

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 1034
PROPOSED COMMITTEE SUBSTITUTE H1034-CSMCA-23 [v.2]
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Short Title: Small Business Emergency Loans.

(Public)

Sponsors:

Referred to:

April 28, 2020

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FUNDS FOR SMALL BUSINESS LOAN ASSISTANCE.
3 The General Assembly of North Carolina enacts:

4 **APPROPRIATION FOR SMALL BUSINESS LOAN ASSISTANCE**

5 **SECTION 1.(a)** Program. – The sum of seventy-five million dollars (\$75,000,000)
6 in nonrecurring funds is appropriated from the Coronavirus Relief Fund to the Office of State
7 Budget and Management to provide funds to Golden LEAF to provide grants to entities for the
8 purpose of making emergency loans to assist small businesses with business needs during periods
9 of economic hardship occasioned by the COVID-19 epidemic. The following shall apply to the
10 program and loans made under the program:

- 11 (1) Golden LEAF shall require a lender to provide assistance to, or direct to an
12 appropriate entity that provides assistance to, a qualifying business with
13 applying for available federal assistance.
- 14 (2) Golden LEAF shall require a lender to prioritize loans for establishments (i)
15 with 100 or fewer full-time equivalent employees determined as of the State
16 of Emergency (ii) that are independently owned by a qualifying business.
- 17 (3) The loan shall have an interest rate of up to four percent (4%) before the date
18 of a triggering event and an interest rate of at least five and one-half percent
19 (5.5%) on and after the date of a triggering event.
- 20 (4) The term of the loan shall not exceed 66 months and shall be amortized over
21 the term of the loan.
- 22 (5) A qualifying business shall certify in writing that it will use a loan provided
23 under the program for employee compensation, mortgage, rent, utilities, and
24 other operating costs and expenses incurred on behalf of a business located in
25 this State.
- 26 (6) A loan provided under the program is limited to no more than fifty thousand
27 dollars (\$50,000) per qualifying business.
- 28 (7) Upon the occurrence of a triggering event, repayment of the loan shall
29 commence. A triggering event occurs six months following the closing of a
30 loan made under the program.
- 31 (8) Loans are made pursuant to an agreement with a qualifying business that
32 includes at least the following:
 - 33 a. A provision requiring a qualifying business to certify in writing that it
34 will use a loan provided under the program for employee
35 compensation, mortgage, rent, utilities, and other operating costs and
36 expenses incurred on behalf of a business located in this State.



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- 1 b. A provision establishing the method for determining compliance with
2 the program.
- 3 c. A provision requiring the qualifying business to first repay the loan
4 amount with any federal assistance received by the business that
5 represents a duplication of benefits; provided that, the repayment does
6 not disqualify or impair the federal assistance available to the business.
- 7 d. A provision requiring the loan is secured through a Uniform
8 Commercial Code financing statement.
- 9 e. A provision requiring recapture of loans funds if a business fails to
10 comply with the requirements of the program. The lender shall
11 recapture loan funds only if the lender determines there is a reasonable
12 expectation that the recovery of funds will exceed the cost of recovery.
- 13 (9) The awarding of new loans using State funds appropriated in this section shall
14 cease upon six months following the date the State of Emergency ends.

15 **SECTION 1.(b)** Definitions. – For purposes of this section, the following definitions

16 apply:

- 17 (1) Compensation. – Defined in G.S. 105-163.1.
- 18 (2) Coronavirus Relief Fund. – Funds received by the State of North Carolina
19 during the 2019-2020 fiscal year from the Coronavirus Relief Fund created by
20 the Coronavirus Aid, Relief, and Economic Security Act of 2020, P.L.
21 116-136.
- 22 (3) Employee. – Defined in G.S. 143B-437.02A.
- 23 (4) Golden LEAF. – The Golden L.E.A.F. (Long-Term Economic Advancement
24 Foundation), Inc.
- 25 (5) Net loan funds. – The total loan fund appropriation authorized by this section
26 less (i) the cost of administering the loans made under the program, not to
27 exceed five percent (5%) of the total amount loaned under the program and
28 (ii) the State's loan funds that are not recaptured.
- 29 (6) Office. – The Office of State Budget and Management.
- 30 (7) Qualifying business. – A business with a physical presence in the State that is
31 able to show economic losses as a result of COVID-19.
- 32 (8) State of Emergency. – Executive Order No. 116 issued March 10, 2020, by
33 Governor Roy A. Cooper, including any amendments issued by Executive
34 Order.

35 **SECTION 1.(c)** Miscellaneous. – In order to receive the funds appropriated under
36 this act, Golden LEAF shall provide matching funds from other non-State funds for such funds
37 in the amount of fifteen dollars (\$15.00) of non-State funds for every seventy-five dollars
38 (\$75.00) of State funds allocated in this section. State funds allocated in this section may be
39 matched with any prior expenditure by Golden LEAF of non-State funds for entities making
40 short-term loans to businesses during periods of economic hardship occasioned by the
41 COVID-19 epidemic. Six months following the date the State of Emergency ends and every six
42 months thereafter, Golden LEAF shall remit the net loan funds that have been received to the
43 Office, which shall deposit the funds into the Coronavirus Relief Fund. Amounts deposited into
44 the Fund under this subsection are receipts that do not constitute an "appropriation made by law,"
45 as that phrase is used in Section 7(1) of Article V of the North Carolina Constitution.

46 **SECTION 1.(d)** Reporting. – Every six months, Golden LEAF shall submit a report
47 on the program to the Joint Legislative Economic Development and Global Engagement
48 Oversight Committee and the Fiscal Research Division. The duty to report pursuant to this
49 section shall cease after the submission of the report following when Golden LEAF has remitted
50 the entirety of the net loan funds to the Office. Each report shall contain all of the following:

- 1 (1) The number of recipients of loans for each represented North American
- 2 Industry Classification System Code.
- 3 (2) The number of jobs retained.
- 4 (3) The number of loans awarded.
- 5 (4) The average loan amount.
- 6 (5) The total amount loaned to date.
- 7 (6) The total amount of loans repaid to date.
- 8 (7) The total amount of loans defaulted on to date.
- 9 (8) The total amount of loans defaulted that have been recaptured.
- 10 **SECTION 2.** This act is effective when it becomes law.