

ACT 205

ACT 205

H.B. NO. 3299-76

A Bill for an Act Relating to Disaster Relief and Rehabilitation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 209, Hawaii Revised Statutes, is amended in the following ways:

1. By amending section 209-5 to read as follows:

“**Sec. 209-5 Duties of coordinator.** The rehabilitation coordinator shall:

- (1) Provide for the official contact between the State and persons affected by the disaster;
- (2) Make available to these persons information on all state rehabilitation programs;
- (3) Aid all persons affected by the disaster in securing assistance available under this chapter;
- (4) Inform these persons of assistance available from sources other than the State, and assist the victims in obtaining any assistance;
- (5) Keep a list of these persons, posting thereon all assistance received from the State, and to the extent that the information is available, assistance from other sources;
- (6) Advise the governor as to the administration and effectiveness of the various programs;
- (7) Establish a temporary office on the island affected by the disaster if necessary, and where more than one island is affected, establish such offices as the governor may direct; and
- (8) File an annual report with the governor and the legislature describing the organization, expenditures, and assistance granted, pursuant to this chapter and making recommendations to increase the effectiveness of this chapter at least twenty days before the convening of the regular session of the legislature.”

2. By amending part III to read as follows:

“PART III. COMMERCIAL AND PERSONAL LOANS

Sec. 209-26 Administration. Except as otherwise provided, the director of planning and economic development is designated as the administrator responsible for the administration of this part. The director shall:

- (1) Administer loans for the purpose and according to this part; and
- (2) Promulgate rules and regulations to carry out the purposes of this part.

Sec. 209-27 Types of loans; participation. The director of planning and economic development may make two types of loans:

- (1) Loans in participation with private financial institutions to be known as participating loans; and
- (2) Loans wholly from state funds to be known as direct loans.

The director may negotiate contracts with private financial institutions upon reasonable terms for the participation of the institutions with the State in the making of loans pursuant to this part including but not limited to a term by which the financial institutions undertake to service the loan. Participation agreement shall provide that at least ten per cent of the total loan be comprised of funds from the private financial institution. The private financial institution’s share of the disbursement of funds of any loan shall be the same percentage agreed upon for its participation in the total amount of that loan. No direct loan shall be made unless a participating loan cannot be negotiated at reasonable terms.

Sec. 209-28 Purpose of loans. (a) Commercial loans may be made for the following purposes: to purchase inventory, equipment, and machinery; to construct, repair, or restore buildings; to provide operating funds; and to refinance outstanding business loans on equipment and buildings; provided that the loans shall be used to rehabilitate the business of the disaster victim as nearly as possible to its predisaster level; and provided further that the loans shall not be used to begin a business substantially different from the one the disaster victim was engaged in before the state disaster. Business concerns which were non-owners of buildings before the state disaster shall not be precluded from obtaining building loans under this part.

(b) Personal loans may be made for the purpose of meeting necessary expenses or to satisfy serious needs of individuals and families which arose as an immediate and direct result of a disaster.

Sec. 209-29 Eligibility for loans. Loans may be made to individuals, partnerships, corporations, cooperatives, or other business associations, but only if the applicant:

- (1) Suffered loss of or damage to property in a rehabilitation area as a result of a state disaster;
- (2) For a commercial loan, had operated an industrial, manufacturing, processing, wholesaling, or retailing business, or professional or service business, or building rental business, immediately before the disaster;
- (3) Presents a suitable program for:
 - (A) Rehabilitation or re-establishment of his business to its predisaster level when applying for a commercial loan; or
 - (B) Meeting necessary expenses and satisfying the serious needs of himself and his family when applying for a personal loan;
- (4) Has reasonable ability to repay the loan; and
- (5) For a commercial loan, presents written evidence that the Small Business Administration had declined an application for financial assistance under the Small Business Administration Disaster Loan Program or has reduced the amount of the loan request; provided that the declination was not due to the applicant's having sufficient financial resources to rehabilitate himself; or
- (6) For a commercial loan, cannot secure any loans from the Small Business Administration Disaster Loan Program because the making of the loans is not covered by the program, and the director of planning and economic development is reasonably satisfied that the applicant is not able to secure loans from private lending institutions and does not have sufficient financial resources to rehabilitate himself.

Paragraph (6) shall be applied in the alternative with respect to paragraph (5) of this section.

Sec. 209-30 Terms. (a) No loan shall include any portion or item of loss covered by a contract of insurance or for which the applicant receives assistance from any other federal, state, or local program of disaster relief, and the amount of loans to any one applicant shall in no case exceed \$25,000 for a commercial loan and \$5,000 for a personal loan.

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

(c) 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.

(d) The commencement date for the repayment of the first installment on principal only for each loan may be deferred for a period of six months from the date of the loan.

Sec. 209-31 Security for loans. Security for any loan when not available is not required, however, whenever property other than personal property and inventory, is purchased with the loan funds, a mortgage or pledge of such property shall be required as security for the loan. The director of planning and economic development may, in his discretion, 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.

Sec. 209-32 Conditions of loans. Every applicant who is granted a loan under the provisions of this part shall:

- (1) Expend the loan funds only for those purposes authorized by the director of planning and economic development;
- (2) Agree not to sell or otherwise dispose of mortgaged or pledged property except on written consent of the director, and except upon such conditions as the director may prescribe in writing;
- (3) Undertake to pay, when due, all taxes, liens, judgments, or assessments which may be lawfully assessed against the property mortgaged, together with the costs and expenses of any foreclosure of the mortgage; and
- (4) Keep insured to the satisfaction of the director all buildings and other insurable property covered by any mortgage.

Sec. 209-33 Default. If the applicant is in default of any term or condition in any loan agreement or mortgage or the provisions of this part, the unpaid balance of the loan, including interest, shall, at the option of the director of planning and economic development, become due and payable forthwith, and the director may foreclose any mortgage by any method provided by law.

Sec. 209-34 State disaster revolving loan fund. There is established the state disaster revolving loan fund into which shall be deposited all moneys received as repayment of loans and interest payments as provided in this part, and from which the director of planning and economic development may make loans in accordance with provisions of this part."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000, or so much thereof as may be necessary, for the disaster revolving loan fund created in section 209-34, Hawaii Revised Statutes. The sum appropriated shall be expended by the department of planning and economic development for any disaster that occurred on or after December 31, 1975, and for the purposes of this Act.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the

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brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 7, 1976.)

*Edited accordingly.