



NEW MEXICO  
**FINANCE AUTHORITY**

**Presentation to  
NMFA Oversight  
Committee**



**Review of Proposed Rules Governing the Cannabis  
Microbusiness Loan Program under the  
Statewide Economic Development Finance Act**

**Marquita D. Russel, NMFA CEO**

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- ◆ Statewide Economic Development Finance Act (“SWEDFA”) was established in 2003 to help stimulate the economy, particularly in rural and underserved areas of the state by creating financing tools that put New Mexico on par with neighboring states
- ◆ For programs operated pursuant to SWEDFA, NMSA 6-25-6 (E) provides that NMFA shall adopt rules subject to approval of the NMFA Oversight Committee



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- ◆ The Economic Development Revolving Fund (“EDRF”) is the Fund created under SWEDFA from which NMFA makes loans. Currently, the EDRF is segregated into three separate accounts based upon the program:
  - **Smart Money** State funded loan participation program
  - **Collateral Support Participation** Federally funded (SSBCI) loan participation program. A separate direct loan program using Federal SSBCI funding was established by rule, but no loans were made under the program
  - **Essential Services Working Capital Program** Internally funded direct loan program. Provided short-term working capital assistance to critical service providers to help meet the demands resulting from the pandemic and Emergency Health Orders
- ◆ If approved, NMFA would create another separate sub-account in the EDRF to operate the Cannabis Microbusiness Loan Program

- ◆ The last program created under SWEDFA was the Essential Services Working Capital Program in 2020 and capitalized by NMFA with approximately \$10 million of one-time, unobligated operating funds
- ◆ Operated from April 2020 through July 2021, NMFA made 16 loans totaling approximately \$5.5 million. Four loans have been paid off, leaving an outstanding loan balance of approximately \$3.5 million
- ◆ NMFA proposes using \$5 million of capital set aside but not used for the Essential Services program to fund loans under the Cannabis Microbusiness Loan Program
- ◆ If Rules are approved by the NMFA Oversight Committee, the Cannabis Microbusiness Loan Program would provide direct loans to microbusinesses licensed by the Cannabis Control Division (“CCD”) of Regulations and Licensing Department (“RLD”)

- ◆ On April 12, 2021, Governor Michelle Lujan Grisham signed into law the Cannabis Regulation Act, NMSA 1978, Section 26-2C-1 et seq. (“CRA”), which created a comprehensive licensing, taxing and enforcement regulatory structure for adult use cannabis in the State
- ◆ CRA includes a Social and Economic Equity mandate to promote and encourage full participation in the cannabis industry by:
  - ❑ Communities that have been disproportionately harmed by rates of arrest through the enforcement of cannabis prohibitions
  - ❑ Rural communities likely to be impacted by cannabis production
  - ❑ Agricultural producers from economically disadvantaged communities

- ◆ A significant portion of licensed cannabis microbusinesses owned by minorities or located in rural or economically disadvantaged communities will likely face disproportionate barriers in accessing the financing they would need to participate in the emerging cannabis industry
- ◆ To address these barriers the Cannabis Microbusiness Loan Program will offer affordable loans to licensed cannabis establishments that demonstrate the technical and managerial capacity to operate but are unable to fund start-up costs due to their size, socio-economic or demographic characteristics

- ◆ The proposed Rules govern NMFA's implementation and administration of the Cannabis Microbusiness Loan Program
- ◆ The rulemaking process for NMFA differs from the administrative rulemaking process under the State Rules Act
  - NMSA 1978, Section 6-21-5 (C) provides that NMFA may adopt its own rules, subject to the review and approval of the NMFA Oversight Committee
- ◆ Rules were reviewed, but not approved by the NMFA Oversight Committee at its October 15<sup>th</sup> Meeting
- ◆ NMFA staff modified the proposed Rules to incorporate feedback from the NMFA Oversight Committee
- ◆ At its November 18<sup>th</sup> Meeting, the NMFA Board adopted final Rules and Cannabis Microbusiness Loan Program Policies

## ◆ The Rules:

- ❑ Provide that priority shall be given to applicants meeting RLD's definition of Social and Economic Equity mandate and median household income where the business is to be located
- ❑ Lay-out the application process and necessary documentation for financial assistance
- ❑ Outline evaluation of applications and underwriting requirements, such as required licensing, creditworthiness and viability of the business enterprise
  - NMFA is required to determine the ability to repay the funds and the need for financial assistance
- ❑ Allow NMFA to collect reasonable administrative fees for administration of the Cannabis Microbusiness Loan Program
- ❑ Require all Cannabis Microbusiness Loan Program Loan commitments to be approved by the NMFA Board of Directors



## ◆ Eligible Applicant:

- ❑ A cannabis establishment meeting the definition of “eligible entity” provided in Section 6-25-3(H) of SWEDFA; and
- ❑ Issued a license by Cannabis Control Division of Regulations and Licensing to operate as a cannabis establishment and is:
  - Cannabis Producer Microbusiness: a cannabis producer at a single licensed premises that possesses no more than two hundred (200) total mature cannabis plants at any one time, or
  - Integrated cannabis microbusiness: business authorized to conduct at least one of the following:
    - (1) production of cannabis at single licensed premises; provided that person shall not possess more than 200 mature cannabis plants at any one time;
    - (2) manufacture of cannabis products at a single licensed premises;
    - (3) sale and transportation of only cannabis products produced or manufactured by that person;
    - (4) operation of only one retail establishment; and
    - (5) couriering of cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers

- ◆ \$5 million dedicated to Cannabis Microbusiness Loans
- ◆ Individual loans up to \$250,000; expected average of \$100,000
- ◆ Minimum 5% equity requirement
- ◆ Fully collateralized loans
  - Collateral includes all legally available collateral including real estate
- ◆ Personal Guarantees
  - Required for any person with at least 10% ownership on the qualifying cannabis establishment (Controlling Person)
- ◆ Loan Terms: Up to 5 years
- ◆ Application requirements include a business plan with at least three years of financial projections
- ◆ Loan proceeds will be disbursed on a reimbursement basis

- ◆ Applications accepted monthly
- ◆ Applications prioritized first by those meeting the Social and Economic Equity targets set by RLD, then by the median household income where the business is located
- ◆ Loans will be structured to achieve repayment from operating cash flows without adversely impacting operations. Terms may include interest only periods to allow business operations to ramp up. Minimum debt service coverage of 1.25x is required
- ◆ Interest Rates
  - 2% for loans of less than \$100,000 or terms of less than three years
  - 3% for loans \$100,000 or more or terms of three years or more



## Policy Parameters

- ◆ Contributions from owners are required. Contributions can be in the form of cash, down payments, or in-kind (such as value of land)
  - ❑ 5% for loans of less than \$100,000
  - ❑ 10% for loans of \$100,000 or more
- ◆ Loans will be secured by all legally available collateral at a minimum of 90% loan-to-value (ie, a \$90 loan would be secured with at least \$100 in collateral value). Acceptable collateral includes equipment, buildings, inventory, outstanding accounts, and land.
- ◆ Loan proceeds may be used to fund the purchase of assets or operational costs directly related to cannabis production, including:
  - ❑ Buildings, including greenhouse structures
  - ❑ Equipment, including lighting, security systems
  - ❑ Agricultural inputs, including irrigation systems, soil, fertilizers
  - ❑ Working Capital, including rent, utility, labor, marketing