

CHAPTER 116J

DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

116J.01	Department of trade and economic development.	116J.8765	Reserve fund; premiums.
116J.58	Powers and duties.	116J.8766	Claims by lender to reserve fund.
116J.613	Repealed.	116J.8767	Subrogation of claims.
116J.616	Specific agreements prohibited.	116J.8768	Excess reserve funds.
116J.617	Tourism loan program.	116J.8769	Termination.
116J.63	Sale of pamphlets and publications; fees; advertising.	116J.941	Repealed.
116J.64	Loans to Indians.	116J.942	Repealed.
116J.68	Bureau of small business.	116J.955	Rural rehabilitation revolving account.
116J.691	Minnesota Project Outreach Corporation.	116J.9673	Export finance authority.
116J.692	Registered name.	116J.968	Repealed.
116J.873	Economic recovery grants.	116J.970	Science and technology duties.
116J.876	Definitions.	116J.971	Committee on science and technology research and development.
116J.8761	Capital access program; creation; administration.	116J.983	Definitions.
116J.8762	Commissioner; duties.	116J.984	Community and neighborhood development organization pilot project.
116J.8763	Eligible loans.	116J.985	Certified development company.
116J.8764	Enrollment of loans in program.		

116J.01 DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT.

[For text of subds 1 and 2, see M.S.1988]

Subd. 3. Departmental organization. The commissioner shall organize the department as provided in section 15.06. The department must be organized into four divisions, designated as the business promotion and marketing division, the community development division, the policy analysis and science and technology division, and the Minnesota trade division, and the office of tourism. Each division and office shall administer the duties and functions assigned to it by law. When the duties of the divisions or office are not allocated by law, the commissioner may establish and revise the assignments of each division and office. Each division is under the direction of a deputy commissioner in the unclassified service. The deputy commissioner of the Minnesota trade division must be experienced and knowledgeable in matters of international trade.

Each office is under the direction of a director in the unclassified service.

Subd. 4. Appointment of director of the office of tourism. The director of the office of tourism shall be appointed by the governor.

History: 1989 c 335 art 1 s 136,137

116J.58 POWERS AND DUTIES.

Subdivision 1. Enumeration. The commissioner shall:

(1) investigate, study, and undertake ways and means of promoting and encouraging the prosperous development and protection of the legitimate interest and welfare of Minnesota business, industry, and commerce, within and outside the state;

(2) locate markets for manufacturers and processors and aid merchants in locating and contacting markets;

(3) investigate and study conditions affecting Minnesota business, industry, and commerce and collect and disseminate information, and engage in technical studies, scientific investigations, and statistical research and educational activities necessary or useful for the proper execution of the powers and duties of the commissioner in promoting and developing Minnesota business, industry, and commerce, both within and outside the state;

(4) plan and develop an effective business information service both for the direct

assistance of business and industry of the state and for the encouragement of business and industry outside the state to use economic facilities within the state;

(5) compile, collect, and develop periodically, or otherwise make available, information relating to current business conditions;

(6) conduct or encourage research designed to further new and more extensive uses of the natural and other resources of the state and designed to develop new products and industrial processes;

(7) study trends and developments in the industries of the state and analyze the reasons underlying the trends; study costs and other factors affecting successful operation of businesses within the state; and make recommendations regarding circumstances promoting or hampering business and industrial development;

(8) serve as a clearing house for business and industrial problems of the state; and advise small business enterprises regarding improved methods of accounting and bookkeeping;

(9) cooperate with interstate commissions engaged in formulating and promoting the adoption of interstate compacts and agreements helpful to business, industry, and commerce;

(10) cooperate with other state departments, and with boards, commissions, and other state agencies, in the preparation and coordination of plans and policies for the development of the state and for the use and conservation of its resources insofar as the use, conservation, and development may be appropriately directed or influenced by a state agency;

(11) assemble and coordinate information relative to the status, scope, cost, and employment possibilities and the availability of materials, equipment, and labor in connection with public works projects, state, county, and municipal; recommend limitations on the public works; gather current progress information with reference to public and private works projects of the state and its political subdivisions with reference to conditions of employment; inquire into and report to the governor, when requested by the governor, with respect to any program of public state improvements and the financing thereof; and request and obtain information from other state departments or agencies as may be needed properly to report thereon;

(12) study changes in population and current trends and prepare plans and suggest policies for the development and conservation of the resources of the state;

(13) confer and cooperate with the executive, legislative, or planning authorities of the United States and neighboring states and of the counties and municipalities of such neighboring states, for the purpose of bringing about a coordination between the development of such neighboring states, counties, and municipalities and the development of this state;

(14) generally, gather, compile, and make available statistical information relating to business, trade, commerce, industry, transportation, communication, natural resources, and other like subjects in this state, with authority to call upon other departments of the state for statistical data and results obtained by them and to arrange and compile that statistical information in a manner that seems wise;

(15) publish documents and annually convene regional meetings to inform businesses, local government units, assistance providers, and other interested persons of changes in state and federal law related to economic development; and

(16) annually convene conferences of providers of economic development related financial and technical assistance for the purposes of exchanging information on economic development assistance, coordinating economic development activities, and formulating economic development strategies.

[For text of subds 2 and 3, see M.S. 1988]

History: 1989 c 335 art 1 s 140

116J.613 [Renumbered 116K.14]

116J.616 SPECIFIC AGREEMENTS PROHIBITED.

The commissioner or director of tourism may not enter into an agreement which would obligate the state to pay any part of a debt incurred by a public or private facility, organization, or attraction.

History: 1989 c 335 art 1 s 138

116J.617 TOURISM LOAN PROGRAM.

Subdivision 1. Establishment. The commissioner may establish a tourism revolving loan program to provide loans or participate in loans to resorts, campgrounds, lodging facilities, and other tourism-related businesses. The commissioner shall work with financial institutions in making or participating in loans under this section.

Subd. 2. Eligible borrower. To receive a loan under this section, the borrower must be a sole proprietorship, partnership, corporation, or other person engaged in a tourism-related business or other entity that is defined by the standard industrial classification codes of 7011 and 7033 as set out in the Code of Federal Regulations, title 13, section 121.2. An eligible borrower under this section must maintain the business or other entity as a tourism-related entity as defined by this subdivision during the term of the loan. An eligible borrower may not receive a loan under this section if the borrower has received a tourism-related loan made by the state or participated in by the state in the past three years.

Subd. 3. Eligible loan. The maximum loan made or participated in under this section may not be for more than 50 percent of the total cost of the project. Loan proceeds may be used for the following purposes: building construction and improvement, site improvement, equipment, other construction costs, and engineering costs. Project-related expenditures made more than 30 days before an application may not be financed by a loan made or participated in under this section.

Subd. 4. Loan terms. The maximum term of a loan made or participated in under this section may not exceed the useful life of the real property or 80 percent of the useful life of the equipment or machinery, or the following limits, whichever is less:

- (1) ten years for land, building, or other real property;
- (2) five years for equipment or machinery; or
- (3) a weighted average of the limits under clauses (1) and (2) for loans made or participated in for a combination of real property and equipment or machinery.

The commissioner may establish interest rates for loans made under this section. All loans made must be secured by collateral.

Subd. 5. Tourism loan account. The tourism loan account is created in the special revenue fund. The fund consists of money appropriated or transferred to the account and interest collected through the tourism revolving loan program, and gifts, donations, and bequests made to the account. Money in the account is appropriated to the commissioner for purposes of this section. Fees collected through the tourism revolving loan program must be credited to the general fund.

History: 1989 c 335 art 1 s 139

116J.63 SALE OF PAMPHLETS AND PUBLICATIONS; FEES; ADVERTISING.

[For text of subds 1 to 3, see M.S.1988]

Subd. 4. The office of tourism may market tourism-related publications and media promotional material to businesses and organizations. The proceeds from the marketing must be placed in a special account and are appropriated to the commissioner to prepare and distribute the office's publications and media promotional materials.

History: 1989 c 335 art 1 s 141

116J.64 LOANS TO INDIANS.*[For text of subds 1 to 5, see M.S.1988]*

Subd. 6. The remaining 20 percent of the tax revenue received by the county auditor under section 273.165, subdivision 1, shall be remitted by the county auditor to the state treasurer and shall be deposited in an account in the special revenue fund. The account is established under the jurisdiction and control of the agency, which may engage in a business loan program for American Indians as that term is defined in subdivision 2. The tribal councils may administer the account, provided that, before making any eligible loans, each tribal council must submit to the agency, for its review and approval, a plan for that council's loan program which specifically describes, as to that program, its content, utilization of money, administration, operation, implementation, and other matters required by the agency. All such programs must provide for a reasonable balance in the distribution of money appropriated pursuant to this section to make business loans between Indians residing on and off the reservations within the state. As a condition to the making of such eligible loans, the tribal councils shall enter into a loan agreement and other contractual arrangements with the agency to carry out this chapter, and shall agree that all official books and records relating to the business loan program shall be subject to audit by the legislative auditor in the same manner prescribed for agencies of state government.

Whenever money is appropriated by the state treasurer to the agency solely for the purposes in this subdivision, the agency shall record in the Indian business loan account the receipt and disbursement of the money and of the income, gain and loss from the investment and reinvestment of the money.

Subd. 7. An Indian desiring a loan for the purpose of starting a business enterprise, expanding an existing business, or for technical and management assistance, shall make application to the Indian affairs council. The Indian affairs council shall prescribe the necessary forms and advise the prospective borrower as to the conditions under which the application may be expected to receive favorable consideration. The application shall be forwarded to the appropriate tribal council, if it is participating in the program, for approval or disapproval, and shall be in conformity with the plans submitted by said tribal councils. If the tribal council is not participating in the program, the Indian affairs council may directly administer the loan. If the application is approved, the Indian affairs council shall forward the application, together with all relevant documents pertinent thereto, to the commissioner of finance, who shall draw a warrant in favor of the applicable tribal council or the Indian affairs council, if it is administering the loan, with appropriate notations identifying the borrower. The tribal council or the Indian affairs council, if it is administering the loan, shall thereafter reimburse suppliers and vendors for purchases of equipment, real estate and inventory made by the borrower pursuant to the conditions or guidelines established by the Indian affairs council. The tribal council or the Indian affairs council, if it is administering the loan, shall maintain records of transactions for each borrower in a manner consistent with good accounting practice. Simple interest at two percent of the amount of the debt owed shall be charged. When any portion of a debt is repaid, the tribal council or the Indian affairs council, if it is administering the loan, shall remit the amount so received plus interest paid thereon to the state treasurer through the Indian affairs council. The amount so received shall be credited to the Indian business loan account. The tribal council or the Indian affairs council, if it is administering the loan, shall secure a fidelity bond from a surety company, in favor of the state treasurer, in an amount equal to the maximum amount to the credit of its loan account during the fiscal year. On the placing of a loan, additional money equal to ten percent of the total amount made available to any tribal council or the Indian affairs council, if it is administering the loan, for loans during the fiscal year shall be paid to the council prior to December 31 for the purpose of financing administrative costs.

*[For text of subds 8 to 11, see M.S.1988]***History:** 1989 c 335 art 4 s 47; 1989 c 356 s 27

116J.68 BUREAU OF SMALL BUSINESS.

Subdivision 1. The bureau of small business within the business assistance center shall serve as a clearinghouse and referral service for information needed by small businesses including economically disadvantaged small businesses.

Subd. 2. The bureau shall:

(a) provide information and assistance with respect to all aspects of business planning and business management related to the start-up, operation, or expansion of a small business in Minnesota;

(b) refer persons interested in the start-up, operation, or expansion of a small business in Minnesota to assistance programs sponsored by federal agencies, state agencies, educational institutions, chambers of commerce, civic organizations, community development groups, private industry associations, and other organizations or to the business assistance referral system established by the Minnesota Project Outreach Corporation;

(c) plan, develop, and implement a master file of information on small business assistance programs of federal, state, and local governments, and other public and private organizations so as to provide comprehensive, timely information to the bureau's clients;

(d) employ staff with adequate and appropriate skills and education and training for the delivery of information and assistance;

(e) seek out and utilize, to the extent practicable, contributed expertise and services of federal, state, and local governments, educational institutions, and other public and private organizations;

(f) maintain a close and continued relationship with the director of the procurement program within the department of administration so as to facilitate the department's duties and responsibilities under sections 16B.19 to 16B.22 relating to the small business set aside program of the state;

(g) develop an information system which will enable the commissioner and other state agencies to efficiently store, retrieve, analyze, and exchange data regarding small business development and growth in the state. All executive branch agencies of state government and the secretary of state shall to the extent practicable, assist the bureau in the development and implementation of the information system;

(h) establish and maintain a toll free telephone number so that all small business persons anywhere in the state can call the bureau office for assistance. An outreach program shall be established to make the existence of the bureau well known to its potential clientele throughout the state. If the small business person requires a referral to another provider the bureau may use the business assistance referral system established by the Minnesota Project Outreach Corporation;

(i) conduct research and provide data as required by state legislature;

(j) develop and publish material on all aspects of the start-up, operation, or expansion of a small business in Minnesota;

(k) collect and disseminate information on state procurement opportunities, including information on the procurement process;

(l) develop a public awareness program through the use of newsletters, personal contacts, and electronic and print news media advertising about state assistance programs for small businesses, including those programs specifically for socially disadvantaged small business persons;

(m) publicize to small businesses section 14.115 which requires consideration of small business issues in state agency rulemaking;

(n) enter into agreements with the federal government and other public and private entities to serve as the statewide coordinator or host agency for the federal small business development center program under United States Code, title 15, section 648;

(o) establish an evaluation mechanism to determine if assistance providers have adequate expertise and resources to deliver quality services. Evaluation of assistance

providers may be based on the ability of the provider to offer the advertised service, the training and experience of the provider, and the formal evaluation process used by the provider. The evaluation mechanism must be designed so that the business assistance referral system established by the Minnesota Project Outreach Corporation may use the results of the evaluation in providing clients with referrals to providers; and

(p) assist providers in the evaluation of their programs and the assessment of their service area needs. The bureau may establish model evaluation techniques and performance standards for providers to use.

History: 1989 c 335 art 1 s 142; 1989 c 352 s 8

NOTE: The amendments to subdivision 1 by Laws 1989, chapter 352, section 8, are repealed June 30, 1990. See Laws 1989, chapter 352, section 25, paragraph (e).

116J.691 MINNESOTA PROJECT OUTREACH CORPORATION.

Subdivision 1. Establishment; purpose. The Minnesota Project Outreach Corporation is established as a nonprofit corporation under chapter 317 and is subject to the provisions of that chapter. The purpose of the corporation is to (i) facilitate the transfer of technology and scientific advice from the University of Minnesota and other institutions to businesses in the state that may make economic use of the information; and (ii) to assist small and medium-sized businesses in finding technical and financial assistance providers that meet their needs.

Subd. 2. Board of directors. The Minnesota Project Outreach Corporation shall be governed by a nine-member board of directors consisting of the president of the University of Minnesota or the president's designee, the deputy commissioner of trade and economic development for community development or the commissioner's designee, the chair of the Greater Minnesota Corporation board of directors or the chair's designee, the president of the Minnesota Project Outreach Corporation, a member of the state senate appointed by the subcommittee on committees of the senate rules and administration committee, a member of the house of representatives appointed by the speaker, a representative of small manufacturing firms located outside the metropolitan area, a representative of medium-sized manufacturing firms located in the metropolitan area, and a private sector person representing the general public. Vacancies on the board for the members who are representatives of the manufacturing firms and the general public shall be filled by the board. The president of the Minnesota Project Outreach Corporation shall be appointed by at least a two-thirds majority of the other members of the board.

The terms of the directors appointed by the governor shall be three years. The directors appointed by the governor shall serve until their successors are appointed and qualify. The board may elect a chair and form committees of the board.

Subd. 3. Articles of incorporation. The articles of incorporation of the Minnesota Project Outreach Corporation must be filed with the secretary of state under chapter 317 and must be consistent with the duties of the corporation under subdivision 4 and the other provisions of this section.

Subd. 4. Duties. The Minnesota Project Outreach Corporation shall:

(1) establish a technology assistance system to assist business, specifically new and other small and medium-sized businesses across the state, in gaining access to technical information, including but not limited to technologies developed by the University of Minnesota and other higher education systems and their personnel; and in gaining access to technology-related federal programs.

(2) establish and continually update a business assistance referral system which includes a data base of economic development related technical assistance and financial assistance providers or programs sponsored by federal agencies, state agencies, educational institutions, chambers of commerce, civic organizations, community development groups, local governments, private industry associations, and other organizations and individuals that provide assistance;

(3) establish and maintain or contract for the establishment of a toll-free telephone number operated by trained staff familiar with the business assistance referral system and data base;

(4) maintain a marketing and outreach program informing persons interested in starting, operating, or expanding small business and assistance providers of the technology assistance system and the business assistance referral system;

(5) establish, where possible, regional bases and referral systems for the business assistance referral system; and

(6) make available the data base of the business assistance referral system to the legislature, the department of trade and economic development, and other state agencies for evaluating the effectiveness and efficiency of the provision of economic development-related technical and financial assistance in the state.

Subd. 5. State agency cooperation. The Minnesota Project Outreach Corporation shall consult with the department of trade and economic development in the development and marketing of the business assistance referral system. The corporation shall assist the department of trade and economic development in establishing an evaluation mechanism for the business assistance referral system which at least includes a process for determining the effectiveness of the economic development related technical or financial assistance provider's service in meeting the needs of the client referred to the provider.

Subd. 6. Charges to clients. (a) The Minnesota Project Outreach Corporation may charge reasonable fees to a client for the technology assistance system. The corporation shall establish a fee structure for the technology assistance system and may base the fee structure on the type of service provided, the size of the client based on number of employees or amount of annual revenues, the length of time the client has been in operation, and other criteria.

(b) The corporation shall provide the business assistance referral system at no cost to the client and may not charge the client a fee or any other compensation for the referral to a provider. This subdivision does not prohibit the technical or financial assistance provider from charging a fee or other compensation to a client that has been referred to the provider by the business assistance referral system.

Subd. 7. Advisory committees. The board of directors of the Minnesota Project Outreach Corporation may appoint advisory committees to assist in selecting vendors and evaluating the corporation's activities.

Subd. 8. Annual report. The Minnesota Project Outreach Corporation shall submit an annual report by January 15 of each year to the appropriations, finance, and economic development committees of the legislature, the governor, the Greater Minnesota Corporation, and the University of Minnesota. The report must include a description of the corporation's activities for the past year, a listing of the contracts entered into by the corporation, and a summary of the corporation's expenditures.

Subd. 9. Audit. The Minnesota Project Outreach Corporation shall contract with a certified public accounting firm to perform a financial and compliance audit of the corporation and any subsidiary annually in accordance with generally accepted accounting standards.

History: 1989 c 335 art 1 s 143

116J.692 REGISTERED NAME.

Notwithstanding section 317.09, the secretary of state shall register the name "Minnesota Project Outreach Corporation" on behalf of the corporation.

History: 1989 c 335 art 1 s 144

116J.873 ECONOMIC RECOVERY GRANTS.

[For text of subs 1 to 3, see M.S.1988]

Subd. 4. **Grant limits.** An economic recovery grant may not be approved for an amount over \$500,000. The division may recommend less funding than requested if, in the opinion of the division, the amount requested is more than is necessary to meet the applicant's needs. If the amount of the grant is reduced, the reasons for the reduction shall be given to the applicant. The portion of an economic recovery grant that exceeds \$100,000 must be repaid to the state when it is repaid to the local community or recognized Indian tribal government by the person or entity to which it was loaned by the local community or Indian tribal government. Money repaid to the state must be credited to the general fund.

History: 1989 c 335 art 4 s 48

116J.876 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of this section and sections 116J.8761 to 116J.8769, the terms defined in this section have the meanings given them.

Subd. 2. **Agreement.** "Agreement" means an agreement between a lender and the commissioner under which a lender may participate in the program.

Subd. 3. **Borrower.** "Borrower" means the recipient of a loan which is, has been, or will be filed by the lender for enrollment under the program and meets the following requirements:

(1) the borrower is a corporation, partnership, joint venture, sole proprietorship, cooperative, or other entity, whether profit or nonprofit, which is authorized to conduct business in the state; and

(2) the borrower is not an executive officer, director, or principal shareholder of the lender, or a member of the immediate family of an executive officer, director, or principal shareholder of the lender, or an entity controlled by an executive officer, director, principal shareholder, or member of the immediate family.

Subd. 4. **Capital access account; account.** "Capital access account" or "account" means an account created in the special revenue fund for the purposes of the capital access program.

Subd. 5. **Claim.** "Claim" means any claim filed by the lender under section 116J.8767.

Subd. 6. **Commissioner.** "Commissioner" means the commissioner of trade and economic development.

Subd. 7. **Early loan.** "Early loan" means an enrolled loan where at the time of enrollment the amount of previously enrolled loans made by the lender under the program was less than \$5,000,000.

Subd. 8. **Eligible loan.** "Eligible loan" means a loan made by the lender to a borrower that meets the requirements of section 116J.8764.

Subd. 9. **Enrolled loan.** "Enrolled loan" means a loan enrolled by the commissioner under the terms of section 116J.8764.

Subd. 10. **Lender.** "Lender" means a financial institution as defined in section 13A.01, subdivision 2, that has entered into an agreement with the commissioner to participate in the program.

Subd. 11. **Passive real estate ownership.** "Passive real estate ownership" means ownership of real estate for the purpose of deriving income from speculation, trade, or rentals, except that the term does not include (1) the ownership of that portion of real estate being used or intended to be used for the operation of the business of the owner of the real estate; or (2) ownership of real estate for the purpose of construction or renovation until the completion of the construction or renovation phase.

Subd. 12. **Program.** "Program" means the capital access program created by sections 116J.876 to 116J.8769.

Subd. 13. **Reserve fund.** "Reserve fund" means an administrative account maintained by the commissioner for funds accumulated under an agreement with the commissioner to cover losses sustained by the lender on enrolled loans.

History: 1989 c 335 art 1 s 146

116J.8761 CAPITAL ACCESS PROGRAM; CREATION; ADMINISTRATION.

A capital access program is created in the department of trade and economic development. The purpose of the capital access program is to provide capital to businesses, particularly small and medium-sized businesses, to foster economic development. Loans made under this program are to be slightly riskier than conventional loans, but still offer a high degree of soundness in connection with the capital access program.

The commissioner has the power to administer the program, enter into contracts, and take action reasonably necessary to ensure compliance with the program. The lender shall provide the commissioner with information regarding its participation in the program as the commissioner may reasonably require. Upon notice to the lender, the commissioner may inspect the files of the lender relating to any loans enrolled under the program during normal business hours of the lender.

A lender is eligible to participate in the program upon entering into an agreement with the commissioner governing the duties of the commissioner and the lender under the program.

History: 1989 c 335 art 1 s 147

116J.8762 COMMISSIONER; DUTIES.

Subdivision 1. **Duties.** The commissioner must:

(1) market the capital access program to businesses and other persons in the state in cooperation with financial institutions and statewide associations representing financial institutions;

(2) establish a reservation or allocation system so that lenders may reserve an allocation of funds in the account before or after the lender enters into a loan agreement or contract with a borrower; and

(3) develop the program, in cooperation with financial institutions and statewide associations representing financial institutions, so that the degree of flexibility for the commissioner and the participating lenders is maximized and the state oversight of individual loans is minimized, and the fiscal integrity of the program is maintained.

Subd. 2. **Interests of commissioner.** Except upon the exercise of the commissioner's right of subrogation under section 116J.8767, the commissioner has no legal or equitable interest in any collateral, security, or other right of recovery in connection with any loan enrolled in the program, and the commissioner's consent is not necessary for any amendment to the lender's loan documents.

History: 1989 c 335 art 1 s 148

116J.8763 ELIGIBLE LOANS.

Subdivision 1. **Loan types.** Eligible loans may include:

(1) loans made for industrial, commercial, or agricultural purposes;

(2) refinancing of loans made for the purposes in clause (1); and

(3) lines of credit agreements established between the lender and borrower which are used for the purposes in clause (1).

Subd. 2. **Loan restrictions.** Eligible loans must meet the following criteria:

(1) the lender has not made the loan in order to enroll in the program prior debt which is not covered under the program and which is or was owed by the borrower to the lender;

(2) the proceeds of the loan will not be used for that portion of a project or development devoted to housing;

(3) the proceeds of the loan will not be used to finance passive real estate ownership; and

(4) the proceeds of the loan will be used to finance a project or enterprise located within this state which will foster economic development in Minnesota.

Subd. 3. Loan provisions. An eligible loan may provide for an interest rate, fees, and other terms and conditions as the lender and borrower may agree. If the loan amount to be borrowed is determined by a commitment agreement that establishes a line of credit, the amount of the loan is the maximum amount available to the borrower under the agreement.

History: 1989 c 335 art 1 s 149

116J.8764 ENROLLMENT OF LOANS IN PROGRAM.

Subdivision 1. Filing requirements. (a) To enroll a loan under this program, the lender must file a completed loan enrollment form with the commissioner. The lender must also certify the following to the commissioner as part of the filing:

(1) the lender has no substantial reason to believe that the loan is being made to a borrower who does not meet the requirements of section 116J.876, subdivision 3;

(2) that the lender has received from the borrower a written representation, warranty, pledge, and waiver stating that the borrower has no legal, beneficial, or equitable interest in the nonrefundable premium charges or any other funds credited to the reserve fund established to cover losses sustained by the lender on enrolled loans;

(3) the loan being filed for enrollment is an eligible loan under section 116J.8763; and

(4) premium changes required of the borrower and lender under this section have been deposited in the reserve fund.

(b) The lender shall file the loan enrollment form within ten business days after the lender makes the loan. The date on which the lender makes a loan is the date on which the lender first disburses proceeds of the loan to the borrower or an earlier date on which the loan documents have been executed and the lender has obligated itself to disburse proceeds of the loan. The filing date of a loan enrollment form is the date on which the lender delivers the required documentation to the commissioner, delivers it to a professional courier service for delivery to the commissioner, or mails it to the commissioner by certified mail.

Subd. 2. Commissioner enrollment; acknowledgment. When the commissioner receives the loan enrollment form, the commissioner shall enroll the loan, unless the information provided under subdivision 1 indicates that the loan is not an eligible loan, and shall deliver to the lender within five business days of receipt an acknowledgment of enrollment, signed by the commissioner or designee, including documentation of the amount being transferred by the commissioner into the reserve fund under this section.

Subd. 3. Amount covered. When filing a loan enrollment form, the lender may specify an amount to be covered under the program. The amount may be less than the total amount of the loan. Unless the context clearly requires otherwise, when used in connection with a loan or loans, the words "amount" and "proceeds" refer only to the amount covered under the agreement.

Subd. 4. Amount covered in refinancings. (a) In the case of a loan to refinance a loan previously made to the borrower by the lender that was not enrolled under the program, the lender may obtain coverage under the program for an amount not exceeding the amount of additional financing.

(b) If an enrolled loan is refinanced and the total amount to be covered under the program does not exceed the covered amount of the loan as previously enrolled, the refinanced loan may continue as an enrolled loan without payment of additional premium charges or transfers by the commissioner to the reserve fund.

(c) If an enrolled loan is refinanced in an amount exceeding the amount of the loan as previously enrolled, the lender may obtain coverage of the amount of the refinanced loan that exceeds the amount covered when the loan was previously enrolled by refiling the loan for enrollment under subdivision 1.

(d) Fluctuations in the outstanding balance of a line of credit, without increasing the enrolled amount under the program, are not a refinancing of the loan.

Subd. 5. Termination of enrollment. If the outstanding balance of an enrolled loan which is not a line of credit is reduced to zero, the loan is no longer an enrolled loan. If an enrolled loan which is a line of credit has an outstanding balance of zero for a 12-month period, the line of credit is no longer an enrolled loan, unless, before the expiration of the 12-month period, the lender reaffirms in writing to the borrower that the line of credit will remain open and the borrower acknowledges the reaffirmation in writing.

History: 1989 c 335 art 1 s 150

116J.8765 RESERVE FUND; PREMIUMS.

Subdivision 1. Creation. Upon execution of an agreement between the lender and the commissioner, the commissioner shall establish a reserve fund account with the lender in the name of the commissioner for the purpose of receiving all required premium charges to be paid by the lender and the borrower and transfers made by the commissioner under sections 116J.876 to 116J.8769.

Subd. 2. Premium payments and transfers to reserve fund. The premium charges payable to the reserve fund by the lender and the borrower in connection with a loan filed for enrollment are determined by the lender. The premium paid by the borrower may not be less than 1.5 percent nor greater than 3.5 percent of the amount of the loan. The premium paid by the lender shall be equal to the amount of the premium paid by the borrower. The lender may recover from the borrower the cost of the lender's premium payment, in any manner in which the lender and borrower agree. When enrolling a loan, the commissioner shall transfer into the reserve fund from the account premium amounts determined as follows:

(a) If the amount of any loan, plus the amount of loans previously enrolled by the lender, is less than \$2,000,000, the premium amount transferred must be equal to 150 percent of the combined premiums paid into the reserve fund by the borrower and the lender for each enrolled loan.

(b) If, prior to the enrollment of the loan, the amount of loans previously enrolled by the lender equals or exceeds \$2,000,000, the premium amount transferred must be equal to the combined premiums paid into the reserve fund by the borrower and the lender for each enrolled loan.

(c) If the amount of loans previously enrolled by the lender is less than \$2,000,000, but the enrollment of a loan will cause the aggregate amount of all enrolled loans made by the lender to exceed \$2,000,000, the premium amount transferred must be equal to a percentage of the combined amount paid by the lender and the borrower. The percentage must be determined by (1) multiplying by 150 that portion of the loan which when added to the amount of all previously enrolled loans totals \$2,000,000, (2) multiplying the balance of the loan by 100, and (3) adding the products of the two amounts and dividing the sum by the total amount of the loan.

Subd. 3. Limitation of transfers. A maximum premium amount of \$150,000 may be transferred into the reserve funds of all lenders participating in the program by the commissioner over any three-year period in connection with any one borrower or any group of borrowers among which a common enterprise exists. This maximum premium amount may be exceeded upon the written request by a lender only if the commissioner approves in writing the transfer of an amount in excess of \$150,000. For the purpose of this subdivision, the term "common enterprise" has the meaning given it in Code of Federal Regulations, title 12, section 32, as amended.

Subd. 4. Control and investment of reserve fund. (a) All money credited to the reserve fund is under the exclusive control of the commissioner. The commissioner may not withdraw money from the reserve fund except as specifically provided in this subdivision and sections 116J.8766 and 116J.8768.

(b) Money in the reserve fund must be deposited by the commissioner in an account with the lender unless the commissioner determines that the lender is not in substantial compliance with the requirements of the agreement. If money in the reserve

fund is not deposited by the commissioner in an account with the lender, it must be invested or reinvested by the commissioner in (1) direct obligations of the United States or the state of Minnesota or in obligations the principal and interest of which are unconditionally guaranteed by the United States or the state of Minnesota, or (2) a deposit account at a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(c) Interest or income earned on the money credited to the reserve fund is part of the reserve fund. The commissioner may withdraw at any time from the reserve fund 50 percent of all interest or income that has been credited to the reserve fund, except that after the first withdrawal the commissioner may not withdraw more than 50 percent of all interest or income that has been credited to the reserve fund since the time of the last withdrawal. Any withdrawal made under this subdivision may be made prior to paying any claim. None of the amounts withdrawn need to be transferred back to the reserve fund. Any withdrawal under this subdivision must be credited in the capital access account.

Subd. 5. Pledge of the reserve fund. The commissioner shall pledge to the lender that the money in the reserve fund will be available to pay claims under section 116J.8766, that the lender will have a first security interest in the money in the reserve fund to pay the claims, and that the commissioner will not encumber or pledge the money to any other party.

Subd. 6. Quarterly reports; inspections. (a) If the reserve fund is not maintained with the lender, the commissioner shall provide to the lender quarterly transaction reports indicating the balance in the reserve fund, payments and transfers into the reserve fund, withdrawals from the reserve fund, and interest or income earned on money credited to the reserve fund.

(b) The records of the commissioner with respect to all payments and transfers into the reserve fund, withdrawals from the reserve fund, and interest or income earned on the money credited to the reserve fund, are available to the lender at the offices of the commissioner during normal business hours.

History: 1989 c 335 art 1 s 151

116J.8766 CLAIMS BY LENDER TO RESERVE FUND.

Subdivision 1. Claim process. (a) If the lender charges off all or part of an enrolled loan, the lender may file a claim with the commissioner. The claim must be filed contemporaneously with the charge-off.

(b) The lender's claim may include, in addition to the amount of principal charged off plus accrued interest, one-half of the documented out-of-pocket expenses incurred in pursuing its collection efforts, including preservation of collateral. The amount of principal and accrued interest included in the claim may not exceed the principal amount covered under the program upon enrollment, plus accrued interest attributable to the covered principal amount.

(c) The lender shall determine when and how much to charge off on an enrolled loan in a manner consistent with its normal method for making these determinations on similar loans which are not enrolled loans.

(d) If the lender files two or more claims contemporaneously and there are insufficient funds in its reserve fund at that time to cover the entire amount of the claims, the lender may designate the order of priority in which the commissioner shall pay the claims.

Subd. 2. Disbursement of reserve fund. (a) Upon receipt by the commissioner of a claim filed by the lender, the commissioner shall, within ten business days, pay or authorize the lender to withdraw from the reserve fund the amount of the claim as submitted, unless the information provided by the lender was known by the lender to be false at the time the loan was filed for enrollment. No other violation of sections 116J.876 to 116J.8769 or the agreement is grounds for denial of a claim.

(b) If there is insufficient money in the reserve fund to cover the entire amount of

the lender's claim, the commissioner shall pay to the lender or authorize the lender to withdraw an amount equal to the current balance in the reserve fund and the following shall apply:

(1) If the enrolled loan for which the claim has been filed is not an early loan, the payment fully satisfies the claim, and the lender has no right to receive any further amount from the reserve fund with respect to that claim.

(2) If the loan is an early loan, the partial payment does not satisfy the lender's claim, and at any time that the remaining balance of the claim is not greater than 75 percent of the balance in the reserve fund at the time of the loss, the commissioner, upon request of the lender, shall pay the remaining balance of the claim.

Subd. 3. Recovery by lender subsequent to claim. If, subsequent to payment of a claim by the commissioner, the lender recovers from a borrower any amount for which payment of the claim was made, the lender shall promptly pay to the commissioner for deposit in the reserve fund the amount recovered, less one-half of any documented out-of-pocket expenses incurred. The lender need pay to the commissioner for deposit in the reserve fund only amounts in excess of the amount of recovery needed to fully cover the lender's loss on an enrolled loan.

For the purposes of this subdivision and section 116J.8767, the lender's loss on an enrolled loan includes any losses on the loan including principal, accrued interest, and one-half of the documented out-of-pocket expenses attributable to principal amounts in excess of the amount covered under the program or the principal amount included in the claim.

History: 1989 c 335 art 1 s 152

116J.8767 SUBROGATION OF CLAIMS.

Subdivision 1. Limitation. The commissioner may exercise the right of subrogation under this section if the commissioner determines, in the commissioner's discretion, that the lender has not exercised reasonable care and diligence in its collection activities with respect to the loan or that there is a reasonable basis for believing that the lender will not exercise reasonable care and diligence in the future with respect to the collection activities.

Subd. 2. Assignment of rights. If the payment of a claim has fully covered the lender's loss on an enrolled loan, or if the payment of a claim when combined with any recovery from the borrower has fully covered the lender's loss, the commissioner, upon request, is subrogated to the rights of the lender with respect to any collateral, security, or other right of recovery in connection with the loan that has not been realized by the lender. The lender thereafter shall assign to the commissioner any right, title, or interest to any collateral, security, or other right of recovery in connection with the loan.

Subd. 3. Lender obligations. If an assignment has been made, the commissioner is not required to undertake any obligations of the lender under its loan documents, except for any obligations directly related to the commissioner's assigned rights of recovery in connection with the loan. The lender shall fulfill any other obligations it may have under the loan documents in the same manner and to the same degree as required had the assignment not been made. The lender shall provide the commissioner with all reasonable assistance the commissioner requests in proceeding with respect to any collateral, security, or other right of recovery, except that the lender need not incur any out-of-pocket expenses.

Subd. 4. Payment of lender's loss. If the commissioner decides to exercise the right of subrogation in connection with an enrolled loan and would be entitled to exercise the right except for the fact that the lender's loss has not been fully covered, the commissioner may pay from money in the reserve fund an amount sufficient to fully cover the lender's loss even though the payment may cover a principal amount not covered under the program or not included in the lender's claim. Upon making the payment, the commissioner is subrogated to the rights of the lender.

Subd. 5. **Recovered funds.** Any money received by the commissioner as a result of enforcement actions taken with respect to any collateral, security, or other rights of recovery must be promptly deposited by the commissioner in the reserve fund, less any out-of-pocket expenses incurred by the commissioner in taking such enforcement actions.

History: 1989 c 335 art 1 s 153

116J.8768 EXCESS RESERVE FUNDS.

Subdivision 1. **Reports.** The lender shall file quarterly reports with the commissioner indicating the number and aggregate outstanding balance of all enrolled loans as of the end of each quarter. A quarterly report is not required for any quarter that ends with a balance in the reserve fund of zero, except that a calendar year-end report must be filed. In computing the aggregate outstanding balance of all enrolled loans, the balance of any loan may not be greater than the covered amount of the loan as enrolled.

Subd. 2. **Withdrawal of excess reserve funds.** (a) If reports filed under this section indicate that for the immediately preceding 24-month period the balance in the reserve fund continually exceeded the aggregate outstanding balance of all enrolled loans, the commissioner may withdraw from the reserve fund, on or before the last day of the month for which a report is due, an amount not greater than the amount by which the reserve fund balance exceeded the aggregate outstanding balance of all enrolled loans as of the most recent report, unless the lender has provided to the commissioner adequate documentation that at some time during that 24-month period the aggregate outstanding balance of all enrolled loans exceeded the balance then in the reserve fund. Any amounts withdrawn from the reserve fund must be transferred to the account.

(b) If a report is not filed within 30 days of its original due date, the commissioner may withdraw from the reserve fund based on the commissioner's determination from an inspection of the lender's files an amount not greater than the amount by which the reserve fund balance exceeded the aggregate outstanding balance of all enrolled loans as of the date for which the report was required to be filed.

History: 1989 c 335 art 1 s 154

116J.8769 TERMINATION.

The commissioner may terminate the obligation to a lender to enroll loans under the program if the commissioner determines that the lender is not in substantial compliance with the requirements of the program. The termination takes effect on the date specified in the notice of termination, except that the termination does not apply to any loan made on or before the date on which the notice of termination is received by the lender. If the commissioner is terminating the enrollment of loans for all participating lenders under the program, the commissioner shall provide notice of at least 90 days to the lender. Any terminations under this section are prospective only and do not apply to any loans previously refinanced. After termination, the amount covered under the program may not be increased beyond the covered amount as previously enrolled.

History: 1989 c 335 art 1 s 155

116J.941 [Repealed, 1987 c 316 s 4; 1989 c 335 art 1 s 270]

116J.942 [Repealed, 1987 c 316 s 4; 1989 c 335 art 1 s 270]

116J.955 RURAL REHABILITATION REVOLVING ACCOUNT.

Subdivision 1. **Establishment.** The rural rehabilitation account is in the special revenue fund. The money transferred to the state as a result of liquidating the rural rehabilitation corporation trust, and money derived from transfer of the trust to the state, must be credited to the rural rehabilitation account. The principal amount of the rural rehabilitation account must be invested by the state investment board. The income attributable to investment of the principal is appropriated to the commissioner for the purposes of Laws 1987, chapter 386, article 1.

Subd. 2. **Expenditure of account.** The commissioner may use the rural rehabilitation account for the purposes that are allowed under the Minnesota rural rehabilitation corporation's charter and agreement with the United States Secretary of Agriculture as provided in Public Law Number 499, 81st Congress, enacted May 3, 1950 and as allowed under Laws 1987, chapter 386, article 1. Not more than three percent of the book value of the Minnesota rural rehabilitation corporation's assets may be used for administrative purposes in a year without approval of the United States Secretary of Agriculture.

[For text of subd 3, see M.S.1988]

History: 1989 c 335 art 4 s 49,50

116J.9673 EXPORT FINANCE AUTHORITY.

[For text of subds 1 to 3, see M.S.1988]

Subd. 4. **Working capital account.** An export finance authority working capital account is created as a special account in the state treasury. All premiums and interest collected under subdivision 3, clause (6), must be deposited into this account. Fees collected must be credited to the general fund. The balance in the account may exceed \$1,000,000 through accumulated earnings. Money in the account including interest earned and appropriations made by the legislature for the purposes of this section, is appropriated annually to the finance authority for the purposes of this section. The balance in the account may decline below \$1,000,000 as required to pay defaults on guaranteed loans.

[For text of subds 5 to 8, see M.S.1988]

History: 1989 c 335 art 4 s 51

116J.968 [Repealed, 1989 c 335 art 4 s 109]

116J.970 SCIENCE AND TECHNOLOGY DUTIES.

The commissioner shall:

(1) provide assistance to the committee on science and technology research and development established in section 116J.971;

(2) prepare and deliver to the legislature every January 15, a science and technology annual report that shall contain:

(i) a list of the scientifically and technologically related research and development projects and development activities funded by a grant or loan of state money;

(ii) guidelines that the legislature may use in allocating state grant or loan money for scientifically and technologically related research and development projects, to include assessments of emerging technologies and those technologies that provide significant promise for the development of job-creating businesses; and

(iii) an analysis of the efficacy and completeness of the decentralized research peer review processes mandated in section 116J.971, subdivision 6, with special emphasis on whether or not scientifically and technologically related research and development projects in Minnesota are in conformance with the guidelines established in section 116J.971, subdivision 6, and whether or not the scientifically and technologically related research and development projects have or will result in creating scientifically and technologically related jobs;

(3) keep a current roster of technology intensive businesses in the state;

(4) collect and disseminate information on financial, technical, marketing, management, and other services available to technology intensive small and emerging businesses, including potential sources of debt and equity capital;

(5) review the technological development potential of various regions of the state and cooperate with and make recommendations to the legislature, state agencies, the

Greater Minnesota Corporation, local governments, local technology development agencies, the federal government, private businesses, and individuals for the realization of the development potential; and

(6) sponsor and conduct conferences and studies, collect and disseminate information, and issue periodic reports relating to scientifically and technologically related research and development, and education in the state and represent the state at appropriate interstate and national conferences.

History: 1989 c 335 art 1 s 156

116J.971 COMMITTEE ON SCIENCE AND TECHNOLOGY RESEARCH AND DEVELOPMENT.

[For text of subds 1 and 2, see M.S.1988]

Subd. 3. Qualifications and duties of the committee on science and technology research and development. Members of the committee on science and technology research and development must be qualified in at least one of the five following areas: economic development, academic and applied research, the administration of research, the review of research processes, and the management and development of technology intensive companies. The committee shall:

(i) advise upon and approve by a majority vote the guidelines required by section 116J.970, clause (2), item (ii);

(ii) advise the commissioner on the preparation of the analysis required by section 116J.970, clause (2), item (iii);

(iii) approve the assignment of ad hoc advisory committees on science and technology research and development as needed; and

(iv) review and comment upon, if the committee considers it to be necessary, the reports of the ad hoc advisory committees and forward the reports to the commissioner.

[For text of subds 4 and 5, see M.S.1988]

Subd. 6. Peer review plans. A state agency, board, commission, authority, institution or other entity, including the Greater Minnesota Corporation, that allocates state money by a grant, loan, or contract for scientifically and technologically related research shall establish a peer review system to evaluate the research. The committee on science and technology research and development shall recommend guidelines for establishing effective peer review. An agency, board, commission, authority, or institution that funds scientifically and technologically related research shall, at least biennially, present to the committee on science and technology research and development or to ad hoc committees, as determined by the committee on science and technology research and development, a review and evaluation of the peer review process used in that organization.

Subd. 7. Authority to perform requested evaluations. The governor, commissioner, speaker of the house of representatives, house of representatives minority leader, senate majority leader, senate minority leader, chair of the house of representatives appropriations committee, chair of the senate finance committee, or a member of the legislature considering the introduction or approval of legislation containing funding for scientifically and technologically related research and development, may request the committee on science and technology research and development to evaluate a loan or grant made or to be made or the proposed legislation for funding scientifically and technologically related research and development to determine (1) whether it complies with the guidelines required by section 116J.970, clause (2), item (ii); (2) whether it is technically feasible; and (3) for development proposals, whether the proposal appears to have the potential for economic development. Ad hoc committees may be appointed by the committee on science and technology research and development to perform these reviews.

Subd. 8. Authority for review and comment upon research and development pro-

grams. Each agency, board, commission, authority, institution or other entity, including the Greater Minnesota Corporation, that allocates state money by a grant, loan, or a contract for scientifically and technologically related research and development must notify the commissioner within 60 days of making a loan or grant for scientifically or technologically related research and development. The notice shall contain a summary of the nature of and significant objectives of the research and development project funded by a grant or loan. The notice must also include information on the size and timing of previous grants or loans and anticipated additional funding needs. The committee on science and technology research and development shall, at least once each biennium, review scientifically and technologically related research funded by a state agency, board, commission, authority, institution or other entity, including the Greater Minnesota Corporation, to assess whether or not the research and development is conducted in accordance with the guidelines required by section 116J.970, clause (2), item (ii). The committee's assessment shall be sent to the legislature on or before January 15 of every odd-numbered year.

Subd. 9. Staff appointments. The commissioner shall appoint those staff members necessary to perform the duties of the commissioner required under section 116J.970. The commissioner shall appoint in the unclassified service an executive director of the committee on science and technology research and development. The executive director must hold a postbaccalaureate degree in scientific or technologically related studies, or demonstrate experience in technological policy formulation.

[For text of subd 10, see M.S.1988]

History: 1989 c 335 art 1 s 157-161

116J.983 DEFINITIONS.

Subdivision 1. Scope. For the purposes of section 116J.984, the following terms have the meanings given them.

Subd. 2. Community and neighborhood development organization grant. "Community and neighborhood development organization grant" or "grant" means a grant awarded under section 116J.984, subdivision 1.

Subd. 3. Community and neighborhood department organization plan. "Community and neighborhood department organization plan" or "plan" means the plan required under section 116J.984, subdivision 2.

Subd. 4. Eligible organization. "Eligible organization" means a nonprofit organization or group of persons that is recognized as a viable community or neighborhood organization by a home rule charter or statutory city, town, or an Indian tribe, and that has defined neighborhood or community boundaries. An eligible organization must have a board that is representative of the neighborhood's or community's interests and whose members reflect the cultural, racial, and ethnic diversity of the neighborhood or community. An eligible organization or group of persons must complete training and be certified as required under section 116J.984, subdivision 3.

History: 1989 c 328 art 5 s 1

116J.984 COMMUNITY AND NEIGHBORHOOD DEVELOPMENT ORGANIZATION PILOT PROJECT.

Subdivision 1. Community and neighborhood development grants. The commissioner may award matching grants to eligible organizations. Grants to any one eligible organization may not exceed \$25,000 in any fiscal year and a grant may not be used for any purpose that replaces an existing community program identified by the commissioner. Each grant must be matched with at least two dollars of nonstate money or in-kind contributions to each dollar of grant money. The grants may be used for community or neighborhood public safety and human service activities, street and public property lighting, recycling efforts, repair or removal of dilapidated buildings, community or neighborhood beautification and cleanup, historic preservation of build-

ings, small scale park and open space development, increasing or preserving the availability of housing primarily serving low- or moderate-income persons, and other projects, programs, or activities that the commissioner determines will improve or revitalize the community or neighborhood.

Subd. 2. Grant applications. Eligible organizations may apply to the commissioner for grants awarded under subdivision 1. The application must include a community and neighborhood development organization plan that addresses the following:

- (1) a geographic, social, and economic description of the area served by the eligible organization;
- (2) a description of why the projects or activities are required in the neighborhood or community;
- (3) a detailed description of the objectives for which the grant money will be used;
- (4) a description of the process used to encourage citizen involvement in determining the needs, objectives, and the design of the project or activity;
- (5) an assessment of the strength and weaknesses of the neighborhood or community;
- (6) a detailed description of the projects or activities that will be used to implement the objectives;
- (7) a description of the expected outcomes of the projects or activities financed by the grant;
- (8) identification of the source of the required matching funds; and
- (9) any other information the commissioner determines necessary to award the grants.

Subd. 3. Training; certification. Before an eligible organization may apply for a grant under subdivision 1, the commissioner must certify that the eligible organization meets administrative, fiscal accountability, and planning requirements. The commissioner shall establish a set of criteria for the certification of eligible organizations. The commissioner may provide leadership and other training to eligible organizations to assist them in meeting the requirements for certification and developing the community and neighborhood development organization plan. The commissioner may use other department resources and staff to carry out the training.

Subd. 4. Recertification. An eligible organization must be recertified annually to maintain its eligibility for grants under subdivision 1. As part of recertification, the commissioner shall review the plan to determine whether the organization continues to address its objectives and the organization demonstrates that the community or neighborhood's level of volunteer citizen participation is maintained or expanded.

Subd. 5. Applications; priority. The commissioner may establish criteria to establish the priority of the applications received for grants awarded under subdivision 1. The criteria may include:

- (1) the degree of community support measured by the amount of participation in the project or activities by volunteers;
- (2) the extent that the eligible organizations have participated with or solicited input from other organizations that provide community and regional assistance;
- (3) the amount of nonstate matching funds identified as available for the project or activities; and
- (4) any other criteria the commissioner determines necessary to carry out the purposes of this section.

Subd. 6. Entitlement. The commissioner may set aside up to 40 percent of the money available under this section for grants awarded to eligible organizations located in cities of the first class as defined in section 410.01.

Subd. 7. Local government support. Before an application for a grant awarded under subdivision 1 may be considered by the commissioner, the eligible organization must have received a formal resolution of support for the application of the governing

body of the home rule charter or statutory city, town, or Indian tribe within whose jurisdiction the eligible organization is located.

Subd. 8. Community assistance program inventory. The commissioner may develop and maintain an inventory of public and private community assistance programs. The inventory must be made available to eligible organizations, other community assistance providers, and other persons that request assistance from the commissioner. In developing the inventory the commissioner shall coordinate with other similar activities.

Subd. 9. Rules. The commissioner may adopt rules under chapter 14 as necessary for the administration of the grants under this section.

Subd. 10. State agency cooperation. State agencies must cooperate and assist when requested by the commissioner to carry out the purposes of this section.

Subd. 11. Advisory committee. The commissioner may establish advisory committees to assist in carrying out the purposes of this section.

History: 1989 c 328 art 5 s 2

116J.985 CERTIFIED DEVELOPMENT COMPANY.

Subdivision 1. Purpose; objectives. The commissioner may create, promote, and assist a development company that will qualify as a certified development company for the purposes of United States Code, title 15, section 697, and Code of Federal Regulations, title 13, section 108.503.

The commissioner shall use the development company program, in conjunction with the other economic development programs administered by the department, to stimulate the state's economic activity.

The development company and its directors and officers shall comply with the organizational, operational, regulatory, and reporting requirements as adopted by the United States Small Business Administration and the Minnesota department of trade and economic development; the guidelines contained in the bylaws; the articles of incorporation; and standard operating procedure prescribed by the Small Business Administration.

Subd. 2. Capital, loan limits; membership requirements. The capital for a certified development company must be derived from corporate holders or members, each of whom must not have more than ten percent of the voting control of the development company. The company must have a minimum of 25 members. The members of the company from each economic development region must represent, to the greatest extent practical, the same proportion of the membership of the company as the population of the economic development region is of the population of the state.

Subd. 3. Members. Members must be representatives of local government, community organizations, financial institutions, and businesses in Minnesota and must, upon application, have been accepted for membership by a majority vote of the members of the board of directors present at a regular or special meeting of the board at which there is a quorum. Department of trade and economic development staff may not be members of the development company. A "financial institution" is a business organization recognized under Minnesota or federal law as a banking institution, trust company, savings and loan association, insurance company, or a corporation, partnership, foundation, or other institution licensed to do business in Minnesota and engaged primarily in lending or investing money.

Subd. 4. Membership applications. Applications for membership must be submitted to the development company's board of directors on forms provided by the commissioner and accompanied by additional information as the form may require. Application forms must provide that if the application is approved and the applicant accepted for membership by the development company's board of directors before withdrawal of the application, the applicant agrees to become a member upon the acceptance and to assume the rights and obligations of a member. Notice of approval or rejection of an application must be forwarded, by certified or registered United

States mail, to the applicant for the attention of the person signing the application, within 15 days following the date when the approval or rejection is made. Approval of the application constitutes acceptance of the applicant as a member of the corporation.

Subd. 5. Board of directors. The development company bylaws must provide for a board of directors consisting of the commissioner of trade and economic development as chairperson, a vice-chairperson, and other members who are geographically representative of the state.

Subd. 6. Officers. The executive officers of the development company are a president, one or more vice-presidents including the executive vice-president, a secretary, and a treasurer. The commissioner of trade and economic development is the president of the development company. None of the officers, except the president, need be directors. One person may hold the offices and perform the duties of any two or more of the offices. The development company's board of directors by majority vote may leave unfilled, for any period it may fix, any office except that of president, treasurer, or secretary.

Subd. 7. Administration. The commissioner of trade and economic development shall administer all certified development company programs.

Subd. 8. Reports. The development company shall submit annual operation reports to the Small Business Administration and the state legislature. When requested by the Small Business Administration or the state legislature, interim reports of a similar nature must be provided. The reports must be provided in accordance with the instructions and attachments set by the Small Business Administration. The development company shall comply with all regulations issued under the Small Business Investment Act of 1958, as amended; department of trade and economic development operating procedures; and applicable state and federal laws affecting its operation.

Subd. 9. Revolving account. The development company may charge a one-time processing fee up to the maximum allowed by the Small Business Administration on a debenture issued for loan purposes. In addition, a fee for servicing loans may be imposed up to the maximum allowed by the Small Business Administration based on the unpaid balance of each debenture. These fees must be deposited in the state treasury and credited to an account in the special revenue fund. Money in the account is appropriated to the commissioner to pay the costs of administering the program, including personnel costs; compensate members of the board of directors under section 15.0575, subdivision 3; and create and operate a pool of money for investment in projects that further the purposes of this section.

History: 1989 c 335 art 1 s 162