

CHAPTER 1173
IOWA SMALL BUSINESS LOAN PROGRAM
H.F. 2464

AN ACT relating to the Iowa small business loan program.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 220.1, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. "Cost" as applied to Iowa small business loan program projects means the cost of acquisition, construction, or both including the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required for acquisition, construction, or both. It also means the cost of demolishing or removing structures on acquired land, the cost of access roads to private property, including the cost of land or easements, and the cost of all machinery, furnishings, and equipment, financing charges, and interest prior to and during construction and for no more than eighteen months after completion of construction. Cost also means the cost of engineering, legal expenses, plans, specifications, surveys, estimates of cost and revenues, as well as other expenses incidental to determining the feasibility or practicability of acquiring or constructing a project. It also means other expenses incidental to the acquisition or construction of the project, the financing of the acquisition or construction, including the amount authorized in the resolution of the authority providing for the issuance of bonds, to be paid into any special funds from the proceeds of the bonds, and the financing of the placing of a project in operation.

NEW SUBSECTION. "Project" means real or personal property connected with a facility to be acquired, constructed, improved, or equipped, with the aid of the Iowa small business loan program as provided in this Act.

NEW SUBSECTION. "Iowa small business loan program" or "loan program" means the program for lending moneys to small business established under this Act.

NEW SUBSECTION. "Small business" means a business entity organized for profit, including but not limited to an individual, partnership, corporation, joint venture, association or cooperative, to which the following apply:

- a. It is not an affiliate or subsidiary of a business dominant in its field of operation.
- b. It has either twenty or fewer full-time equivalent positions or not more than the equivalent of one million dollars in annual gross revenues in the preceding fiscal year.
- c. It does not involve the operation of a farm and does not involve the practice of a profession.

For purposes of this definition "dominant in its field of operation" means having more than twenty full-time equivalent positions and more than one million dollars in annual gross revenues, and "affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least twenty percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation.

Sec. 2. Section 220.1, subsection 14, Code 1981, is amended to read as follows:

14. "Mortgage lender" means any bank, trust company, mortgage company, national banking association, savings and loan association, life insurance company, any governmental

agency, or any other financial institution authorized to make mortgage loans in this state and includes a financial institution as defined in section 496B.2, subsection 2, which lends moneys for industrial or business purposes.

Sec. 3. Section 220.26, subsection 1, Code 1981, is amended to read as follows:

1. The authority may issue its negotiable bonds and notes in principal amounts as, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds and notes, the establishment of reserves to secure its bonds and notes, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. However, the authority may not have a total principal amount of bonds and notes outstanding at any time in excess of five hundred million dollars plus fifty million dollars for property improvement loans to finance solar and other renewable energy systems in housing as authorized by section 220.37. Fifty million dollars of the total principal amount of bonds and notes may be issued pursuant to the small business loan program established under section 5 of this Act. The bonds and notes shall be deemed to be investment securities and negotiable instruments within the meaning of and for all purposes of the uniform commercial code.

Sec. 4. Section 5 of this Act is enacted as a new division of chapter 220.

Sec. 5. Chapter 220, Code 1981, is amended by adding the following new sections:

NEW SECTION. LEGISLATIVE FINDINGS – PURPOSES – PUBLIC POLICY.

1. The general assembly finds and declares as follows:

a. A viable small business community is essential to the continuing welfare of Iowans who depend on small business for employment.

b. Iowa small business must continue to expand and develop if they are to remain competitive in state and local markets.

c. Small business expansion and development is dependent upon the availability of financing for expansion and development at interest rates which small businesses may reasonably pay.

d. Private financing for small businesses at low interest rates is unavailable to assist small business expansion and development. The Iowa small business loan program is necessary to encourage the investment of private capital in small business expansion and development through the use of public financing as provided in this Act.

2. The purposes of the small business loan program are:

a. To promote the business prosperity and economic welfare of Iowa and Iowans.

b. To assist, through loans, investments, and other transactions, the location of new small business and industry in the state.

c. To assist through loans, investments, and other transactions, existing small business and industry in the state.

d. To provide employment opportunities and thereby improve the standard of living of Iowans.

e. To promote industrial, commercial, and recreational development in this state.

3. All of the purposes stated in this section are public purposes and uses for which public moneys provided by the sale of revenue bonds may be used.

4. It is the public policy of the state through the establishment of the small business loan program to promote the economic welfare of Iowans and to improve employment opportunities for Iowans. To advance that public policy, the authority may make loans to borrowers for both the acquisition and the construction of projects and may issue obligations of this state payable solely from bond proceeds, to pay the cost of the projects.

NEW SECTION. SMALL BUSINESS LOAN PROGRAM.

1. The authority shall initiate a program to assist the development and expansion of small business in Iowa. The authority may issue bonds and notes the proceeds of which shall be used

to make program loans. The bonds and notes are a portion of the total principal amount of bonds and notes of the authority which may be outstanding at any time pursuant to section 220.26, subsection 1. The principal amount of bonds and notes issued pursuant to the loan program shall not exceed fifty million dollars. Bonds and notes issued under this section are subject to all provisions of this chapter relating to the issuance of bonds.

2. The authority may contract with the Iowa business development credit corporation or any other corporation organized under chapter 496B for the provision by the corporation of lending and other administrative services relative to the loan program to the authority.

NEW SECTION. SMALL BUSINESS LOAN PROGRAM—SPECIFIC POWERS. In assisting Iowa small businesses through the loan program, the authority may do any of the following:

1. Make loans, secured and unsecured, for both the acquisition and the construction of projects on terms the authority determines. The authority may take any action which is reasonable and lawful to protect its security and to avoid losses from its loans. Before making a loan, the authority shall find that the proposed project shall result in one or more of the following:

- a. The creation of jobs in Iowa.
- b. Increased revenues for the borrower from a more modern or expanded facility.
- c. Providing a service facility needed in the community where the project will be located.

2. Acquire, hold, and mortgage personal property and real estate and interests in real estate to be used as a project.

3. Purchase, construct, improve, furnish, equip, lease, option, sell, exchange, or otherwise dispose of projects under the terms the authority determines. However, in the lease, sale, or loan agreement relating to a project, the authority shall provide for adequate maintenance of the project.

4. Grant a mortgage, lien, pledge, assignment, or other encumbrance on a project, revenues, or reserve or other funds established in connection with obligations, or with respect to a lease, sale, or loan relating to a project, or a guaranty or insurance agreement relating to a project, or an interest, secured or unsecured, of the authority in a project or part of a project.

5. Provide that the interest on obligations may vary in accordance with a base or formula authorized by the authority.

6. Contract for the acquisition, construction, or both of a project or part of a project and for the leasing, subleasing, sale, or other disposition of a project in a manner determined by the authority.

7. Cooperate with the Iowa development commission and use its facilities to assist and encourage organizations in Iowa communities in the promotion and development of small business prosperity in those communities.

NEW SECTION. SMALL BUSINESS LOAN CRITERIA. In determining whether a small business is eligible for a loan from the small business loan program, the authority shall consider the following criteria:

1. The applicant shall be of good character as determined by rule which shall be adopted by the authority.

2. The applicant shall show evidence that the applicant is able to operate the business successfully.

3. The applicant shall have enough capital in the business so that with assistance from the loan program, the applicant will be able to operate the business on a financially sound basis.

4. The loan shall be so secured or of such sound value as to reasonably assure repayment.

5. The business' past earnings record and future prospects shall indicate an ability to repay the loan out of income from the business.

6. Whether the granting of the loan will increase employment or have other favorable effects upon the economic life of the community where the business is located.

NEW SECTION. LOAN AGREEMENT WITH SPONSORS.

1. The authority may enter into a loan agreement with a project sponsor to finance in whole or in part the acquisition of a project by construction or purchase. The repayment obligation of the project sponsor may be unsecured, secured by a mortgage or security agreement, or secured by other security as the authority deems advisable, and may be evidenced by one or more notes of the project sponsor. The loan agreement may contain terms and conditions the authority deems advisable.

2. The authority may issue its bonds and notes for the purposes set forth in subsection 1 and may enter into a lending agreement or purchase agreement with one or more bondholders or noteholders containing the terms and conditions of the repayment of and the security for the bonds or notes. The authority and the bondholders or noteholders may enter into an agreement to provide for any of the following:

a. That the proceeds of the bonds and notes and the investments of the proceeds may be received, held, and disbursed by the bondholders or noteholders, or by a trustee or agent designated by the authority.

b. That the bondholders or noteholders or a trustee or agent designated by the authority, may collect, invest, and apply the amounts payable under the loan agreement or any other security instrument securing the debt obligation of the project sponsor.

c. That the bondholders or noteholders may enforce the remedies provided in the loan agreement or security instrument on their own behalf without the appointment or designation of a trustee and if there is a default in the principal of or interest on the bonds or notes or in the performance of any agreement contained in the agreement or instrument, the payment or performance may be enforced in accordance with the provisions contained in the agreement or instrument.

d. That if there is a default in the payment of the principal or interest on a mortgage or security instrument or a violation of an agreement contained in the mortgage or security instrument, the mortgage or security instrument may be foreclosed or enforced and any collateral sold under proceedings or actions permitted by law and a trustee under the mortgage or security agreement or the holder of any bonds or notes secured thereby may become a purchaser if it is the highest bidder.

e. Other terms and conditions.

3. The authority may provide in the resolution authorizing the issuance of the bonds or notes that the principal and interest shall be limited obligations payable solely out of the revenues derived from the debt obligation, collateral, or other security furnished by or on behalf of the project sponsor, and that the principal and interest does not constitute an indebtedness of the authority or a charge against its general credit or general fund.

4. The powers granted the authority under this section are in addition to other powers contained in this chapter. All other provisions of this chapter, except section 220.28, subsection 4, apply to bonds or notes issued pursuant to and powers granted to the authority under this section except to the extent that they are inconsistent with this section.

Sec. 6. Chapter 220, Code 1981, is amended by adding the following new section:

NEW SECTION. APPLICATION OF FUNDS FROM SALES OF OBLIGATIONS. All moneys received by or on behalf of the authority, whether as proceeds from the sale of obligations or as revenues, are trust funds to be held and applied solely for the purposes specified in the appropriation, bond resolution, or other document authorizing receipt of the moneys by the authority. A person with which the moneys are deposited shall act as trustee of the

moneys and shall hold and apply the moneys for the purposes specified in this chapter subject to limitations specified in this chapter and in the bond resolution authorizing the issuance of the obligations.

Approved May 19, 1982

CHAPTER 1174
BENEFITED LAW ENFORCEMENT DISTRICT
H.F. 858

AN ACT relating to the establishment, operation, and dissolution of a benefited law enforcement district, and authorizing a tax levy.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. DEFINITIONS. As used in this Act, unless the context otherwise requires:

1. "District" means a benefited law enforcement district.
2. "Board" means the board of supervisors of a county.
3. "Trustee" means a trustee of a district.

Sec. 2. NEW SECTION. PETITION FOR PUBLIC HEARING.

1. The board shall, on the petition of twenty-five percent of the resident property owners in a proposed district if the assessed valuation of the property owned by the petitioners represents at least twenty-five percent of the total assessed value of the proposed district, hold a public hearing concerning the establishment of a proposed district. The petition shall include a statement containing the following information:

- a. The need for law enforcement service.
- b. The district to be served.
- c. The approximate number of families in the district.
- d. The proposed personnel, equipment, and facilities to provide the law enforcement service.

2. The board of supervisors may require a bond of the petitioners conditioned for the payment of all costs and expenses incurred in the proceedings in case the district is not established.

Sec. 3. NEW SECTION. LIMITATION ON AREA. A district may include all or parts of the unincorporated areas of one township and any unincorporated areas of adjoining townships or parts of adjoining townships, but shall not include property assessed as agricultural land, centrally assessed property, or manufacturing personal and real property. Except for property assessed as agricultural land, the owners of centrally assessed property or manufacturing property shall have the option to be included in the district.

Sec. 4. NEW SECTION. TIME OF HEARING. The public hearing required in section 2 of this Act shall be held within thirty days of the presentation of the petition. Notice of hearing shall be given by publication in two successive issues of any paper of general circulation