

TITLE 15
DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT
CHAPTER 4
DISASTER COMMERCIAL AND PERSONAL LOAN PROGRAM

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Historical Note: This chapter is based substantially upon Rules and Regulations Governing the Disaster Commercial Loan Program, Department of Planning and Economic Development. [Eff. 5/4/70; R JUL 6 1981] Substantive changes have been made to incorporate provisions of Act 205, SLH 1976, which amended chapter 209, Hawaii Revised Statutes, by providing for the making of personal loans, setting the interest rate at five per cent, and establishing the State disaster revolving loan fund.

§15-4-1 Purpose. The purpose of this chapter is to provide rules governing implementation of the disaster commercial and personal loan program authorized by part III of chapter 209, Hawaii Revised Statutes. [Eff. JUL 6 1981] (Auth: HRS § 209-26) (Imp: HRS §209-26)

§15-4-2 Definitions. As used in this chapter, unless a different meaning clearly appears in the context:

"Department" means the department of planning and economic development;

"Director" means the director of planning and economic development;

"Financial institution" includes, but is not limited to, private banks and other private lending institutions whose regular course of business entails the making of commercial, industrial, and personal loans;

"Loan program" means the disaster commercial and personal loan program authorized by part III of chapter 209, Hawaii Revised Statutes, as implemented by this chapter, for disaster relief and rehabilitation loans to be made with funds available in the state disaster revolving loan fund established by section 209-34, Hawaii Revised Statutes. [Eff. JUL 6 1981] (Auth: HRS §209-26) (Imp: HRS §209-26)

§15-4-3 Implementation of loan program. The director may make loans only after the occurrence of a State disaster, as defined by section 209-1(1), Hawaii Revised Statutes, and only upon receiving the governor's determination to effectuate the loan program, as provided by section 209-2, Hawaii Revised Statutes. [Eff. JUL 6 1981] (Auth: HRS §209-26) (Imp: HRS §209-26)

§15-4-4 Purpose of loans. (a) Commercial loans may be made by the director for the purposes set forth by section 209-28(a), Hawaii Revised Statutes.

(b) Personal loans may be made by the director for the purposes set forth by section 209-28(b), Hawaii Revised Statutes. [Eff. JUL 6 1981] (Auth: HRS §209-26) (Imp: HRS §209-28)

§15-4-5 Direct and participation loans. (a) The director may make two types of loans:

(1) Loans wholly from state funds, to be known as direct loans; and

(2) Loans made in participation with one or more financial institutions, to be known as participation loans.

(b) No direct loan shall be made unless a participating loan cannot be negotiated at reasonable terms. [Eff. JUL 6 1981] (Auth: HRS §209-26) (Imp: HRS §209-27)

§15-4-6 Agreements with financial institutions. (a) The director may negotiate contracts with financial institutions upon reasonable terms for their participation with the department in making loans pursuant to this chapter.

(b) A participation agreement with a financial institution shall provide that at least ten per cent of the total loan be comprised of funds from the financial institution. The financial institution's share of the disbursement of funds of any loan shall bear the same ratio as its participation in the total amount of the loan.

(c) A participation agreement may provide that the financial institution undertake to service the loan. [Eff. JUL 6 1981] (Auth: HRS §209-26) (Imp: HRS §209-27)

§15-4-7 Eligibility for loans. Loans may be made to individuals, partnerships, corporations, cooperatives, or other business associations, but only if the applicant suffered loss of or damage to property in a rehabilitation area as a result of a state disaster. In addition, the following requirements shall be met:

(1) For a personal loan, the applicant shall provide evidence that the applicant has reasonable ability to repay the loan, and shall present a suitable program for meeting necessary expenses and satisfying the serious needs of the applicant and the applicant's family;

(2) For a commercial loan, the applicant shall provide the following written evidence:

(A) That the applicant had operated an industrial, manufacturing, processing, wholesaling or retailing business, or professional or service business, or building rental business, immediately before the disaster;

(B) That the applicant has a suitable program for rehabilitation or reestablishment of the applicant's business to the same level as it had been before the disaster.

(C) That the applicant has reasonable ability to repay the loan; and

(D) That the United States Small Business Administration has denied the applicant financial assistance under its disaster loan program or reduced the amount of loan requested and such denial or reduction was not due to the applicant's having sufficient financial resources to rehabilitate the applicant's business; or, in the alternative, that the applicant cannot secure any loans from the Small Business Administration disaster loan program and the applicant is not able to secure loans from financial institutions and does not have sufficient financial resources to rehabilitate the applicant's business. [Eff. JUL 6 1981] (Auth: HRS §209- 26) (Imp: HRS §209-29)

§15-4-8 Loan applications; procedure and content. (a) The following procedure shall govern the manner in which loan applications shall be filed and received.

(1) The applicant shall complete a state disaster loan application form which shall be available in the department's offices and in such other locations as publicized by the department;

(2) The applicant shall file the application form with the economic development division of the department or with such other agencies or at such locations as publicized by the department.

(b) The following information shall be provided as attachments to the application forms:

(1) A list of damaged, destroyed, or lost property showing in detail the extent of damage or loss, and the acquisition cost of the property;

(2) At least two signed estimates, in duplicate, from licensed contractors, suppliers, or others, as appropriate, of the cost of repairing damaged property or of replacing property which has been lost or damaged beyond repair;

(3) A list of the applicant's debts and assets, and a financial statement.

(c) If the requested loan is to rehabilitate the applicant's business, the department may require a record of business earnings and expenditures for the past three years and profit and loss statements for the past three years; and a projection of sales, expenses, and profits for the two years following rehabilitation of the applicant's business. [Eff. JUL 6 1981] (Auth: HRS §209-26) (Imp: HRS §209-26)

§15-4-9 Deadline for submitting applications. Applications for loans shall be submitted in accordance with the deadline set by the governor or, if no date is set, no later than six months from the date of the governor's proclamation declaring a state disaster. [Eff. JUL 6 1981] (Auth: HRS §209-26) (Imp: HRS §209-7)

§15-4-10 Terms of loans. (a) No loan shall include any portion or item of loss covered by an insurance contract or for which the applicant has received assistance from any other federal, state, or local program of disaster relief.

(b) The amount of loans to any one applicant shall not exceed \$25,000 in state funds for a commercial loan and shall not exceed \$5,000 in state funds for a personal loan.

(c) No loan shall be made for a term exceeding twenty years.

(d) Each loan shall bear simple interest at the rate of five per cent a year for direct loans and the State's share of participating loans.

(e) The director may defer the commencement date for repayment of the first installment on principal for each loan for a period of six months from the date of the loan; the commencement date for payment of interest pay not be deferred. [Eff. JUL 6 1981] (Auth: HRS §209-26) (Imp: HRS §209- 30)

§15-4-11 Security for loans. The director shall not require any security for a loan if the applicant can show to the director's satisfaction that none is available. However, when property other than personal property and inventory is purchased with loan funds, a mortgage or pledge of such property shall be required as security for the loan. The director may permit the mortgage or pledge to be subordinated to the lien of a financial institution or government lending agency in the event the subordination should become necessary for the borrower to secure additional funds. [Eff. JUL 6 1981] (Auth: HRS §209- 26) (Imp: HRS §209-31)

§15-4-12 Conditions of loans. Every applicant who is granted a loan shall comply with the conditions set forth by section 209-32, Hawaii Revised Statutes. [Eff. JUL 6 1981] (Auth: HRS §209-26) (Imp: HRS §209-32)

§15-4-13 Default. If an applicant is in default of any term or condition in any loan agreement or mortgage made pursuant to this chapter, or if the applicant fails to comply with any provisions of part III, chapter 209, Hawaii Revised Statutes, the director may demand, and shall be entitled to payment of the unpaid balance of the loan, including interest. The director may foreclose any mortgage by any method provided by law. [Eff. JUL 6 1981] (Auth: HRS §209-26) (Imp: HRS §209-33)