

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3425

By Delegate Young

[Introduced February 13, 2023; Referred to the
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §31-18F-1, §31-18F-2, and §31-18F-3 to establish the Small Business
 3 Investment Fund; creating the Small Business Financing Authority; defining terms;
 4 establishing requirements to obtain the grant; listing exclusions..

Be it enacted by the Legislature of West Virginia:

ARTICLE 18F. SMALL BUSINESS INVESTMENT GRANT FUND.

§31-18F-1.

Definitions.

1 As used in this section:

2 "Authority" means the West Virginia Small Business Financing Authority.

3 "Eligible investor" means an individual subject to the tax imposed by §11-21-2 of this code
 4 or a special purpose entity established for the purpose of making investments for an individual.

5 "Eligible investor" does not include an individual who engages in the business of making debt or
 6 equity investments in private businesses, or any person that would be allocated a portion of the
 7 grant under this section as a partner, shareholder, member, or owner of an entity that engages in
 8 such business.

9 "Fund" means the Small Business Investment Grant Fund.

10 "Pass-through entity" means the same as that term is defined in §11-21-71A of this code.

11 "Qualified investment" means a cash investment in a qualified business in the form of
 12 equity or subordinated debt.

13 "Small business" means a corporation, pass-through entity, or other entity that (i) has
 14 annual gross revenues of no more than \$1 million in its most recent fiscal year; (ii) has its principal
 15 office or facility in the state; (iii) is engaged in business primarily in or does substantially all of its
 16 production in the state; (iv) has not obtained during its existence more than \$1 million in aggregate
 17 gross cash proceeds from the issuance of its equity or debt investments, not including commercial
 18 loans from national or state-chartered banking or savings and loan institutions; (v) has no more
 19 than 50 employees who are employed within the state; and (vi) has been designated as such by

20 the Authority pursuant to the provisions of this section.

21 "Subordinated debt" means indebtedness of a corporation, general or limited partnership,
22 or limited liability company that (i) by its terms required no repayment of principal for the first three
23 years after issuance, (ii) is not guaranteed by any other person or secured by any assets of the
24 issuer or any other person, and (iii) is subordinated to all indebtedness and obligations of the
25 issuer to national or state-chartered banking or savings and loan institutions.

§31-18F-2. West Virginia Small Business Investment Fund; funding.

1 From such funds as may be appropriated by the Legislature and any gifts, grants, or
2 donations from public or private sources, there is hereby created in the state treasury a special
3 nonreverting, permanent fund to be known as the Small Business Investment Grant Fund, to be
4 administered by the Department. Interest earned on moneys in the Fund shall remain in the Fund
5 and be credited to it. Any moneys remaining in the Fund at the end of each fiscal year, including
6 interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and
7 disbursements from the Fund, which shall be in the form of grants pursuant to this section, shall be
8 made by the State Treasurer upon written request bearing the signature of the Director. Grants
9 from the Fund shall only be made to applications pursuant to this article.

§31-18F-3. West Virginia Small Business Investment Fund disbursements; requirements; limitations.

1 (a) An eligible investor that makes a qualified investment in a small business on or after
2 July 1, 2024, but prior to January 1, 2026, that has been certified by the Authority pursuant to
3 subsection (b) shall be eligible for a grant in an amount up to \$25,000. An eligible investor may
4 apply for a grant for each qualified investment that is made to one or more small businesses not to
5 exceed a total grant allocation from the Fund of \$100,000 per eligible investor.

6 (b) A small business shall apply with the Authority to receive qualified investments eligible
7 for the grant pursuant to this section and shall provide to the Authority such information as the
8 Authority deems necessary to demonstrate that it meets the qualifications set forth in §31-18F-1 of

9 this code.

10 (c) Any eligible investor applying for a grant pursuant to this section shall submit an
11 application to the Authority. The Authority shall determine the amount of the grant allowable to the
12 eligible investor for the year.

13 (d) If an eligible investor is awarded a grant pursuant to this section and the small business
14 in which the investment was made (i) relocates outside of the state within two years of the award of
15 the grant or (ii) closes within two years of the award of the grant as a result of a criminal conviction
16 on the part of any officer, director, manager, or general partner of such business relating to his
17 involvement with the business, such investor shall forfeit the grant and refund such moneys to the
18 Authority.

19 (e) Additionally, unless the eligible investor transfers the equity received in connection with
20 a qualified investment as a result of:

21 (1) The liquidation of the small business issuing such equity;

22 (2) The merger, consolidation, or other acquisition of such business with or by a party not
23 affiliated with such business; or

24 (3) The death of the eligible investor, any eligible investor that fails to hold such equity for at
25 least two years shall forfeit the grant and shall pay the Authority interest on the total allowed grant
26 at the rate of one percent per month, compounded monthly, from the date the grant was awarded
27 to the taxpayer.

28 (f) The Authority shall deposit any amounts received under this subsection into the state
29 general fund.

30 (g) Grants shall be issued in the order that each completed eligible application is received
31 by the Authority. In the event that the amount of eligible grants requested in a fiscal year exceeds
32 the funds available in the Fund, such grants shall be paid in the next fiscal year in which funds are
33 available.

NOTE: The purpose of this bill is to create the West Virginia Small Business Investment Fund.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.