

1 **ENROLLED**

2 **COMMITTEE SUBSTITUTE**

3 **FOR**

4 **H. B. 4175**

5 (By Delegates Skaff, Barrett, Mr. Speaker, Mr. Miley, Boggs,  
6 Hartman, White, Skinner, Lane, Ellem, Ireland and Pasdon)

7  
8 [Passed March 6, 2014; in effect from its passage.]

9  
10 AN ACT to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new section, designated §5B-1-8, relating to  
12 providing financial assistance to small businesses for losses  
13 arising during states of emergency; authorizing the Department  
14 of Commerce to provide short-term, low-interest loans to  
15 adversely-affected small businesses; specifying eligibility  
16 criteria; requiring written finding by the Governor;  
17 establishing an application process and time period; setting  
18 limits on the aggregate and individual amounts of loans and  
19 their duration and quantity; accounting for interest collected  
20 on program loans; requiring written loan agreement; declaring  
21 legal obligation to the state; authorizing actions to recover  
22 delinquent loans; authorizing and requiring the filing of  
23 emergency and legislative rules; and requiring the filing of  
24 annual reports.

1 *Be it enacted by the Legislature of West Virginia:*

2 That the Code of West Virginia, 1931, as amended, be amended  
3 by adding thereto a new section, designated §5B-1-8, to read as  
4 follows:

5 **ARTICLE 1. DEPARTMENT OF COMMERCE.**

6 **§5B-1-8. Financial assistance for small businesses during state of**  
7 **emergency.**

8 (a) The Department of Commerce is authorized to make short-  
9 term, low-interest loans available to small businesses located in  
10 counties listed in a state declaration of a state of emergency.  
11 The purpose of these loans is to mitigate the effects of business  
12 losses resulting from the conditions giving rise to the state of  
13 emergency where other forms of compensation or relief are not  
14 available.

15 (b) For purposes of this section, an eligible, small business  
16 means a business with less than seventy-five full-time or full-time  
17 equivalent employees, operating lawfully within this state and in  
18 compliance with the state's tax, unemployment compensation and  
19 workers' compensation laws, and which meets the criteria specified  
20 by the Department of Commerce by rule for issuance of a loan.

21 (c) The loan program provided by this section shall only be  
22 available when the Governor makes a written finding, following a  
23 declaration of a state of emergency by either the Governor or the  
24 Legislature, that a substantial portion of small businesses within

1 the relevant counties require emergency financial assistance and  
2 authorizes the Department of Commerce to issue loans through this  
3 program: *Provided*, That the authorization also identify an  
4 appropriate source of funding for the loans.

5 (d) Following the Governor's finding and authorization, an  
6 eligible, small business may make application for an emergency  
7 assistance loan at any time within the duration of a state of  
8 emergency, declared pursuant section six, article five, chapter  
9 fifteen of this code, and up to ninety days after the termination  
10 of the state of emergency. The application shall be made to the  
11 division or office designated by the Secretary of Commerce to  
12 administer the loan program. Only one loan will be permitted to a  
13 business for losses arising out of a declared state of emergency  
14 and shall only be available to a business that is located within a  
15 county identified in the declaration of the state of emergency.  
16 Eligibility provisions of this subsection may apply to any state of  
17 emergency, declared by the Governor or the Legislature, that is in  
18 effect upon the effective date of this section, but in no event  
19 shall loans be made for business losses incurred or originating  
20 prior to January 1, 2014.

21 (e) The source of principal for any loan provided under this  
22 section shall be from funds appropriated to the Civil Contingent  
23 Fund or from any other appropriation designated for or applicable  
24 to the purpose of providing state of emergency loans to small

1 businesses. The principal amount of any loan provided under this  
2 section shall not exceed \$20,000 and the interest rate of the loan  
3 shall be fixed at a rate equal to half of the federal prime  
4 interest rate published at the time of execution of a written  
5 agreement between the agency and the loan recipient. The period of  
6 duration for loans shall be not more than twenty-four months. The  
7 provision of loans is subject to the availability of funds and  
8 shall not exceed an aggregate amount of \$2 million per declared  
9 state of emergency, unless a greater amount is authorized by  
10 subsequent appropriation of the Legislature.

11 (f) Payments of interest on loans provided pursuant to this  
12 section shall be credited to the general fund of the state.  
13 Payments of principal shall be credited back to the source of  
14 funding, or if the source of funding has expired, to the general  
15 revenue fund of the state.

16 (g) Loans will only be provided upon execution of a written  
17 agreement with the Department of Commerce, or with the authorized  
18 designee of the Secretary of Commerce. The duty to repay the  
19 principal and pay the interest constitutes a debt to the state.  
20 The Secretary of Commerce or his or her designated representative  
21 is authorized to enforce, by any legal means, the provisions of the  
22 written agreement and to pursue collection of any and all amounts  
23 due under the terms of the written agreement and any costs to the  
24 state for the collection.

1           (h) Following the effective date of this section, the  
2 Secretary of Commerce shall designate an office or division within  
3 the Department of Commerce to administer the loan program and  
4 shall, acting through the designated office or division, promulgate  
5 emergency rules and propose corresponding legislative rules for  
6 consideration and authorization by the legislature to describe and  
7 delineate the manner in which application for loans will be  
8 submitted and reviewed, the criteria for approval of loan  
9 applications, including, but not limited to, the credit history of  
10 the applicant, required security and other provisions necessary for  
11 the efficient administration of this program.

12           (i) When the Governor authorizes the Department of Commerce to  
13 issue loans hereunder following the declaration of a state of  
14 emergency, the Secretary of Commerce shall make a report to the  
15 Joint Committee on Government and Finance at the conclusion of each  
16 fiscal year in which the loan program is in effect and loans are  
17 outstanding, regarding the number of businesses that have applied  
18 for loans, the number of loans approved, the amounts awarded, the  
19 number of employees affected thereby and a financial statement  
20 including the balance of funds available and the aggregate amount  
21 of principal and interest outstanding and due to the state.