

ACT 189

A Bill for an Act Providing for the Rehabilitation of Persons Suffering Losses in State Disasters.

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

SECTION 1. Purpose. The purpose of this Act is to maintain the economic standard and growth of the State, to alleviate wide-spread suffering caused by disasters and to promote the general welfare of the State by providing aid to persons suffering losses from disasters which are of such character and magnitude as to justify rehabilitative assistance from the State.

PART 1. GENERAL PROVISIONS

SECTION 2. Definitions. As used in this Act:

(a) "State disaster" means any unfortunate, sudden and extraordinary occurrence declared by the governor pursuant to section 3 of this Act to

have caused losses and suffering of such character and magnitude as to require and justify rehabilitative assistance from the State;

(b) "Coordinator" means the rehabilitation coordinator provided for in section 5 of this Act;

(c) "Director" means the director of economic development;

(d) "Small Business Administration" means the Small Business Administration of the United States;

(e) "Board" means the board of land and natural resources; and

(f) "Rehabilitation area" means any area of the State of Hawaii struck by a state disaster and declared to be in need of rehabilitation by the governor pursuant to section 3 of this Act.

SECTION 3. 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 Act and unless otherwise provided herein may authorize any or all of the relief measures provided for in parts 2, 3, and 4 of this Act.

SECTION 4. 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:

(a) Release personnel temporarily from their respective departments or agencies to work as needed under the direction of the rehabilitation coordinator;

(b) Expedite the granting of rehabilitative assistance administered through their respective offices;

(c) Provide the necessary information, records and assistance for reporting on the rehabilitative efforts following a state disaster; and

(d) Give full cooperation to the coordinator.

SECTION 5. Rehabilitation coordinator; authority. The disaster relief and rehabilitation authorized by this Act 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 his regular duties for the period necessary to perform his duties. The reasonable and necessary expenses incurred by the coordinator shall be paid from the funds available or made available to the coordinator.

SECTION 6. Duties of coordinator. The coordinator shall:

(a) Provide for the official contact between the State and persons affected by the disaster;

(b) Make available to such persons information on all state rehabilitation programs;

(c) Aid all persons affected by the disaster in securing assistance available under the provisions of this Act;

(d) Inform such persons of assistance available from sources other than the State and assist the victims in obtaining such assistance;

(e) Keep a list of such persons, posting thereon all assistance received from the State and, to the extent that the information is available, assistance from other sources;

(f) Advise the governor as to the administration and effectiveness of the various programs;

(g) Establish a temporary office on the island affected by the disaster if necessary, and where more than one island is affected establish such offices as the governor may direct; and

(h) File a report with the governor and the legislature describing the organization, activities, expenditures and assistance granted pursuant to this Act and making recommendations to increase the effectiveness of this Act.

SECTION 7. Relation to other agencies. This Act 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 civil defense activities of the department of defense, State of Hawaii.

SECTION 8. Closing of application date; position of coordinator terminated. The governor shall set a date after which no further applications for assistance under this Act shall be received and may thereafter for good cause extend such date for a reasonable period of time. If no such 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 3 of this Act the position of coordinator shall be abolished upon completion of his duties provided for in this Act as determined by the governor.

SECTION 9. Consideration of other recoveries. In determining the eligibility of each person for every manner of assistance provided for in this Act, the administering authorities shall consider every other type of assistance granted under the authority of this Act, 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 whatsoever.

PART 2. HOUSING

SECTION 10. Housing relief. Whenever the governor pursuant to section 3 of this Act declares a state disaster, he may invoke the provisions of part 2 of this Act. After such declaration by the governor and pursuant to the governor's proclamation, the Hawaii Housing Authority shall construct public housing units on public lands which may be set aside by the governor, using for such purpose the funds available or made available to the Authority. Housing so constructed shall be of standard quality and shall conform substantially to the specifications used on other projects controlled by the Authority.

SECTION 11. Use of funds in relation to federal projects. The funds allocated to this part shall be expended by the Hawaii Housing Authority for the designated purpose under the provisions of chapters 74, 76 or 77 of the Revised Laws of Hawaii 1955, as amended, only upon the finding that the public housing project found necessary does not qualify for federal aid or participation.

PART 3. COMMERCIAL LOANS

SECTION 12. Administration. Except as otherwise provided, the director of the department of economic development is hereby designated as the administrator responsible for the administration of this part. The director shall:

(a) Administer loans for the purpose and according to the provisions of this part; and

(b) Promulgate rules and rules* and regulations to carry out the purposes of this part, provided that such rules and regulations shall not be required in making loans for any state disaster occurring within six months from the effective date of this Act.

SECTION 13. Types of loans; participation. The director is authorized to 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 such 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 agreements 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.

SECTION 14. 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 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 state disaster. Business concerns which were non-owners of buildings prior to the state disaster shall not be precluded from obtaining building loans under the provisions of this part.

SECTION 15. 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 rehabilitation area as a result of a state disaster; 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 a 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 had declined an application for financial assistance under the Small Business Administration Disaster Loan Program or has reduced the amount of the loan

* So in original.

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 the program, and the director is reasonably satisfied that the applicant is not able to secure loans from private lending institutions due to the applicant's having sufficient financial resources to rehabilitate himself. Item (f) of this section shall be applied in the alternative with respect to item (e) of this section.

SECTION 16. 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 20 years.

(c) Each loan shall bear simple interest at the rate of four per cent per annum 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.

SECTION 17. Security for loans. Security for any loan when not available is not required; however, whenever property other than inventory, is purchased with the loan funds, a mortgage or pledge of such property shall be required as security for the loan. The director 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 18. Conditions of loans. Every applicant who is granted a loan under the provisions of this part shall:

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

(b) 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;

(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 director all buildings and other insurable property covered by any mortgage.

SECTION 19. 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, become due and payable forthwith, and the director may foreclose any mortgage by any method provided for by law.

PART 4. UNEMPLOYMENT COMPENSATION

SECTION 20. Disaster unemployment benefits. Whenever the governor declares a state disaster and invokes the provisions of this part as provided in section 3 of this Act, the maximum total benefits in a benefit year as appearing in column D of section 93-21 of the Revised Laws of Hawaii 1955, as amended, for each high quarter wage scale shall be increased by adding the product of 13 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.

SECTION 21. Act 6 of the First State Legislature, Special Session of 1960 is hereby amended by deleting therefrom the words "or after" appearing in subsection (a) of Section 6 thereof.

SECTION 22. Act 4 of the First State Legislature, Special Session, 1960 is hereby amended by deleting the phrase "or after May 22, 1960" wherever it appears in Section 6 and by inserting in lieu thereof in each such places the date "May 23, 1960".

SECTION 23. **Severability.** If any section, part or provision of this Act or any application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end this Act is declared severable.

SECTION 24. This Act shall take effect upon its approval.

(Approved July 12, 1961.) **H.B. 13.**
