

ACT 113

H.B. NO. 1020

A Bill for an Act Relating to the Hawaii Capital Loan Program.

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

SECTION 1. The legislature finds it necessary to amend Act 311, Session Laws of Hawaii 1996; Act 104, Session Laws of Hawaii 1998; and Act 118, Session Laws of Hawaii 1998, to provide appropriate effective dates for the implementation of the business loan guarantee program and an extension of the effective date for the neighbor island preferential business loan interest rate.

SECTION 2. Section 210-6, Hawaii Revised Statutes, shall be amended to read as follows:

“§210-6 Direct loans, terms, and restrictions. (a) The department of business, economic development, and tourism may make loans to small business concerns for the financing of plant construction, conversion, expansion, the acquisition of land for expansion, the acquisition of equipment, machinery, supplies, or materials, or for the supplying of working capital. The loans may be made in conjunction with loans made by other financial institutions, including the Small Business Administration. Where the loans made by the department are secured, the security may be subordinated to the loans made by other financial institutions, when the subordination is required to obtain loans from such institutions. The necessity for and the extent of security required in any loan shall be determined by the director of business, economic development, and tourism.

(b) The department may make loans to business concerns located in a county with a population of less than 150,000; provided that the interest on loans made under this subsection shall bear simple interest at the rate of three per cent below the prime rate or at a rate of five and one-half per cent a year, whichever is lower. For purposes of this subsection, the prime rate shall be determined on January 1 and July 1 of each year, and shall be the rate charged by the two largest banks in the State of Hawaii identified by the department of commerce and consumer affairs. Should there be a difference in rate charged by the institutions, the lower of the two shall be used. Payments required under loans made under this subsection may be deferred, but no loans made under this subsection shall be forgiven.

(c) Except as may be expressly provided otherwise for loans made under subsection (b), the foregoing powers shall be subject to the following restrictions and limitations:

- (1) No loans shall be granted unless financial assistance is not available to the applicant. The condition may be waived by the director for participation loans or loan guarantees with a private financial institution;
- (2) The amount of the loan or loans to any one applicant at any one time shall in no case exceed a total of \$1,000,000;
- (3) No loan shall be made for a term exceeding twenty years;
- (4) Within counties of a population exceeding 150,000, each loan shall bear simple interest at a rate of one per cent below the prime rate or at a rate of seven and one-half per cent a year, whichever is lower. For purposes of this paragraph, the prime rate shall be determined on January 1 and July 1 of each year, and shall be the rate charged by the two largest banks in the State identified by the department of commerce and consumer affairs. Should there be a difference in rate charged by the institutions, the lower of the two shall be¹ used;²
- (5) The commencement date for the repayment of the first installment on the principal of each loan may be deferred by the director, but in no event shall such initial payment be deferred in excess of five years; and
- (6) The payment of interest on the principal of a loan may be deferred by the director, but in no event shall interest payments be deferred in excess of two years from the date of issuance of the loan.

(d) Except as may be expressly provided otherwise for loans made under subsection (b), any restriction or limitation in subsection (c) may be waived at the director's discretion where the applicant is a reuse or recycling business that meets the following criteria:

- (1) The business has potential to have an impact on overall solid waste reduction and achievement of the State's reduction goals;
- (2) The business addresses the alternative management of wastes identified by the solid waste disposal facility operators as problematic;
- (3) The business maximizes economic benefits through import reduction or an increase in the tax base;

- (4) The business has potential for job creation; and
- (5) The business has a plan that accurately reflects detailed and justifiable expenses and revenues, shows potential for profit, and an ability to meet market demand for end products.

(e) The department may contract with any financial institution for services including servicing or administering loans pursuant to this section.

(f) For purposes of this section, "financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including without limitation, banks, savings banks, savings and loan companies or associations, financial services loan companies, and credit unions."

SECTION 3. Act 311, Session Laws of Hawaii 1996, is amended by amending section 4 to read as follows:

"SECTION 4. This Act shall take effect on July 1, 1996[, and shall be repealed on June 30, 1999; provided that section 210-6, Hawaii Revised Statutes, is reenacted in the form in which it read on the day before the approval of this Act]."

SECTION 4. Act 104, Session Laws of Hawaii 1998, is amended by amending section 6 to read as follows:

"SECTION 6. This Act shall take effect on July 1, 1998[; provided that section 4 of this Act shall be repealed on June 30, 2000, and section 210-6(c), Hawaii Revised Statutes, is reenacted as it appeared on July 2, 1996]."

SECTION 5. Act 118, Session Laws of Hawaii 1998, is amended as follows:

1. By amending section 11 to read as follows:

"SECTION 11. This Act shall take effect upon its approval; provided that[:

(1)] Part I shall take effect on July 1, 1998, and shall be repealed on June 30, 2000[; and

(2) Section 7 shall take effect on July 1, 1999]."

2. By repealing section 7.

["SECTION 7. Section 210-6, Hawaii Revised Statutes, is amended to read as follows:

"§210-6 Direct loans, terms, and restrictions. (a) The department of business, economic development, and tourism may make loans to small business concerns for the financing of plant construction, conversion, expansion, the acquisition of land for expansion, the acquisition of equipment, machinery, supplies, or materials, or for the supplying of working capital. The loans may be made in conjunction with loans made by other financial institutions, including the Small Business Administration. Where the loans made by the department are secured, the security may be subordinated to the loans made by other financial institutions, when the subordination is required to obtain loans from such institutions. The necessity for and the extent of security required in any loan shall be determined by the director of business, economic development, and tourism.

(b) The foregoing powers shall be subject, however, to the following restrictions and limitations:

- (1) No loans shall be granted unless financial assistance is not available to the applicant. The condition may be waived by the director for participation loans with a private financial institution;
- (2) The amount of the loan or loans to any one applicant at any one time shall in no case exceed a total of \$1,000,000;
- (3) No loan shall be made for a term exceeding twenty years;

- (4) Each loan shall bear simple interest at a rate of one per cent below the prime rate or at a rate of seven and one-half per cent a year, whichever is lower. For purposes of this paragraph, the prime rate shall be determined on January 1 and July 1 of each year, and shall be the rate charged by the two largest banks in the State of Hawaii identified by the department of commerce and consumer affairs. Should there be a difference in rate charged by the institutions, the lower of the two shall be used;
- (5) The commencement date for the repayment of the first installment on the principal of each loan may be deferred by the director, but in no event shall such initial payment be deferred in excess of five years; and
- (6) The payment of interest on the principal of a loan may be deferred by the director, but in no event shall interest payments be deferred in excess of two years from the date of issuance of the loan.

(c) Any restriction or limitation in subsection (b) may be waived at the director's discretion where the applicant is a reuse or recycling business that meets the following criteria:

- (1) The business has potential to have an impact on overall solid waste reduction and achievement of the State's reduction goals;
- (2) The business addresses the alternative management of wastes identified by the solid waste disposal facility operators as problematic;
- (3) The business maximizes economic benefits through import reduction or an increase in the tax base;
- (4) The business has potential for job creation; and
- (5) The business has a plan that accurately reflects detailed and justifiable expenses and revenues, shows potential for profit, and an ability to meet market demand for end products.

(d) The department may contract with any financial institution for services including servicing or administering loans pursuant to this section.

(e) For purposes of this section, "financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including without limitation, banks, savings banks, savings and loan companies or associations, financial services loan companies, and credit unions."]

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect on June 29, 1999.

(Approved June 25, 1999.)

Notes

1. Prior to amendment "utilized;" appeared here.
2. "Used;" should be underscored.