

By: Rodriguez

H.B. No. 3298

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the operation of the Capital Access Program: Reserve
3 Account

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 481.408 of the Government Code is
6 amended to read as follows:

7 (A) On approval by the department and after entering into a
8 participation agreement with the department, a participating
9 financial institution making a capital access loan shall establish
10 a reserve account. The reserve account shall be used by the
11 institution only to cover any losses arising from a default of a
12 capital access loan made by the institution under this subchapter
13 or as otherwise provided by this subchapter.

14 (B) When a participating financial institution makes a loan
15 enrolled in the program, the institution shall require the borrower
16 to pay the institution a fee in an amount that is not less than two
17 percent but not more than three percent of the principal amount of
18 the loan, which the financial institution shall deposit in the
19 reserve account. The institution shall also deposit in the reserve
20 account an amount equal to the amount of the fee received by the
21 institution from the borrower under this subsection. The
22 institution may recover from the borrower all or part of the amount
23 the institution is required to pay under this subsection in any
24 manner agreed to by the institution and borrower.

1 (C) For each capital access loan made by a financial
2 institution, the institution shall certify to the department,
3 within the period prescribed by the department, that the
4 institution has made a capital access loan, the amount the
5 institution has deposited in the reserve account, including the
6 amount of fees received from the borrower, and, if applicable, that
7 the borrower is located in or financing a project, activity, or
8 enterprise in an area designated as an enterprise zone under
9 Chapter 2303.

10 (D) On receipt of a certification made under Subsection (c)
11 and subject to Section 481.409, the department shall deposit in the
12 institution's reserve account for each capital access loan made by
13 the institution:

14 (1) an amount equal to the amount deposited by the
15 institution for each loan if the institution:

16 (a) has assets of more than \$1 billion; or

17 (b) ~~[has previously enrolled loans in the program
18 that in the aggregate are more than \$2 million]~~

19 (2) an amount equal to 150 percent of the total amount
20 deposited under Subsection (b) for each loan if the institution is
21 not described by Subdivision (1); or

22 (3) notwithstanding Subdivisions (1) and (2), an
23 amount equal to 200 percent of the total amount deposited under
24 Subsection (b) for each loan if:

25 (a) the borrower is located in or financing a
26 project, activity, or enterprise in an area designated as an
27 enterprise zone under Chapter 2303; or

1 (b) the borrower is a small or medium-size
2 business or a nonprofit organization that operates or proposes to
3 operate a day-care center or a group day-care home, as those terms
4 are defined by Section 42.002, Human Resources Code.

5 (c) the participating financial institution is a
6 federally certified Community Development Financial Institution as
7 assigned by 12 U.S.C. Section 4702, as amended.

8 SECTION 2, Section 481.409 of the Government Code is amended
9 to read as follows:

10 (A) The amount deposited by the department into a
11 participating financial institution's reserve account for any
12 single loan recipient may not exceed \$150,000 during a three-year
13 period.

14 (B) The maximum amount the department may deposit into a
15 reserve account for each capital access loan made under this
16 subchapter is the lesser of \$35,000 or an amount equal to:

17 (1) eight percent of the loan amount if:

18 (a) the borrower is located in or financing a
19 project, activity, or enterprise in an area designate as an
20 enterprise zone under Chapter 2303; or

21 (b) the borrower is a small or medium-size
22 business or a nonprofit organization that operates or proposes to
23 operate a day-care center or a group day-care home, as those terms
24 are defined by Section 42.002, Human Resources Code; or

25 (c) the participating financial institution is a
26 federally certified Community Development Financial Institution as
27 assigned by 12 U.S.C. Section 4702, as amended; or

1 (2) six percent of the loan amount for any other
2 borrower.

3 SECTION 3. This Act takes effect September 1, 2003.