

As Introduced

**135th General Assembly
Regular Session
2023-2024**

S. B. No. 166

**Senators Sykes, Reynolds
Cosponsors: Senators Antonio, Craig, Ingram, Smith**

A BILL

To amend sections 122.71 and 122.76 of the Revised Code to allow a limited amount of minority business direct loans to be used to increase working capital.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 122.71 and 122.76 of the Revised Code be amended to read as follows:

Sec. 122.71. As used in sections 122.71 to 122.83 of the Revised Code:

(A) "Financial institution" means any banking corporation, trust company, insurance company, savings and loan association, building and loan association, or corporation, partnership, federal lending agency, foundation, or other institution engaged in lending or investing funds for industrial or business purposes.

(B) "Project" means any increases in working capital or real or personal property connected with or being a part of an industrial, distribution, commercial, or research facility to be acquired, constructed, reconstructed, enlarged, improved,

furnished, or equipped, or any combination thereof, with the aid 19
provided under sections 122.71 to 122.83 of the Revised Code, 20
for industrial, commercial, distribution, and research 21
development of the state. 22

(C) "Mortgage" means the lien imposed on a project by a 23
mortgage on real property, or by financing statements on 24
personal property, or a combination of a mortgage and financing 25
statements when a project consists of both real and personal 26
property. 27

(D) "Mortgagor" means the principal user of a project or 28
the person, corporation, partnership, or association 29
unconditionally guaranteeing performance by the principal user 30
of its obligations under the mortgage. 31

(E) (1) "Minority business enterprise" means an individual 32
who is a United States citizen and owns and controls a business, 33
or a partnership, corporation, or joint venture of any kind that 34
is owned and controlled by United States citizens, which citizen 35
or citizens are residents of this state and are members of one 36
of the following economically disadvantaged groups: Blacks or 37
African Americans, American Indians, Hispanics or Latinos, and 38
Asians. 39

(2) "Owned and controlled" means that at least fifty-one 40
per cent of the business, including corporate stock if a 41
corporation, is owned by persons who belong to one or more of 42
the groups set forth in division (E) (1) of this section, and 43
that those owners have control over the management and day-to- 44
day operations of the business and an interest in the capital, 45
assets, and profits and losses of the business proportionate to 46
their percentage of ownership. In order to qualify as a minority 47
business enterprise, a business shall have been owned and 48

controlled by those persons at least one year prior to being 49
awarded a contract pursuant to this section. 50

(F) "Community improvement corporation" means a 51
corporation organized under Chapter 1724. of the Revised Code. 52

(G) "Ohio development corporation" means a corporation 53
organized under Chapter 1726. of the Revised Code. 54

(H) "Minority contractors business assistance 55
organization" means an entity engaged in the provision of 56
management and technical business assistance to minority 57
business enterprise entrepreneurs. 58

(I) "Minority business supplier development council" means 59
a nonprofit organization established as an affiliate of the 60
national minority supplier development council. 61

(J) "Regional economic development entity" means an entity 62
that is under contract with the director of development to 63
administer a loan program under this chapter in a particular 64
area of the state. 65

(K) "Community development corporation" means a 66
corporation organized under Chapter 1702. of the Revised Code 67
that consists of residents of the community and business and 68
civic leaders and that has as a principal purpose one or more of 69
the following: the revitalization and development of a low- to 70
moderate-income neighborhood or community; the creation of jobs 71
for low- to moderate-income residents; the development of 72
commercial facilities and services; providing training, 73
technical assistance, and financial assistance to small 74
businesses; and planning, developing, or managing low-income 75
housing or other community development activities. 76

Sec. 122.76. (A) The director of development, with 77

controlling board approval, may lend funds to ~~minority either or~~
both of the following: 78 79

(1) Minority business enterprises ~~and to community;~~ 80

(2) Community improvement corporations, Ohio development 81
corporations, minority contractors business assistance 82
organizations, and minority business supplier development 83
councils for the purpose of loaning funds to minority business 84
enterprises. 85

(B) Amounts loaned under divisions (A) (1) and (2) of this 86
section shall be used for one or more of the ~~purpose of~~ 87
procuring following purposes: 88

(1) Procuring or improving real or personal property, or 89
both, for the establishment, location, or expansion of 90
industrial, distribution, commercial, or research facilities in 91
the state. 92

(2) Increasing working capital ~~and for the purpose of~~ 93
~~contract;~~ 94

(3) Contract financing, ~~and;~~ 95

(4) Providing funding to community development 96
corporations that predominantly benefit minority business 97
enterprises or are located in a census tract that has a 98
population that is sixty per cent or more minority, ~~if.~~ 99

(C) No loan shall be approved under this section unless 100
the director determines, in the director's sole discretion, that 101
all of the following apply: 102

(1) The project is economically sound and will benefit the 103
people of the state by increasing opportunities for employment, 104
by strengthening the economy of the state, or expanding minority 105

business enterprises—; 106

(2) The proposed minority business enterprise borrower is 107
unable to finance the proposed project through ordinary 108
financial channels at comparable terms—; 109

(3) The value of the project is or, upon completion, will 110
be at least equal to the total amount of ~~the~~ money expended in 111
the procurement or improvement of the project—; 112

(4) The amount to be loaned by the director will not 113
exceed seventy-five per cent of the total amount expended in the 114
procurement or improvement of the project, excluding projects 115
proposing to use the proceeds of the loan to increase working 116
capital. 117

(5) The amount to be loaned by the director will be 118
adequately secured by a first or second mortgage upon the 119
project or by mortgages, leases, liens, assignments, or pledges 120
on or of other property or contracts as the director requires, 121
and such mortgage will not be subordinate to any other liens or 122
mortgages except the liens securing loans or investments made by 123
financial institutions referred to in division ~~(A) (3)~~ (C) (3) of 124
this section, and the liens securing loans previously made by 125
any financial institution in connection with the procurement or 126
expansion of all or part of a project. 127

~~(B)~~ (D) Any proposed minority business enterprise borrower 128
submitting an application for assistance under this section 129
shall not have defaulted on a previous loan from the director, 130
and no full or limited partner, major shareholder, or holder of 131
an equity interest of the proposed minority business enterprise 132
borrower shall have defaulted on a loan from the director. 133

~~(C)~~ (E) The proposed minority business enterprise borrower 134

shall demonstrate to the satisfaction of the director that it is 135
able to successfully compete in the private sector if it obtains 136
the necessary financial, technical, or managerial support and 137
that support is available through the director, the minority 138
business development division of the department of development, 139
or other identified and acceptable sources. In determining 140
whether a minority business enterprise borrower will be able to 141
successfully compete, the director may give consideration to 142
such factors as the successful completion of or participation in 143
courses of study, recognized by the department of higher 144
education as providing financial, technical, or managerial 145
skills related to the operation of the business, by the 146
economically disadvantaged individual, owner, or partner, and 147
the prior success of the individual, owner, or partner in 148
personal, career, or business activities, as well as to other 149
factors identified by the director. 150

~~(D)~~ (F) The director shall not lend funds for the purpose 151
of procuring or improving motor vehicles or accounts receivable. 152

(G) The director shall not lend more than five hundred 153
thousand dollars in funds for the purpose of increasing working 154
capital. 155

Section 2. That existing sections 122.71 and 122.76 of the 156
Revised Code are hereby repealed. 157