
HOUSE BILL No. 1393

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10.2-2-18.5; IC 5-28; IC 6-3.1-31; IC 36-1-4-20.

Synopsis: Community development financial institutions. Requires the economic development corporation (IEDC) to implement a program to provide financial and technical assistance to: (1) federally certified community development financial institutions (CDFI); (2) Indiana CDFIs; and (3) local CDFIs; that make loans and investments or provide services to targeted investment areas or to targeted low income populations. Authorizes the IEDC to designate entities meeting certain requirements as Indiana CDFIs and to designate counties and municipalities (or foundations established by a county or municipality) meeting certain requirements as local CDFIs. Allows the IEDC to provide grants, loans, and technical assistance to a CDFI, an Indiana CDFI, or a local CDFI for certain purposes related to remedying a lack of adequate access to loans, equity investments, mortgage lending, banking services, or personal financial services of a targeted low income population or in a targeted investment area. Specifies the criteria to be used by the IEDC in determining whether to award a grant or loan or provide technical assistance. Requires the IEDC to serve as a clearinghouse for information relevant to potential incorporators or organizers of CDFIs, Indiana CDFIs, and local CDFIs. Provides that the IEDC may not provide any combination of grants or loans under the program to a single entity that exceeds the greater of 10% of the total assets of the community development financial institutions fund or \$500,000. Authorizes CDFIs, Indiana CDFIs, and local CDFIs to apply for a loan or grant from the microenterprise partnership program fund (fund), and authorizes those entities to establish local investment pools and local opportunity pools under the microenterprise partnership (Continued next page)

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Effective: January 1, 2006 (retroactive); July 1, 2006.

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January 12, 2006, read first time and referred to Committee on Financial Institutions.



program. Specifies that grants may be made from the fund. Encourages the public employees' retirement fund (PERF) board and the teachers' retirement fund (TRF) board to establish a goal for investment in funds that invest in CDFIs and Indiana CDFIs. Provides that the PERF board and the TRF board are not required to achieve the goals if the boards, exercising financial and fiduciary prudence, determine that sufficient appropriate investments in CDFIs and Indiana CDFIs are not available in Indiana. Establishes the state new markets tax credit for a taxpayer that qualifies for the federal new markets tax credit administered by the federal Community Development Financial Institutions Fund. Provides that the amount of tax credits allowed may not exceed \$5,000,000 in a state fiscal year.

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Introduced

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

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HOUSE BILL No. 1393

A BILL FOR AN ACT to amend the Indiana Code concerning economic development.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-10.2-2-18.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2006]: **Sec. 18.5. (a) As used in this section,**
4 **"CDFI" has the meaning set forth in IC 5-28-17.5-1.**
5 **(b) As used in this section, "Indiana CDFI" has the meaning set**
6 **forth in IC 5-28-17.5-4.**
7 **(c) Each board is strongly encouraged to establish a goal for**
8 **investment in funds that invest in CDFIs doing business in Indiana**
9 **and Indiana CDFIs doing business in Indiana.**
10 **(d) A board is not required to achieve the goals established**
11 **under subsection (c) if the board, exercising financial and fiduciary**
12 **prudence, determines that sufficient appropriate investments in**
13 **CDFIs and Indiana CDFIs are not available in Indiana.**
14 SECTION 2. IC 5-28-17.5 IS ADDED TO THE INDIANA CODE
15 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2006]:

2 **Chapter 17.5. Assistance to CDFIs, Indiana CDFIs, and Local**
3 **CDFIs**

4 **Sec. 1. As used in this chapter, "community development**
5 **financial institution" or "CDFI" means an entity that is designated**
6 **as a community development financial institution by the United**
7 **States Department of the Treasury's Community Development**
8 **Financial Institutions Fund in accordance with the federal**
9 **Community Development Banking and Financial Institutions Act**
10 **of 1994 (Public Law 103-325).**

11 **Sec. 2. As used in this chapter, "eligible entity" means any of the**
12 **following:**

- 13 (1) **A CDFI.**
- 14 (2) **An Indiana CDFI.**
- 15 (3) **A local CDFI.**

16 **Sec. 3. As used in this chapter, "fund" means the community**
17 **development financial institutions fund established by section 10 of**
18 **this chapter.**

19 **Sec. 4. As used in this chapter, "Indiana CDFI" means an entity**
20 **that is designated by the corporation as an Indiana CDFI under**
21 **section 11 of this chapter.**

22 **Sec. 5. As used in this chapter, "local CDFI" means a county or**
23 **municipality, or a nonprofit foundation established by a county or**
24 **municipality, that is designated by the corporation as a local CDFI**
25 **under section 12 of this chapter.**

26 **Sec. 6. As used in this chapter, "low income" means having an**
27 **income, adjusted for family size, of not more than eighty percent**
28 **(80%) of the area median income, as determined by the**
29 **corporation.**

30 **Sec. 7. As used in this chapter, "targeted investment area"**
31 **means a geographic area that:**

- 32 (1) **is located in:**
 - 33 (A) **an enterprise zone established under IC 5-28-15; or**
 - 34 (B) **a federally designated empowerment zone or enterprise**
 - 35 **community; or**
- 36 (2) **is economically distressed or has significant unmet needs**
- 37 **for loans, equity, banking services, or development services,**
- 38 **as determined by the corporation.**

39 **Sec. 8. As used in this chapter, "targeted population" means**
40 **individuals or an identifiable group of individuals who:**

- 41 (1) **are low income persons; or**
- 42 (2) **otherwise lack adequate access to loans, equity**

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1 investments, mortgage lending, banking services, or personal
2 financial services.

3 **Sec. 9. The corporation shall implement a program to do the**
4 **following:**

5 (1) Provide financial and technical assistance to CDFIs and
6 other eligible entities that make loans and investments to or
7 provide services to targeted investment areas or targeted
8 populations.

9 (2) Support the creation and growth of CDFIs and other
10 eligible entities that provide access to capital for:

11 (A) business development;

12 (B) capital investments; and

13 (C) other financing;

14 to expand private sector activities in targeted investment
15 areas and for low income persons.

16 (3) Increase Indiana's share of the assistance provided by the
17 United States Department of the Treasury's Community
18 Development Financial Institutions Fund.

19 (4) Provide incentives to CDFIs and Indiana CDFIs to:

20 (A) expand the financial services that CDFIs and Indiana
21 CDFIs offer to targeted investment areas and for targeted
22 populations, including microbusiness lending, facilities
23 financing, low income housing financing, mortgage
24 lending, and personal financial services;

25 (B) encourage the establishment of CDFIs and Indiana
26 CDFIs; and

27 (C) provide technical assistance and training to the
28 borrowers from CDFIs and Indiana CDFIs.

29 **Sec. 10. (a) The community development financial institutions**
30 **fund is established.**

31 (b) The fund shall be administered by the corporation.

32 (c) The expenses of administering the fund shall be paid from
33 money in the fund.

34 (d) Money in the fund at the end of a state fiscal year does not
35 revert to the state general fund.

36 **Sec. 11. The corporation may designate a for-profit or nonprofit**
37 **entity as an Indiana CDFI if the entity meets the following**
38 **conditions:**

39 (1) The entity applies to the corporation for designation as an
40 Indiana CDFI.

41 (2) The entity is located in Indiana or is doing business or
42 providing services in Indiana.

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- (3) The entity:**
 - (A) has as a purpose the promotion of community development;**
 - (B) provides loans, investments, banking services, or development services in a targeted investment area or to a targeted population; or**
 - (C) is considered by the corporation to perform activities consistent with the goals of the federal Community Development Banking and Financial Institutions Act of 1994 (Public Law 103-325).**
- (4) The entity is not:**
 - (1) a local CDFI; or**
 - (2) a CDFI designated as a community development financial institution by the United States Department of the Treasury's Community Development Financial Institutions Fund.**

Sec. 12. The corporation may designate a county or municipality, or a nonprofit foundation established by a county or municipality, as a local CDFI if the entity meets the following conditions:

- (1) The entity applies to the corporation for designation as a local CDFI.**
- (2) The entity is located in Indiana or is doing business or providing services in Indiana.**
- (3) The entity:**
 - (A) has as a purpose the promotion of community development;**
 - (B) provides loans, investments, banking services, or development services in a targeted investment area or to a targeted population; or**
 - (C) is considered by the corporation to perform activities consistent with the goals of the federal Community Development Banking and Financial Institutions Act of 1994 (Public Law 103-325).**

Sec. 13. (a) Subject to the requirements of this chapter and rules adopted by the corporation, an eligible entity may apply for and receive any combination of the following assistance under this chapter:

- (1) A grant.**
 - (2) A loan.**
 - (3) Technical assistance.**
- (b) To receive assistance under this chapter, an eligible entity**

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1 must submit an application in the form and according to
2 procedures specified by the corporation.

3 **Sec. 14. An eligible entity's application for assistance under this**
4 **chapter must include at least the following:**

- 5 (1) A three (3) year strategic plan for the eligible entity.
6 (2) An analysis of the needs of the targeted investment area or
7 targeted population that is proposed to be served by the
8 eligible entity and a strategy for addressing those needs.
9 (3) An explanation of the eligible entity's proposed activities,
10 which must be consistent with existing economic, community,
11 and housing development plans that apply to the investment
12 area or targeted population.
13 (4) A description of how the eligible entity will:
14 (A) coordinate with community organizations and financial
15 institutions; and
16 (B) match or otherwise leverage private sector
17 investments, including equity investments, loans,
18 secondary markets, or other services to the investment
19 area or targeted populations.
20 (5) In the case of an eligible entity with a prior history of
21 serving a targeted investment area or a targeted population,
22 a demonstration that the eligible entity:
23 (A) has a record of success in serving the targeted
24 investment area or targeted population; and
25 (B) will do at least one (1) of the following:
26 (i) Expand the eligible entity's operations into a new
27 targeted investment area or serve a new targeted
28 population.
29 (ii) Offer additional products or services.
30 (iii) Increase the volume of the eligible entity's current
31 business or services.
32 (6) A description of how the eligible entity will:
33 (A) provide financial services or other services to
34 community businesses that:
35 (i) employ or will create jobs for low income persons; or
36 (ii) are owned by low income persons; and
37 (B) enhance the availability of products and services to
38 targeted populations.
39 (7) Any additional information required by the corporation.

40 **Sec. 15. (a) Before receiving any assistance under this chapter,**
41 **an eligible entity selected by the corporation for assistance must**
42 **enter into an agreement with the corporation that requires the**

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eligible entity to:

- (1) comply with specified performance goals; and
- (2) abide by other terms and conditions set by the corporation for the granting of the assistance.

(b) An agreement under subsection (a) must provide that, in the case of fraud or mismanagement or noncompliance with this chapter or the terms of the agreement, the corporation may do any of the following:

- (1) Reduce or terminate the assistance.
- (2) Require changes to the performance goals included in the agreement.
- (3) Require repayment of the assistance.
- (4) Prohibit an eligible entity from reapplying for assistance.
- (5) Take any other actions that the corporation considers appropriate.

Sec. 16. The corporation shall use the following criteria in determining whether to award a grant or loan from the fund or provide technical assistance under this chapter to an eligible entity that submits an application under section 13 of this chapter:

- (1) The likelihood of success of the eligible entity in meeting the goals of the eligible entity's strategic plan submitted under section 14(1) of this chapter.
- (2) The experience and background of the eligible entity's board, management team, or fiscal body.
- (3) The extent of need for equity investments, loans, mortgage lending, banking services, development services, or personal financial services in the targeted investment areas or targeted populations to be served by the eligible entity.
- (4) The extent of economic distress in the targeted investment area or the extent of need in the targeted population to be served by the eligible entity.
- (5) The extent to which the eligible entity's proposed activities will expand economic opportunities in the targeted investment area or for the targeted population to be served by the eligible entity.
- (6) The extent of support from the targeted investment area or targeted population to be served by the eligible entity.
- (7) The extent of the eligible entity's current and planned community involvement.
- (8) The extent to which the eligible entity will increase its resources through coordination with other institutions or participation in a secondary market.

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1 **(9) In the case of an eligible entity with a history of serving**
 2 **targeted investment areas or targeted populations, the extent**
 3 **of success in serving those areas or populations.**

4 **Sec. 17. (a) An eligible entity that receives a grant or loan from**
 5 **the corporation must use the proceeds of the grant or loan under**
 6 **guidelines established by the corporation.**

7 **(b) As part of a grant or loan agreement under this chapter, an**
 8 **eligible entity may request and the corporation may consent to**
 9 **having the grant or loan proceeds paid directly to a creditor of the**
 10 **entity.**

11 **Sec. 18. The corporation may make a loan to an eligible entity**
 12 **as the sole lender or in cooperation with other lenders under**
 13 **agreements entered into by the corporation and the other lenders.**

14 **Sec. 19. The corporation may not provide any combination of**
 15 **grants or loans under this chapter to a single eligible entity that**
 16 **exceeds the greater of:**

- 17 **(1) ten percent (10%) of the total assets of the fund; or**
 18 **(2) five hundred thousand dollars (\$500,000).**

19 **Sec. 20. An eligible entity may use a grant, loan, or technical**
 20 **assistance provided under this chapter for any of the following:**

21 **(1) To carry out any purpose described in section 9 of this**
 22 **chapter.**

23 **(2) In the case of a CDFI or Indiana CDFI, for any of the**
 24 **following:**

25 **(A) The provision of basic financial services.**

26 **(B) The development of loan products.**

27 **(C) The provision of below market rate financing in**
 28 **targeted investment areas and to low income persons.**

29 **(3) For the development of commercial facilities that promote**
 30 **revitalization, community stability, and the creation or**
 31 **retention of jobs.**

32 **(4) For training of management and other personnel.**

33 **(5) For housing that is affordable to low income persons,**
 34 **except that assistance used to facilitate home ownership shall**
 35 **only be used for services and loans that:**

36 **(A) serve low income persons; and**

37 **(B) are not sufficiently provided by other lenders in the**
 38 **area or complement the services and loans provided by**
 39 **other lenders in the area.**

40 **(6) To provide financial assistance to businesses that:**

41 **(A) provide jobs for low income persons or are owned by**
 42 **low income persons, women, or minority entrepreneurs;**

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- 1 **(B) enhance the availability of products and services to low**
- 2 **income persons; or**
- 3 **(C) have loan requests of not more than twenty-five**
- 4 **thousand dollars (\$25,000) and have not more than five (5)**
- 5 **employees.**

6 **(7) In the case of an Indiana CDFI, to obtain federal**
 7 **certification as a CDFI.**

8 **(8) For other activities approved by the corporation.**

9 **Sec. 21. The corporation may provide technical assistance and**
 10 **training to an eligible entity directly, through grants, or by**
 11 **contracting with another organization that possesses expertise in**
 12 **community development finance, without regard to whether or not**
 13 **the other organization receives or is eligible to receive assistance**
 14 **under this chapter.**

15 **Sec. 22. The corporation may require that an eligible entity that**
 16 **receives a loan or grant under this chapter must provide or receive**
 17 **funding to match the loan or grant.**

18 **Sec. 23. The corporation may approve new markets tax credits**
 19 **under IC 6-3.1-31.**

20 **Sec. 24. The corporation shall serve as a clearinghouse for**
 21 **information relevant to potential incorporators or organizers of**
 22 **CDFIs, Indiana CDFIs, and local CDFIs.**

23 **Sec. 25. An eligible entity that receives assistance under this**
 24 **chapter must annually report the following to the corporation on**
 25 **a schedule established by the corporation:**

- 26 **(1) The total amount of capital raised by the eligible entity.**
- 27 **(2) The total amount of capital invested or loaned by the**
 28 **eligible entity in targeted investment areas or to targeted**
 29 **populations.**
- 30 **(3) The amounts and types of jobs created or retained by the**
 31 **investments or loans made by the eligible entity.**
- 32 **(4) A summary of the eligible entity's activities under this**
 33 **chapter during the preceding year.**
- 34 **(5) Any other information required by the corporation.**

35 **Sec. 26. (a) The corporation shall submit a report to the**
 36 **governor and the legislative council before November 1 of each**
 37 **year. The report must include a summary of the financial and**
 38 **technical assistance provided by the corporation under this**
 39 **chapter, including the following:**

- 40 **(1) The number of applications for assistance filed with the**
 41 **corporation and the number of applications for assistance**
 42 **approved by the corporation.**

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1 **(2) The amount and type of assistance provided under this**
 2 **chapter.**
 3 **(3) A description of projects financed or assisted by grants or**
 4 **loans provided under this chapter.**
 5 **(4) An estimate of the number of jobs created or retained**
 6 **through the investment of grants or loans provided under this**
 7 **chapter.**
 8 **(5) The amount and source of other money leveraged or**
 9 **matched by grants or loans provided under this chapter.**
 10 **(b) The report submitted to the legislative council must be in an**
 11 **electronic format under IC 5-14-6.**
 12 **Sec. 27. The corporation shall adopt rules under IC 4-22-2 to**
 13 **carry out this chapter.**
 14 SECTION 3. IC 5-28-18-0.5 IS ADDED TO THE INDIANA CODE
 15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 16 1, 2006]: **Sec. 0.5. As used in this chapter, "community**
 17 **development financial institution" has the meaning set forth in**
 18 **IC 5-28-17.5-1.**
 19 SECTION 4. IC 5-28-18-2.5 IS ADDED TO THE INDIANA CODE
 20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 21 1, 2006]: **Sec. 2.5. As used in this chapter, "Indiana CDFI" has the**
 22 **meaning set forth in IC 5-28-17.5-4.**
 23 SECTION 5. IC 5-28-18-3, AS ADDED BY P.L.4-2005, SECTION
 24 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 25 2006]: **Sec. 3. As used in this chapter, "local board" means the:**
 26 (1) governing body of an eligible entity described in section 12 of
 27 this chapter; **or**
 28 (2) board of directors of a corporation described in section 13 of
 29 this chapter;
 30 **(3) board of directors or other governing body of an Indiana**
 31 **CDFI;**
 32 **(4) fiscal body of a county or municipality that is designated**
 33 **as a local CDFI; or**
 34 **(5) board of directors or other governing body of a foundation**
 35 **that is established by a county or municipality and is**
 36 **designated as a local CDFI.**
 37 SECTION 6. IC 5-28-18-3.5 IS ADDED TO THE INDIANA CODE
 38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 39 1, 2006]: **Sec. 3.5. As used in this chapter, "local CDFI" has the**
 40 **meaning set forth in IC 5-28-17.5-5.**
 41 SECTION 7. IC 5-28-18-4, AS ADDED BY P.L.4-2005, SECTION
 42 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,

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1 2006]: Sec. 4. As used in this chapter, "local pool" includes both a local
2 investment pool established under section 12 **or 12.5** of this chapter
3 and a local opportunity pool established under section 13 **or 13.5** of
4 this chapter.

5 SECTION 8. IC 5-28-18-9.5 IS ADDED TO THE INDIANA CODE
6 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2006]: **Sec. 9.5. A local board may apply for a grant from the**
8 **fund. A local board's application for a grant under this section**
9 **must include the following information:**

- 10 (1) **The total amount of the grant requested from the fund.**
- 11 (2) **The total amount of matching funds to be provided from**
- 12 **the local pool operated by the local board and the sources of**
- 13 **those matching funds.**
- 14 (3) **A detailed description of the local pool.**
- 15 (4) **The impact of the proposed grant on job growth or**
- 16 **retention in the area served by the local pool.**
- 17 (5) **Any other information requested by the corporation.**

18 SECTION 9. IC 5-28-18-10, AS ADDED BY P.L.4-2005,
19 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2006]: **Sec. 10. The corporation's criteria for awarding loans**
21 **and grants** from the fund to a local board must include the following
22 factors:

- 23 (1) The extent to which local financial institutions invest and
- 24 participate in the local pool.
- 25 (2) The extent to which the local pool is used as a secondary
- 26 source of financing that complements conventional financing
- 27 provided by existing financial institutions.
- 28 (3) The local board's knowledge of successful business practices.
- 29 (4) The extent to which the local board will target the proceeds of
- 30 the loan **or grant** toward nontraditional entrepreneurs.
- 31 (5) **In the case of a local board described in section 3(1), 3(2),**
- 32 **or 3(3) of this chapter,** the extent to which the local board
- 33 intends to use the loan proceeds for investment in debt, equity,
- 34 debt with equity attributes, or other forms of creative financing.
- 35 (6) The extent to which the local board's proposed program will
- 36 encourage clustering of small business programs through
- 37 proximity to small business incubators and other sources of small
- 38 business assistance and technology transfer.
- 39 (7) Other criteria established by the corporation.

40 SECTION 10. IC 5-28-18-11, AS ADDED BY P.L.4-2005,
41 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2006]: **Sec. 11. A loan from the fund to a local board is**

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subject to the following conditions:

- (1) The local board may use the loan from the fund only to make and service grants, equity investments **(in the case of a local board described in section 3(1), 3(2), or 3(3) of this chapter)**, loans, and loan guarantees to persons who are establishing or operating businesses in Indiana. However, the local board may not spend any part of the loan from the fund to defray the expenses of servicing grants, loans, and loan guarantees unless that expenditure is specifically authorized in the loan agreement with the corporation.
- (2) The term of the loan may not exceed twenty (20) years.
- (3) The loan must require the local board to provide matching funds in an amount determined by the corporation. However, **except in the case of a loan or grant to a local CDFI that establishes a local investment pool under section 12.5 of this chapter or a local opportunity pool under section 13.5 of this chapter**, the total of the loan plus the matching funds must be at least:
 - (A) one million dollars (\$1,000,000) for a local investment pool established under section 12 of this chapter; or
 - (B) five hundred thousand dollars (\$500,000) for a local opportunity pool established under section 13 of this chapter.
- (4) The corporation may forgive or defer payment of all or part of the interest and principal on the loan.
- (5) The loan agreement must require the local board, through its staff or consultants, to perform the following duties with respect to recipients of financial assistance from the local pool:
 - (A) Provide training in business and financial management techniques.
 - (B) Oversee the fiscal operations of the recipients of financial assistance for at least one (1) year following the receipt of that assistance.
 - (C) Provide fiscal management assistance to recipients of financial assistance when necessary for at least one (1) year following the receipt of the assistance, including assistance in the preparation and filing of federal and state tax returns.
- (6) The local board must make a report concerning the local pool to the corporation before September 1 of each year. The report must include detailed information concerning the structure, operation, and financial condition of the local pool.
- (7) Any other conditions that the corporation considers appropriate.

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1 SECTION 11. IC 5-28-18-12, AS ADDED BY P.L.4-2005,
2 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2006]: Sec. 12. (a) As used in this section, "eligible entity"
4 means any **of the following:**

5 (1) A partnership, unincorporated association, corporation, or
6 limited liability company, whether or not operated for profit, that
7 is established for the purpose of establishing a local investment
8 pool.

9 (2) **A community development financial institution.**

10 (3) **An Indiana CDFI.**

11 (b) A local investment pool may be established **under this section**
12 **only** by an eligible entity. A political subdivision may participate in the
13 establishment of an eligible entity but may not be the sole member of
14 the eligible entity.

15 (c) The articles of incorporation or bylaws of ~~the~~ **an** eligible entity
16 **as appropriate; described in subsection (a)(1)** must provide the
17 following:

18 (1) The exclusive purpose of the eligible entity is to establish a
19 local investment pool to:

20 (A) attract private equity investment to provide grants, equity
21 investments, loans, and loan guarantees for the establishment
22 or operation of businesses in Indiana; and

23 (B) provide a low to moderate rate of return to investors in the
24 short term, with higher rates of return in the long term.

25 (2) The governing body of the eligible entity must include:

26 (A) persons who are qualified by professional background and
27 business experience to make sound financial and investment
28 decisions in the private sector; and

29 (B) representatives of nontraditional entrepreneurs.

30 (3) The eligible entity may receive funds from:

31 (A) equity investors;

32 (B) grants and loans from local units of government;

33 (C) grants and loans from the federal government;

34 (D) donations; and

35 (E) loans from the fund.

36 SECTION 12. IC 5-28-18-12.5 IS ADDED TO THE INDIANA
37 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
38 [EFFECTIVE JULY 1, 2006]: **Sec. 12.5. A local investment pool may**
39 **be established under this section by a local CDFI to receive funding**
40 **from any public and private sources to provide grants, loans, and**
41 **loan guarantees to encourage the establishment or operation of**
42 **businesses or retention of jobs in Indiana.**

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1 SECTION 13. IC 5-28-18-13, AS ADDED BY P.L.4-2005,
2 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2006]: Sec. 13. (a) A local opportunity pool may be
4 established **under this section** only by **the following**:

5 (1) A nonprofit corporation or a for-profit corporation established
6 for ~~that the~~ purpose of **establishing a local opportunity pool**. A
7 political subdivision may participate in the establishment of such
8 a corporation but may not be the sole member of the corporation.

9 (2) **A community development financial institution.**

10 (3) **An Indiana CDFI.**

11 (b) The articles of incorporation or bylaws of a corporation
12 described in subsection ~~(a)~~; ~~as appropriate~~; **(a)(1)** must provide the
13 following:

14 (1) The exclusive purpose of the corporation described in
15 subsection ~~(a)~~ **(a)(1)** is to establish a local opportunity pool to:

16 (A) attract sources of funding other than private equity
17 investment to provide grants, loans, and loan guarantees for
18 the establishment or operation of nontraditional
19 entrepreneurial endeavors in Indiana; and

20 (B) enter into financing agreements that seek the return of the
21 principal amounts advanced by the pool, with the potential for
22 a greater return.

23 (2) The board of directors of the corporation described in
24 subsection ~~(a)~~ **(a)(1)** must include:

25 (A) persons who are actively engaged in Indiana in private
26 enterprise, organized labor, or state or local governmental
27 agencies and who are qualified by professional background
28 and business experience to make sound financial and
29 investment decisions in the private sector; and

30 (B) representatives of nontraditional entrepreneurs.

31 (3) The corporation described in subsection ~~(a)~~ **(a)(1)** may receive
32 funds from:

- 33 (A) philanthropic foundations;
- 34 (B) grants and loans from local units of government;
- 35 (C) grants and loans from the federal government;
- 36 (D) donations;
- 37 (E) bequests; and
- 38 (F) loans from the fund.

39 SECTION 14. IC 5-28-18-13.5 IS ADDED TO THE INDIANA
40 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 2006]: **Sec. 13.5. A local opportunity pool**
42 **may be established under this section by a local CDFI to receive**

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1 **funding from any public and private sources to provide grants,**
2 **loans, and loan guarantees for the establishment or operation of**
3 **nontraditional entrepreneurial endeavors in Indiana.**

4 SECTION 15. IC 5-28-19-0.2 IS ADDED TO THE INDIANA
5 CODE AS A NEW SECTION TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2006]: **Sec. 0.2. As used in this chapter,**
7 **"community development financial institution" has the meaning**
8 **set forth in IC 5-28-17.5-1.**

9 SECTION 16. IC 5-28-19-0.4 IS ADDED TO THE INDIANA
10 CODE AS A NEW SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2006]: **Sec. 0.4. As used in this chapter,**
12 **"Indiana CDFI" has the meaning set forth in IC 5-28-17.5-4.**

13 SECTION 17. IC 5-28-19-0.6 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2006]: **Sec. 0.6. As used in this chapter, "local**
16 **CDFI" has the meaning set forth in IC 5-28-17.5-5.**

17 SECTION 18. IC 5-28-19-3, AS ADDED BY P.L.4-2005,
18 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2006]: **Sec. 3. As used in this chapter, "microloan delivery**
20 **organization" means any of the following:**

- 21 (1) A community based or nonprofit program that:
22 (†) (A) has developed a viable plan for providing training,
23 access to financing, and technical assistance to
24 microenterprises; and
25 (‡) (B) meets the criteria and qualifications set forth in this
26 chapter.

- 27 (2) A community development financial institution.
28 (3) An Indiana CDFI or a local CDFI that has:

- 29 (A) submitted to the corporation a plan specifying the
30 actions that the Indiana CDFI or local CDFI will take to
31 provide business development services and microloans to
32 microenterprises; and

- 33 (B) received approval by the corporation of the Indiana
34 CDFI's or local CDFI's plan submitted under clause (A).

35 SECTION 19. IC 6-3.1-31 IS ADDED TO THE INDIANA CODE
36 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
37 JANUARY 1, 2006 (RETROACTIVE)]:

38 **Chapter 31. State New Markets Tax Credit**

39 **Sec. 1. As used in this chapter, "applicable percentage" means**
40 **the following:**

- 41 (1) One percent (1%) for the first three (3) credit allowance
42 dates.

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1 (2) Two percent (2%) for the remainder of the credit
2 allowance dates.

3 **Sec. 2.** As used in this chapter, "certified equity investment"
4 refers to a qualified equity investment certified under this chapter
5 for a tax credit.

6 **Sec. 3.** As used in this chapter, "credit" refers to a state new
7 markets tax credit granted under this chapter against state tax
8 liability.

9 **Sec. 4.** As used in this chapter, "credit allowance date" means
10 the following with respect to any certified equity investment:

11 (1) The date on which the certified equity investment is
12 initially made.

13 (2) Each of the six (6) annual anniversary dates immediately
14 following the date described in subdivision (1).

15 **Sec. 5.** As used in this chapter, "holder", with respect to a credit
16 allowance date, refers to one (1) of the following:

17 (1) The taxpayer or pass through entity that makes the
18 original qualified equity investment, if the taxpayer or pass
19 through entity owns the qualified equity investment on a
20 credit allowance date.

21 (2) A subsequent taxpayer or pass through entity that owns
22 the qualified equity investment on a credit allowance date.

23 **Sec. 6.** As used in this chapter, "pass through entity" means a:
24 (1) corporation that is exempt from the adjusted gross income
25 tax under IC 6-3-2-2.8(2);
26 (2) partnership;
27 (3) trust;
28 (4) limited liability company; or
29 (5) limited liability partnership.

30 **Sec. 7.** As used in this chapter, "qualified equity investment" has
31 the meaning set forth in Section 45D of the Internal Revenue Code.

32 **Sec. 8.** As used in this chapter, "qualified low income
33 community investments" has the meaning set forth in Section 45D
34 of the Internal Revenue Code.

35 **Sec. 9.** As used in this chapter, "state tax liability" means a
36 taxpayer's total tax liability that is incurred under:

37 (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
38 (2) IC 27-1-18-2 (the insurance premiums tax); and
39 (3) IC 6-5.5 (the financial institutions tax);
40 as computed after the application of the credits that under
41 IC 6-3.1-1-2 are to be applied before the credit provided by this
42 chapter.

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1 **Sec. 10.** As used in this chapter, "taxpayer" means an
2 individual, a corporation, a partnership, or another entity that has
3 any state tax liability.

4 **Sec. 11.** Subject to this chapter, a taxpayer that:

5 (1) holds a certified equity investment on a credit allowance
6 date; and

7 (2) does not receive another credit under this article for the
8 same certified equity investment;

9 is entitled to a state new markets tax credit in the taxable year in
10 which the credit allowance date occurs against the taxpayer's state
11 tax liability for the taxable year.

12 **Sec. 12.** The amount of the credit in a taxable year is equal to
13 the amount determined under STEP THREE of the following
14 formula:

15 **STEP ONE:** Determine the amount of the qualified equity
16 investment that is:

17 (A) held by the taxpayer on the credit allowance date in the
18 taxable year; and

19 (B) certified under this chapter as a certified equity
20 investment.

21 **STEP TWO:** Multiply the STEP ONE amount by the
22 applicable percentage for the credit allowance date.

23 **STEP THREE:** Multiply the STEP TWO amount by:

24 (A) the tax credit adjustment factor approved by the
25 Indiana economic development corporation established by
26 IC 5-28-3-1; or

27 (B) eighty-five hundredths (0.85), if clause (A) does not
28 apply.

29 **Sec. 13. (a)** If:

30 (1) a pass through entity does not have state income tax
31 liability against which the tax credit provided by this chapter
32 may be applied; and

33 (2) the pass through entity would be eligible for a tax credit
34 under this chapter if the pass through entity were a taxpayer;
35 a shareholder, partner, or member of the pass through entity is
36 entitled to a tax credit under this chapter.

37 (b) Subject to this chapter, the amount of the tax credit to which
38 a shareholder, partner, or member of a pass through entity is
39 entitled is equal to:

40 (1) the tax credit determined for the pass through entity for
41 the taxable year as if the pass through entity were a taxpayer
42 with state tax liability in the amount of the tax credit;

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multiplied by
(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

Sec. 14. (a) If the amount of the tax credit provided under this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to not more than three (3) subsequent taxable years. The amount of the tax credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a tax credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of any unused tax credit.

Sec. 15. (a) To receive the tax credit for a qualified investment under this chapter, a taxpayer or a pass through entity must:

- (1) make a qualified equity investment; and
- (2) be certified by the Indiana economic development corporation to receive a tax credit for the qualified equity investment.

(b) The Indiana economic development corporation shall establish a program to certify qualified equity investments as eligible for a tax credit.

(c) The amount of tax credits allowed under this chapter may not exceed five million dollars (\$5,000,000) in a state fiscal year. Applicants for a tax credit that:

- (1) make a qualified equity investment;
- (2) are eligible to receive a federal tax credit under Section 45D of the Internal Revenue Code for the qualified equity investment; and
- (3) apply to the Indiana economic development corporation in the manner and on the form prescribed by the Indiana economic development corporation;

shall be certified for a tax credit in the amount of each applicant's qualified equity investment in the order in which the applicants apply to the Indiana economic development corporation for tax credits until the maximum amount of tax credits allowed under this section for a state fiscal year has been allocated among qualifying applicants. However, the Indiana economic development corporation may provide a procedure for an applicant denied a tax credit solely as a result of the cap imposed by this subsection to be given priority in the award of a tax credit in a subsequent state

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fiscal year.

(d) The certification of a tax credit under this section applies only to credit allowance dates that occur after the certification is made.

(e) If the state new markets tax credits allocated to the taxpayer or pass through entity are disallowed or recaptured under this chapter, the Indiana economic development corporation may reallocate the unused tax credits to another qualified applicant in the order in which qualifying applications are filed with the Indiana economic development corporation.

Sec. 16. (a) A taxpayer or pass through entity that holds a certified equity investment may apply to the Indiana economic development corporation to establish the tax credit adjustment factor that applies to the taxpayer or pass through entity.

(b) The Indiana economic development corporation shall establish a program to approve tax credit adjustment factors under this section for qualifying applicants. The Indiana economic development corporation may provide a procedure for combining an application for a tax credit for a qualified investment under section 15 of this chapter with an application for a tax credit adjustment factor under this section.

(c) If the applicant applies for the tax credit adjustment factor in the manner and on the form prescribed by the Indiana economic development corporation, the Indiana economic development corporation shall approve a tax credit adjustment factor for the applicant that is equal to the percentage of the total gross assets of the entity in which the certified equity investment was made that the Indiana economic development corporation determines are invested by the entity in qualified low income community investments.

(d) An approval granted under this section applies to the taxable years specified by the Indiana economic development corporation.

Sec. 17. To receive the tax credit under this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. A taxpayer claiming a credit under this chapter shall submit to the department a copy of the certification letter issued by the Indiana economic development corporation under section 15 of this chapter and any state new markets tax credit adjustment approval letter provided under this chapter. The taxpayer shall submit to the department the information the department determines is necessary for the department to determine whether the taxpayer is eligible for the

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tax credit.

Sec. 18. (a) The holder of a certified equity investment shall notify the department and the Indiana economic development corporation if the federal tax credit granted for the certified equity investment under Section 45D of the Internal Revenue Code is disallowed or otherwise recaptured under Section 45D of the Internal Revenue Code.

(b) If the federal tax credit is disallowed or otherwise recaptured, the department or the Indiana economic development corporation may:

- (1) disallow the use of a part of the unused tax credits;**
- (2) recapture a part of the tax credit that has been applied to the state tax liability of a taxpayer; or**
- (3) both disallow under subdivision (1) and recapture under subdivision (2).**

The percentage of the tax credit that may be disallowed and recaptured under this subsection is equal to the percentage of the total federal credit that is disallowed or otherwise recaptured under Section 45D of the Internal Revenue Code.

Sec. 19. The department or the Indiana economic development corporation, or both, may adopt under IC 4-22-2 any rules that may be necessary to carry out the purposes of this chapter, including rules to facilitate the transfer of credits earned under this chapter.

SECTION 20. IC 36-1-4-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 20. (a) A county or municipality may apply to the Indiana economic development corporation for designation as a local CDFI under IC 5-28-17.5-12 to do any of the following:

- (1) Promote community development.**
- (2) Provide loans, investments, banking services, or development services in a targeted investment area (as defined in IC 5-28-17.5-7) or to a targeted population (as defined in IC 5-28-17.5-8).**
- (3) Perform activities consistent with the goals of the federal Community Development Banking and Financial Institutions Act of 1994 (Public Law 103-325).**
- (4) Perform any other activity that a local CDFI may carry out under IC 5-28.**

(b) A county or municipality may establish a foundation to apply for designation as a local CDFI under IC 5-28-17.5-12 to perform any of the functions listed in subsection (a).

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1 **(c) A county or municipality may use any money received or tax**
2 **revenue collected by the county or municipality to carry out the**
3 **purposes of a local CDFI under IC 5-28.**
4 SECTION 21. [EFFECTIVE JANUARY 1, 2006
5 (RETROACTIVE)] **(a) The definitions in IC 6-3.1-31, as added by**
6 **this act, apply throughout this SECTION.**
7 **(b) IC 6-3.1-31, as added by this act, applies only to:**
8 **(1) qualified equity investments made; and**
9 **(2) taxable years beginning;**
10 **after December 31, 2005.**
11 SECTION 22. **An emergency is declared for this act.**

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