

## §1026-L. Capital Access Program

**1. Capital Access Program established.** The authority shall establish a program known as the Capital Access Program, referred to in this section as "CAP," for the benefit of each participating state bank. The Capital Access Program Fund, referred to in this section as the "fund," is established to implement the CAP. The fund must be separate and apart from all other funds of the authority and held exclusively to secure the principal of and the interest on CAP loans made by a participating state bank. [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

**2. Contribution limit.** The amount of the authority's contribution to the fund may not exceed 10% of the principal amount of CAP loans to be secured by the fund. As a condition of the authority making a contribution to the fund, the authority may require the borrower or the participating state bank to make a contribution to the fund and may impose other conditions the authority determines necessary. All money contributed to the fund by the authority must be held in the name of the authority. Investment earnings on the fund must be credited to the fund and periodically paid to the authority, unless a CAP participation agreement pursuant to subsection 3 provides otherwise. [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

**3. Bank participation; rules.** Before establishing a CAP at a participating state bank, the authority must enter into a CAP participation agreement with the participating state bank. The CAP participation agreement must specify:

A. The maximum amount of the authority's contributions to the CAP; [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

B. Conditions under which the authority may make contributions to the CAP; [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

C. Conditions under which the participating state bank may demand payment from a CAP to pay a defaulted CAP loan; [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

D. Minimum due diligence procedures for servicing CAP loans; [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

E. Conditions under which the participating state bank or a borrower may be required to contribute to the CAP; [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

F. Provisions for the payment of authority fees, costs and expenses from earnings on the CAP or otherwise; [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

G. Provisions for the termination of the CAP, in whole or in part, and disbursement of any excess funds in the CAP; [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

H. Criteria and procedures that qualify a loan as a CAP loan; [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

I. The requirement that the participating state bank report to the authority at least annually regarding outstanding balances on CAP loans, delinquent CAP loans and such other information as the authority determines appropriate; [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

J. Permitted investments in the CAP; and [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

K. Other terms and conditions the authority determines necessary. [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

[PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

**4. Minimum requirements.** At a minimum, CAP loans must meet the following requirements.

A. The borrower must be either a start-up business or may not have had annual sales in its most recently completed fiscal year greater than \$5,000,000. [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

B. The total outstanding principal amount of CAP loans to the borrower may not exceed \$500,000. [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

C. The proceeds of the CAP loan must be used for business purposes. [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

By written notice to participating state banks, the authority may impose requirements on CAP loans in addition to those contained in this subsection or in a CAP participation agreement. Additional requirements do not apply to CAP loans already made or to CAP loans for which written commitments exist if CAP loans from these written commitments are made within 3 months after the date of the written notice.

[PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

#### SECTION HISTORY

PL 1993, c. 722, §B2 (NEW). PL 1993, c. 722, §B3 (AFF).

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