



NEW MEXICO
FINANCE AUTHORITY

**Presentation to
NMFA Oversight
Committee**



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

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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
- ◆ Programs operated under SWEDFA must have rules approved by both the NMFA Oversight Committee and the NMFA Board of Directors



- ◆ 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

- ◆ Essential Service Working Capital Program 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 for the Essential Services program that was not utilized to fund loans under the Cannabis Microbusiness Program
- ◆ The Cannabis Microbusiness Program would provide direct loans to microbusinesses licensed by Regulations and Licensing's Cannabis Control Division

- ◆ 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 face disproportionate barriers in accessing the financing they would need to participate in the emerging cannabis industry
- ◆ To address these barriers the Cannabis Microbusiness Program will offer affordable loans to 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 Program
- ◆ The rulemaking process for NMFA differs from the administrative rulemaking process under the State Rules Act governing state agencies
 - 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
 - NMFA Board will adopt policies regarding additional loan eligibility and loan term parameters for use in underwriting loans
- ◆ If approved by the NMFA Oversight Committee, the proposed Rules will be presented to the NMFA Board at its October 28, 2021

◆ The proposed Rules:

- 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 Program
- Require all Cannabis Microbusiness Program loan commitments to be approved by the NMFA Board of Directors

- ◆ Up to \$5 million dedicated to Cannabis Microbusiness Loans
- ◆ Individual loans up to \$250,000; expected avg. \$100,000
- ◆ Fully collateralized loans
 - Collateral may include non-cannabis inventory, land, equipment
- ◆ Personal Guarantees
 - May be required for any person with at least 10% ownership on the qualifying cannabis establishment (Controlling Person)
- ◆ Interest Rates: variable
- ◆ Loan Terms: Up to 5 years
- ◆ Eligible Applicant:
 - A cannabis establishment meeting the definition of “eligible entity” provided in Section 6-25-3(H) of SWEDFA; and

(Eligibility, continued)

- ❑ 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
 - Integrated cannabis microbusiness: a person that is authorized to conduct one or more 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