

## 4 Workbook on the Small Business Finance Center

### Statutory References:

Government Code Section 63000 through 63089.67

**Program Purpose:** To assist small businesses seeking capital, including the Small Business Loan Guarantee Program (SBLG Program).

**Program Narrative:** The Small Business Loan Guarantee Program is administered under the auspices of the California Small Business Finance Center, which is located within the California Infrastructure and Economic Development Bank (IBank). The IBank is administratively structured within the Governor's Office of Business and Economic Development (GO-Biz). The IBank Board is chaired by the Director of GO-Biz.

The SBLG Program is one of several financial products that the IBank is authorized to provide. Other products include direct loans, disaster loans, and surety bond guarantees. The programs of the Center are primarily provided through a statewide network of nine FDCs. Most of the FDCs offer a range of other services and financial products including direct loans through local and federal programs, and one FDC is also a certified Women Business Center through the Small Business Administration.

The SBLG Program enables a small business to obtain a term loan or line of credit when it cannot otherwise qualify for a loan on its own. Applicants must meet the definition of a small business with the specific market rate loan terms and interest rates being negotiated between the borrower and the lender. Proceeds of the loan must be used primarily in California for any standard business purpose applicable to the applicant's business. The SBLG Program provides guarantees covering up to 80% to 90% of the loan. The guarantee program allows a business to not only obtain a loan but to also establish credit with a lender. The business is then more likely to obtain additional financing on its own.

**Related Appendices:** *Appendix E* has information on the significant number of small businesses in California, including the increase in minority, women, and veteran-owned businesses between 2007 and 2012. *Appendix D* includes a fact sheet with data on the California economy, *Appendix F* has an infographic of the 10 drivers of the California economy, and *Appendixes A and B* includes additional program information provided by GO-Biz.

### Key Statutory Provisions:

- 1) Establishes the IBank within GO-Biz and authorizes it to undertake a variety of infrastructure related financial activities including, but not limited to, the administration of a revolving loan fund, oversight of the Small Business Finance Center, and the issuance of tax-exempt and taxable revenue bonds.
- 2) Provides that the IBank Board be governed by a five-member board including the Director of the Department of Finance, the State Treasurer, The Director of GO-Biz, an appointee of the Governor, and the Secretary of Transportation.

- 3) Establishes the Small Business Finance Center within the IBank for the purpose of assisting businesses seeking capital resources not otherwise available in the private markets including:
  - a) Loan guarantees and other credit enhancements;
  - b) Direct loans and other debt instruments;
  - c) Disaster loan guarantees; and
  - d) Surety bond guarantees.
- 4) Authorizes the IBank Board and staff to consult with the California Small Business Board regarding issues and programs affecting California's small business community.
- 5) Establishes the SBLG Program within the IBank for the purpose of assisting small businesses in obtaining long-term loans or lines of credit from conventional financial institutions, which small businesses would not otherwise qualify for without the guarantee. Under this program, FDCs act as financial intermediaries between the state, the small business, and the financial institution.
- 6) Requires each FDC to submit an annual written plan of operation.
- 7) Requires FDCs to undertake, among other activities, the following:
  - a) Provide outreach to low-resource small businesses and microbusinesses;
  - b) Collaborate with other organizations and lenders to identify and assist creditworthy businesses and address impediments to accessing conventional debt services;
  - c) Provide technical assistance to businesses receiving loans and loan guarantees, as specified; and
  - d) Implement ongoing strategies for increasing resources through private sector involvement and nonstate funds.
- 8) Requires each FDC to annually report to the IBank on all outstanding debt and other financial obligations. The report is required to include, among other information, the location (city/county), employment impacts, gender, and ethnicity of businesses who received credit enhancements during the report period.
- 9) Establishes the California Small Business Expansion Fund (Expansion Fund) for the purpose of retaining the moneys which separately capitalize the SBLGP and paying out defaulted loan guarantees issued under the SBLGP. Each account within the Expansion Fund is legally separate and is prohibited from securing loan guarantees or other obligations of another FDC. The state is not liable or obligated beyond the funds allocated and deposited in an individual trust fund account within the Expansion Fund.

**Program Priorities in Statute:** Three priorities: (1) For business incubators and businesses that lease space in incubators; (2) Marketing priority is to be offered to Phase I and Phase II Small Business Innovation Research recipients; and (3) Rural FDCs are required to give priority to agricultural related businesses.

**Reporting Requirements in Statute:** Yes

**Small Business Focus in Statute:** Yes

**Statutory Focus on Distressed Communities:** No. Although support for microbusiness and entrepreneurship have been shown to be an effective means for creating long-term economic impacts in historically underserved communities, there are no geographic priorities for this program.

**Tracking Program Activity:** The Small Business Loan Guarantee Program has used a variety of tracking mechanisms over the years. With the arrival of the federal Small Business Credit Initiative funds, more proscriptive loan enrollment and monitoring has been required. One of several administrative improvements made by the IBank since its transfer from the now defunct Business, Transportation, and Housing Agency, was the addition of a compliance officer.

**Number of Businesses Served:** In 2014-15, 252 guarantees for \$130 million in loans using \$92.8 million of federal State Small Business Credit Initiative funds. Borrowers reported 11,781 jobs were created or retained.

**Number of Out-of-State Businesses Served:** Prohibited activity

**Current Regulatory Activities:** None known

**Background on Creation of the Program:** The Small Business Finance Center was established pursuant to AB 1247 (Medina and Bocanegra), Chapter 537, Statutes of 2013. In addition, to transferring the SBLGP from the soon to be defunct Business, Transportation and Housing Agency, the bill modernized the state's delivery of small business finance, which included providing greater program flexibility and authority to the IBank Board. Development of AB 1247 was a collaborative effort between the JEDE Committee, GO-Biz, and the IBank.

The SBLGP is locally administered through nine FDCs, which review and approve state-backed guarantees on loans made through private lending institutions. In order to qualify for financial assistance under the SBLGP, a business must be able to demonstrate that they are not able to access private financing without the use of the guarantee.

In 2011, California received significant federal funding through the State Small Business Credit Initiative (SSBIC), a program established under the federal Small Business Jobs Act. Under the federal funding formula, California received \$168 million, which is the largest amount of any state. The next highest award was \$97 million for Florida, with every state that applies receiving a minimum of \$13.1 million. One-half of California's moneys are being used to capitalize a second and slightly modified SBLGP that reflects the nuisances of the federal requirements.

Since receiving the federal funds, the priority of the SBLG Program has been to use the federal funds, rather than the state guarantee funds. In 2014-15, the state guarantee was exclusively used for renewals within the portfolio and for guarantees that were not eligible under the federal requirements. In FY

2014-15, 124 loans (\$37.4 million) were guaranteed using \$21.1 million in state funds. Borrowers reported that 2,813 jobs were created or retained under the state-side of the SBLGP.

In fiscal year 2014-15, 252 guarantees were made for a total of \$130 million in loans using \$92.8 million of federal State Small Business Credit Initiative funds. Borrowers reported that 11,781 jobs were created or retained.

- **Default Rates:** The SBLGP is over 30 years old and has been overseen by a range of state entities. Its historically low default rate is a testament to the diligence and skill of the FDCs who provide both technical and financial assistance to the small businesses they serve.

In 2007, legislation was enacted to lower the reserve amount from 25% to 20% [*AB 610 (Price), Chapter 601, Statutes of 2007*]. In the years prior to change, the SBLGP had a default rate at or below traditional lenders: 0.25% in 2005-06 and 0.10% in 2004-05. The five-year default rate in 2005-06 was 0.79%. The default rate for the comparable portfolio of the Small Business Administration is 3.5% to 5%.

Even in the challenging economic times of the great recession, the SBLGP had very limited defaults, as shown in the chart below.

<b>Defaults in the Small Business Loan Guarantee Programs (2011-2015)</b>		
	Federal Funds	State Funds
2011	0.000%	0.632%
2012	0.000%	0.488%
2013	0.008%	0.401%
2014	0.073%	0.150%
2015	0.030%	0.178%

Source: GO-Biz 6/7/2016

- **The Small Business Credit Initiative:** The Small Business Jobs Act provided, among other things, a significant new funding source for state to expand existing programs and create new programs to meet the capital needs of small businesses who found themselves without financial resources due to the recession. The SSBCI authorized the expenditure of up to \$1.5 billion for state sponsored small business finance programs. Over the life of the program, every federal dollar must be matched by \$10 of private sector dollars.
  - **Overall Funding:** Under the funding formula, California is eligible to receive up to \$168 million, which is the largest amount of any state. The next highest award is \$97 million for Florida, with every state that applies receiving a minimum of \$13.1 million. March 31, 2017 is the deadline for reporting on all SSBCI funds. California has reached the threshold for receiving all federal funding. According to the state administering agency, there is no threat of a federal claw-back of unused funds.
  - **Draw-Down of Federal Moneys:** Funding is awarded to states in three tranches with participating jurisdictions allowed to apply for the next round of funding when 80% of their current funds are expended. To date, California has received two of its three allocations for a total of \$110.8 million. Application to the U.S. Treasury for the third and final tranche is expected in April/May 2017.

- **State Programs Funded:** California uses its moneys to capitalize the Small Business Loan Guarantee Program administered through the I-Bank, and a loss reserve program and collateral support program administered through the California Pollution Control Financing Authority at the state Treasurer's Office.
- **Overall Funding Utilization:** As of 12/31/14\*, California has encumbered \$87.6 million, with approximately \$40.6 million set aside to cover loan guarantees; \$7.2 million deposited with private financial institutions through the CalCap and \$39.8 million used for the collateral support program. Approximately \$2.4 million has been used for direct administrative costs, resulting in a cumulative 2.18% administrative cost per dollar allocated by the U.S. Treasury.
- **2014 Funding Utilization:** In 2014\*, California encumbered \$36.9 million of SSBCI funds. Of this amount, approximately \$12.9 million set aside to cover loan guarantees; \$2.2 million deposited with private financial institutions through the CalCAP and \$21.4 million used for the collateral support program.
- **Program Impacts:** In 2014\*, 1,630 loans were made to small businesses, which leveraged \$192.6 million in private funds at a 19:1 ratio. Since inception, \$493.3 million in loans to small business were leveraged (18:1 ratio). Since inception, 47,202 jobs have been created (7,372) or retained (39,830) by the close of 2013. In 2014, job impacts were 2,228 new jobs and 13,931 retained jobs.

- **The Need for Active Management of Underserved Areas and Supporting Underserved Population Groups:** California has benefited greatly from the additional federal funding for SBLGP activities. Prior to receiving these funds, the state program was struggling to scale up after being effectively shut down in 2009 and 2010. The federal funding not only provided new capital, but more importantly ensured that the FDCs had an ongoing source of capital on which to build programs and hire financial professionals to meet the needs of small businesses within their regions.

Given California's growing income inequality, resources such as the SBLGP offer the state a rare opportunity to counter this disturbing economic trend. Research shows that net new job growth is actually strongest among businesses with less than 20 employees and that entrepreneurial activity often serves as a catalyst for building economic stability within communities, neighborhoods, and individual households.

The 2012 Survey of Business Owners, published by U.S. Census Bureau, offers additional data as to the important role that businesses can play in dispersing economic benefits among underrepresented groups. Among other

findings, the data shows a 27.5% increase in women-owned businesses between 2007 and 2012, as compared to a 7.9% increase in businesses owned by men. Women-owned businesses also experienced the greatest increase in the number of people they employed and wages paid. Chart 1 displays data on the growth of business ownership during the report period for selected groups.

<b>Chart 1 - Comparison of Business Growth by Race, Ethnicity, and Veterans</b>	
<b>Business Ownership</b>	<b>Percent Change 2007 to 2012 Number of all Firms</b>
Asian American Women	44.3%
Asian American Men	25.7%
Black Women	67.5%
Black Men	18.8%
Hispanic Women	87.3%
Hispanic Men	39.3%
White Women	10.1%
Veteran Women	29.6%
Veteran Men	7.7%

Source: 2012 Survey of Business Owners

The SBLGP annually reports on a number of financial elements, including defaults, as well as the race/ethnicity, and gender of borrowers. Beginning in 2017, the annual report will also include data on geographic location of businesses served. [AB 1537 (JEDE), Chapter 191, Statutes of 2015]

Of the 376 loans guaranteed in 2014-15 using the federal and state funds, 64.63% were male owned, 17.02% were women owned, and 18.35% were co-owned by men and women. The race/ethnicity of the owners of the small businesses assisted: Caucasian 62.77%; Asian/Pacific Islander 8.51%; Hispanic 9.31%; African American 3.19%; Asian Indian 4.52%; and Native American 0.80%.

Comparing the 2014-15 loan guarantees to the overall make-up of California businesses (Chart 2),

Chart 2 - California Businesses		
All firms	100%	3,548,449
Male	52.2%	1,852,580
Female	37.2%	1,320,085
Co-Owned M/F	8.8%	315,782
White	66%	2,343,439
Black	4.90%	177,302
American Indian and Alaska Native	1.10%	41,254
Asian	17%	604,870
Hispanic	23%	815,304
Source: 2012 Survey of Business Owners		

shows that, overall, the ownership of businesses accessing the SBLGP during the report period was more heavily comprised of businesses owned by white males. The percentage of businesses equally co-owned, whoever, was twice the state average, 18.35% v. 8.8%.

While there are many factors that contribute to making a program accessible to small businesses, these comparative reviews do suggest that the IBank specifically engage with FDCs on what actions they have taken and will take in the future to serve a more representative group of businesses.

Encouraging the active management of the SBLGP is an important duty of the program manager and existing law provides him or her with key tools by which to accomplish this responsibility. First, each FDC has a statutory duty to undertake program activities that provide outreach to low-resource small businesses and microbusinesses and to partner with other financial and community partners to accomplish this duty, GC§ 63088.6. Second, existing law also requires each FDC to submit an annual written plan of operation to the program manager, which should encompass all of its contractual duties, GC §63089.1. Third, the program manager has the authority to distribute and even withhold Expansion Fund moneys to ensure FDCs meet program responsibilities, as outlined in their annual contract, GC §63089.1. Collectively, these duties and responsibilities underscore the fundamental mandate of the program to serve a wide range of small businesses from across the state that have a representative ownership that reflects the diversity of the state.

**Related Legislation:** Below is a list of the related bills.

- **AB 610 (Price): Leverage of the Small Business Expansion Fund:** This bill enhances the Small Business Loan Guarantee Program's ability to leverage existing program dollars resulting in the ability to serve more small businesses financial needs per year. More specifically, the bill authorizes a 20% reserve to outstanding loan guarantees rather than a 25% reserve. Status: Signed by the Governor, Chapter 601, Statutes of 2007.
- **AB 1247 (Medina and Bocanegra) Small Business Finance Center:** This bill establishes the California Small Business Finance Center at the IBank, within the Governor's Office and Economic Development, and transfers the authority to administer the small business loan guarantee program,

direct disaster loans, surety bond guarantees, and other related programs to the I-Bank. Status: Signed by the Governor, Chapter 537, Statutes of 2013.

- ***AB 1537 (Assembly Committee on Jobs, Economic Development, and the Economy) Small Business Finance Center:*** This bill expands reporting requirements for programs financed through the California Small Business Finance Center by including annual reporting on the general geographic location of assisted businesses. This information is essential to monitoring that small businesses throughout the state have access to these programs. Status: Signed by the Governor, Chapter 191, Statutes of 2015.
- ***AB 2671 (Assembly Committee on Jobs, Economic Development and the Economy) Small Business Access to Capital:*** This bill extends, until January 1, 2018, the sunset date on the maximum allowable leverage of reserve funds necessary under Small Business Loan Guarantee Program. On January 1, 2013, the maximum leverage rate was scheduled to return to 25% or four dollars for every one dollar of loan guaranteed. This bill allows the program to continue to operate at the 20% reserve limit. The Director of the SBLGP has the discretion to set a lesser leverage amount for the overall program and for any individual small business financial development corporation. Status: Signed by the Governor, Chapter 648, Statutes of 2012.

## Reports

1. ***California Small Business Loan Guarantee Program – report on administrative costs (January 2014):*** This mandated special report was prepared by the California Infrastructure and Economic Development Bank (IBank) on the administrative costs of the Small Business Loan Guarantee Program, which are issued on behalf of the state by 11 nonprofit organizations known collectively as the Small Business Financial Development Corporations (FDCs). The supplemental budget report was requested as part of the Legislature's and Administration's discussion on increasing administrative payments to the FDCs. The report included information on annual funding including state, federal, and other program moneys (fees and changes) from 2003-04 through 2012-13; a summary of program activities; FDC staffing levels; and a discussion of the adequacy of the current funding levels. Administrative cost findings: funding for state overhead and FDC administration costs remained flat from FY 2004-05 through FY 2006-07, and then gradually increased through FY 2008-09. In FY 2009-10, funding slightly declined and then spiked in FY 2010-11. Since that time funding has consistently declined. As a result, FDCs shifted costs where possible and relied on alternative funding sources, including guarantee fees, loan packaging fees, and other FDC moneys. In response to the report, the IBank identifies several options to modify the specific administrative award amounts to individual FDCs, including: making program changes that result in a more competitive program to comparable federal programs; consolidating the number of FDCs; centralizing the guarantee authority by having the underwriting automated or undertaken by the IBank, or introducing performance-based contracts. <http://ibank.ca.gov/smallbusiness.htm>
2. ***California Small Business Finance Center Annual Report (January 2015):*** This mandated annual report was prepared by the California Infrastructure and Economic Development Bank on its activities in managing the Small Business Finance Center and the Small Business Loan Guarantee Program. In fiscal year 2013-14, 176 guarantees for \$72.2 million in loans were made using \$51.4 million of federal State Small Business Credit Initiative funds. Borrowers reported over 7,235 jobs being created or retained as a result of these federally funded guarantees. The state guarantee

program was used to provide 169 guarantees with \$23 million in loans and 2,823 jobs created or retained as a result of the state program. Of the 345 loans guaranteed using the federal and state funds, 64.6% were male, 17.1% were female, and 18.26% were co-owned by men and women. The race/ethnicity of the owners of the small businesses assisted: Caucasian 62.9%; Asian/Pacific Islander 10.43%; Hispanic 8.99%; African American 3.77%; Asian Indian 5.22%; and Native American 0.29%. \*Since February 2011, the priority of the program has been to use the federal funds, rather than the state guarantee funds. <http://ibank.ca.gov/annualreports.htm>

3. ***California Small Business Finance Center (February 2016)***: This mandated annual report was prepared by the California Infrastructure and Economic Development Bank on its activities in managing the Small Business Finance Center and the Small Business Loan Guarantee Program. In fiscal year 2014-15, 252 guarantees were made for a total of \$130 million in loans using \$92.8 million of federal State Small Business Credit Initiative funds. Borrowers reported that 11,781 jobs were created or retained. Since February 2011, the priority of the program has been to use the federal funds, rather than the state guarantee funds. During the report term, the state guarantee was only used for renewals within the portfolio and for guarantees that were not eligible under the federal funds requirements. In FY 2014-15, 124 loans for \$37.4 million using \$21.1 million in state guarantees. Borrowers reported that 2,813 jobs were created or retained. Of the 376 loans guaranteed using the federal and state funds, 64.63% were male, 17.02% were women, and 18.35% were co-owned by men and women. The race/ethnicity of the owners of the small businesses assisted: Caucasian 62.77%; Asian/Pacific Islander 8.51%; Hispanic 9.31%; African American 3.19%; Asian Indian 4.52%; and Native American 0.80%.

Two of the 11 small business finance development corporation contracts were not renewed for this fiscal year based on cause, according to the California Infrastructure and Economic Development Bank.\*

4. ***Equity-based Crowdfunding: Potential Implications for Small Business Capital (2015)***. This issue brief, prepared by the SBA Office of the Advocate, provides general background on the crowdfunding provisions contained within the federal Jumpstart Our Business Act of 2012, as well as implementation issues and two examples of the online crowdfunding platforms. The brief also includes an outline of how small businesses may benefit once the federal regulations are released. Among other advantages, equity-based crowdfunding does not require collateral as traditional lending, there is no dilution of ownership as would likely be required by venture capital investors, and should the business fail, there is no requirement to pay the investor back. Further, the investor networks can also provide creditability within their broader business environment. <https://www.sba.gov/advocacy/promising-future-equity-based-crowdfunding>

**Selected Program Accomplishments:**

- Making the 1,000<sup>th</sup> Loan using federal SSSBCI funds.
- Leading the nation in deploying federal Small Business Credit Initiative funds, resulting in 33% of all reported jobs being created or retained in the nation.
- *The IBank and the FDCs may wish to identify other accomplishments at the hearing.*

**Areas of Possible Further Review:**

- **Reuse of Federal Funds:** As noted earlier, California was provided with \$167.8 million in federal funds to support three small business access to capital programs. Once those funds have been used for programs and services consistently with federal requirements, these moneys may be used for other small business purposes. Currently, the funds are split between the California Pollution Control Financing Authority and the Small Business Finance Center. Members may wish to begin discussing how those funds can be used in the future.
- **Geographic Coverage:** The Small Business Finance Center's current annual reports do not include a geographic display of loan guarantee activity. Concerns have been raised that the mergers and closures of traditional lending institutions are having an impact on the FDCs ability to serve small businesses across California. Members may wish to speak with GO-Biz, the Small Business Advocate, the IBank, the FDCs and other stakeholders about how to ensure that all areas of the state have an opportunity to benefit from this program.
- **Supporting the FDCs:** The FDCs are on the front lines of small business finance in California. Over the past few years, Members have carried legislation to increase the annual administrative fees as a means to provide greater stability to the FDC organization. Members may wish to engage with the IBank on how they are addressing these challenges with the FDCs and determine whether this is an area that the Legislature should again try to engage.

**Related Statute**

**TITLE 6.7. INFRASTRUCTURE FINANCE [63000 - 64132]  
DIVISION 1. THE BERGESON-PEACE INFRASTRUCTURE AND ECONOMIC  
DEVELOPMENT BANK ACT [63000 - 63089.98]  
CHAPTER 1. General Provisions [63000 - 63010]  
ARTICLE 1. Findings and Declarations [63000 - 63002]**

63000. The Legislature finds and declares the following:

- (a) Economic revitalization, future development, and a healthy climate for jobs in California will depend upon a well-conceived system of public improvements that are essential to the economic well-being of the citizens of the state and are necessary to maintain, as well as create, employment within the state for business.
- (b) It is necessary for public policy to support the efforts of businesses attempting to expand, businesses seeking to locate in California, and local economic development organizations, public agencies, and new

entrepreneurs by dedicating public fiscal resources to confront obstacles and barriers that impede economic growth.

(c) Existing mechanisms that coordinate federal, state, local, and private financial resources are inadequate to attract and sustain that level of private investment that is essential to a growth economy.

(d) In order to secure and enhance the economic well-being of Californians, promote economic development in the state, and provide a healthy climate for the creation of jobs, it is necessary for public policy to support the efforts of expanding businesses, businesses seeking to locate in California, local development organizations, public bodies, and new entrepreneurs to gain access to capital through current and potential operations of financial markets.

(e) The high cost and the lack of availability of industrial loans for small- and medium-size businesses is making it difficult for thousands of these enterprises to get established, to maintain their present employment levels, or to expand employment.

(f) The problem of access to capital is acute in the high technology industry clusters because companies must often finance large capital expenditures early in their development cycle, and cannot obtain financing sufficient to cover the cost of those expenditures. Consideration should be given to industry clusters that may include the following:

(1) Health care technology.

(2) Multimedia.

(3) Environmental technology.

(4) Information technology.

(g) The high cost and limited availability of loans and capital has led a number of states to take action to remedy these conditions through concerted public and private investment programs that include efforts to do the following:

(1) Use the state's access to capital markets more effectively for economic development.

(2) Create financing pools to access national capital markets or help government sponsors and public-private economic development organizations obtain credit enhancement on their own.

(3) Facilitate credit enhancement for selected specific projects.

(4) Provide or arrange for loan insurance.

(5) Create and support secondary markets for loan portfolios of urban and rural economic development corporations and others.

(6) Improve access to international capital markets.

(7) Provide opportunities for public pension funds and other institutional investors to play a larger role in state economic development.

(8) Arrange for or provide subordinated debt for selected projects.

(9) Increase support for local infrastructure development.

(h) Local governments in California bear a primary responsibility for the business of promoting job creation and economic development efforts. California's continued reliance on autonomous local entities often fails to adequately consider regional impacts of business expansion. Projects of a regional nature need the benefit of a state coordinating function to augment and enhance local economic development and environmental efforts.

(i) The State of California has not embarked on a major infrastructure financing effort since the decade of the 1960's, despite persistent unemployment and soaring population growth.

(j) California's ability to compete in a global economy depends upon its capacity to implement policies that take maximum advantage of public and private resources at the local, regional, state, and national levels. These policies should be coordinated with any future legislative plan involving growth management strategies designed to make economic growth compatible with environmental protections.

It is the intent of the Legislature in enacting this act to create a mechanism to finance projects needed to implement economic development and job creation and growth management strategies, and to provide a secure and stable funding source for implementation of this act in order to meet critical economic, social, and environmental concerns.

(k) The State of California needs a financing entity structured with broad authority to issue bonds, provide guarantees, and leverage state and federal funds using techniques that will target public investment to facilitate economic development. The goal is to produce more private sector jobs with less public sector investment.

(l) The mechanisms for financing public improvements and private job creation strategies provided for in this act are in the public interest, serve a public purpose, and will promote the health, welfare, and safety of the citizens of the state.

(m) The public policies and responsibilities of the state, including all of the above purposes and functions, cannot be fully obtained without the use of financing assistance and can be most effectively furthered by the creation of the California Infrastructure and Economic Development Bank.

## **CHAPTER 2. California Infrastructure and Economic Development Bank [63021 - 63049.68]**

### **ARTICLE 1. Creation of the Bank [63021 - 63028]**

63021. (a) There is within the Governor's Office of Business and Economic Development the Infrastructure and Economic Development Bank which shall be responsible for administering this division.

(b) The bank shall be under the direction of an executive director appointed by the Governor, and who shall serve at the pleasure of the Governor. The appointment shall be subject to confirmation by the Senate.

63021.5. (a) The bank shall be governed and its corporate power exercised by a board of directors that shall consist of the following persons:

(1) The Director of Finance or his or her designee.

(2) The Treasurer or his or her designee.

(3) The Director of the Governor's Office of Business and Economic Development or his or her designee, who shall serve as chair of the board.

(4) An appointee of the Governor.

(5) The Secretary of Transportation or his or her designee.

(b) Any designated director shall serve at the pleasure of the designating power.

(c) Three of the members shall constitute a quorum and the affirmative vote of three board members shall be necessary for any action to be taken by the board.

(d) A member of the board shall not participate in any bank action or attempt to influence any decision or recommendation by any employee of, or consultant to, the bank that involves a sponsor of which he or she is a representative or in which the member or a member of his or her immediate family has a personal financial interest within the meaning of Section 87100. For purposes of this section, "immediate family" means the spouse, children, and parents of the member.

(e) Except as provided in this subdivision, the members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties to the extent that reimbursement for these expenses is not otherwise provided or payable by another public agency, and shall receive one hundred dollars (\$100) for each full day of attending meetings of the authority.

**CHAPTER 6. Small Business Financial Assistance Act of 2013 [63088 - 63089.98]**  
**ARTICLE 1. Introduction [63088 - 63088.1]**

63088. (a) This chapter shall be known, and may be cited, as the Small Business Financial Assistance Act of 2013.

(b) Notwithstanding any other provision of this division, this chapter shall not apply to any other activities, powers, and duties of the bank under any of the other chapters of this division.

(Added by Stats. 2013, Ch. 537, Sec. 4. Effective October 4, 2013.)

63088.1. The Legislature finds all of the following:

(a) Small businesses form the core of the California economy and that it is in the interest of the state to increase opportunities for entrepreneurs, the self-employed, and microbusiness and small business owners to have better access to capital and other technical resources.

(b) Unemployment in California is a matter of statewide concern requiring concerted public and private action to develop employment opportunities for the disadvantaged, unemployed persons, veterans, and youth.

(c) It is necessary to direct additional capital, general management assistance, business education, and other resources to encourage the development of small business opportunities, particularly for minorities, women, and disabled persons, to alleviate unemployment.

**ARTICLE 2. Definitions [63088.3- 63088.3.]**

63088.3. Unless the context otherwise requires, the definitions in this section shall govern the construction of this chapter. The definitions provided in this section shall only apply to this chapter and not to any other chapter of this division.

(a) "Bank" means the California Infrastructure and Economic Development Bank.

(b) "Bank board" means the board of directors of the California Infrastructure and Economic Development Bank.

(c) "Board of directors" means the board of directors of a corporation.

(d) "California Small Business Board" means the advisory board established pursuant to Section 14004.1 of the Corporations Code for the purpose of advising on issues and programs affecting small business.

(e) "California Small Business Finance Center" means the governmental unit within the bank, which is located within the Governor's Office of Business and Economic Development, with the administrative responsibility for programs and activities authorized pursuant to Section 8684.2 of this code, Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code, and this chapter.

(f) "Corporation" means any nonprofit California small business financial development corporation created pursuant to Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code, or pursuant to Chapter 1 (commencing with Section 32000) of Division 15.5 of the Financial Code.

(g) "Directives and requirements" means a document adopted by the bank board setting forth policy direction as well as key rules governing a particular subject area.

(h) "Executive director" means the executive director of the California Infrastructure and Economic Development Bank.

- (i) “Expansion fund” means the California Small Business Expansion Fund authorized pursuant to Section 63089.5.
- (j) “Financial company” means banking organizations, including national banks and trust companies, savings and loan associations, certified community development financial institutions, microbusiness lenders, state insurance companies, mutual insurance companies, and other public and private banking, lending, retirement, and insurance organizations.
- (k) “Financial institution” means regulated banking organizations, including national banks and trust companies authorized to conduct business in California and state-chartered commercial banks, trust companies, credit unions, and savings and loan associations.
- (l) “Financial product” means the type of financial assistance described in Section 63088.5, authorized by this chapter, or that the California Small Business Finance Center or a small business financial development corporation is otherwise authorized to provide.
- (m) “Loan committee” means a committee appointed by the board of directors of a corporation to determine the course of action on a loan application pursuant to this chapter.
- (n) “Microbusiness lender” means a microbusiness lender as defined in Section 13997.2.
- (o) “Program manager” means the manager of the California Small Business Finance Center as designated to this title by the executive director of the California Infrastructure and Economic Development Bank.
- (p) “Small business loan” means a loan to a business defined as an eligible small business as set forth in Section 121.3-10 of Part 121 of Chapter 1 of Title 13 of the Code of Federal Regulations, including those businesses organized for agricultural purposes that create or retain employment as a result of the loan unless otherwise defined by the directives and requirements. Directives and requirements shall provide guidelines as to the preferred ratio of jobs created or retained to total funds borrowed for guidance to the corporations.
- (q) “Trust fund” means the moneys from the expansion fund that is held in trust by a financial institution or financial company. A trust fund is not a deposit of state funds and is not subject to the requirements of Section 16506.
- (r) “Trustee” means the lending institution or financial company selected by the bank board to hold and invest the trust funds, or selected by a predecessor agency to the bank, if applicable. An agreement made pursuant to this chapter and the trustee shall not be construed to be a deposit of state funds.
- (s) “Trust fund account” means an account within the trust fund that is either allocated to a particular corporation or shared by multiple corporations for the purpose of paying loan defaults and claims on bond guarantees or other financial products and program uses provided in this chapter.

### **ARTICLE 3. Purpose**

63088.5. (a) There is within the Governor’s Office of Business and Economic Development the California Infrastructure and Economic Development Bank, which shall, among other things, administer the California Small Business Finance Center that administers programs to assist businesses seeking new capital resources, including, but not limited to, the Small Business Loan Guarantee Program.

(b) Pursuant to this chapter and Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code, the bank board may continue programs funded by the Small Business Expansion Fund or establish one or more programs administered by the bank or under contract with small business financial development corporations. Programs established pursuant to this chapter or Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code may include the following types of financial products:

- (1) Loan guarantees and other credit enhancements.
- (2) Direct loans and other debt instruments.
- (3) Disaster loan guarantees.
- (4) Surety bond guarantees.
- (c) In all of their state-funded programs, the corporations shall, to the extent practicable, be complementary to, and not competitive with, commercial lenders and other state and federal programs.
- (d) In carrying out this chapter the program manager, the executive director, and the bank board may call on the California Small Business Board for advice and recommendations. All actions by the California Small Business Board are advisory.
- (e) The California Small Business Board may also advise the Governor and the Small Business Advocate regarding issues and programs affecting California's small business community, including, but not limited to, business innovation and expansion, export finance, state procurement, management and technical assistance, venture capital, and financial assistance.

63088.6. To implement its responsibilities, a corporation shall undertake program activities that shall include, but not be limited to, the following:

- (a) Outreach to low-resource small businesses and microbusinesses. The corporations located in rural areas shall give priority to low-resource farmers and rural and agriculturally related businesses.
- (b) Collaboration with other organizations and lenders to identify and assist those businesses that are creditworthy but face impediments to accessing conventional sources because of reasons, such as low equity, inadequate collateral, unacceptable legal structure (such as a co-op or nonprofit organization), management inadequacies, and language problems.
- (c) To the extent possible, bringing all possible financial resources to bear on the borrower's problems, including, but not limited to, low-interest lenders, business and industrial development corporations (BIDCOs), minority enterprise small business investment companies (MESBICs), and other financial institutions, financial companies, and grantors.
- (d) Technical assistance to businesses receiving loans or guarantees that will maximize the probability of loan repayment.
- (e) Ongoing strategies for increasing program resources through private sector involvement and nonstate funds.
- (f) A program for collecting and liquidating defaulted loans so that the corporations can qualify to become full-service lenders under the Small Business Administration. Corporations located in rural areas shall, in addition, try to qualify for lender status under the United States Department of Agriculture's Rural Development and Farm Services Agency.
- (g) Become an agent for other financial institutions and financial companies.
- (h) Become an agent for other state or federal governmental agencies that need a qualified financial service provider, including, but not limited to, the State Energy Resources Conservation and Development Commission.

#### **ARTICLE 4. Administrative Structure**

63089. The bank board shall adopt directives and requirements concerning the implementation of this chapter and pursuant to Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code. Any regulations adopted pursuant to Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code, as that chapter read on January 1,

2013, shall remain in effect until the bank board adopts directives and requirements relating to the specific policy or activity, but in no case beyond June 1, 2015.

63089.1. (a) The program manager acting under the guidance of the executive director shall do all of the following:

- (1) Administer this chapter.
  - (2) Enter into a contract between the bank and each corporation for services to be provided by the corporations for one or more programs or financial products under this chapter and Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code.
  - (3) In accordance with available resources, allow the use of branch offices for the purposes of making these programs under this chapter accessible to all areas of the state.
  - (4) Require each corporation to submit an annual written plan of operation.
  - (5) Authorize the distribution, transfer, and withholding of moneys in the expansion fund and trust funds.
  - (6) Authorize the investment of expansion and trust fund moneys.
  - (7) Oversee the operations of one or more programs authorized pursuant to this chapter and by Section 8684.2.
  - (8) Act as liaison between corporations, other state and federal agencies, lenders, and the Legislature.
  - (9) Act as secretary to the California Small Business Board, and attend meetings of the California Small Business Board and the bank board.
- (b) The program manager may attend and participate at corporation meetings. The program manager or his or her designee shall be an ex officio, nonvoting representative on the board of directors and loan committees of each corporation. The program manager shall confer with the board of directors of each corporation as appropriate and necessary to carry out his or her duties, but in no case shall the program manager confer less than once each fiscal year.
- (c) In accordance with available resources, assist corporations in applying for public and private funding opportunities, and in obtaining program support from the business community.

63089.2. (a) The use of state funds paid out to the trust fund and the return on those funds from investment pursuant to Section 63089.56 is conditional pursuant to Sections 63089.3 and 63089.57. Each corporation shall enter into a written signed agreement with the bank to provide program management services for one or more programs or activities of the California Small Business Finance Center authorized under Section 8684.2, this chapter, and Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code.

- (b) Agreements with the corporations entered into pursuant to this chapter are exempt from the requirements of Section 10295, and Sections 10335 to 10381, inclusive, of the Public Contract Code. The agreement shall, at a minimum, govern the activities in which the corporation engages, the investment of state funds and its return, and the budgeted administrative expenses the corporations may incur.
- (c) In the event the program manager and corporation do not reach an agreement, the corporation may appeal one or more conditions of the contract to the executive director or the bank board by providing written notice to the executive director within 10 days of the final written contract proposal from the program manager. The executive director or the bank board shall make a determination within 30 days of receiving written notice.
- (d) In the event that the program manager finds the corporation has violated the terms of an active agreement, the program manager may take any action under Section 63089.3 or 63089.57, or any other

action as appropriate. In the event the program manager finds the corporation has substantively violated the terms of an active agreement, the corporation shall have no authority to withdraw or encumber the moneys in the trust fund or the return of those funds by the issuance of guarantees, commitments for other financial products, or by incurring expenses against the fund and its return in any manner whatsoever, and the program manager may take any action under Section 63089.3 or 63089.57, or any other action as appropriate. Any guarantee or other encumbrance made by the corporation in violation of this section shall be null and void, and the state, the bank, the expansion fund, or the trust fund will not be liable therefor.

63089.3. (a) The program manager may temporarily suspend the guarantee authority or other financial product authority of a corporation if in the determination of the program manager a corporation has substantially failed to comply with any of the requirements in subdivision (b), causing irreparable harm to the program, the corporation's guarantee, or any other financial products authority. The notice of temporary suspension sent to the corporation shall specify the reasons for the action.

(1) As used in this section, "guarantee or any other financial products authority" means the authority to make or guarantee or administer any other financial products that encumber funds in a trust fund account, any account or subaccount under the direct control of the bank or other state entity, or the expansion fund.

(2) The program manager shall make one of the determinations specified in subdivision (b) within 30 days of the effective date of the temporary suspension, unless the corporation and the program manager mutually agree to an extension. The corporation shall have the opportunity to submit written material to the program manager addressing the items stated in the temporary suspension notice. If the program manager does not make any determinations within 30 days, the temporary suspension shall be reversed. The corporation's yearly contract shall remain in effect during the period of temporary suspension, and the corporation shall continue to receive reimbursement of necessary operating expenses.

(b) Failure of a corporation to substantially comply with the following may result in the suspension or termination of a corporation:

(1) Directives and requirements adopted by the bank board, for implementing the California Small Business Development Corporation Law (Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code) and this chapter.

(2) Failure to meet any fiscal, audit, examination, or portfolio requirement, as contained in the directives and requirements and examination reports.

(3) Failure to significantly meet any milestones or scope of work as contained in the performance contract between the corporation and the bank.

(4) Any other action in the opinion of the program manager that causes irreparable harm to the corporation, the expansion fund, or the trust fund.

(c) Pursuant to subdivisions (a) and (b), the program manager may take any of the following actions:

(1) Terminate the temporary suspension.

(2) Terminate the temporary suspension subject to the corporation's adoption of a specified remedial action plan approved by the program manager.

(3) Continue the temporary suspension of guarantee and other financial product authority until a specified time.

(4) Terminate the corporation's authority to administer specified loan guarantees or other financial products.

- (5) Terminate the corporation's authority to remain a corporation authorized pursuant to the California Small Business Development Corporation Law (Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code) and this chapter.
- (d) The program manager shall make one of the determinations specified in subdivision (c) within 30 days of the effective date of the temporary suspension notice, unless the corporation and the program manager mutually agree to an extension. If the program manager does not make any determinations within 30 days, the temporary suspension shall be negated. The corporation's yearly contract shall remain in effect during the period of temporary suspension, and the corporation shall continue to receive reimbursement of necessary operating expenses.
- (e) The actions contained in paragraphs (3) to (5), inclusive, of subdivision (c) require a finding that irreparable harm will occur unless the action is taken, and a finding that the corporation has failed to comply with the California Small Business Development Corporation Law (Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code) and this chapter.
- (f) In considering any action specified in subdivision (c), the program manager shall consider, along with other criteria as specified in subdivision (b), the corporation's history and past performance.
- (g) If the program manager decides to take any action pursuant to paragraphs (3) to (5), inclusive, of subdivision (c), the program manager shall transfer all funds subject to the action, whether encumbered or not, in the trust fund account of the suspended or terminated corporation into either the expansion fund, or either permanently or temporarily transfer the funds to the trust fund account of another corporation or a holding account in the expansion fund or trust fund established for this purpose, unless an appeal is received from the corporation pursuant to subdivision (h).
- (h) If the program manager intends to transfer funds as specified in paragraph (g), the corporation shall be notified of the funds transfer 10 days before the effective date of the transfer. The corporation shall have the right to appeal the program manager's decision to the executive director within that 10-day period by sending written notice to the executive director. Once the executive director receives notice that the action is being appealed, the program manager's funds transfer shall be stayed.
- (i) The corporation shall have the opportunity to submit written material to the executive director addressing the actions and findings stated in the program manager's determination. The executive director shall consider and make a final determination on the appeal within 30 days of receiving the appeal notice from the corporation, or such longer time as agreed to by the executive director and the corporation. The executive director may elect to take any of the actions listed in subdivision (j). The action of the program manager shall remain in effect until the executive director issues a decision. The corporation's performance contract shall remain in effect during the appeal period, and the corporation shall continue to receive reimbursement of necessary operating expenses.
- (j) Pursuant to subdivision (i), the executive director may independently take action or seek the advice and recommendation of the California Small Business Board prior to taking any of the following actions:
- (1) Rescind the action taken by the program manager.
  - (2) Modify the action taken by the program manager subject to the adoption by the corporation of a specified remedial action plan approved by the executive director.
  - (3) Affirm the action taken by the program manager.
- (k) Following the executive director's concurrence any action pursuant to paragraphs (3) to (5), inclusive, of subdivision (c), the program manager shall transfer all funds subject to the action, whether encumbered or not, in the trust fund account of the suspended or terminated corporation into either the expansion fund, or either permanently or temporarily transfer the funds to the trust fund account of another corporation or a holding account in the expansion fund or trust fund established for this purpose.

The corporation shall be notified of the funds transfer 10 days before the effective date of the transfer. The corporation shall have the right to appeal the executive director's decision to the bank board within that 10-day period by sending written notice to the chair of the bank board. Once the chair of the bank board receives notice that the executive director's determination is being appealed, the program manager's funds transfer shall be stayed.

(l) The corporation shall have the opportunity to submit written material to the bank board addressing the actions and findings stated in the executive director's determination. The bank board shall consider and make a final determination on the appeal within 30 days of receiving the appeal notice from the corporation, or such longer time as agreed to by the chair of the bank board and the corporation. The action of the executive director shall remain in effect until the bank board issues a decision. The corporation's performance contract shall remain in effect during the appeal period, and the corporation shall continue to receive reimbursement of necessary operating expenses.

(m) Pursuant to subdivision (l), the bank board may independently take action or seek the advice and recommendation of the California Small Business Board prior to taking any of the following actions:

(1) Rescind the action taken by the executive director.

(2) Modify the action taken by the executive director subject to the adoption by the corporation of a specified remedial action plan acceptable to the executive director.

(3) Affirm the action taken by the executive director.

(n) Following the bank board's concurrence with the executive director's determination consistent with any action pursuant to paragraphs (3) to (5), inclusive, of subdivision (c), the program manager shall transfer all funds subject to the action, whether encumbered or not, in the trust fund account of the suspended or terminated corporation into either the expansion fund, or either permanently or temporarily transfer the funds to the trust fund account of another corporation or a holding account in the expansion fund or trust fund established for this purpose. The corporation shall be notified of the funds transfer 10 days before the effective date of the transfer.

(o) Notwithstanding Section 63089.56, in the event a final determination was made by the program manager, the executive director or the bank board, whichever is applicable, to temporarily transfer the funds of the corporation to the expansion fund or to the trust fund account of another corporation or a holding account in the expansion fund or trust fund established for this purpose, upon compliance with all requirements of that final determination as determined by the executive director, the transferred funds shall be returned to the corporation's trust fund account. While the funds of a corporation's trust fund account reside in the expansion fund, use of the principal on the funds shall be governed by the implementing directives and requirements specifying use of funds in the expansion fund. Interest on the funds moved from a corporation's trust fund account upon temporary withdrawal shall be limited to payment of the corporation's administrative expenses, as contained in the contract between the corporation and the bank pursuant to this chapter.

(p) Following a final determination of termination of all activities of an active corporation, in order to continue its existence as a nonprofit corporation pursuant to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code), the corporation must amend its articles of incorporation in accordance with Chapter 8 of Part 2 of Division 2 of the Corporations Code to remove the provisions required by Section 14005 of the Corporations Code, including an amendment to remove the words "small business financial development corporation," "small business development corporation," or "rural or urban development corporation," as applicable, from the corporate name and shall no longer be registered with the Secretary of State as a small business financial development corporation. A corporation shall not enjoy any of the benefits of a small business financial development corporation following suspension.

63089.4. The bank is authorized to:

- (a) Approve new corporations recommended by the program manager.
- (b) Enter into contracts with corporations for program management and other financial product-related services.
- (c) Select a financial institution or financial company to act as trustee of the trust fund as specified in this chapter.
- (d) Invest expansion fund and trust fund moneys as specified in this chapter.
- (e) Affirm, modify, or rescind the determinations of the program manager and the executive director as specified in this chapter.
- (f) Adopt directives and requirements as specified in this chapter.
- (g) Authorize new financial product programs and activities pursuant to this chapter.

### **ARTICLE 5. Expansion Fund and Trust Fund**

63089.5. (a) There is hereby continued in existence in the State Treasury the California Small Business Expansion Fund. All or a portion of the funds in the expansion fund may be paid out, with the approval of the Department of Finance, to a financial institution or financial company that will establish a trust fund and act as trustee of the funds.

(b) The expansion fund and the trust fund shall be used for the following purposes:

- (1) To pay defaulted loan guarantee or surety bond losses, or other financial product defaults or losses.
- (2) To fund direct loans and other debt instruments.
- (3) To pay administrative costs of corporations.
- (4) To pay state support and administrative costs.
- (5) To pay those costs necessary to protect a real property interest in a financial product default.

(c) The expansion fund and trust fund are created solely for the purpose of receiving state, federal, or local government moneys, and other public or private moneys to make loans, guarantees, and other financial products that the California Small Business Finance Center or a financial development corporation is authorized to provide. The program manager shall provide written notice to the Joint Legislative Budget Committee and to the Chief Clerk of the Assembly and the Secretary of the Senate who shall provide a copy of the notice to the relevant policy committees within 10 days of any nonstate funds being deposited in the expansion fund. The notice shall include the source, purpose, timeliness, and other relevant information as determined by the bank board.

(d) (1) One or more accounts in the expansion fund and the trust fund may be created by the program manager for corporations participating in one or more programs authorized under this chapter and Section 8684.2. Each account is a legally separate account, and shall not be used to satisfy loan guarantees or other financial product obligations of another corporation except when the expansion fund or trust fund is shared by multiple corporations.

(2) The program manager may create one or more holding accounts in the expansion fund or the trust fund, or in both, to accommodate the temporary or permanent transfers of funds pursuant to Section 63089.3.

(e) The amount of guarantee liability outstanding at any one time shall not exceed five times the amount of funds on deposit in the expansion fund plus any receivables due from funds loaned from the expansion fund to another fund in state government as directed by the Department of Finance pursuant to a statute enacted by the Legislature, including each of the trust fund accounts within the trust fund.

(f) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

63089.5. (a) There is hereby continued in existence in the State Treasury the California Small Business Expansion Fund. All or a portion of the funds in the expansion fund may be paid out, with the approval of the Department of Finance, to a financial institution or financial company that will establish a trust fund and act as trustee of the funds.

(b) The expansion fund and the trust fund shall be used for the following purposes:

(1) To pay defaulted loan guarantee or surety bond losses, or other financial product defaults or losses.

(2) To fund direct loans and other debt instruments.

(3) To pay administrative costs of corporations.

(4) To pay state support and administrative costs.

(5) To pay those costs necessary to protect a real property interest in a financial product default.

(c) The expansion fund and trust fund are created solely for the purpose of receiving state, federal, or local government moneys, and other public or private moneys to make loans, guarantees, and other financial products that the California Small Business Finance Center and a small business financial development corporation are authorized to provide.

(d) One or more accounts in the expansion fund and the trust fund may be created by the program manager for corporations participating in one or more programs authorized under this chapter and Section 8684.2. Each account is a legally separate account, and shall not be used to satisfy loan guarantees or other financial product obligations of another corporation except when the expansion fund or trust fund is shared by multiple corporations.

(e) The amount of guarantee liability outstanding at any one time shall not exceed four times the amount of funds on deposit in the expansion fund plus any receivables due from funds loaned from the expansion fund to another fund in state government as directed by the Department of Finance pursuant to a statute enacted by the Legislature, including each of the trust fund accounts within the trust fund.

(f) This section shall become operative on January 1, 2018.

63089.51. (a) All money deposited in the expansion fund is hereby continuously appropriated, without regard to fiscal years, for the purposes of this chapter.

(b) Except as specified in subdivision (b) of Section 63089.54, the state or the bank shall not be liable or obligated in any way beyond the state money that is allocated in the expansion fund from moneys from the General Fund appropriated for those purposes.

63089.52. (a) The program manager, at his or her discretion, with the approval of the executive director, may request the trustee to invest those moneys in the trust fund in any of the securities described in Section 16430. Returns from these investments shall be deposited in the expansion fund and shall be used to support the programs of this chapter.

(b) Any investments made in securities described in Section 16430 shall be governed by the investment policy approved by the bank board.

63089.53. Except as specified in subdivision (b) of Section 63089.54, the state or the bank shall not be liable or obligated in any way beyond the money that is allocated and deposited in the trust fund accounts.

63089.54. (a) There is hereby created in the State Treasury the Small Business Disaster Recovery Loan Loss Reserve Account, as part of the expansion fund. This account shall be used to pay for losses resulting from loan guarantees issued pursuant to subdivision (a) of Section 63089.90 or subdivision (b) of this section, and disaster loan guarantees and other credit enhancement defaults issued prior to the effective date of this section that are in default.

(b) Any lending institution that issues a loan that is guaranteed by resources in this account shall be fully reimbursed for the guaranteed portion of principal and interest that result from a loan or loans that are in default. If there are insufficient funds in this account to fully satisfy all claimants, the full faith of the resources in the General Fund are pledged to satisfy the obligations of this account. This account may only guarantee as much loan dollar value as is specifically authorized by the Director of Finance with the concurrence of the Governor. This account shall receive all moneys transferred pursuant to Section 63089.55, and any unencumbered balances transferred to the California Small Business Expansion Fund pursuant to Chapters 11 and 12 of the First Extraordinary Session of the Statutes of 1989, and Chapter 1525 of the Statutes of 1990, as of July 1, 1992.

(c) The Governor may utilize this authority to prevent business insolvencies and loss of employment in an area affected by a state of emergency within the state and declared a disaster by the President of the United States, by the Administrator of the United States Small Business Administration, or by the United States Secretary of Agriculture, or declared to be in a state of emergency by the Governor of California.

63089.55. The Director of Finance, with the approval of the Governor, may transfer moneys in the Special Fund for Economic Uncertainties to the California Small Business Expansion Fund for use as authorized by the bank board, in an amount necessary to make loan guarantees pursuant to Section 8684.2 and this chapter.

63089.56. (a) The funds in the expansion fund shall be paid out to trust fund accounts by the Treasurer on funds drawn by the Controller and requisitioned by the program manager, pursuant to the purposes of this chapter. The program manager may transfer funds allocated from the expansion fund to accounts, established solely to receive the funds, in financial institutions or financial companies designated by the bank to act as trustee. The financial institutions or financial companies so designated shall be approved by the state for the receipt of state deposits. Interest earned on the trust fund accounts in financial institutions or financial companies may be utilized by the corporations or the bank pursuant to the purposes of this chapter.

(b) The program manager may reallocate funds held within a corporation's trust fund account.

(1) The program manager may reallocate funds based on which corporation is most effectively using its guarantee funds. If funds are withdrawn from a less effective corporation as part of a reallocation, the program manager shall make that withdrawal only after giving consideration to that corporation's fiscal solvency, its ability to honor loan guarantee defaults, and its ability to maintain a viable presence within the region it serves. Reallocation of funds shall occur no more frequently than once per fiscal year. Any decision made by the program manager pursuant to this subdivision may be appealed to the executive director unless otherwise specified. The executive director has the authority to repeal or modify any decision to reallocate funds.

(2) The program manager may authorize a corporation to exceed the leverage ratio specified in Section 63089.5 or subdivision (a) of Section 63089.62, pending the annual reallocation of funds pursuant to this section. However, no corporation shall be permitted to exceed an outstanding guarantee liability of more than specified in subdivision (a) of Section 63089.62 after a reallocation is made.

(c) Except as specified in subdivision (e), the program manager shall allocate and transfer money to trust fund accounts based on performance-based criteria. The criteria shall include, but not be limited to, the following:

- (1) The default record of the corporation.
  - (2) The number and amount of loans guaranteed by a corporation.
  - (3) The number and amount of loans made by a corporation if state funds were used to make those loans.
  - (4) The number and amount of surety bonds guaranteed by a corporation.
  - (5) The number and amount of other financial product activity.
  - (6) The number of jobs created or retained due to the financial product activity.
- (d) The criteria specified in subdivision (c) shall not apply to a corporation that has been in existence for five years or less. If not already adopted, the bank board shall develop directives and requirements specifying the basis for transferring account funds to those corporations that have been in existence for five years or less.
- (e) Any decision made by the program manager pursuant to this section may be appealed to the executive director within 15 days of notice of the proposed action. The executive director may repeal or modify any reallocation and transfer decisions made by the program manager. The appealing corporation shall submit, in writing, the specific area or areas of appeal and set forth any recommendation to the executive director for consideration. The executive director shall render a final decision within five business days of receiving the written appeal.
- (f) Any decision made by the executive director shall be appealable in writing to the bank board within 15 days of the executive director's decision, or such longer period as agreed to between the executive director and the corporation. The bank board shall make a final reallocation or transfer decision within 30 days of receiving the appeal, or such longer period agreed to between the executive director and the corporation.
- (g) In the event of an appeal under this section, all allocations or transfers of money to trust fund accounts shall be on hold pending resolution by the executive director or bank board, as applicable.

63089.57. Pursuant to this chapter and any directives and requirements adopted pursuant to this chapter, the state has residual interest in the funds deposited by the state to a trust fund account and to the return on these funds from investments. On dissolution, suspension, or termination of the corporation, these funds shall be withdrawn by the program manager from the trust fund account and returned to the expansion fund or temporarily transferred to another trust fund account. This provision shall be contained in the trust instructions to the trustee.

63089.58. Each trust fund account shall consist of a loan guarantee account, and, upon recommendation by the program manager, a bond guarantee account or other financial product account, each of which is a legally separate account, and the assets of one account shall not be used to satisfy loan guarantees or other financial product obligations of another corporation, except when a trust fund account is designated by the program manager to be shared by multiple corporations. The amount of funds allocated to a bond guarantee account shall be pursuant to the directives and requirements. A corporation shall not use trust fund accounts to secure a corporate indebtedness. State funds deposited in the trust fund accounts, with the exception of guarantees established pursuant to this chapter, shall not be subject to liens or encumbrances of the corporation or its creditors.

63089.59. (a) The financial institution or financial company that is to act as trustee of the trust fund shall be designated by the bank. The corporation shall not receive money on deposit to support

guarantees or other financial products issued under this chapter without the approval of the program manager.

(b) State funds may not be used to finance an expense incurred by a corporation in a location not approved pursuant to the contract between the bank and the corporation. The prohibition against use of state funds also applies to the location of satellite offices, and the area served from a corporation office.

(c) Except as otherwise provided in this chapter, the trust fund account shall be used solely to make loans, guarantee bonds and loans, and provide other financial products approved by the corporation that meet the financial product criteria of the directives and requirements. Except as provided in subdivision (b) of Section 63089.54, the state or the bank shall not be liable or obligated in any way as a result of the allocation of state moneys to a trust fund account beyond the state moneys that are allocated and deposited in the fund pursuant to this chapter, and that are not otherwise withdrawn by the state pursuant to this chapter.

63089.60. (a) The program manager shall recommend whether the expansion fund and trust fund accounts are to be leveraged, and if so, by how much. Upon the request of the corporation, the program manager's decision may be repealed or modified by the executive director or the bank board.

(b) The amount of guarantee liability outstanding at any one time shall not exceed five times the amount of funds on deposit in the expansion fund plus any receivables due from funds loaned from the expansion fund to another fund in state government as directed by the Department of Finance pursuant to a statute enacted by the Legislature, including each of the trust fund accounts within the trust fund.

(c) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

63089.60. (a) The program manager shall recommend whether the expansion fund and trust fund accounts are to be leveraged, and if so, by how much. Upon the request of the corporation, the program manager's decision may be repealed or modified by the executive director or the bank board.

(b) The amount of guarantee liability outstanding at any one time shall not exceed four times the amount of funds on deposit in the expansion fund plus any receivables due from funds loaned from the expansion fund to another fund in state government as directed by the Department of Finance pursuant to a statute enacted by the Legislature, including each of the trust fund accounts within the trust fund, unless the program manager has permitted a higher leverage ratio for an individual corporation pursuant to subdivision (b) of Section 63089.56.

(c) This section shall become operative on January 1, 2018.

63089.61. (a) The corporate guarantee shall be backed by funds on deposit in the corporation's trust fund account, or by receivables due from funds loaned from the corporation's trust fund account to another fund in state government, as directed by the Department of Finance pursuant to a statute enacted by the Legislature.

(b) Loan guarantees shall be secured by a reserve of at least 20 percent to be determined by the program manager unless a higher leverage ratio for an individual corporation has been approved pursuant to subdivision (b) of Section 63089.56.

(c) The expansion fund and trust fund accounts shall be used to guarantee obligations and other financial product obligations, to pay the administrative costs of the corporations, and for other uses pursuant to this chapter and Section 8684.2.

(d) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

(Added by Stats. 2013, Ch. 537, Sec. 4 (1st text). Effective October 4, 2013. Repealed as of January 1, 2018, by its own provisions. See later operative version, the second text added by Sec. 4 of Ch. 537.)

63089.61. (a) The corporate guarantee shall be backed by funds on deposit in the corporation's trust fund account, or by receivables due from funds loaned from the corporation's trust fund account to another fund in state government, as directed by the Department of Finance pursuant to a statute enacted by the Legislature.

(b) Loan guarantees shall be secured by a reserve of at least 25 percent to be determined by the program manager, unless a higher leverage ratio has been approved for an individual corporation pursuant to subdivision (b) of Section 63089.56.

(c) The expansion fund and trust fund accounts shall be used to guarantee obligations and other financial product obligations, to pay the administrative costs of the corporations, and for other uses pursuant to this chapter and Section 8684.2.

(d) This section shall become operative on January 1, 2018.

63089.62. (a) It is the intent of the Legislature that the corporations make maximum use of their statutory authority to guarantee loans and surety bonds, and administer other financial products, including the authority to secure loans with a minimum loan loss reserve of only 20 percent, unless the program manager authorizes a higher leverage ratio for an individual corporation pursuant to subdivision (b) of Section 63089.56, so that the financing needs of small business may be met as fully as possible within the limits of corporations' trust fund account balance.

(b) Any corporation that serves an area declared to be in a state of emergency by the Governor or a disaster area by the President of the United States, the Administrator of the United States Small Business Administration, or the United States Secretary of Agriculture shall increase the portfolio of loan guarantees where the dollar amount of the loan is less than one hundred thousand dollars (\$100,000), so that at least 15 percent of the dollar value of loans guaranteed by the corporation is for those loans. The corporation shall comply with this requirement within one year of the date the emergency or disaster is declared. Upon application of a corporation, the executive director may waive or modify the rule for the corporation if the corporation demonstrates that it made a good faith effort to comply and failed to locate lending institutions in the region that the corporation serves that are willing to make guaranteed loans in that amount.

(c) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

63089.62. (a) It is the intent of the Legislature that the corporations make maximum use of their statutory authority to guarantee loans and surety bonds, and administer other financial products, including the authority to secure loans with a minimum loan loss reserve of only 25 percent, unless the program manager authorizes a higher leverage ratio for an individual corporation pursuant to subdivision (b) of Section 63089.56, so that the financing needs of small business may be met as fully as possible within the limits of corporations' trust fund account balance.

(b) Any corporation that serves an area declared to be in a state of emergency by the Governor or a disaster area by the President of the United States, the Administrator of the United States Small Business Administration, or the United States Secretary of Agriculture shall increase the portfolio of loan guarantees where the dollar amount of the loan is less than one hundred thousand dollars (\$100,000), so that at least 15 percent of the dollar value of loans guaranteed by the corporation is for those loans. The corporation shall comply with this requirement within one year of the date the emergency or disaster is

declared. Upon application of a corporation, the program manager may waive or modify the rule for the corporation if the corporation demonstrates that it made a good faith effort to comply and failed to locate lending institutions in the region that the corporation serves that are willing to make guaranteed loans in that amount.

(c) This section shall become operative on January 1, 2018.

## **ARTICLE 6. Corporations, Miscellaneous**

63089.65. (a) A corporation shall establish one or more loan committees, each of which shall be composed of five or more persons, a majority of whom shall be experienced in banking and lending operations.

(b) A loan committee shall review applications to the corporation for a loan or guarantee and shall do each of the following:

(1) Determine the feasibility of the proposed transaction. The loan committee shall recommend approval of the application only upon a determination that there is a reasonable chance that the loan will be repaid.

(2) On the basis of that determination, recommend to the board of directors any action that the loan committee deems appropriate under the circumstances, or, in the event that approval authority has been delegated to the loan committee by the board of directors, approve or disapprove the loan application.

(c) A loan committee shall expeditiously act to accept or reject loan applications.

(d) A person who has a financial interest related to a matter over which the loan committee has authority may not make, participate in making, or in any way attempt to influence that matter.

63089.66. Unless delegated to its loan committee, the corporation's board of directors, upon a recommendation from its loan committee, shall do all of the following:

(a) Emphasize consideration to applications that will increase employment of disadvantaged, disabled, or unemployed persons, or increase employment of youth residing in areas of high youth unemployment and high youth delinquency.

(b) Give consideration to applications from traditional and safety-net providers of Medi-Cal services that will promote access to quality medical care for individuals enrolled in Medi-Cal managed health care networks that are contracting with or owned or operated by a county board of supervisors, a county health commission, or a county health authority organized pursuant to Section 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, or 14087.9605 of the Welfare and Institutions Code.

63089.67. A corporation may charge the borrower or financial institution a loan fee or credit enhancement fee on all loans made or guaranteed by the corporation to defray the operating expenses of the corporation. The amount of the fee shall be determined by the directives and requirements.

## **ARTICLE 7. Loan Guarantees**

63089.70. (a) The Small Business Expansion Fund, which is hereby continued in existence, shall, among other things, provide guarantees to loans offered by financial institutions and financial companies to small businesses.

(b) The Legislature finds and declares that the Small Business Loan Guarantee Program has enabled participating small businesses that do not qualify for conventional business loans or Small Business Administration loans to secure funds to expand their businesses. These small businesses would not have

been able to expand their businesses in the absence of the program. The program has also provided valuable technical assistance to small businesses to ensure growth and stability. The study commissioned by former Section 14069.6 of the Corporations Code, as added by Chapter 919 of the Statutes of 1997, documented the return on investment of the program and the need for its services. The value of the program has also been recognized by the Governor through proposals contained in the May Revision to the Budget Act of 2000 for the 2000–01 fiscal year.

(c) A corporation shall not issue a guarantee under this section unless it determines that the following conditions are satisfied:

(1) There is a low probability that the loan being guaranteed would be granted by a financial company or financial institution under reasonable terms and conditions and the borrower has demonstrated a reasonable prospect of repayment.

(2) The loan proceeds will be used exclusively in this state.

(3) The loan qualifies as a small business loan or an employment incentive loan.

(4) The borrower has a minimum equity interest in the business as determined by the directives and requirements.

(5) As a result of the loan being guaranteed, the jobs generated or retained demonstrate reasonable conformance to any directives and requirements specifying employment criteria.

63089.71. (a) Among other priorities, corporations shall give high priority to the issuance of loan guarantees to small business incubators and to businesses that lease space in incubators.

(b) For the purposes of this section, “incubator” means a facility that allows new small businesses to increase their probability of success by sharing needed capital equipment, services, and facilities, which may include, but are not limited to, the following:

(1) Reception and meeting area.

(2) Secretarial services, such as collating, telephone answering, or mailhandling.

(3) Accounting and bookkeeping services.

(4) Research libraries.

(5) Onsite financial and management counseling.

(6) Parking.

(7) Flexible lease arrangements for flexible space.

(8) Computer or word processing facilities.

(9) Day care facilities.

(10) Office furniture rentals.

(11) A graduation policy sometimes requiring firms to leave after three to five years in a subsidized, nurturing environment.

(12) Employee training and placement services.

(c) Among other priorities, corporations shall give high priority to marketing their services to Phase 1 or Phase 2 Small Business Innovation Research (SBIR) recipients and providing loan guarantees, whenever possible.

## **ARTICLE 8. Direct Lending and Other Debt Instruments**

63089.80. (a) A corporation may utilize funds for direct lending or other debt instruments pursuant to the directives and requirements.

(b) The amount of funds available for direct lending and other debt instruments shall be determined by the directives and requirements. In its capacity as a direct lender, the corporation may sell in the

secondary market the guaranteed portion of each loan, if guaranteed, so as to raise additional funds for direct lending.

(c) To execute the direct loan and other debt instruments authorized pursuant to this chapter, including, but not limited to, those authorized pursuant to Section 63088.5, the bank may loan trust funds to a corporation for the express purpose of lending those funds to an identified borrower. The loan authorized by the bank to the corporation shall be on terms similar to the loan between the corporation and the borrower.

(d) The amount of the loan, made to the corporation by the bank, may be in excess of the amount of a loan to any individual borrower, but actual disbursements pursuant to the bank loan agreement shall be required to be supported by a loan agreement between the borrower and the corporation in an amount at least equal to the requested disbursement. The loan between the bank and the corporation shall be evidenced by a credit agreement. In the event that any loan between the corporation and borrower is not guaranteed by a governmental agency, the portion of the credit agreement attributable to that loan shall be secured by assignment of any note, executed in favor of the corporation by the borrower to the bank. The terms and conditions of the credit agreement shall be similar to the loan agreement between the corporation and the borrower, which shall be collateralized by the note between the corporation and the borrower.

(e) In the absence of fraud on the part of the corporation, the liability of the corporation to repay the loan to the bank is limited to the repayment received by the corporation from the borrower, except in a case where the United States Department of Agriculture requires exposure by the corporation in rule or regulation. The corporation may use trust funds for loan repayment to the bank if the corporation has exhausted a loan loss reserve created for this purpose. Interest and principal received by the bank from the corporation shall be deposited into the same account from which the funds were originally borrowed.

(f) Upon the approval of the program manager, a corporation shall be authorized to borrow trust funds from the bank for the purpose of relending those funds to small businesses. A corporation shall demonstrate to the program manager that it has the capacity to administer a direct loan program, and has procedures in place to limit the default rate for loans to startup businesses. The percentage of any trust fund account to be used for the direct lending pursuant to this subdivision shall be established in the directives and requirements.

(g) A corporation shall not issue a direct loan or other debt instrument unless and until it determines that all of the following conditions are satisfied:

(1) The direct loan or other debt instrument assistance would not be granted by a financial company or financial institution under reasonable terms and conditions and the borrower has demonstrated a reasonable prospect of repayment.

(2) The direct loan or debt instrument proceeds will be used exclusively in this state.

(3) The direct loan or debt instrument qualifies as a small business loan or employment incentive loan.

(4) The borrower has a minimum equity interest in the business as determined by the directives and requirements.

(5) As a result of the direct loan or other debt instrument, the jobs generated or retained demonstrate reasonable conformance to any directives and requirements specifying employment criteria.

(h) The maximum direct loan or other debt instrument amount to a small business shall be set by the directives and requirements. In the absence of fraud on the part of the corporation, the repayment obligation pursuant to the loan or other debt instrument to the corporation shall be limited to the amount of funds received by the corporation for the direct loan or other debt instrument to the small business and any other funds received from the bank that are not disbursed. The corporation shall be authorized to charge a fee to the small business borrower, in an amount determined pursuant to the directives and

requirements. The programs and debt instruments provided for in this article shall be available in all geographic areas of the state.

### **ARTICLE 9. Disaster Loan Guarantees**

63089.90. (a) Pursuant to Section 8684.2 and the contract between a corporation and the bank, a corporation may, in an area affected by a state of emergency within the state and declared a disaster by the President of the United States, the Administrator of the United States Small Business Administration, or the United States Secretary of Agriculture, or declared to be in a state of emergency by the Governor of California, provide loan guarantees from funds allocated in Section 63089.55 to small businesses, small farms, nurseries, and agriculture-related enterprises that have suffered actual physical damage or significant economic injury as a result of the disaster.

(b) The bank board may adopt directives and requirements to implement the disaster loan guarantee program authorized by this section. Any regulations adopted under Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code shall remain in effect until the bank adopts directives and requirements, however, these regulations shall have no effect after June 1, 2015.

(c) A corporation shall not issue a disaster loan guarantee unless and until it determines that the following conditions are satisfied:

(1) The borrower cannot reasonably obtain a disaster loan without some form of credit enhancement.

(2) The borrower has demonstrated a reasonable prospect of repayment.

(3) The guaranteed loan will be used exclusively in this state.

(4) The disaster loan qualifies as a small business loan or employment incentive loan.

(d) Allocations pursuant to subdivision (a) shall be deemed to be for extraordinary emergency or disaster response operations costs incurred by the issuance of disaster loan guarantees.

### **ARTICLE 10. Surety Bond Guarantees**

63089.95. In furtherance of the purposes set forth in Section 63088.1 of this code and Section 14001 of the Corporations Code, a corporation may do any one or more of the following activities, but only to the extent that the activities are authorized pursuant to the contract between the bank and corporation: guarantee, endorse, or act as surety on the bonds, notes, contracts, or other obligations of, or assist financially, any person, firm, corporation, or association, and may establish and regulate the terms and conditions with respect to any such guarantees or financial assistance and the charges for interest and service connected therewith, except that the corporation shall not make or guarantee any loan, unless and until it determines:

(a) There is a low probability that the surety bond would be granted by a financial institution or financial company under reasonable terms or conditions, and the beneficiary has demonstrated a reasonable prospect of successful completion of the project.

(b) The surety bond project coverage will be used exclusively in this state.

(c) The beneficiary has a minimum equity interest in the business as determined by the directives and requirements.

(d) As a result of the surety bond, the jobs generated or retained demonstrate reasonable conformance to the directives and requirements specifying employment criteria.

63089.96. (a) In addition to the authority granted by Section 63089.95, pursuant to the directives and requirements a corporation may act as guarantor on a surety bond for any small business contractor, including, but not limited to, women, minority, and disabled veteran contractors.

(b) The provisions of subdivision (a) allowing a corporation to act as a guarantor on surety bonds may be funded through appropriate state or federal funding sources. Federal funds shall be deposited in the Federal Trust Fund in the State Treasury in accordance with Section 16360, for transfer to the expansion fund.

### **ARTICLE 11. Reporting**

63089.97. Each corporation shall provide to the program manager, in a format prescribed by him or her, the following data and reports:

(a) A summary of all outstanding loans, bonds, and other credit enhancements to which a corporation guarantee, as authorized by this chapter, is attached, on a schedule determined by the program manager.

(b) A summary of all outstanding direct loans and other debt instruments made by a corporation, as authorized by this chapter, on a schedule determined by the program manager.

(c) A summary of all outstanding other financial project obligations made by a corporation, as authorized by this chapter, on a schedule determined by the program manager.

(d) Statement of economic interests from each designated person pursuant to Section 87302.

(e) No later than July 31 of each fiscal year, commencing January 1, 2014, each of the following documents:

(1) A copy of the corporation board approved budget for the current fiscal year.

(2) Projected fiscal year summary of authorized program activities including direct loans, loan guarantees, bond guarantees, and other financial product activity supported by the expansion fund.

(3) A copy of the written plan of operation or strategic plan for the current fiscal year as approved by the corporations' board of directors.

(4) A copy of the current and valid articles of incorporation and bylaws of the corporation with noted amendments from the prior fiscal year.

(f) No later than October 31 of each year commencing January 1, 2014, a copy of the corporation's prior fiscal year audit, auditor findings, if any, and finding responses.

(g) A list by city and county of the number and dollar value of all credit enhancements and debt instruments the corporation entered into, pursuant to this chapter, during the report year, and that are outstanding at the close of the fiscal year.

(h) Any other statistical and other data, reports, or other information required by the directives and requirements or the program manager.

63089.98. (a) Annually, not later than January 1 of each year commencing January 1, 2014, and notwithstanding Section 10231.5, the program manager shall prepare and submit to the Governor and the Legislature, pursuant to Section 9795, a report for the preceding fiscal year ending June 30, containing the expansion fund and trust fund financial product activity of each corporation, including all of the following:

(1) Direct loans, guarantees, and other financial products awarded and outstanding balances.

(2) Default and loss statistics.

(3) Employment data.

(4) Ethnicity and gender data of participating contractors and other entities, and experience of surety insurer participants in the bond guarantee program.

(5) Geographic distribution by city and county of the direct loans, guarantees, and other financial products awarded and outstanding at the close of the fiscal year.

(6) Significant events.

(b) The program manager shall post the report on the bank's Internet Web site.