

ACT 6

A Bill for An Act Providing for State Disaster Commercial Loans to Rehabilitate Businessmen and Businesses Suffering Losses Resulting from a Disaster Occurring on or after May 23, 1960, and Making An Appropriation.

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

SECTION 1. Declaration of Policy. The State recognizes the importance of small-business concerns and their significant contribution to our total economic system. Disasters have plagued mankind since the beginning of time, and in recent years this State has experienced such disasters which have gravely affected the economic well-being of small-business concerns. Disasters have caused total as well as partial losses to such small-business concerns in disaster areas, placing in jeopardy the economic continuity of the disaster area and the resultant adverse effect upon the total economy of the State. The economic injury suffered requires financial assistance to rehabilitate and preserve such businesses. To meet such needs the United States Government created the Small Business Administration Disaster Loan Program to aid and assist small-business concerns which have suffered a substantial economic injury. While the Small Business Administration Disaster Loan Program is a rather liberal one, certain standards, limitations and requirements for approval of financial assistance may result in inability on the part of a disaster victim to obtain sufficient funds with which to return to business. It is therefore the declared policy of this State that the government should aid and assist disaster victims within disaster areas, where the financial assistance of the Small Business Administration Disaster Loan Program is either not available to the victim or if available is insufficient to rehabilitate such victim to the pre-disaster level.

SECTION 2. Definitions. The following terms, whenever used in this Act, shall have the following respective meanings:

(a) "Small Business Administration" shall mean the Small Business Administration of the United States.

(b) "Small Business Administration Disaster Loan Program" shall mean the disaster loan feature of the Small Business Administration.

(c) "Disaster" shall include a tsunami, flood, fire, explosion, hurricane, earthquake, storm, volcanic activity or any other catastrophe.

(d) "Disaster area" shall refer to any area affected by a disaster and proclaimed as a disaster area by the administrator of the Small Business Administration whose proclamation shall be required as a condition precedent to the availability of the Small Business Administration Disaster Loan Program.

SECTION 3. Administration. The Director of the department of economic development of this state, herein referred to as the "Administrator", is hereby designated as the administrator responsible for the administration of this Act.

SECTION 4. Powers of the Administrator. The administrator shall:

(a) Make loans for the purpose and according to the provisions of this Act.

(b) Promulgate rules and regulations to carry out the purposes of

this Act, provided that such rules and regulations shall not be required in making loans for the tsunami disaster of May 23, 1960 or any other disaster occurring within six (6) months from the effective date of this Act.

SECTION 5. Purposes of Loans. 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 re-finance outstanding business loans on equipment and or buildings; provided, that the loans shall be used to rehabilitate the business of the disaster victim as nearly as possible to its pre-disaster 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 prior to the disaster. Business concerns which were non-owners of buildings prior to the disaster shall not be precluded from obtaining building loans under the provisions of this Act.

SECTION 6. Eligibility for Loans. Loans may be made to individuals, partnerships, corporations, cooperatives or other business associations, but only if the applicant:

- (a) Suffered loss of or damage to business property in a disaster area as a result of a disaster occurring on or after May 23, 1960; and
- (b) Had operated an industrial, manufacturing, processing, wholesaling or retailing business, or professional or service business, or building rental business, immediately prior to such disaster; and
- (c) Presents a suitable program for rehabilitation or re-establishment of the business to the pre-disaster level; and
- (d) Has reasonable ability to repay the loan; and
- (e) Presents written evidence that the Small Business Administration has 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 such declination was not due to the applicant's having sufficient financial resources to rehabilitate himself; or
- (f) Cannot secure any loans from the Small Business Administration Disaster Loan Program because the making of such loans is not covered by said program, and the administrator is reasonably satisfied that the applicant is not able to secure loans from private lending institutions under comparable terms as provided in this Act. This subsection shall be applied in the alternative with respect to subsection 6(e) only.

SECTION 7. Terms.

- (a) The amount of loans to any one applicant shall in no case exceed \$25,000.
- (b) No loan shall be made for a term exceeding twenty (20) years.
- (c) Each loan shall bear simple interest at the rate of four per cent (4%) per annum.
- (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 (6) months from the date of the loan.

SECTION 8. Security for Loans. Although security for any loan when not available is not required, whenever property other than inventory, is purchased with the loan funds, a mortgage or pledge of such

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property shall be required as security for the loan. The administrator may, in his discretion, permit the mortgage or pledge to be subordinated to the lien of a financial institution or government lending agency in the event such subordination should become necessary for the borrower to secure additional funds.

SECTION 9. Conditions of Loans. Every applicant who is granted a loan under the provisions of this Act shall:

(a) Expend the loan funds only for those purposes authorized by the administrator;

(b) Agree not to sell or otherwise dispose of mortgaged or pledged property except on written consent of the administrator, and except upon such conditions as the administrator may prescribe in writing;

(c) 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 such mortgage; and

(d) Keep insured to the satisfaction of the administrator all buildings and other insurable property covered by any mortgage.

SECTION 10. Default. If the applicant is in default of any term or condition in any loan agreement or mortgage or the provisions of this Act, the unpaid balance of the loan, including interest, shall, at the option of the administrator, become due and payable forthwith, and the administrator may foreclose any mortgage by any method provided for by law.

SECTION 11. Applications. Applications for loans shall be made in the form prescribed for that purpose by the administrator and shall be filed with the administrator within nine (9) months from the date of the disaster.

SECTION 12. Appropriation; repayment; and lapsing.

(a) There is hereby appropriated out of the general revenues of the State of Hawaii, not otherwise appropriated, the sum of \$600,000, or so much thereof as may be necessary, to the Department of Economic Development to be expended by the administrator for the loans authorized by this Act for the disaster resulting from the tsunami of May 23, 1960.

(b) There is hereby created a fund to be known as the "State Disaster Commercial Loan Fund", the moneys from which or so much thereof as may be necessary shall be used by or under the direction of the administrator for the making of loans under this Act. There is hereby appropriated to the State Disaster Commercial Loan Fund sufficient moneys from the general revenues not otherwise appropriated as will from time to time be required to re-establish the said fund at the total of \$600,000; provided that the administrator may not apply or may not use in excess of \$600,000 for loans for any single disaster.

(c) There is hereby appropriated out of the general revenues of the State of Hawaii, not otherwise appropriated, for the period ending June 30, 1961, the sum of \$15,000, or so much thereof as maybe necessary, to the Department of Economic Development for the expenses to be incurred in the administration of this Act.

(d) All repayments of loans made under this Act and interest col-

lected thereon shall be credited to the general fund of the State. Any amounts appropriated for a specific disaster area and remaining uncommitted one (1) year after the occurrence of the respective disaster shall lapse into the general fund of the State of Hawaii.

SECTION 13. **Report.** Within ten days after the convening of the regular session of the State Legislature in February, 1961, the director of the Department of Economic Development shall submit to the members of the Legislature an interim report as of December 31, 1960, showing among other things, the number of applications received, the number, purposes and amounts of loans granted, and the number of applications rejected and reasons for such rejections for each disaster.

SECTION 14. **Effective Date.** This Act shall take effect upon its approval.

(Approved July 6, 1960.) **S.B. 6.**
