

**12.43 Small business linked investments program created — definitions.**

The treasurer of state shall adopt rules to implement a small business linked investments program to increase the availability of lower cost funds to inject needed capital into small businesses owned and operated in this state by residents of this state, which is the public policy of the state. The rules shall be in accordance with the following:

1. As used in this section, “*small business*” means one of the following:
  - a. A new or existing small business that meets all the requirements of subsection 5.
  - b. For applications to transfer an existing small business to a new owner, the small business must also meet the requirements of subsection 5 when local competition does not exist in the principal area of business activity of the existing small business, and the loss of the existing small business would result in a hardship on the community.
2. Loan applications for a new or existing small business shall be for the purchase of land, improvements, fixtures, machinery, inventory, supplies, equipment, information technology, or licenses, or patent, trademark, or copyright fees and expenses. Loan applications for the transfer of an existing small business shall be to assist in the transfer of ownership of a retail, wholesale, manufacturing, service, or agricultural business that may close in the absence of sufficient financial assistance.
3. During the lifetime of this loan program, the maximum amount of assistance that an eligible borrower or business may borrow or receive through this loan program shall be two hundred thousand dollars. An eligible borrower or business under this program shall be limited to one loan from one financial institution.
4. A preference shall be given to those persons who are less able than other persons to secure funds for a small business without participation in the small business linked investment program.
5. In order to qualify under this program, all owners of the business or borrowers must not have a combined net worth exceeding nine hundred seventy-five thousand dollars as defined in rules adopted by the treasurer of state pursuant to chapter 17A and the small business must meet all of the following criteria:
  - a. Be a for-profit business.
  - b. If an application involves an existing business or the transfer of an existing business to a new owner, the business must have annual gross sales of two million dollars or less at the time the application is submitted under section 12.35.
  - c. Not be operated out of the home of any person, unless the person is eligible for a deduction on federal income taxes pursuant to 26 U.S.C. § 280A.
  - d. Not involve real estate investments, rental of real estate, leasing of real estate, or real estate speculation.
  - e. Liquor, beer, and wine sales must not exceed twenty percent of annual sales for establishments holding a class “C” liquor license issued pursuant to section 123.30.
  - f. If an application involves the transfer of an existing small business, the transfer must be by purchase, lease-purchase, or contract of sale. The purchase must be for all or a portion of the business which is essential to its continued viability, including land where the business is located, fixtures attached to the land, machinery, inventory, supplies, equipment, information technology, or licenses, patents, trademarks, copyrights, or other intellectual property relied upon by the business, and inventory for sale by the business.
6. Loan proceeds shall not be used to refinance existing debt, including credit card debt. However, proceeds may be used to refinance a short-term bridge loan made in anticipation of the treasurer of state’s approval of the linked investment loan package.
7. Eligible lending institutions shall verify the borrower is eligible to participate under the provisions of this section pursuant to rules adopted by the treasurer of state pursuant to chapter 17A.

87 Acts, ch 233, §128; 88 Acts, ch 1273, §4; 89 Acts, ch 234, §9; 94 Acts, ch 1201, §13; 97 Acts, ch 195, §9, 10; 2006 Acts, ch 1165, §7; 2010 Acts, ch 1184, §35

Subsection 5, unnumbered paragraph 1 amended