMALL BUSINESSES AFFECTED BY ECONOMIC HARDSHIP CAUSED BY THE COVID-19 PANDEMIC THAT IS FINANCED BY MONEY RECEIVED FROM THE FEDERAL GOVERNMENT PURSUANT TO THE "CARES ACT", AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 29-4-708, **amend** (1) introductory portion; and **add** (1)(bb) as follows:

29-4-708. General powers of the authority - repeal. (1) In addition to any other powers granted to the authority in this part 7, the authority ~~shall have~~ HAS the following powers:

(bb) (I) TO CONTRACT WITH THE COLORADO ECONOMIC DEVELOPMENT COMMISSION CREATED IN SECTION 24-46-102 (2) FOR THE OPERATION OF THE SMALL BUSINESS COVID-19 GRANT PROGRAM ESTABLISHED IN SECTION 24-48.5-126 (3).

(II) THIS SUBSECTION (1)(bb) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022.

SECTION 2. In Colorado Revised Statutes, 24-46-104, **amend** (1)(n) as follows:

24-46-104. Powers and duties of commission - repeal. (1) The commission has the following powers and duties:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(n) To contract with the Colorado housing and finance authority, created in part 7 of article 4 of title 29, ~~C.R.S.~~, for the operation of:

(I) A Colorado credit reserve program for the purpose of increasing the availability of credit to small businesses in Colorado; AND

(II)(A) A SMALL BUSINESS COVID-19 GRANT PROGRAM ESTABLISHED IN SECTION 24-48.5-126 (3).

(B) THIS SUBSECTION (1)(n)(II) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022.

SECTION 3. In Colorado Revised Statutes, **add** 24-48.5-126 as follows:

24-48.5-126. Small business COVID-19 grant program - legislative declaration - definitions - repeal. (1) **Legislative declaration.** THE GENERAL ASSEMBLY HEREBY:

(a) FINDS THAT:

(I) IN RESPONSE TO THE COVID-19 PANDEMIC THAT SPREAD TO MANY STATES, INCLUDING COLORADO, IN FEBRUARY OF 2020, CONGRESS ENACTED THE "CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT", PUB.L. 116-136, ALSO REFERRED TO AS THE "CARES ACT", TO PROVIDE EMERGENCY ASSISTANCE TO STATE, LOCAL, AND TRIBAL GOVERNMENTS;

(II) THE CARES ACT ESTABLISHED THE CORONAVIRUS RELIEF FUND (CRF) AND APPROPRIATED ONE HUNDRED FIFTY BILLION DOLLARS TO THE CRF FOR DISTRIBUTION, IN PART, TO THE STATES TO COVER COSTS THAT:

(A) ARE NECESSARY EXPENDITURES INCURRED DUE TO THE PUBLIC HEALTH EMERGENCY WITH RESPECT TO THE COVID-19 PANDEMIC;

(B) WERE NOT ACCOUNTED FOR IN THE BUDGET MOST RECENTLY APPROVED AS OF MARCH 27, 2020, FOR THE STATE; AND

(C) WERE INCURRED DURING THE PERIOD THAT BEGINS ON MARCH 1, 2020, AND ENDS ON DECEMBER 30, 2020;

(III) APPROXIMATELY ONE BILLION SIX HUNDRED SEVENTY-FOUR MILLION DOLLARS WAS TRANSFERRED FROM THE CRF TO COLORADO'S STATE GOVERNMENT AND, IN HIS EXECUTIVE ORDER D 2020 070, DATED MAY 18, 2020, THE GOVERNOR TRANSFERRED SEVENTY MILLION DOLLARS OF THAT MONEY TO THE GENERAL FUND FOR DISBURSEMENT BY THE GENERAL ASSEMBLY;

(IV) THE UNITED STATES DEPARTMENT OF THE TREASURY HAS ISSUED GUIDANCE ON STATES' USE OF MONEY ALLOCATED FROM THE CRF, INCLUDING THE "CORONAVIRUS RELIEF FUND FREQUENTLY ASKED QUESTIONS" DOCUMENT ISSUED ON MAY 4, 2020, AND UPDATED ON MAY 28, 2020, IN WHICH THE DEPARTMENT INDICATED THAT "ELIGIBLE EXPENDITURES MAY INCLUDE EXPENDITURES RELATED TO THE PROVISION OF GRANTS TO SMALL BUSINESSES TO REIMBURSE THE COSTS OF

BUSINESS INTERRUPTION CAUSED BY REQUIRED CLOSURES. . . . A PROGRAM THAT IS AIMED AT ASSISTING SMALL BUSINESSES WITH THE COSTS OF BUSINESS INTERRUPTION CAUSED BY REQUIRED CLOSURES SHOULD BE TAILORED TO ASSIST THOSE BUSINESSES IN NEED OF SUCH ASSISTANCE. THE AMOUNT OF A GRANT TO A SMALL BUSINESS TO REIMBURSE THE COSTS OF BUSINESS INTERRUPTION CAUSED BY REQUIRED CLOSURES WOULD ALSO BE AN ELIGIBLE EXPENDITURE UNDER SECTION 601(d) OF THE SOCIAL SECURITY ACT, AS OUTLINED IN THE GUIDANCE";

(b) DETERMINES THAT TO HELP REDUCE THE SPREAD OF COVID-19 AND IN COMPLIANCE WITH STAY-AT-HOME AND SAFER-AT-HOME EXECUTIVE AND PUBLIC HEALTH ORDERS, MANY BUSINESSES HAVE SHUT DOWN FOR EXTENDED PERIODS AND RESIDENTS THROUGHOUT THE STATE HAVE REMAINED IN THEIR HOMES AND EXPERIENCED A SIGNIFICANT DECLINE IN THEIR HOUSEHOLD INCOMES, ALL OF WHICH HAS RESULTED IN ECONOMIC DISTRESS FOR MANY SMALL BUSINESSES; AND

(c) DECLARES THAT A GRANT PROGRAM THAT PROVIDES GRANTS TO SMALL BUSINESSES THAT FACE ECONOMIC HARDSHIP CAUSED BY THE COVID-19 PANDEMIC, WHICH ASSISTANCE WAS NOT ACCOUNTED FOR IN THE STATE'S BUDGET MOST RECENTLY APPROVED AS OF MARCH 27, 2020, IS A NECESSARY EXPENDITURE TO ADDRESS THE PUBLIC HEALTH EMERGENCY WITH RESPECT TO THE COVID-19 PANDEMIC.

(2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "AUTHORITY" MEANS THE COLORADO HOUSING AND FINANCE AUTHORITY CREATED IN PART 7 OF ARTICLE 4 OF TITLE 29.

(b) "CARES ACT" MEANS THE FEDERAL "CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT", PUB.L. 116-136, AS AMENDED.

(c) "COMMISSION" MEANS THE COLORADO ECONOMIC DEVELOPMENT COMMISSION CREATED IN SECTION 24-46-102 (2).

(d) "COVID-19" MEANS THE CORONAVIRUS DISEASE CAUSED BY THE SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2, ALSO KNOWN AS SARS-CoV-2.

(e) "GRANTOR" MEANS A NONPROFIT OR COMMUNITY-BASED LENDER, APPROVED BY THE AUTHORITY, THAT UNDERWRITES AND DISTRIBUTES A GRANT TO A SMALL BUSINESS PURSUANT TO THE PROGRAM.

(f) "OFFICE" MEANS THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT CREATED IN SECTION 24-48.5-101.

(g) "PROGRAM" MEANS THE SMALL BUSINESS COVID-19 GRANT PROGRAM ESTABLISHED IN SUBSECTION (3) OF THIS SECTION.

(h) "RURAL AREA" MEANS:

(I) A COUNTY WITH A POPULATION OF LESS THAN FIFTY THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE POPULATION STATISTICS OF THE

UNITED STATES BUREAU OF THE CENSUS;

(II) A MUNICIPALITY WITH A POPULATION OF LESS THAN FIFTY THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS, THAT IS LOCATED TEN MILES OR MORE FROM A MUNICIPALITY WITH A POPULATION OF MORE THAN FIFTY THOUSAND PEOPLE; OR

(III) THE UNINCORPORATED PART OF A COUNTY LOCATED TEN MILES OR MORE FROM A MUNICIPALITY WITH A POPULATION OF MORE THAN FIFTY THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS.

(i) "SMALL BUSINESS" MEANS A PERSON THAT:

(I) IS A FOR-PROFIT SOLE PROPRIETORSHIP OR FOR-PROFIT DOMESTIC ENTITY, AS THAT TERM IS DEFINED IN SECTION 7-90-102 (13), OR A NONPROFIT CORPORATION OR OTHER ORGANIZATION TYPE SPECIFIED BY THE OFFICE AND THE AUTHORITY AND AS PERMITTED UNDER SECTION 601 (d) OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, AS ADDED BY SECTION 5001 OF THE CARES ACT;

(II) HAS FEWER THAN TWENTY-FIVE EMPLOYEES, MEASURED AS FULL-TIME EQUIVALENTS; EXCEPT THAT AN EMPLOYER THAT MEETS THE CRITERIA SPECIFIED IN 29 U.S.C. SEC. 213 (a)(3) MAY USE ITS OFF-SEASON EMPLOYEE COUNT FOR THE PURPOSES OF THIS SUBSECTION (2)(i)(II); AND

(III) HAS BEEN AFFECTED BY ECONOMIC HARDSHIP CAUSED BY THE COVID-19 PANDEMIC, INCLUDING BY INTERRUPTION CAUSED BY REQUIRED BUSINESS CLOSURES, VOLUNTARY CLOSURES TO PROMOTE SOCIAL DISTANCING MEASURES, OR DECREASED CUSTOMER DEMAND AS A RESULT OF THE COVID-19 PUBLIC HEALTH EMERGENCY.

(3) **Grant program.** (a) THE OFFICE SHALL ESTABLISH AND ADMINISTER THE FINANCING OF A SMALL BUSINESS COVID-19 GRANT PROGRAM TO ASSIST SMALL BUSINESSES FACING ECONOMIC HARDSHIP CAUSED BY THE COVID-19 PANDEMIC, AS PERMITTED UNDER THE CARES ACT. THE COMMISSION SHALL CONTRACT WITH THE AUTHORITY TO OPERATE THE PROGRAM. THE CONTRACT MUST REQUIRE COMPLIANCE WITH THIS SECTION AND THE CRITERIA ESTABLISHED PURSUANT TO THIS SECTION BY THE AUTHORITY AND EACH GRANTOR THAT IS AUTHORIZED TO AWARD GRANTS. UNDER THE CONTRACT, THE OFFICE MAY ADVANCE MONEY TO THE AUTHORITY IN PREPARATION FOR ISSUING GRANTS AND ADMINISTERING THE GRANT PROGRAM. THE AUTHORITY SHALL LEVERAGE ITS RELATIONSHIPS WITH GRANTORS TO DISTRIBUTE THE GRANTS TO ELIGIBLE SMALL BUSINESSES.

(b) TO RECEIVE A GRANT PURSUANT TO THE PROGRAM, A SMALL BUSINESS MUST APPLY TO A GRANTOR IN A MANNER DETERMINED BY THE AUTHORITY. THE APPLICATION MUST SPECIFY THE PROPOSED USE OF THE GRANT, WHICH MUST RELATE TO RESPONDING TO OR RECOVERING FROM THE IMPACTS OF THE COVID-19 PANDEMIC, AND REQUIRE REPORTING BY THE SMALL BUSINESS REGARDING THE ACTUAL USE OF THE GRANT AWARD. A SMALL BUSINESS SHALL NOT USE A GRANT FOR LOBBYING, AS THAT TERM IS DEFINED IN SECTION 24-6-301 (3.5). EACH INDIVIDUAL GRANT AWARD MUST NOT EXCEED FIFTEEN THOUSAND DOLLARS.

(c) THE OFFICE SHALL ESTABLISH AND PUBLICIZE CRITERIA THAT A GRANTOR SHALL USE IN AWARDING GRANTS. THE CRITERIA MUST SPECIFY WHEN A GRANT IS NECESSARY TO RESPOND TO THE COVID-19 PANDEMIC AND THEREFORE MAY BE AWARDED IN THE ABSENCE OF A STAY-AT-HOME ORDER.

(d) (I) IN AWARDING GRANTS, THE GRANTOR SHALL GIVE A PREFERENCE TO A SMALL BUSINESS THAT:

(A) DID NOT QUALIFY FOR OR RECEIVE A LOAN PURSUANT TO THE FEDERAL "PAYCHECK PROTECTION PROGRAM AND HEALTH CARE ENHANCEMENT ACT", PUB.L. 116-139, AS AMENDED;

(B) IS MAJORITY OWNED BY VETERANS, WOMEN, OR MINORITIES; OR

(C) IS LOCATED IN A RURAL AREA.

(II) A GRANTOR IS NOT REQUIRED TO AWARD A GRANT TO A SMALL BUSINESS THAT QUALIFIES FOR A PREFERENCE.

(4) **Financing.** (a) THE SMALL BUSINESS COVID-19 GRANT PROGRAM IS FINANCED BY TWENTY MILLION DOLLARS APPROPRIATED FROM THE CARE SUBFUND IN THE GENERAL FUND. THE OFFICE MAY EXPEND THE MONEY SPECIFIED IN THIS SUBSECTION (4) ONLY FOR:

(I) MAKING GRANTS THROUGH THE AUTHORITY TO SMALL BUSINESSES PURSUANT TO THE PROGRAM;

(II) THE OFFICE'S AND THE AUTHORITY'S COSTS OF ADMINISTERING THE PROGRAM, WHICH EXPENDITURES MUST NOT EXCEED SIXTH-TENTHS OF ONE PERCENT OF THE MONEY SPECIFIED IN THIS SUBSECTION (4); AND

(III) AN ALLOWANCE OF UP TO THREE PERCENT OF EACH INDIVIDUAL GRANT TO BE USED BY THE GRANTOR FOR ITS COSTS IN DISTRIBUTING THE GRANT.

(b) (I) UNTIL OCTOBER 1, 2020, FIVE MILLION DOLLARS OF THE MONEY SPECIFIED IN SUBSECTION (4)(a) OF THIS SECTION IS RESERVED FOR SMALL BUSINESSES WITHIN THE TOURISM SECTOR, INCLUDING THE FOLLOWING SECTORS:

(A) THE HOTEL, MOTEL, AND LODGING INDUSTRY;

(B) THE FOOD, BEVERAGE, AND RESTAURANT INDUSTRY;

(C) THE SKI INDUSTRY;

(D) PRIVATE TRAVEL ATTRACTIONS AND CASINOS;

(E) OTHER OUTDOOR RECREATION INDUSTRIES;

(F) TOURISM-RELATED TRANSPORTATION INDUSTRIES;

(G) THE TOURISM-RELATED RETAIL INDUSTRY;

(H) THE DESTINATION MARKETING INDUSTRY; AND

(I) CULTURAL EVENT AND FACILITY GROUPS.

(II) ON AND AFTER OCTOBER 1, 2020, ALL OF THE REMAINING MONEY SPECIFIED IN SUBSECTION (4)(a) OF THIS SECTION IS AVAILABLE FOR ANY QUALIFYING SMALL BUSINESS.

(c) THE OFFICE MUST EXPEND ALL MONEY SPECIFIED IN THIS SUBSECTION (4) BY DECEMBER 30, 2020.

(5) **Reporting.** THE OFFICE SHALL SUBMIT THE FOLLOWING REPORTS TO THE COMMITTEES OF THE GENERAL ASSEMBLY WITH JURISDICTION OVER BUSINESS AFFAIRS:

(a) BY JULY 1, 2020, REGARDING THE CRITERIA THAT THE OFFICE HAS ESTABLISHED FOR THE AWARD OF GRANTS; AND

(b) BY APRIL 1, 2021, REGARDING THE NUMBER OF GRANTS AWARDED, THE AMOUNT OF EACH GRANT, THE RECIPIENT OF EACH GRANT, AND HOW THE RECIPIENT SPENT THE GRANT.

(6) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022.

SECTION 4. Appropriation. For the period from the effective date of this section through December 30, 2020, \$20,000,000 is appropriated to the Colorado office of economic development. This appropriation is from the care subfund in the general fund. To implement this act, the Colorado office of economic development may use this appropriation for the administration of the small business COVID-19 grant program.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 23, 2020