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AB-1230 California Americans With Disabilities Small Business Capital Access Loan Program. (2015-2016)

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Assembly Bill No. 1230

CHAPTER 787

An act to add Section 44559.13 to the Health and Safety Code, relating to small business, and making an appropriation therefor.

[Approved by Governor October 11, 2015. Filed with Secretary of State October 11, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1230, Gomez. California Americans With Disabilities Small Business Capital Access Loan Program.

Existing law provides various programs to expand access to persons with disabilities and promote compliance with the federal Americans with Disabilities Act of 1990.

Existing law establishes the Capital Access Loan Program, which is administered by the California Pollution Control Financing Authority (authority) to assist small businesses to finance the costs of complying with environmental mandates and the remediation of contamination on their properties.

This bill would establish the California Americans with Disabilities Act Small Business Capital Access Loan Program within the Capital Access Loan Program, to create a self-sustaining program to provide loans to assist small businesses in financing the costs of projects that alter or retrofit existing small business facilities, meeting specified criteria, to comply with the federal Americans with Disabilities Act.

This bill would authorize the authority to administer the program, including adopting regulations, and controlling funds appropriated for the program, as specified.

This bill would establish the California Americans with Disabilities Act Small Business Capital Access Loan Program Fund, as a continuously appropriated fund, and require the authority to use the fund for all its purposes. This bill would also transfer \$10,000,000 from the General Fund to the California Americans with Disabilities Act Small Business Capital Access Loan Program Fund.

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 44559.13 is added to the Health and Safety Code, to read:

44559.13. (a) It is the intent of the Legislature in this act to create and fund the California Americans with Disabilities Small Business Capital Access Loan Program to assist small businesses in complying with the Americans with Disabilities Act. It is not the intent of the Legislature to assist the physical expansion of small businesses that includes modifications that comply with the

Americans with Disabilities Act. The program shall be administered by the California Pollution Control Financing Authority and follow the terms and conditions for the Capital Access Loan Program for Small Businesses in this article with the additional program requirements specified under this section.

(b) For purposes of this section, unless the context requires otherwise, the following words and terms shall have the following meanings:

(1) "Americans with Disabilities Act" means the federal Americans with Disabilities Act (42 U.S.C. Sec. 12101 et seq.) and amendments thereto.

(2) "California Americans with Disabilities Act Small Business Capital Access Loan Program Fund" or "fund" means a fund established and administered by the authority pursuant to Sections 44548 and 44549 to be used for purposes of this program.

(3) "Eligible cost" means and includes all or any part of the price of construction, purchase price of real or personal property, the price of demolishing or removing any buildings or structures, the price of all machinery and equipment, the amount of financing charges and interest prior to, during, and for a period not to exceed the later of one year or one year following completion of construction, as determined by the authority, the price of insurance during construction, the amount of funding or financing noncapital expenses, the amount of reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements, the price of engineering, financial, and legal services and other service contracts, the price of plans, specifications, studies, surveys, estimates, administrative expenses, and any other expenses of funding or financing, that are necessary and allocable to the eligible project, and shall not include costs not directly related to physical alterations necessary for compliance with the Americans with Disabilities Act.

(4) "Eligible project" means the physical alterations or retrofits to an existing small business facility of less than 10,000 square feet necessary to ensure that facility is in compliance with the Americans with Disabilities Act, and the financing necessary to pay eligible costs of the project.

(5) "Qualified loan" means a loan or portion of a loan as defined in subdivision (j) of Section 44559.1, where the proceeds of the loan or portion of the loan are limited to the eligible costs for an eligible project under this program, and where the loan or portion of the loan does not exceed fifty thousand dollars (\$50,000).

(6) "Small business" or "qualified business" means a business referred to in subdivisions (i) and (m) of Section 44559.1, that meets the following additional criteria:

(A) Fifteen or fewer full-time equivalent employees.

(B) Less than one million dollars (\$1,000,000) in total gross annual income from all sources.

(C) Does not provide overnight accommodations.

(c) (1) The California Americans with Disabilities Act Small Business Capital Access Loan Program Fund is established in the State Treasury for, and shall be administered by the authority pursuant to Sections 44548 and 44549 for, this program. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the authority for carrying out the purposes of this section. The authority may divide the fund into separate accounts. All moneys accruing to the authority pursuant to this section from any source shall be deposited into the fund.

(2) All moneys in the fund derived from any source shall be held in trust for the life of this program, subject to the program expenditures and costs of administering this section, as follows:

(A) Program expenditures shall include both of the following:

(i) Contributions paid by the authority in support of qualified loans.

(ii) Reasonable costs to educate the small business community and participating lenders about the program, including travel within the state.

(B) Administrative expenditures shall be limited to 5 percent of the initial appropriation plus 5 percent of all moneys recaptured, and shall include all of the following:

(i) Personnel costs.

(ii) Service and vending contracts necessary to carry out the program.

(iii) Other reasonable direct and indirect administrative costs.

(3) The authority may direct the Treasurer to invest moneys in the fund that are not required for its current needs in the eligible securities specified in Section 16430 of the Government Code as the authority shall designate. The authority may direct the Treasurer to deposit moneys in interest-bearing accounts in state or national banks or other financial institutions having principal offices located in the state. The authority may alternatively require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of the Government Code. All interest or other increment resulting from an investment or deposit shall be deposited into the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of the Government Code, excepting the Surplus Money Investment Fund.

(d) The authority shall adopt regulations pursuant to subdivision (c) of Section 44520 to implement the program, including provisions specific to this program as described in this section and further including provisions to:

(1) Establish a new loss reserve account for each participating lender enrolling loans in this program.

(2) Obtain a certification from each participating lender and small business upon enrollment of a qualified loan that the proceeds of the loan will be used for the eligible costs of an eligible project.

(3) Contribute an additional incentive from the fund for each loan enrolled for a qualified business located in a severely affected community.

(4) Restrict the enrollment of a qualified loan in any other Capital Access Loan Program for small business offered by the authority as long as funds are available for this program.

(5) Limit the term of loss coverage for each qualified loan to no more than five years.

(6) Recapture from the loss reserve account the authority's contribution for each enrolled loan upon the maturation of such loan or after five years from the date of enrollment, whichever happens first, to be deposited in the fund and applied to future program and administrative expenditures.

SEC. 2. The sum of ten million dollars (\$10,000,000) is hereby transferred from the General Fund to the California Americans with Disabilities Act Small Business Capital Access Loan Program Fund for the purposes of funding loss reserve accounts and administering the program pursuant to the California Americans with Disabilities Act Small Business Capital Access Loan Program.