

S.B. NO. 2984

JAN 22 2008

A BILL FOR AN ACT

RELATING TO DISASTER LOANS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that there exists a
2 continual need to make available funds for disaster relief and
3 rehabilitation through commercial and personal loans after it
4 has been determined and declared by the Governor that a disaster
5 has occurred. Loan funds are used to rehabilitate businesses,
6 individuals, and families to nearly as possible their pre-
7 disaster level. This disaster loan program has resulted in
8 immediate and effective relief for disaster victims.

9 The purpose of this Act is to amend sections of part III,
10 chapter 209, Hawaii Revised Statutes in order to implement the
11 following changes: (1) conform to the revised Small Business
12 Administration Disaster Loan Program, (2) allow for the
13 remediation of damaged real property, (3) set loan application
14 deadlines, (4) increase loan ceiling for individuals and
15 businesses to \$50,000 and \$100,000, respectively, (5) set loan
16 interest rate at 1.0% below Small Business Administration's
17 interest rate, (6) delete provisions for the transfer of funds

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1 from other state loan programs that are no longer funded, and
2 (7) make other technical and non-substantive changes.

3 SECTION 2. Section 209-26, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) For purposes of this section, "financial institution"
6 means any organization authorized to do business under state or
7 federal laws relating to financial institutions, including
8 without limitation, banks, savings banks, savings and loan
9 companies or associations, financial services loan companies,
10 and credit unions. It also means any federal agency authorized
11 to provide disaster loans or other disaster assistance,
12 including, but not limited to, the Small Business
13 Administration, the Department of Agriculture, the Department of
14 Commerce and the Department of Homeland Security."

15 SECTION 3. Section 209-27, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§209-27 Types of loans; participation.** The director of
18 business, economic development, and tourism may make two types
19 of loans:

20 (1) Loans in participation with private financial
21 institutions to be known as [~~participating~~]

1 participation loans; and which may be required before
2 a direct loan can be made; and

3 (2) Loans wholly from state funds to be known as direct
4 loans.

5 The director may negotiate contracts with private financial
6 institutions upon reasonable terms for the participation of the
7 institutions with the State in the making of loans pursuant to
8 this part including but not limited to a term by which the
9 financial institutions undertake to service the loan. The
10 participation agreement shall provide that at least ten per cent
11 of the total loan be comprised of funds from the private
12 financial institution. The private financial institution's
13 share of the disbursement of funds of any loan shall be the same
14 percentage agreed upon for its participation in the total amount
15 of that loan. [~~No direct loan shall be made unless a~~
16 ~~participating loan cannot be negotiated at reasonable terms.~~"]

17 SECTION 4. Section 209-28, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§209-28 Purpose of loans.** (a) Commercial loans may be
20 made for the following purposes: to purchase inventory,
21 equipment, and machinery; to construct, repair, or restore
22 buildings; to provide operating funds; and to refinance

1 outstanding business loans on equipment and buildings; provided
2 that the loans shall be used to rehabilitate the business of the
3 disaster victim as nearly as possible to its predisaster
4 level[+], including remediation or other measures intended to
5 prevent damage to property from subsequent disasters; and
6 provided further that the loans shall not be used to begin a
7 business substantially different from the one the disaster
8 victim was engaged in before the state disaster. Business
9 concerns which were [~~nonowners~~] tenants or lessees of buildings
10 before the state disaster shall not be precluded from obtaining
11 building loans under this part.

12 (b) Personal loans may be made for the purpose of
13 repairing residential property, including remediation or other
14 measures intended to prevent damage to property from subsequent
15 disasters, meeting necessary expenses, or to satisfy serious
16 needs of individuals and families including reciprocal
17 beneficiaries which arose as an immediate and direct result of a
18 disaster."

19 SECTION 5. Section 209-29, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§209-29 Eligibility for loans.** Loans may be made to
22 individuals, partnerships, limited liability companies, joint

1 ventures, corporations, cooperatives, or other business
2 associations, but only if the applicant:

3 (1) Has submitted a loan application within six months of
4 the state declaration of a disaster or within three
5 months of the denial of a loan application made to a
6 federal agency in the case of a federally declared
7 disaster, or whichever is later;

8 [~~1~~] (2) Suffered loss of or damage to property in a
9 rehabilitation area as a result of a state disaster;

10 [~~2~~] (3) For a commercial loan, had operated an
11 industrial, manufacturing, processing, wholesaling, or
12 retailing business, or professional or service
13 business, or building rental business, immediately
14 before the disaster;

15 [~~3~~] (4) Presents a suitable program for:

16 (A) Rehabilitation or re-establishment of the
17 applicant's business to its pre-disaster level when
18 applying for a commercial loan; or

19 (B) Meeting necessary expenses and satisfying the
20 serious needs of the applicant and the applicant's
21 family including reciprocal beneficiary when applying
22 for a personal loan;

1 [~~4~~] (5) Has reasonable ability to repay the loan; and
2 [~~5~~] (6) For a commercial loan, presents written evidence
3 that the Small Business Administration or other
4 federal agency had declined an application for
5 financial assistance under [~~the Small Business~~
6 Administration] its disaster loan program or has
7 reduced the amount of the loan request[~~+~~] to a level
8 below that needed to repair the damage; provided that
9 the declination was not due to the applicant's having
10 sufficient financial resources to rehabilitate the
11 applicant; or
12 [~~6~~] (7) For a commercial loan, cannot secure any loans
13 from [~~the Small Business Administration Disaster Loan~~
14 Program] a federal disaster loan program because the
15 making of the loans is not covered by the program, and
16 the director of business, economic development, and
17 tourism is reasonably satisfied that the applicant is
18 not able to secure loans from private lending
19 institutions and does not have sufficient financial
20 resources to rehabilitate the applicant.

21 Paragraph [~~6~~] (7) shall be applied in the alternative
22 with respect to paragraph [~~5~~] (6) of this section."

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1 SECTION 6. Section 209-30, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§209-30 Terms.** (a) No loan shall include any portion or
4 item of loss covered by a contract of insurance or for which the
5 applicant receives assistance from any other federal, state, or
6 county program of disaster relief[7] in an amount equal to the
7 amount of damage sustained, and the amount of loans to any one
8 applicant shall in no case exceed [~~\$75,000~~] \$100,000 for a
9 commercial loan and [~~\$35,000~~] \$50,000 for a personal loan.

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

12 (c) Each loan shall bear simple interest at [~~the~~] a rate
13 of [~~five per cent a year~~] one per cent below the then current
14 applicable rate set by the Small Business Administration
15 Disaster Loan Program for direct loans and the State's share of
16 [~~participating~~] participation loans.

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

20 SECTION 7. Section 209-34, Hawaii Revised Statutes, is
21 amended to read as follows:

1 "§209-34 State disaster revolving loan fund. [~~(a)~~] There
2 is established the state disaster revolving loan fund into which
3 shall be deposited all moneys appropriated by the legislature to
4 the fund, contributed or transferred to the fund, and received
5 as repayment of loans and interest payments as provided in this
6 part, and from which the director of business, economic
7 development, and tourism may make loans in accordance with this
8 part.

9 ~~[(b) The director may transfer moneys from the state
10 disaster revolving loan fund established by this section to
11 either the Hawaii capital loan revolving fund established by
12 section 210-3 or the Hawaii innovation development fund
13 established by section 211E-2. Moneys from the Hawaii capital
14 loan revolving fund established by section 210-3, the Hawaii
15 innovation development loan revolving fund established by
16 section 211E-2, and the state disaster revolving loan fund shall
17 be disbursed by the department or the director pursuant to
18 chapters 209, 210, and 211E, respectively. The department or
19 the director may transfer moneys from the Hawaii capital loan
20 revolving fund and the Hawaii innovation development fund to the
21 state disaster revolving loan fund for disbursement pursuant to
22 this chapter.~~

1 ~~(c) The total amount of moneys transferred to the state~~
2 ~~disaster revolving loan fund, the Hawaii capital loan revolving~~
3 ~~fund, or the Hawaii innovation development fund shall not exceed~~
4 ~~\$1,000,000 for each respective fund within the calendar year.~~

5 ~~(d) Notwithstanding subsection (c) to the contrary, the~~
6 ~~total amount of moneys transferred between the state disaster~~
7 ~~revolving loan fund and the Hawaii capital loan revolving fund~~
8 ~~or the Hawaii innovation development fund shall not exceed~~
9 ~~\$1,000,000 within the calendar year if the governor proclaims a~~
10 ~~state disaster pursuant to section 209-2.~~

11 ~~(e) The director shall report any transfer of funds made~~
12 ~~under this section to the legislature within ten days of the~~
13 ~~transfer.~~

14 ~~(f) All unexpended and unencumbered moneys remaining in~~
15 ~~the state disaster revolving loan fund at the close of each~~
16 ~~fiscal year, which are deemed by the director of finance to be~~
17 ~~in excess of the moneys necessary to carry out the purposes of~~
18 ~~this section over the next following fiscal year, shall lapse to~~
19 ~~the credit of the general fund.]"~~

20 SECTION 8. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.


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1 SECTION 9. This Act shall take effect upon its approval.

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INTRODUCED BY:



4

BY REQUEST

Report Title:

Commercial and Personal Loan Program; Disaster Assistance.

Description:

Provides for variable interest rates below the applicable Small Business Administration rates; increases loan amounts; allows for remediation/mitigation; adjusts loan application deadlines; and makes other housekeeping changes to the State Disaster Commercial and Personal Loan Program.

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JUSTIFICATION SHEET

DEPARTMENT: Department of Business, Economic Development and Tourism

TITLE: A BILL FOR AN ACT RELATING TO DISASTER LOANS.

PURPOSE: To provide for the following: (1) conform to the revised Small Business Administration Disaster Loan Program, (2) allow for the remediation of damaged real property, (3) set loan application deadlines, (4) increase loan ceiling for individuals and businesses to \$50,000 and \$100,000, respectively, (5) set loan interest rate at 1.0 percent below SBA's rate, (6) delete provisions for the transfer of funds from other state loan programs that no longer are funded, and (7) make other technical and non-substantive changes.

MEANS: Amend sections 209-26(c) through 209-30 and 209-34, Hawaii Revised Statutes.

JUSTIFICATION: Before the disaster loan program is implemented, it requires a determination and declaration by the Governor that a disaster has occurred. The disaster loan program provides loans for the rehabilitation of businesses and individuals as nearly as possible to pre-disaster level; however, consideration should also be given to remediate damages to real property from future occurrence. Changes are being addressed due to the recent changes made by the Small Business Administration (SBA) to its disaster loan programs. The Department of Business, Economic Development, and Tourism program works in close coordination with SBA programs and should conform to appropriate sections of the SBA program.

Impact on the public: None.

Impact on the department and other agencies:

None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.