

have a combined net worth exceeding five hundred thousand dollars as defined in rules adopted by the treasurer of state pursuant to chapter 17A and the focused small business must meet all of the following criteria:

- a. Be a for-profit business.
- b. Have annual sales of two million dollars or less.
- 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.
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.

Sec. 10. This Act shall have no effect, pursuant to section 4.13, on loans in effect on the effective date of this Act.

Sec. 11. In addition to the assistance already available through the department of economic development's targeted small business program, the department of economic development shall develop a proposal for "instant buy down" assistance to targeted small businesses. The department of economic development shall provide a recommended proposal for this type of assistance and an estimate of necessary additional funding for such assistance to the chairpersons of the economic development appropriation subcommittees of the general assembly by December 15, 1997.

Approved May 29, 1997

CHAPTER 196

WRONGFUL IMPRISONMENT

H.F. 674

AN ACT providing a cause of action against the state for wrongful imprisonment.

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

Section 1. NEW SECTION. 663A.1 WRONGFUL IMPRISONMENT — CAUSE OF ACTION.

1. As used in this section, a "wrongfully imprisoned person" means an individual who meets all of the following criteria:

- a. The individual was charged, by indictment or information, with the commission of a public offense classified as an aggravated misdemeanor or felony.
- b. The individual did not plead guilty to the public offense charged, or to any lesser included offense, but was convicted by the court or by a jury of an offense classified as an aggravated misdemeanor or felony.
- c. The individual was sentenced to incarceration for a term of imprisonment not to exceed two years if the offense was an aggravated misdemeanor or to an indeterminate term of

years under chapter 902 if the offense was a felony, as a result of the conviction.

d. The individual's conviction was vacated or dismissed, or was reversed, and no further proceedings can be or will be held against the individual on any facts and circumstances alleged in the proceedings which had resulted in the conviction.

e. The individual was imprisoned solely on the basis of the conviction that was vacated, dismissed, or reversed and on which no further proceedings can be or will be had.

2. Upon receipt of an order vacating, dismissing, or reversing the conviction and sentence in a case for which no further proceedings can be or will be held against an individual on any facts and circumstances alleged in the proceedings which resulted in the conviction, the district court shall make a determination whether there is clear and convincing evidence to establish either of the following findings:

(1) That the offense for which the individual was convicted, sentenced, and imprisoned, including any lesser-included offenses, was not committed by the individual.

(2) That the offense for which the individual was convicted, sentenced, and imprisoned was not committed by any person, including the individual.

3. If the district court finds that there is clear and convincing evidence to support either of the findings specified in subsection 2, the district court shall do all of the following:

a. Enter an order finding that the individual is a wrongfully imprisoned person.

b. Orally inform the person and the person's attorney that the person has a right to commence a civil action against the state under chapter 669 on the basis of wrongful imprisonment.

4. Within seven days of entry of the order finding that an individual is a wrongfully imprisoned person, the clerk of court shall forward a copy of the order, together with a copy of this section, to the individual named in the order.

5. A claim for wrongful imprisonment under this section is a "claim" for purposes of chapter 669, notwithstanding anything in section 669.14 to the contrary. Notwithstanding section 669.8, however, an action brought under this section shall not preclude or otherwise limit any action or claim for relief based on any negligent or wrongful acts or omissions which arose during the period of the wrongful imprisonment, but which are not related to the facts and circumstances underlying the conviction or proceedings to obtain relief from the conviction.

6. Damages recoverable from the state by a wrongfully imprisoned person under this section are limited to the following:

a. The amount of restitution for any fine, surcharge, other penalty, or court costs imposed and paid and any reasonable attorney's fees and expenses incurred in connection with all criminal proceedings and appeals regarding the wrongfully imposed judgment and sentence and such fees and expenses incurred in connection with any civil actions and proceedings for postconviction relief which are related to the wrongfully imposed judgment and sentence.

b. An amount of liquidated damages in an amount equal to fifty dollars per day of wrongful imprisonment.

c. The value of any lost wages, salary, or other earned income which directly resulted from the individual's conviction and imprisonment, up to twenty-five thousand dollars per year.

d. The value of reasonable attorney's fees for services provided in connection with an action under this section.

7. In awarding damages under this section, the state appeal board or the court shall not offset the award by any expenses incurred by the state or any political subdivision of the state in connection with the arrest, prosecution, and imprisonment of the individual, including, but not limited to, expenses for food, clothing, shelter, and medical care.

8. Actions under this section shall be commenced within two years of entry of the district court order adjudging the individual to be a wrongfully imprisoned person.