

**Title 19**  
**CORPORATIONS AND BUSINESS**  
**Part VII. Economic Development Corporation**  
**Subpart 1. Small Business Loan Program**

**Chapter 1. Loan Policies**

**§101. Purpose**

A. The Louisiana Economic Development Corporation (LEDC) wishes to stimulate the flow of private capital, long-term loans, and other financial assistance for the sound financing of the development, expansion, and retention of small business concerns in Louisiana, as a means of providing high levels of employment, income growth, and expanded economic opportunities, especially to disadvantaged persons and within distressed and rural areas.

B. The corporation will consider sound loans so long as resources permit. The board of the corporation recognizes that guaranteeing, participating, or lending money carries certain risks and is willing to undertake reasonable exposure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:445 (June 1989), repromulgated LR 23:40 (January 1997), LR 26:2255 (October 2000).

**§103. Definitions**

*Disabled Person's Business Enterprise*—a small business concern which is at least 51 percent owned and controlled by a disabled person as defined by the federal Americans with Disabilities Act of 1990.

*Economically Disadvantaged Business*—a Louisiana business certified as economically disadvantaged by the Department of Economic Development's Division of Economically Disadvantaged Business Development.

*Small Business Concern*—defined by SBA for purposes of size eligibility as set forth by 13 CFR121.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:40 (January 1997), amended LR 26:2255 (October 2000).

**§105. Application Process**

A. Any applicant(s) applying for either a loan guaranty or a loan participation will be required first to contact a financial lending institution that is willing to entertain such a loan with the prospect of a guaranty or a participation the bank will then contact LEDC for qualification and submit a complete application.

B. Information submitted to LEDC with the application representing the applicant's business plan, financial position, financial projections, personal financial statements and background checks will be kept confidential to the extent allowed under the Public Records Law, R.S. 44:1 et seq. Confidential information in the files of LEDC and its accounts acquired in the course of duty will be used solely by and for LEDC.

C. Submission and Review Policy

1. A completed Louisiana Economic Development Corporation application form to LEDC.

2. Economically disadvantaged businesses applying for assistance under that provision will have to submit certification from the Division of Economically Disadvantaged Business Development of the Department of Economic Development along with the request for financial assistance.

3. Businesses applying for consideration under the disabled person's provision shall submit adequate information to support the disabled status.

4. The lending institution will submit to LEDC its complete analysis, proposed structure, and commitment

letter. LEDC staff may do analysis, independent of the lending institution's analysis.

5. The lending institution will submit to LEDC the same pertinent data that it did to the lending institution's loan committee, whatever pertinent data the lending institution can legally supply.

6. LEDC staff will review the application and analysis, then make recommendations. The staff will work with the lending institution on terms of the loan and LEDC loan stipulations.

7. The LEDC's Board Screening Committee or designated loan committee will review only the completed applications submitted by staff and will make recommendations to the board.

8. The applicant(s) or their designated representative, and the loan officer or a representative of the lending institution are not required to attend the screening committee meeting.

9. LEDC's board of directors or designated loan committee has the final approval authority for applications.

10. The applicant will be notified within five working days by mail of the outcome of the application.

11. A LEDC commitment letter will be mailed to the bank within five working days of approval by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:446 (June 1989), amended LR 23:40 (January 1997), LR 26:2255 (October 2000).

### **§107. Eligibility**

A. Small business concerns domiciled in Louisiana whose owner(s) or principal stockholder(s) shall be a resident of Louisiana.

B. Certified Economically Disadvantaged Businesses

C. Disabled person's business enterprises domiciled in Louisiana whose owner(s) or principal stockholder(s) shall be a resident of Louisiana.

D. Funding requests for all but the following may be considered:

1. restaurants, except for regional or national franchises;

2. bars;

3. any project established for the principal purpose of dispensing alcoholic beverages;

4. any establishment which has gaming or gambling as its principal business;

5. any establishment which has consumer or commercial financing as its business;

6. funding for the acquisition, renovation, or alteration of a building or property for the principal purpose of real estate speculation;

7. funding for the principal purpose of refinancing existing debt;

8. funding for the purpose of buying out any stockholder or equity holder by another stockholder or equity holder in a business;

9. funding for the purpose of establishing a park, theme park, amusement park, or camping facility;

10. funding for the purpose of buying out any family member or reimbursing any family member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:446 (June 1989), amended LR 23:41 (January 1997), LR 26:2255 (October 2000).

### **§109. General Loan Provisions**

A. The Louisiana Economic Development Corporation will be guided by the following general principles in making loans.

1. The corporation shall not knowingly approve any loan guarantee, loan participation, or loan if the applicant has presently pending or outstanding any claim or liability relating to failure or inability to pay promissory notes or other evidence of indebtedness, including state or federal taxes, or bankruptcy proceeding; nor shall the corporation approve any loan or guarantee if the applicant has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit. Further, the corporation shall not

approve any loan or guarantee if the applicant or principle management have a criminal record.

2. The terms or conditions imposed and made part of any loan or loan guaranty authorized by vote of the corporation board shall not be amended or altered by any member of the board or employee of the Department of Economic Development except by subsequent vote of approval by the board or designated loan committee at the next meeting of the board in open session with full explanation for such action.

3. The corporation shall not subordinate its position.

#### B. Interest Rates

1. On all loan guarantees, the interest rate is to be negotiated between the borrower and the bank but may not exceed 2 1/2 percent above New York prime as published in the Wall Street Journal at either a fixed or variable rate.

2. On all participation loans, the rate shall be determined by utilizing the rate for a U.S. Government Treasury security for the time period that coincides with the term of the participation and adding between 1 and 2 1/2 percentage points.

3. The bank may apply for a linked deposit under the Small Business Linked Deposit Program on the term portion of either a guaranteed loan or a participated loan.

#### C. Collateral

1. Collateral-to-loan ratio will be no less than one-to-one (1:1).

2. Collateral position may be negotiated, but will be no less than a sole second position.

##### 3. Collateral Value Determination

a. The appraiser must be certified by recognized organization in area of collateral.

b. The appraisal cannot be over 90 days old.

4. Acceptable collateral may include, but not be limited to, the following:

a. fixed assets—business real estate, buildings, fixtures;

b. equipment, machinery, inventory;

c. personal guarantees may be used only as additional collateral and does not count towards the 1:1 coverage; if used, there must be signed and dated Personal Financial Statements;

d. accounts receivable with supporting aging schedule. Not to exceed 90 percent of receivable value (used with guarantee only).

5. Unacceptable collateral may include, but not be limited to the following:

a. stock in applicant company and/or related companies;

b. personal items or personal real estate;

c. intangibles.

#### D. Equity

1. Will be 20 percent of the loan amount for a start-up operation or acquisition and no less than 15 percent for an expansion. However, if 20 percent is not available for a guarantee the following chart may be applied which provides for an annual guarantee fee attached to a lesser equity position.

Equity %	Guarantee Fee
19 %	2.20 %
18 %	2.40 %
17 %	2.60 %
16 %	2.80 %
15 %	3.00 %
14 %	3.20 %
13 %	3.40 %
12 %	3.60 %
11 %	3.80 %
10 %	4.00 %

\*In no case shall the equity position be less than 10%.

##### 2. Equity is defined to be:

a. cash;

b. paid-in capital;

c. paid-in surplus and retained earnings;

d. partnership capital and retained earnings.

3. No research, development expense nor intangibles of any kind will be considered equity.

#### E. Amount

1. For small businesses, the corporation's guarantee shall be:

a. no greater than 75 percent of a loan up to \$650,000; or

b. no greater than 70 percent of a loan up to \$1,100,000; or

c. no greater than 65 percent of a loan up to \$2,300,000;

d. if the loan request exceeds \$2,300,000 the guaranty shall not exceed \$1,500,000.

2. For certified economically disadvantaged businesses, or disabled person's business enterprises, the corporation's guarantee shall be:

a. no greater than 90 percent of a loan up to \$560,000; or

b. no greater than 85 percent of a loan up to \$875,000; or

c. no greater than 75 percent of a loan up to \$2,000,000;

d. if the loan request exceeds \$2,000,000, the guaranty shall not exceed \$1,500,000.

3. For small businesses, the corporation's participation shall be no greater than 40 percent, but in no case shall it exceed \$1,500,000.

4. For certified economically disadvantaged businesses, or disabled person's business enterprises, the corporation's participation shall be no greater than 50 percent, but in no case shall it exceed \$1,000,000.

#### F. Terms

1. Terms may be negotiated with the bank, but in no case shall the terms exceed 20 years.

#### G. Fees

1. LEDC will charge a guaranty fee on the guaranteed amount up to a maximum amount of four percent.

2. LEDC will charge a \$100 application fee.

3. LEDC will share in a pro-rata position in any fees assessed by the bank on a participation.

#### H. Use of Funds

1. Purchase of fixed assets, including buildings that will be occupied by the applicant to the extent of at least 51 percent.

2. Purchase of equipment, machinery, or inventory.

3. Line of credit for accounts receivable or inventory.

4. Debt restructure may be considered by LEDC but will not be considered when the debt:

a. exceeds 25 percent of total loan with the following exception:

i. a maximum of 35 percent may be considered on a guaranteed loan but the guarantee percent will be decreased by 5 percent; and/or

b. pays off a creditor or creditors who are inadequately secured; and/or

c. provides funds to pay off debt to principals of the business; and/or

d. provides funds to pay off family members.

5. Funds may not be used to buy out stockholders or equity holders of any kind, by any other stockholder or equity holder.

6. Funds may not be used to purchase any speculative investment or real estate development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:448 (June 1989), amended LR 23:41 (January 1997), LR 26:2256 (October 2000).

### **§111. General Agreement Provisions**

#### A. Guaranty Agreement

1. The bank is responsible for proper administration and monitoring of loan and proper liquidation of collateral in case of default.

2. The loan shall not be sold, assigned, participated out, or otherwise transferred without prior written consent of the LEDC Board.

3. If liquidation through foreclosure occurs, the bank will sell collateral and handle the legal proceedings.

4. There will be a reduction of the guarantee:

a. in proportion to the principal reduction of the amortized portion of the loan;

b. if no principal reduction has occurred in any annual period of the loan, a reduction in the guarantee amount will be made proportional to the remaining guarantee life.

5. The guarantee will cover the unpaid principal amount owed only.

6. Delinquency will be defined according to the bank's normal lending policy and all remedies will be outlined in the guarantee agreement. Notification of delinquency will be made to the corporation in writing and verbally in a time satisfactory to the bank and the corporation as stated in the guarantee agreement.

#### B. Participation Agreement

1. The bank is responsible for administration and monitoring of the loan.

2. The lead bank will hold no less participation in the loan than that equal to LEDC's, but not to exceed its legal lending limit.

3. The lead bank may sell other participation with LEDC's consent.

4. Should liquidation through foreclosure occur, the bank will sell the collateral and handle the legal proceedings.

5. The bank is able to set its rate according to risk, and may blend its rate with the LEDC rate to yield a lower overall rate to a project.

6. Delinquency will be defined according to the bank's normal lending policy and all remedies will be outlined. Notification of delinquency will be made to the corporation in writing and verbally in a time satisfactory to the bank and the corporation.

#### C. Borrower Agreement

1. At the discretion of LEDC, the borrower will agree to strengthen management skills by participation in a form of continuing education acceptable to LEDC.

2. The borrower shall provide initial proof as well as an annual report of job creation, including the number of jobs, job titles and salaries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:448 (June 1989), amended LR 23:42 (January 1997), LR 26:2257 (October 2000).

#### §113. Confidentiality

A. Confidential information in the files of the corporation and its accounts acquired in the course of duty is to be used solely for the corporation. The corporation is not obliged to give credit rating or confidential information regarding applicant. Also see Attorney General Opinion #82-860.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:453 (June 1989), amended LR 23:43 (January 1997), LR 26:2257 (October 2000).

#### §115. Conflict of Interest

A. No member of the corporation, employee thereof, or employee of the Department of Economic Development, members of their immediate families shall either directly or indirectly be a party to or be in any manner interested in any contract or agreement with the corporation for any matter, cause, or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against such corporation. If any contract or agreement shall be made in violation of the provisions of this Section, the same shall be null and void and no action shall be maintained thereon against the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:453 (June 1989), amended LR 23:43 (January 1997), LR 26:2258 (October 2000).