

Fifty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2311

Introduced by

Senators Holmberg, Goetz, Grindberg, Nalewaja, Robinson, St. Aubyn

1 A BILL for an Act to provide for the establishment of a beginning entrepreneur loan guarantee
2 program.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. Definitions.** As used in this chapter, unless the context otherwise
5 requires:

- 6 1. "Beginning entrepreneur" means a person who:
- 7 a. Has graduated from an institution of higher education in this state within three
8 years preceding the purchase or establishment of a qualified
9 revenue-producing enterprise.
- 10 b. Intends to use any revenue-producing enterprise purchased for business
11 purposes.
- 12 c. Has had some training, by education or experience, in the type of
13 revenue-producing enterprise which that person wishes to begin.
- 14 d. Has, including the net worth of that person's dependents and spouse, if any, a
15 net worth of less than one hundred thousand dollars, not including the value
16 of their equity in their principal residence, the value of one personal or family
17 motor vehicle, and the value of their household goods, including furniture,
18 appliances, musical instruments, clothing, and other personal belongings.
- 19 2. "Lender" means any lending institution that is regulated or funded under the laws
20 of this state or the United States and which has provided financing to a beginning
21 entrepreneur for the partial or total purchase or establishment of a qualified
22 revenue-producing enterprise.
- 23 3. "Loan guarantee" means an agreement that in the event of default by a beginning
24 entrepreneur under a note and mortgage or other loan or financing agreement, the

1 Bank of North Dakota shall pay the seller or lender the amount agreed upon up to
2 one hundred percent of the amount of principal due the seller or lender on a loan
3 at the time the claim is approved from the loan guarantee fund.

4 4. "Qualified revenue-producing enterprise" means any real property, buildings,
5 improvements on the property or to the buildings, any equipment located on the
6 property or in the buildings, and any personal property used or useful in connection
7 with a revenue-producing enterprise engaged in any industry or business not
8 prohibited by the Constitution of North Dakota or the laws of this state.

9 5. "Seller" means any person who has provided financing to a beginning
10 entrepreneur for the purchase of qualified revenue-producing enterprise.

11 **SECTION 2. Loan guarantee fund - Administration.** A beginning entrepreneur loan
12 guarantee fund is created to be used by the Bank of North Dakota to administer a beginning
13 entrepreneur loan guarantee program. The fund includes moneys appropriated by the
14 legislative assembly for administration of the program and all earnings, less any administrative
15 charges, from the investment of those moneys. The Bank may retain any administrative
16 charges necessary for the administration of the program established by this chapter. The fund
17 is not subject to section 54-44.1-11.

18 **SECTION 3. Application for guarantee - Term - Annual fee.** A lender or seller may
19 apply to the Bank of North Dakota for a loan guarantee for a loan of up to seventy-five
20 thousand dollars. The Bank may not approve a loan guarantee over twenty-five thousand
21 dollars if the purchase price of the qualified revenue-producing enterprise exceeds its appraisal
22 value for real estate or its fair market value for all other property. The Bank of North Dakota
23 may approve a guarantee of a loan of up to five thousand dollars to a beginning entrepreneur
24 for use by the beginning entrepreneur for accounting, legal, and business planning and other
25 consulting or advisory services in planning for the establishment of a qualified
26 revenue-producing enterprise. The Bank of North Dakota may approve a guarantee of a loan
27 of up to twenty-five thousand dollars to a beginning entrepreneur without requiring the
28 beginning entrepreneur to provide collateral for the loan. The term of a loan guarantee may not
29 exceed five years. The Bank may charge a seller or lender an annual fee during the term of a
30 loan guarantee.

1 **SECTION 4. Termination.** The Bank of North Dakota may terminate a loan guarantee
2 upon the sale, exchange, assignment, or transfer of the beginning entrepreneur's interest in the
3 qualified revenue-producing enterprise. The Bank shall terminate a loan guarantee if the Bank
4 determines that the loan guarantee was obtained by fraud or material misrepresentation of
5 which the lender or seller has actual knowledge.

6 **SECTION 5. Rules.** The Bank of North Dakota shall adopt rules to implement this
7 chapter. The rules may include a formula for determining the ratio of reserves in the loan
8 guarantee fund to the amount of guaranteed loans, the maximum dollar amount of a guarantee,
9 and the maximum allowable annual interest rate on a loan eligible for a guarantee.