

**CHAPTER 209**  
**DISASTER RELIEF AND REHABILITATION**

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## "PART I. GENERAL PROVISIONS

### Cross References

Hawaii hurricane relief fund, see chapter 431P.

Other disaster relief provisions, see chapter 127 and chapter 171, pt IIIC.

Tax relief, see §§235-7 and 237-24.7.

#### **§209-1 Definitions.** As used in this chapter:

"Board" means the board of land and natural resources.

"Commodity" means any good or service necessary for the health, safety, and welfare of the people of Hawaii; provided that this term shall include, but not be limited to:

- (1) Materials;
- (2) Merchandise;
- (3) Supplies;
- (4) Equipment;
- (5) Resources; and
- (6) Other articles of commerce that shall include, without limitation, the following:
  - (A) Food;
  - (B) Water;
  - (C) Ice;
  - (D) Chemicals;
  - (E) Petroleum products;
  - (F) Construction materials; or
  - (G) Residential dwellings.

"Coordinator" means the rehabilitation coordinator provided for in section 209-4.

"Director" means the director of business, economic development, and tourism.

"Rehabilitation area" means any area of the State struck by a state disaster and declared to be in need of rehabilitation by the governor pursuant to section 209-2.

"Residential dwelling unit" means any single or multifamily residence where the occupants pay rent to an owner or landlord, for the right to occupy and live on the property.

"Severe weather warning" means the issuance by the National Weather Service of a public notification that a dangerous weather condition exists that could impact the State, or any portion of it, within a specified period of time. This term includes but is not limited to, warnings of coastal inundation (high surf), flash flooding, tsunami, or hurricane.

"Small Business Administration" means the Small Business Administration of the United States.

"State disaster" means any unfortunate, sudden, and extraordinary occurrence declared by the governor pursuant to section 209-2 to have caused losses and suffering of such character and magnitude as to require and justify rehabilitative assistance from the State. [L 1961, c 189, §2; am L 1963, c 2, §3; Supp, §98P-2; HRS §209-1; am L 1987, c 336, §7; am L 1990, c 293, §8; am L 1993, c 333, §1]

" **§209-2 Governor's determination.** After the occurrence of any sudden and extraordinary event which causes losses and suffering, the governor shall make a determination as to whether a state disaster has occurred and thereafter may declare a state disaster for the entire State or any portion thereof. In making this determination the governor shall consider whether the effect on the health and living standards of a substantial number of persons and the effect on the economy of the State are of such a nature, as to warrant assistance from the state government.

The governor may in the proclamation designate the whole or any part of the State eligible for the relief provided for in this chapter and unless otherwise provided herein may authorize any or all of the relief measures provided for in parts II, III, and IV of this chapter. [L 1961, c 189, §3; Supp, §98P-3; HRS §209-2]

" **§209-3 Duties of state and county department heads.** Whenever the governor declares a state disaster all executive heads of departments and all county and city and county agencies shall:

- (1) Release personnel temporarily from their respective departments or agencies to work as needed under the direction of the rehabilitation coordinator;
- (2) Expedite the granting of rehabilitative assistance administered through their respective offices;
- (3) Provide the necessary information, records, and assistance for reporting on the rehabilitative efforts following a state disaster; and
- (4) Give full cooperation to the coordinator. [L 1961, c 189, §4; Supp, §98P-4; HRS §209-3]

" **§209-4 Rehabilitation coordinator; authority.** The disaster relief and rehabilitation authorized by this chapter shall be administered by a rehabilitation coordinator who shall be appointed by the governor and shall be directly responsible to the governor. The coordinator shall be chosen from the staff of any state, county, or city and county agency and shall be released with pay from the coordinator's regular duties for the

period necessary to perform the coordinator's duties. The reasonable and necessary expenses incurred by the coordinator shall be paid from the funds available or made available to the coordinator. [L 1961, c 189, §5; Supp, §98P-5; HRS §209-4; gen ch 1985]

" **§209-5 Duties of coordinator.** The rehabilitation coordinator shall:

- (1) Provide for the official contact between the State and persons affected by the state disaster;
- (2) Make available to persons affected by the state disaster information on all state rehabilitation programs;
- (3) Aid all persons affected by the state disaster in securing assistance available under this chapter;
- (4) Inform persons affected by the state disaster of assistance available from sources other than the State, and assist the victims in obtaining any assistance;
- (5) Keep lists of persons affected by the state disaster, all assistance received by the victims 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 state 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, activities, 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. [L 1961, c 189, §6; Supp, §98P-6; HRS §209-5; am L 1976, c 205, §1(1); am L 1979, c 105, §20; am L 1993, c 333, §2]

" **§209-6 Relation to other agencies.** This chapter is not intended, nor shall it be construed in any manner, to conflict with or assume the responsibility of the American National Red Cross, any agency of the federal government, the Salvation Army, or the emergency management activities of the state department of defense. [L 1961, c 189, §7; Supp, §98P-7; HRS §209-6; am L 2014, c 111, §8]

" **§209-7 Closing of application date; position of coordinator terminated.** The governor shall set a date after which no further applications for assistance under this chapter shall be received and may thereafter for good cause extend the date for a reasonable period of time. If no date is set by the governor, no application shall be received six months after the issuance of the governor's proclamation declaring a state disaster.

With respect to each state disaster declared by the governor pursuant to section 209-2 the position of rehabilitation coordinator shall be abolished upon completion of the rehabilitation coordinator's duties provided for in this chapter as determined by the governor. [L 1961, c 189, §8; Supp, §98P-8; HRS §209-7; gen ch 1985]

" **§209-8 Consideration of other recoveries.** In determining the eligibility of each person for every manner of assistance provided for in this chapter, the administering authorities shall consider every other type of assistance granted under the authority of this chapter, by any agency of the federal government, by the American National Red Cross, the Salvation Army, and every other manner of assistance, whether through insurance, donation or compensation from any source. [L 1961, c 189, §9; Supp, §98P-9; HRS §209-8]

" **§209-9 REPEALED.** L 2014, c 111, §25.

" **[\$209-10] Agricultural water systems; emergency power.** When the governor has declared that a disaster has occurred for any portion of the State, pursuant to section 209-2, which results in damage to an agricultural water system that necessitates the temporary use of electrical power or backup generators to pump ground water for irrigation until the system can be repaired, the person who controls, operates, or manages the system may negotiate an agreement for the production of emergency power for the agricultural water system. The agreement shall terminate when the governor determines that the disaster emergency relief period is terminated.

If the negotiated agreement is with an independent power producer that is not currently regulated by the public utilities commission, the execution of the agreement shall not cause the independent power producer to become subject to the jurisdiction of the public utilities commission. [L 2008, c 97, §2]

"PART II. HOUSING

**§209-16 Housing relief.** (a) Whenever the governor pursuant to section 209-2 declares a state disaster, the governor may invoke this part. After the declaration by the governor and pursuant to the governor's proclamation, the Hawaii housing finance and development corporation shall construct, manage, and operate housing units on public lands which may be set aside by the governor, using for the purpose the funds available or made available to the Hawaii housing finance and development corporation.

(b) Housing so constructed shall be of standard quality and shall conform substantially to the specifications used on other projects controlled by the Hawaii public housing authority. [L 1961, c 189, §10; Supp, §98P-10; HRS §209-16; gen ch 1985; am L 1987, c 337, §9(1); am L 1997, c 350, §§10, 14; am L 2005, c 196, §26; am L 2006, c 180, §16]

" **§209-17 Use of funds in relation to federal projects.** The funds allocated to this part shall be expended by the Hawaii housing finance and development corporation only upon the finding that the housing project found necessary does not qualify for federal aid or participation. [L 1961, c 189, §11; Supp, §98P-11; HRS §209-17; am L 1986, c 339, §14; am L 1987, c 337, §9(2); am L 1997, c 350, §14; am L 2005, c 196, §26(b); am L 2006, c 180, §16]

#### **Cross References**

Public lands for disaster relief, see §171-93.

### **"PART III. COMMERCIAL AND PERSONAL LOANS**

#### **Note**

Part heading amended by L 1976, c 205, §1(2).

**§209-26 Administration.** (a) Except as otherwise provided, the director of business, economic development, and tourism 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) Adopt rules to carry out the purposes of this part.
- (b) The department may contract with any financial institution for services including servicing or administering loans pursuant to this section.

(c) 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. [L 1961, c 189, §12; am L 1963, c 2, §3; Supp, §98P-12; HRS §209-26; ree L 1976, c 205, §1(2); am L 1987, c 336, §7; am L 1990, c 293, §8; am L 1998, c 118, §6]

### **Cross References**

Rulemaking procedure, see chapter 91.

" **§209-27 Types of loans; participation.** The director of business, economic development, and tourism 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. [L 1961, c 189, §13; Supp, §98P-13; HRS §209-27; ree L 1976, c 205, §1(2); am L 1987, c 336, §7; am L 1990, c 293, §8]

" **§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 nonowners 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 including reciprocal beneficiaries which arose as an immediate and direct result of a disaster. [L 1961, c 189, §14; Supp, §98P-14; HRS §209-28; am L 1976, c 205, §1(2); am L 1997, c 383, §37]

" **§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 the applicant's business to its predisaster level when applying for a commercial loan; or
  - (B) Meeting necessary expenses and satisfying the serious needs of the applicant and the applicant's family including reciprocal beneficiary 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 the applicant; 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 business, economic development, and tourism 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 the applicant.

Paragraph (6) shall be applied in the alternative with respect to paragraph (5) of this section. [L 1961, c 189, §15; Supp, §98P-15; HRS §209-29; am L 1976, c 205, §1(2); gen ch 1985; am L 1987, c 336, §7; am L 1990, c 293, §8; am L 1997, c 383, §38]



" **§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 county program of disaster relief, and the amount of loans to any one applicant shall in no case exceed \$75,000 for a commercial loan and \$35,000 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. [L 1961, c 189, §16; Supp, §98P-16; HRS §209-30; am L 1976, c 205, §1(2); am L 1990, c 71, §1; am L 1993, c 334, §1]

" **§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 business, economic development, and tourism may, in the director's 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. [L 1961, c 189, §17; Supp, §98P-17; HRS §209-31; am L 1976, c 205, §1(2); gen ch 1985; am L 1987, c 336, §7; am L 1990, c 293, §8]

" **§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 business, economic development, and tourism;
- (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. [L 1961, c 189, §18; Supp, §98P-18; HRS §209-32; ree L 1976, c 205, §1(2); am L 1987, c 336, §7; am L 1990, c 293, §8]

" **§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 business, economic development, and tourism, become due and payable forthwith, and the director may foreclose any mortgage by any method provided by law. [L 1961, c 189, §19; Supp, §98P-19; HRS §209-33; ree L 1976, c 205, §1(2); am L 1987, c 336, §7; am L 1990, c 293, §8]

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

(b) The director may transfer moneys from the state disaster revolving loan fund established by this section to either the Hawaii capital loan revolving fund established by section 210-3 or the Hawaii innovation development fund established by section 211E-2. Moneys from the Hawaii capital loan revolving fund established by section 210-3, the Hawaii innovation development loan revolving fund established by section 211E-2, and the state disaster revolving loan fund shall be disbursed by the department or the director pursuant to chapters 209, 210, and 211E, respectively. The department or the director may transfer moneys from the Hawaii capital loan revolving fund and the Hawaii innovation development fund to the state disaster revolving loan fund for disbursement pursuant to this chapter.

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

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

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

(f) All unexpended and unencumbered moneys remaining in the state disaster revolving loan fund at the close of each fiscal year, which are deemed by the director of finance to be in excess of the moneys necessary to carry out the purposes of this section over the next following fiscal year, shall lapse to the credit of the general fund. [L 1976, c 205, §1(2); am L 1987, c 336, §7; am L 1990, c 293, §8; am L 1993, c 280, §22; am L 1996, c 143, §2]

#### "PART IV. UNEMPLOYMENT COMPENSATION

**§209-41 Disaster unemployment benefits.** Whenever the governor declares a state disaster and invokes the provisions of this part as provided in section 209-2, the maximum total benefits in a benefit year as appearing in column D of section 383-22 for each high quarter wage scale shall be increased by adding the product of thirteen multiplied by the basic weekly benefit appearing in column B to the appropriate line of column D.

The extending benefits shall be allowed only for individuals who reside in a rehabilitation area and shall be available for only one benefit year which shall begin no later than one year following the issuance of the governor's proclamation declaring a state disaster. [L 1961, c 189, §20; Supp, §98P-20; HRS §209-41]

#### **Cross References**

Other disaster unemployment benefits, see chapter 385.