

By: Ellis

S.B. No. 1653

A BILL TO BE ENTITLED

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AN ACT

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

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

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

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

(B) When a participating financial institution makes a loan enrolled in the program, the institution shall require the borrower to pay to the institution a fee in an amount that is not less than two percent but not more than three percent of the principal amount of the loan, which the financial institution shall deposit in the reserve account. The institution shall also deposit in the reserve account an amount equal to the amount of the fee received by the institution from the borrower under this subsection. The institution may recover from the borrower all or part of the amount the institution is required to pay under this subsection in any 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
9 amended 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 project,
19 activity, or enterprise in an area designed as an enterprise zone
20 under Chapter 2303; or

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

25 (c) the participating financial institution is a federally
26 certified Community Development Financial Institution as assigned
27 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.