

Enrolled
House Bill 2242

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Oregon Business Development Department)

CHAPTER

AN ACT

Relating to traded sector business development projects; amending ORS 285B.050 and 285B.059.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 285B.050 is amended to read:

285B.050. As used in ORS 285B.050 to 285B.098, unless the context requires otherwise:

(1) "Applicant" means any county, municipality, person or any combination of counties, municipalities or persons applying for a loan from the Oregon Business Development Fund under ORS 285B.050 to 285B.098.

(2)(a) "Business development project" means the acquisition, engineering, improvement, rehabilitation, construction, operation or maintenance of any property, real or personal, **including working capital expenses**, that is used or is suitable for use by an economic enterprise and that will result in, or will aid, promote or facilitate, development of **traded sector activities**.

(b) "**Business development project**" **includes, but is not limited to, convention facilities, destination facilities and office buildings, including corporate headquarters, and is a project that:**

(A) **Is located in Oregon and in the traded sector or that supports traded sector activities; or**

(B) **If engaged in by a nonprofit organization:**

(i) **Will not compete with local for-profit businesses; and**

(ii) **Need not be in the traded sector nor support traded sector activities.**

(c) "**Business development project**" **does not include shopping centers, food service facilities or activities that are engaged in by retail and service businesses that are not in the traded sector unless otherwise allowed under ORS 285B.059 (5).** *[one or more of the following activities:]*

[(a) Manufacturing or other industrial production;]

[(b) Agricultural development or food processing;]

[(c) Aquacultural development or seafood processing;]

[(d) Development or improved utilization of natural resources;]

[(e) Convention facilities and trade centers;]

[(f) Transportation or freight facilities; and]

[(g) Other activities that represent new technology or type of economic enterprise the Oregon Business Development Commission determines is needed to diversify the economic base of an area but not including:]

[(A) Construction of office buildings, including corporate headquarters; and]

[(B) Retail businesses, shopping centers or food service facilities.]

(3) "Collateral" has the meaning given that term in ORS 79.0102 for property subject to a security interest.

(4) "County" means any county or federally recognized Oregon Indian tribe.

(5) "Local development group" means any public or private corporation that has as one of its primary purposes, as stated in its articles of incorporation, charter or bylaws, the promotion of economic development in any part of the State of Oregon.

(6) "Municipality" means any city, municipal corporation or quasi-municipal corporation.

(7) "Person" means any individual, association of individuals, joint venture, partnership, limited liability company or corporation.

(8) "Traded sector" has the meaning given that term in ORS 285B.280.

(9) "Traded sector activities" means activities that produce goods or services for the traded sector.

SECTION 2. ORS 285B.059 is amended to read:

285B.059. (1) The Oregon Business Development Commission may approve a business development project proposed in an application filed under ORS 285B.050 to 285B.098 if, after investigation, the commission finds that:

(a) The proposed business development project is feasible and a reasonable risk from practical and economic standpoints, and that the loan has reasonable prospect of repayment.

(b) The applicant can provide good and sufficient collateral for the loan.

(c) Moneys in the Oregon Business Development Fund are or will be available for the proposed business development project.

(d) There is a need for the proposed business development project.

(e) The applicant has not received or entered into a contract or contracts exceeding \$1 million with the commission, under authority of ORS 285B.050 to 285B.098, for the previous 365 days.

(2)(a) Except as provided in paragraph (b) of this subsection, the total amount of moneys loaned from the fund for a business development project may not exceed 50 percent of the cost of the project.

(b) The total amount of moneys loaned from the fund for a business development project may exceed 50 percent of the cost of the project if two or more lenders have denied requests from the applicant to commit to participate in the financing of the project and the applicant has no other available financing.

(3)(a) Except as provided in paragraph (b) of this subsection, moneys may not be loaned from the fund for a business development project unless there exists a commitment from a commercial or private lender, or a local development group, to participate in the financing of the project.

(b) Moneys may be loaned from the fund for a business development project without a commitment from a commercial or private lender, or a local development group, to participate in the financing of the project if:

(A) The applicant is a county or municipality;

(B) There are payments other than the scheduled principal and interest payments; or

(C) Two or more lenders have denied requests from the applicant to commit to participate in the financing of the project and the applicant has no other available financing.

(4) To encourage private sector and local development group participation in the financing of business development projects, the commission may subordinate the security position of the fund to that of other lenders.

(5) In each fiscal year of a biennium, 15 percent of all moneys available for lending from the fund is reserved for loans to emerging small business enterprises as defined by the Oregon Business Development Department by rule, which are located in or draw their workforces from within **rural or** distressed areas as determined by the Oregon Business Development Department in cooperation with the Employment Department of this state. If the Oregon Business Development Department was unable to obtain a sufficient number of approvable applications to meet the requirements of this subsection in the previous fiscal year, it may, in the current fiscal year and notwithstanding the

limitations imposed by ORS 285B.050 (2)(g)(B)], make loans, in an amount that does not exceed the 15 percent reserved for the prior fiscal year less the amount of loans made to emerging small business enterprises located in rural [and] or distressed areas during the previous fiscal year, to service and retail businesses operated by small business enterprises that are located in or draw their workforces from within **rural or** distressed areas as determined by the Oregon Business Development Department in cooperation with the Employment Department of this state. **Service and retail businesses operated by small business enterprises under this section need not be engaged in traded sector activities.** As used in this subsection, “rural area” and “distressed area” have the meaning given those terms in ORS 285A.010.

Passed by House March 30, 2017

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 3, 2017

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2017

Approved:

.....M.,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2017

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Dennis Richardson, Secretary of State