

## ACT 124

S.B. NO. 91

A Bill for an Act Relating to Community-Based Economic Development.

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

SECTION 1. The legislature finds that the business community, nonprofit organizations, and other entrepreneurs require a functional, service-oriented agency that is readily available to provide business counseling, financial backing, and general support to foster real community-based economic development for the various products and services demonstrating and embracing Hawaii's diversified economy.

The Hawaii community-based economic development technical and financial assistance program in the department of business, economic development, and tourism was established for this purpose. The legislature established the community-based economic development program in Act 111, Session Laws of Hawaii 1990, codified as chapter 210D, Hawaii Revised Statutes, to provide financial assistance to community-based businesses and enterprises through low-interest loans and grants to qualifying applicants.

The purpose of this Act is to:

- (1) Amend the definition of "community of interest" to better conform the wording to the preceding definition of "community of identity";
- (2) Expand opportunities for the Hawaii community-based economic development revolving fund to access additional funding from other sources and ensure the deposit of other funding into the Hawaii community-based economic development revolving fund;
- (3) Adjust the maximum total outstanding loan balance allowed to reflect current available funding; and
- (4) Reduce the maximum interest rate for loans.

SECTION 2. Section 210D-2, Hawaii Revised Statutes, is amended by amending the definition of "community of interest" to read as follows:

"Community of interest" means a group of people who may not live in the same geographic area but who are bound together through a common economic interest such as coffee growers or an aquaculture cooperative."

SECTION 3. Section 210D-4, Hawaii Revised Statutes, is amended to read as follows:

**"§210D-4 Hawaii community-based economic development revolving fund; established.** There is established a revolving fund to be known as the

Hawaii community-based economic development revolving fund from which moneys shall be loaned[;] or granted by the department under this chapter. All moneys appropriated to the fund by the legislature, received as repayments of loans, payments of interest or fees, [received as royalties,] and all other moneys received by the fund from any other source shall be deposited into the revolving fund and used for the purposes of this chapter. The department may use all appropriations and other moneys in the revolving fund not appropriated for a designated purpose to make grants or loans[; provided that at no time shall the department reallocate funds from the loan program to the grant program so that insufficient funds remain available to make loans].”

SECTION 4. Section 210D-6, Hawaii Revised Statutes, is amended to read as follows:

~~“[§210D-6]~~ **Compensation and expenses of members.** All members shall serve without compensation, but may be reimbursed ~~[from the fund]~~ for any actual and necessary expenses, including travel expenses, incurred in carrying out their official duties.”

SECTION 5. Section 210D-8, Hawaii Revised Statutes, is amended to read as follows:

~~“§210D-8~~ **Powers and duties.** The department shall have the necessary powers to carry out the purposes of this chapter, including the following:

- (1) With advice from the council, prescribe the qualifications for eligibility of applicants for loans and grants;
- (2) With advice from the council, establish preferences and priorities in determining eligibility for financial assistance;
- (3) Establish the conditions, consistent with the purpose of this chapter, for the awarding of financial assistance;
- (4) Provide for inspection at reasonable hours of facilities, books, and records of a community-based organization ~~[which]~~ that has applied for or has been awarded financial assistance and require the submission of progress and final reports;
- (5) Provide loans[;] and grants for community-based economic development activities and community-based enterprises for purposes consistent with this chapter;
- (6) Determine the necessity for and the extent of security required in a loan;
- (7) Prescribe and provide appropriate management counseling and monitoring of business activities;
- (8) Administer the Hawaii community-based economic development revolving fund;
- (9) Include in its budget for subsequent fiscal periods amounts necessary to effectuate the purposes of this chapter;
- (10) Participate in loans made to qualified persons by private lenders;
- (11) Establish interest rates chargeable by the State for direct and participation loans; and
- (12) Adopt rules pursuant to chapter 91 to implement this chapter.”

SECTION 6. Section 210D-9, Hawaii Revised Statutes, is amended to read as follows:

“**§210D-9 Loans; limitation and terms.** Loans made under this chapter shall be for the purposes and in accordance with the terms specified in paragraphs (1) and (2) and shall be made only to applicants who meet the eligibility requirements specified therein.

- (1) Community-based enterprise establishment and improvement loans may be made to provide for:
  - (A) The start-up costs, purchase or improvement of a community-based enterprise or working capital; and
  - (B) The purchase, construction, or improvement of facilities; and
- (2) Operating loans may be made to carry on and improve an existing enterprise, including:
  - (A) The purchase of equipment; and
  - (B) The payment of production and marketing expenses including materials, labor, and services.

The loans shall be for an amount not to exceed [~~\$500,000~~] \$250,000 and for a term not to exceed ten years.”

SECTION 7. Section 210D-10, Hawaii Revised Statutes, is amended to read as follows:

“**§210D-10 Terms of loans.** Loans shall be made to qualified applicants with the following terms and conditions:

- (1) The amount of the outstanding balance on all loans issued under this chapter to any one applicant at any one time shall not exceed [~~\$500,000;~~] \$250,000;
- (2) The maximum term of a loan shall not exceed ten years;
- (3) Each loan shall bear simple interest at a rate of not less than three and not more than [~~ten~~] six per cent a year, depending on the nature of the loan; and
- (4) The commencement date for the repayment of the first installment on principal and interest of each loan may be deferred by the director of business, economic development, and tourism for a period not to exceed two years.”

SECTION 8. Section 210D-11, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) To receive a grant [~~hereunder~~] under this section for community-based economic development activities or development of a community-based enterprise, an applicant shall:

- (1) Be either:
  - (A) A profit subsidiary of a nonprofit community-based organization incorporated under the laws of the State; [~~or~~]
  - (B) A nonprofit community-based organization determined to be exempt from federal income taxation by the Internal Revenue Service; or
  - (C) A cooperative association[-];
- (2) In the case of a nonprofit organization, have a governing board whose members have no material conflict of interest and serve without compensation, have bylaws or policies [~~which~~] that describe the manner in which business is conducted and policies relating to nepotism and management of potential conflict of interest situations, and employ or contract with no two or more members of a family or kin of the first or second degree unless specifically permitted by the department;

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- (3) Agree to make available to the department all records the applicant may have relating to the operation of the community-based enterprise, to allow state agencies to monitor the applicant's compliance with the purpose of this chapter; and
- (4) Establish, to the satisfaction of the department, that sufficient funds are available for the effective operation of the activity, business, or enterprise for the purpose for which the grant is awarded."

**SECTION 9.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 10.** This Act shall take effect on July 1, 2009.

(Approved June 16, 2009.)