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EMERGENCY RULE NOTICE OF INTENT RULE POTPOURRI

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This is your authority to publish in the (month) April, 2022 *Louisiana Register* the document indicated above.

Office of Business Development

Office/Board/Commission promulgating this document

Anne G. Villa Undersecretary

(name) (title)
 Name and title of person whose signature will appear in the publication (at the end of the document)

Department of Economic Development

Department under which office/board/commission is classified

Kelly Raney (225) 342-3000

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E-mail address of contact person

Small Business Loan Guaranty Program

Short descriptive listing for this document to be used in the *Louisiana Register's* TABLE OF CONTENTS/INDEX

File name

Anne G. Villa

Signature of Agency Head or Designee

Anne G. Villa, Undersecretary

Print Name and Title of Agency Head or Designee

Important: If submitting both an Emergency Rule (ER) and a Notice of Intent (NOI) to be published this month, AND if the rule text in the ER is identical to the rule text in the NOI, check here:

CERTIFICATION OF AVAILABLE FUNDS

DOCUMENT # _____

LAGOV AGENCY:

I certify the availability of fiscal year _____ appropriated funds for the payment of the above referenced publication and authorize the processing of an Interagency Billing with the following coding on the 30th of the month of the publication. Attach supplemental sheet for additional lines of coding.

<u>252</u>		<u>2522151400</u>		<u>2520000000</u>				
Business Area	General Ledger	Cost Center	Grant	Fund	WBS	Internal Order	Functional	

NON-LAGOV AGENCY:

I certify the availability of fiscal year _____ appropriated funds for the payment of the above referenced publication and agree to place corresponding invoice in line for payment upon receipt.

Billing Contact Information:

Department of Economic Development

Agency Name

Taylor Richard

Agency Contact Person for Billing

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Agency E-Mail Address for Billing

Anne G. Villa

Signature of Agency Head or Designee

Phone Number

Per Page Charge _____ + Revision Charge \$ _____ = TOTAL \$ _____

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person Preparing Statement: Stephanie Le Grange Dept.: Department of Economic Development
Phone: (225) 342-5406 Office: Office of Business Development
Return Address: 617 North Third Street Rule Title Small Business Loan Guaranty Program
Baton Rouge, LA 70802
Date Rule Takes Effect: Upon promulgation

SUMMARY

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no incremental costs or savings to state or local governmental units due to the implementation of these rules, since they will be managed by existing staff under the current budget. The proposed rule amends program guidelines for the existing Small Business Loan Guaranty Program ("SBLGP"), including the primary change of increasing the guaranty percentage from 75% to 80% and lowering the value of collateral required for SEB's to 80%. This program will likely be used in conjunction with the new SSBCI loan guaranty program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no reductions in revenues to the State General Fund (Direct) to the extent that entities take advantage of this program. Based on LED historical data, LEDC has awarded 1 loan for \$1.2M since 2011. The proposed rule changes will not affect local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

The program will require adherence to the application procedures which will involve submission of paperwork by the applicants. However, recipients will benefit by obtaining access to capital made available to them through the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The long term effects of this state program, in conjunction with the SSBCI program could be significant. The program should result in a significant amount of additional capital being deployed in Louisiana over the program's existence, due to the potential to leverage Federal SSBCI funds to attract private capital matches. The impact of this additional capital could be extensive, particularly for SEB's.

Anne G. Villa
Signature of Agency Head or Designee

Anne G. Villa, Undersecretary
Date of Signature

Evan Brassel, Interim Deputy Fiscal Officer
Legislative Fiscal Officer or Designee

4/8/20
Date of Signature

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).
- B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.
- C. Compliance with Act 11 of the 1986 First Extraordinary Session
- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.
- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?
- (a) _____ Yes. If yes, attach documentation.
- (b) X NO. If no, provide justification as to why this rule change should be published at this time

There will be no incremental costs or savings to state or local governmental units due to the implementation of these rules, since they will be managed by existing staff under the current budget.

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 22	FY 23	FY 24
Personal Services			
Operating Expenses			
Professional Services			
Other Charges	Increase*		
Equipment			
Major Repairs & Constr.			
TOTAL			
POSITIONS (#)			

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 22	FY 23	FY 24
State General Fund			
Agency Self-Generated			
Dedicated			
Federal Funds	Increase*		
Other (Specify)			
TOTAL			

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There will be no incremental costs or savings to state or local governmental units due to the implementation of these rules, since they will be managed by existing staff under the current budget.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

Not Applicable

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 22	FY 23	FY 24
State General Fund			
Agency Self-Generated			
Dedicated Funds*			
Federal Funds			
Local Funds			
TOTAL			

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

There is no expected direct impact or effect on revenue collections or state or local governmental units.

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS

- A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.
- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

There will be no incremental costs or savings to state or local governmental units due to the implementation of these rules, since they will be managed by existing staff under the current budget.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The long term effects of this state program, in conjunction with the overall SSBCI program could be significant. The program should result in a significant amount of additional capital being deployed in Louisiana over the program's existence, due to the potential to leverage Federal SSBCI funds to attract private capital matches. The impact of this additional capital could be extensive, particularly for new and existing small businesses and SEDs. Due to the nature of the target beneficiaries (small businesses), it is likely that many of the most significant effects of the SSBCI program will not be realized for an extended period of time, potentially multiple decades or longer. The distant time horizon and the wide range of potential outcomes for small businesses that receive these funds do not lend to accurate near-term estimates of the impact of the program.

NOTICE OF INTENT

**Department of Economic Development
Louisiana Economic Development Corporation**

Small Business Loan Guaranty Program (SBLGP)

(LAC 19:VII.Chapter 1)

The Department of Economic Development, Office of Business Development and the Louisiana Economic Development Corporation, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., R.S. 36:104, 36:108 and 51:2312, hereby give notice of their intent to amend Rules for the Small Business Loan Guaranty Program ("SBLGP").

**Title 19
Part VII. Louisiana Economic Development Corporation
Subpart 1. Small Business Loan Guaranty Program
Chapter 1. Loan Guaranty Policies**

§101. Purpose

A. ...

B. The corporation will consider sound business loans, lines of credit, loan guaranties and loan participations so long as resources permit. The Board of Directors of the corporation recognizes that lending money, guaranteeing loans or participating in loans carries certain risks and is willing to undertake reasonable exposure.

C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:445 (June 1989), re-promulgated LR 23:40 (January 1997), LR 26:2255 (October 2000), amended LR 26:2255 (October 2000), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:993 (April 2012).

§103. Definitions

* * *

Line of Credit [delete]

Lender Insider - an executive officer, director, or principal shareholder of the Lender, or a member of the immediate family of an executive officer, director or principal shareholder of the Lender, or a related interest of such executive officer, director, principal shareholder or member of the immediate family. For the purposes of this provision, the terms "executive officer", "director", "principal shareholder", "immediate family" and "related interest" shall have the respective meaning ascribed thereto in Federal Reserve Act Sections 22(g) and (h), Federal Reserve Board Regulation O and applicable Office of the Comptroller of the Currency or Office of Thrift Supervision.

Loan — The temporary provision of money or funds for a business purpose, usually for a limited term and requiring the payment of interest along with the repayment of the loaned funds. As used herein, the word "*loan*" includes a line of credit loan guarantee, term loan guarantee and loan participation.

* * *

Small and Emerging Business — A Louisiana business certified as a Small and Emerging Business (SEB) by the Louisiana Department of Economic Development's Small Business Services.

* * *

AUTHORITY NOTE: Promulgated in accordance with LA. 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), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:993 (April 2012).

§105. Application Process

A. Any applicant/borrower(s) applying for either a loan guarantee, line of credit guarantee, or loan participation will be required first to contact a financial lending institution (a bank or other commercial lending entity) that is willing to entertain, originate, process and service such a loan or line of credit with the prospect of a guaranty or a participation, and the lender will then contact LEDC for qualification and shall submit a complete application to LEDC for review and approval. The financial institution shall also be responsible for obtaining assurances of eligibility from each borrower.

B.-C1 ...

C2. Small and Emerging Businesses (SEBs) applying for assistance under that provision will have to submit a copy of the certification from the Louisiana Department of Economic Development's Small Business Services, along with the request for financial assistance.

C3-C10 ...

C11. The applicant/borrower or the lending institution will be notified within five (5) business days by mail or e-mail of the outcome of the application process.

C12. An LEDC commitment letter, including LEDC's terms, and any stipulations or requirements, will be mailed or e-mailed by LEDC staff to the lending institution within five (5) business days of approval by the LEDC Board or its committee.

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

HISTORICAL NOTE: Promulgated by the Department Economic Development, Economic Development Corporation, LR 15:446 (June 1989), amended LR 23:40 (January 1997), LR 26:2255 (October 2000), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:994 (April 2012).

§107. Eligibility / Ineligibility for Participation in This Program

A.-B. ...

B1. Small business concerns organized as a sole proprietorship qualified to do and doing business in Louisiana, or either a for profit corporation, partnership, limited liability company, limited liability partnership, joint venture, cooperative, non-profit entity with an eligible business purpose as defined above, or other entity which is registered and authorized to conduct business in the State of Louisiana that maintain an office in Louisiana;

2. Small and Emerging Businesses (SEBs) certified by LED's Small Business Services that maintain an office in Louisiana;

B.3 – B4. ...

B4a. restaurants (except for regional or national franchises), including grills, cafes, fast food operations, motorized vehicle, trailer, curb-side, sidewalk or street vender food operations, and any other

business or project established for the principal purpose of dispensing cooked food for consumption on or off the premises having been in operations less than two years;

b. bars, saloons, daiquiri shops, operations for the sale of alcoholic popsicles and other alcoholic food items, packaged liquor stores, including any other business or project established for the principal purpose of dispensing, packaging, or distributing alcoholic beverages;

Bc-Be. ...

Bf. funding for the principal purpose of refinancing existing debt unless under the following conditions:

i. a lender may refinance a borrower's existing loan, line of credit, extension of credit, or other debt originally made by an unaffiliated lender only if the following conditions are met:

(a). the amount of the refinanced loan or other debt is at least 150 percent of the previous outstanding balance;

(b). the transaction results in a 30 percent reduction in the fee-adjusted APR contracted for the term of the new debt, to help ensure that funding is used only for transactions that meaningfully benefit borrowers by providing access to sustainable products; and

(c). proceeds of the transaction are not used to finance an extraordinary dividend or other distribution.

ii. a lender may use funds to support a new extension of credit that repays the amount due on a matured loan or other debt that was previously used for an eligible business purpose when all the following conditions are met:

(a). the amount of the new loan or other debt is at least 150 percent of the outstanding amount of the matured loan or other debt;

(b). the new credit supported with funding is based on a new underwriting of the small business's ability to repay the loan and new approval by the lender;

(c). the prior loan or other debt has been paid as agreed and the borrower was not in default of any financial covenants under the loan or debt for at least the previous 36 months (or since origination, if shorter); and

(d). proceeds of the transaction are not used to finance an extraordinary dividend or other distribution.

Bg-Bi. ...

Bj. funding for the purpose of pyramid sales;

Bk. funding activities related either directly or indirectly to cryptocurrency.

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), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:994 (April 2012), LR : (January 2018)

§109. General Loan Guaranty and Loan Participation Provisions

A. The Louisiana Economic Development Corporation will be guided by the following general principles in approving loan guaranties, line of credit guaranties, or loan participations:

1. The corporation shall confirm that the financial institution lender has sufficient commercial lending experience and financial and managerial capacity to participate in this Program. The corporation may utilize, among other resources, the financial institution's most recent Call Report showing the percentage of commercial loans in its portfolio.

2. The corporation shall not knowingly approve any loan guarantee, line of credit guarantee, or loan participation if the applicant/borrower has presently pending or outstanding any claim or liability relating to failure or inability to pay promissory notes or other evidence of indebtedness, state or federal taxes, or a bankruptcy proceeding; nor shall the corporation approve any loan, line of credit, loan guarantee or participation if the applicant/borrower has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit or any legal proceeding involving a criminal violation other than misdemeanor traffic violations. Further, the corporation shall not approve any loan guarantee, line of credit guarantee, or participation if the applicant/borrower or his/her/its principle management has a criminal record showing convictions for any criminal violations other than misdemeanor traffic violations.

3. The terms or conditions imposed and made part of any loan guarantee, line of credit guarantee, or loan participation authorized by vote of the corporation Board, its Board Screening Committee or its other designated committee 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, its Board Screening Committee or other designated committee at the next meeting of the Board or committee in open session with full explanation for such action.

4. Each financial institution lender shall be required to have a meaningful amount of its own capital resources at risk in each small business loan included in this Program. Such lenders shall bear at least twenty percent (20%) or more of the loss from a small business loan default.

5. The corporation shall not subordinate its position to other creditors.

B. Interest Rates:

1. On all loans or lines of credit guarantees, the interest rate is to be negotiated between the borrower and the lender, but shall not exceed the lesser interest rate of either; five (5%) percent per annum above New York prime as published in the Wall Street Journal at either a fixed or variable rate; the interest rate cap as established by either the Federal Credit Union Act (FCUA), that established by the Office of the Comptroller of the Currency (OCC), or applicable State legislation that may be enacted.

2. ...

C. Collateral:

1. The value of the collateral shall be no less than the guaranteed portion of the loan.

2. The value of the collateral required for certified Small and Emerging businesses loans may be up to eighty (80%) percent.

3. The collateral position may be negotiated, but it shall be no less than a sole second position.

4. Collateral Value Determination:

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

b. The appraisal shall not be more than ninety (90) days old, except for real estate loans, which shall not be more than 6 months old.

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

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

b. equipment, machinery, inventory;

c. accounts receivable with supporting aging schedule; but not to exceed eighty (80%) percent of receivable value (to be used with personal guarantee only).

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

- a. stock in applicant/borrower company and/or related companies;
- b. personal items or borrower's primary residence;
- c. intangibles; to include but not limited to, digital currency such as cryptocurrency and NFTs.

7. Personal guarantees may be offered but will not count towards the value of the collateral; if to be used, a signed and dated Personal Financial Statements of the guarantors must also be submitted to LEDC.

D. Equity Requirements:

1. Equity required will be no less than fifteen (15%) percent of the loan or line of credit amount for a start-up operation, or acquisition, or expansion. However, if the equity requirement as noted above is not available for a guarantee the following chart may be applied which provides for a guarantee fee attached to a lesser equity position.

Equity %	Guarantee Fee
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 ten (10%) percent.

D2 – D3. ...

E. Limit on the Amount of LEDC's Guarantee:

1. For small business loans, the corporation's loan guarantee shall be: no greater than eighty (80%) of a loan not to exceed a guaranty amount of \$1,500,000.

2. For certified Small and Emerging Business loans, or disabled person's business enterprise loans, the corporation's loan guarantee shall be: no greater than ninety (90%) percent of a loan not to exceed a guaranty amount of \$1,500,000.

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

4. For certified Small and Emerging Businesses, or disabled person's business enterprises, the corporation's loan participation shall be no greater than fifty (50%) percent, but in no case shall it exceed \$1,000,000.

F. Terms:

1. Maturity, collateral, and other loan terms shall be negotiated between the borrower and the applicant/lending institution, and the LEDC shall have an opportunity to approve the terms of such loans prior to the closing; but guaranty term periods with regard to various types of loan guaranties shall be limited as follows:

a. For Revolving Lines of Credit (RLOC) guarantee term periods may extend for up to and not exceed seven (7) years.

b. For equipment term loans guarantee term periods may extend for up to and not exceed ten (10) years.

c. For real estate term loans guarantee term periods may extend for up to and shall not exceed twenty-five (25) years.

G. LEDC SBLGP Program Fees:

1. LEDC will charge a guaranty program fee not to exceed a maximum amount of four (4%) percent on the guaranteed loan amount, unless the Board, the Board Screening Committee or other designated committee waives the guaranty fee.

2. LEDC will charge a \$100 application fee, unless the Board, the Board Screening Committee or other designated committee waives the application fee.

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

4. LEDC will waive the application fee and program fee for businesses certified by LED as an SEB.

H. Use of Loan Funds:

1. Loan funds may be used for business purposes, including but not limited to the purchase of fixed assets, including buildings that will be occupied by the applicant/borrower to the extent of at least fifty-one (51%) percent.

2. Loan funds may be used for the purchase of equipment, machinery, or inventory.

3. Loan funds may be used for a 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 twenty-five (25%) percent of the total loan, with the following exception:

i. a maximum of thirty-five (35%) percent may be considered on a guaranteed loan, but the guaranteed percentage will be decreased by five (5%) percent;

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

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

d. provides funds to pay off family members.

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

6. Loan 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), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:995 (April 2012), LR 40:LR: (January 2018).

§111. General Guaranty Agreement Provisions

A.-A.2 ...

A3. If liquidation through foreclosure occurs, the lender will sell the collateral, handle the legal proceedings, and absorb all expenses associated with these activities.

A4.-5. ...

A6. Delinquency will be defined according to the lender'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 by submitting a completed, signed and dated SBLGP Banker Loan Status Monthly Report within 5 business days after the end of the month/reporting period and as stated in the guarantee-agreement.

B. Loan Participation Agreement:

B1.-B3 ...

B4. Should liquidation through foreclosure occur, the lender will sell the collateral and handle the legal proceedings and absorb all expenses associated with these activities.

B5. ...

B6. Delinquency will be defined according to the lender's normal lending policy and all remedies will be outlined in the participation agreement. Notification of delinquency will be made to the corporation in writing by submitting a completed, signed and dated SBLGP Banker Loan Status Monthly Report within 5 business days after the end of the month/reporting period, as stated in the loan participation agreement.

C-C2. ...

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), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:996 (April 2012).

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Statement

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services as described in HCR 170 of the 2014 Regular Legislative Session.

Small Business Analysis

The purpose of this program is to strengthen state programs that support private financing to small businesses with less than 500 employees. Voluntary participation in the program could cause a direct economic impact on some very small businesses that have no more than 10 employees, if meeting certain criteria. However, the benefit from additional funding received, at a nominal cost of some additional planning and paperwork associated with the application process and reporting requirements should provide a positive impact to any small businesses that choose to apply to the program.

Public Comments

Interested persons should submit written comments on the proposed Rules to Kelly Raney through the close of business on Tuesday, May 24, 2022 at Department of Economic Development, 617 North 3rd Street, 11th Floor, Baton Rouge, LA 70802 or via email to Kelly.Raney@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 1:30 p.m. on Wednesday, May 25, 2022 in the Griffon Conference Room at the LaSalle Building, 617 North 3rd Street, Baton Rouge, LA 70802.



Anne G. Villa
Undersecretary, LED
Secretary-Treasurer, Louisiana Economic Development Corporation

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

Chapter 1. Loan and Guaranty Policies ~~for the Small Business Loan and Guaranty Program (SBL&GP)~~

§101. Purpose

A. The Louisiana Economic Development Corporation (LEDC) wishes to stimulate the flow of private capital, medium to long-term loans, lines of credit loans, loan guaranties, loan participations and other financial assistance for the sound financing of the development, expansion, and retention of small business concerns in Louisiana, as a means of helping them grow and expand their businesses and of providing higher levels of employment, income growth, and expanded economic opportunities, especially to Small and Emerging Businesses and disabled person business enterprises and within distressed and rural areas of our State.

B. The corporation will consider sound business loans, lines of credit, loan guaranties and loan participations so long as resources permit. The Board of Directors of the corporation recognizes that lending money, ~~granting lines of credit~~, guaranteeing loans or participating in loans carries certain risks and is willing to undertake reasonable exposure.

C. LEDC will monitor the Program, including the repayment progress of borrowers, as well as the servicing performance of participating lenders.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:445 (June 1989), re-promulgated LR 23:40 (January 1997), LR 26:2255 (October 2000), amended LR 26:2255 (October 2000), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:993 (April 2012).

§103. Definitions

Board — Board of Directors of Louisiana Economic Development Corporation.

Borrower — Also referred to herein as the *applicant/borrower* or *customer/borrower*; the business person or entity borrowing and accepting the loaned funds from the Lender.

Corporation — Louisiana Economic Development Corporation.

Disabled Person's Business Enterprise — A small business concern which is at least fifty-one (51%) percent owned and controlled by a disabled person, as defined by the federal Americans with Disabilities Act of 1990.

Financial Institution — Also referred to herein as a *Bank, Financial Lending Institution, Lending Institution, Commercial Lending Entity, or Lender*; includes any insured depository institution, insured credit union, or community development financial institution, as those terms are defined in Section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702).

Lead Lender — The bank or other lender that makes or originates the loan with the borrower.

LED — Louisiana Department of Economic Development.

LEDC — Louisiana Economic Development Corporation.

Lender — Also referred to herein as the *applicant/lender*; the Financial Institution originating the loan and providing the loan funds to the Borrower.

~~*Line of Credit* — The maximum amount of loan credit that a borrower is allowed to borrow over a period of time, whereby funds may be borrowed, provided or extended in various amounts over the agreed term, repaid or partially repaid by the borrower, and which funds may be re-extended by the lender to the borrower and repaid by the borrower over the agreed term of the credit.~~

~~*Lender Insider* - an executive officer, director, or principal shareholder of the Lender, or a member of the immediate family of an executive officer, director or principal shareholder of the Lender, or a related interest of such executive officer, director, principal shareholder or member of the immediate family. For the purposes of this provision, the terms "executive officer", "director", "principal shareholder", "immediate family" and "related interest" shall have the respective meaning ascribed thereto in Federal Reserve Act Sections 22(g) and (h), Federal Reserve Board Regulation O and applicable Office of the Comptroller of the Currency or Office of Thrift Supervision.~~

Loan — The temporary provision of money or funds for a business purpose, usually for a limited term and requiring the payment of interest along with the repayment of the loaned funds. As used herein, the word "loan" includes a line of credit loan ~~guarantee~~, ~~term loan guarantee~~ and loan participation.

Loan Guaranty or Guarantee — An agreement to pay the loan of another borrower, up to any limit in the amount guaranteed as provided in the agreement, in case the original borrower defaults in or is unable to comply with his repayment obligation.

Loan Participation — An agreement to participate as a lender in a loan or to acquire from the lender a share or ownership interest in a loan. A *purchase participation* or *purchase transaction* is one in which the State purchases a portion of a loan originated by a lender; and a *companion loan*, a *parallel loan*, or a *co-lending participation* is one in which the lender originates a loan and the State originates a second loan to the same borrower. (In the latter case, the State's second loan may be subordinate or co-equal to the first loan originated by the lender.) *Loan Participations* enable the State to act as a lender, in partnership with a financial institution lender, to provide small business loans at attractive terms.

Permanent Full-Time Jobs — refers to direct jobs which are not contract jobs, that are permanent and not temporary in nature, requiring employees to work an average of thirty (30) or more hours per week.

~~*Small and Emerging Business* — A Louisiana business certified as a Small and Emerging Business (SEB) by the Louisiana Department of Economic Development's **Small Business Services Community Outreach Services**.~~

Small Business Concern — As defined by SBA for purposes of size eligibility as set forth by 13 C.F.R. 121.

AUTHORITY NOTE: Promulgated in accordance with LA. 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), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:993 (April 2012).

§105. Application Process

A. Any applicant/borrower(s) applying for either a loan ~~guarantee~~, line of credit ~~guarantee~~, loan guaranty or loan participation will be required first to contact a financial lending institution (a bank or other commercial lending entity) that is willing to entertain, originate, process and service such a loan or line of

credit with the prospect of a guaranty or a participation, and the lender will then contact LEDC for qualification and shall submit a complete application to LEDC for review and approval. The financial institution shall also be responsible for obtaining assurances of eligibility from each borrower.

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

C. The following Submission and Review Policies shall be followed:

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

2. Small and Emerging Businesses (SEBs) applying for assistance under that provision will have to submit a copy of the certification from the Louisiana Department of Economic Development's **Small Business Services** ~~Community Outreach Services~~, along with the request for financial assistance.

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

4. The applicant/lender shall submit to LEDC its complete analysis and evaluation, proposed loan structure, and commitment letter to the borrower. LEDC staff may do its own analysis and evaluation of the application, independent of the lending institution's analysis and evaluation.

5. The applicant/lender shall submit to LEDC the same pertinent data that it submitted 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, and then make recommendations. The staff will work with the applicant/lender on terms of the loan, including interest rate, maturity, collateral, other loan terms, and any LEDC loan stipulations or requirements.

7. The LEDC's Board Screening Committee or the Board's other designated committee will review only the completed applications submitted by LEDC staff and may approve or disapprove applications within its authority as established by the LEDC Board, or will make recommendations to the LEDC Board.

8. The applicant/borrower(s) or their designated representative, and the loan officer or a representative of the lending institution are not required to attend the Board Screening Committee or other designated committee meeting unless requested by LEDC or its staff to do so.

9. The applicant/borrower(s) or their designated representative, and the loan officer or a representative of the lending institution shall be required to attend the LEDC's Board of Directors meeting wherein the application will be considered by the Board.

10. LEDC's Board of Directors, the Board Screening Committee, or the Board's other designated committee that has considered the application within its authority has the final approval authority for such applications.

11. The applicant/borrower or the lending institution will be notified within five (5) **business working** days by mail or e-mail of the outcome of the application process.

12. An LEDC commitment letter, including LEDC's terms, and any stipulations or requirements, will be mailed or e-mailed by LEDC staff to the lending institution within five (5) **business working** days of approval by the LEDC Board or its committee.

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

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

(October 2000), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:994 (April 2012).

§107. Eligibility / Ineligibility for Participation in This Program

A. In connection with the business purpose for the requested loan: for loans of up to and not to exceed \$100,000.00, applicant/borrower(s) shall retain in this State at least one (1) or shall create in this State at least one (1) permanent full-time job; and for loans in excess of \$ 100,000.00, applicant/borrower(s) shall create in this State at least two (2) new permanent full-time jobs.

B. The following businesses shall be eligible for participation in this program, except for those ineligible businesses and purposes hereinafter shown:

1. ~~Small business concerns authorized to do and doing business in Louisiana, that maintain an office in Louisiana~~ Small business concerns organized as a sole proprietorship qualified to do and doing business in Louisiana, or either a for profit corporation, partnership, limited liability company, limited liability partnership, joint venture, cooperative, non-profit entity with an eligible business purpose as defined above, or other entity which is registered and authorized to conduct business in the State of Louisiana that maintain an office in Louisiana;

2. ~~certified~~ Small and Emerging Businesses (SEBs) certified by LED's Small Business Services that maintain an office in Louisiana;

3. Disabled person's business enterprises authorized to do and doing business in Louisiana, that maintain an office in Louisiana.

4. Funding requests for any business purpose may be considered, except for the following ineligible businesses or purposes:

a. ~~restaurants having been in operations less than two years~~ (except for regional or national franchises), including grills, cafes, fast food operations, motorized vehicle, trailer, curb-side, sidewalk or street vender food operations, and any other business or project established for the principal purpose of dispensing cooked food for consumption on or off the premises ~~having been in operations less than two years~~;

b. bars, saloons, daiquiri shops, ~~operations for the sale of alcoholic popsicles and other alcoholic food items~~, packaged liquor stores, including any other business or project established for the principal purpose of dispensing, ~~packaging, or distributing~~ alcoholic beverages;

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

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

e. funding for the acquisition, renovation, or alteration of a building or property for the principal purpose of real estate speculation, rental, or any other passive real estate investment purposes;

f funding for the principal purpose of refinancing existing debt ~~unless under the following conditions~~:

i. a lender may refinance a borrower's existing loan, line of credit, extension of credit, or other debt originally made by an unaffiliated lender only if the following conditions are met:

(a). the amount of the refinanced loan or other debt is at least 150 percent of the previous outstanding balance;

(b). the transaction results in a 30 percent reduction in the fee-adjusted APR contracted for the term of the new debt, to help ensure that funding is used only for transactions that meaningfully benefit borrowers by providing access to sustainable products; and

(c). proceeds of the transaction are not used to finance an extraordinary dividend or other distribution.

ii. a lender may use funds to support a new extension of credit that repays the amount due on a matured loan or other debt that was previously used for an eligible business purpose when all the following conditions are met:

(a). the amount of the new loan or other debt is at least 150 percent of the outstanding amount of the matured loan or other debt;

(b). the new credit supported with funding is based on a new underwriting of the small business's ability to repay the loan and new approval by the lender;

(c). the prior loan or other debt has been paid as agreed and the borrower was not in default of any financial covenants under the loan or debt for at least the previous 36 months (or since origination, if shorter); and

(d). proceeds of the transaction are not used to finance an extraordinary dividend or other distribution.

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

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

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

j. funding for the purpose of pyramid sales;

k. funding activities related either directly or indirectly to cryptocurrency.

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), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:994 (April 2012), LR : (January 2018)

§109. General Loan, Credit, Guaranty and Loan Participation Provisions

A. The Louisiana Economic Development Corporation will be guided by the following general principles in making loans or approving loan guaranties, lines of credit guaranties, or loan participations:

1. The corporation shall confirm that the financial institution lender has sufficient commercial lending experience and financial and managerial capacity to participate in this Program. The corporation may utilize, among other resources, the financial institution's most recent Call Report showing the percentage of commercial loans in its portfolio.

2. The corporation shall not knowingly approve any loan guarantee, line of credit guarantee, loan guarantee or loan participation if the applicant/borrower has presently pending or outstanding any claim or liability relating to failure or inability to pay promissory notes or other evidence of indebtedness, state or federal taxes, or a bankruptcy proceeding; nor shall the corporation approve any loan, line of credit, loan guarantee or participation if the applicant/borrower has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit or any legal proceeding involving a criminal violation other than misdemeanor traffic violations. Further, the corporation shall not approve any loan guarantee, line of credit guarantee, or participation if the applicant/

borrower or his/her/its principle management has a criminal record showing convictions for any criminal violations other than misdemeanor traffic violations.

3. The terms or conditions imposed and made part of any loan guarantee, line of credit guarantee, or loan participation authorized by vote of the corporation Board, its Board Screening Committee or its other designated committee 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, its Board Screening Committee or other designated committee at the next meeting of the Board or committee in open session with full explanation for such action.

4. Each financial institution lender shall be required to have a meaningful amount of its own capital resources at risk in each small business loan included in this Program. Such lenders shall bear at least twenty five percent (20%) or more of the loss from a small business loan default.

5. The corporation shall not subordinate its position to other creditors.

B. Interest Rates:

1. On all loans or lines of credit guarantees, the interest rate is to be negotiated between the borrower and the lender, but shall not exceed the lesser interest rate of either; five (5%) percent per annum above New York prime as published in the Wall Street Journal at either a fixed or variable rate; the interest rate cap as established by either the Federal Credit Union Act (FCUA), that established by the Office of the Comptroller of the Currency (OCC) or applicable State legislation that may be enacted.

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 one (1) and five (5) percentage points.

~~3. The applicant/lender 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. The value of the collateral shall be no less than the guaranteed portion of the loan.

2. The value of the collateral required for certified Small and Emerging businesses loans may be up to eighty (80%) percent.

~~2.3.~~ The collateral position may be negotiated, but it shall be no less than a sole second position.

~~3.4.~~ Collateral Value Determination:

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

b. The appraisal shall not be more than ninety (90) days old, except for real estate loans, which shall not be more than 6 months old .

~~4-5.~~ Acceptable collateral may include, but shall not be limited to, the following:

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

b. equipment, machinery, inventory;

~~e. personal guarantees may be used only as additional collateral and will not count toward the value of the collateral; if to be used, signed and dated personal financial statements of the guarantors must also be submitted to LEDC;~~

~~d.c.~~ accounts receivable with supporting aging schedule; but not to exceed eighty (80%) percent of receivable value (to be used with personal guarantee only).

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

- a. stock in applicant/borrower company and/or related companies;
- b. personal items or borrower's primary residence;
- c. intangibles; to include but not limited to, digital currency such as cryptocurrency and NFTs!

7. Personal guarantees may be offered but will not count towards the value of the collateral; if to be used, a signed and dated Personal Financial Statements of the guarantors must also be submitted to LEDC.

D. Equity Requirements:

1. Equity required will be ~~no less than fifteen (15%)~~ 20 percent of the loan or line of credit amount for a start-up operation, or acquisition, ~~and no less than 15 percent for an~~ expansion. However, if the equity requirement as noted above ~~20 percent~~ is not available for a guarantee the following chart may be applied which provides for a 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 ten (10%) percent.

2. Equity is defined to be:

- a. cash;
- b. paid-in capital;
- c. paid-in surplus and retained earnings; or
- d. partnership capital and retained earnings.

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

E. Limit on the Amount of LEDC's Guarantee:

1. For small business loans, the corporation's loan guarantee shall be ~~no greater than eighty (80%) of a loan not to exceed a guaranty amount of \$1,500,000.~~

- a. ~~no greater than seventy five (75%) percent of a loan of up to \$650,000;~~
- b. ~~no greater than seventy (70%) percent of a loan of up to \$1,100,000;~~
- c. ~~no greater than sixty five (65%) percent of a loan of up to \$2,300,000; or~~
- d. ~~if the loan request exceeds \$2,300,000, the guaranty shall not exceed \$1,500,000.~~

2. For certified Small and Emerging Business loans, or disabled person's business enterprise loans, the corporation's loan guaranty shall be: ~~no greater than ninety (90%) percent of a loan not to exceed a guaranty amount of \$1,500,000.~~

- a. ~~no greater than ninety (90%) percent of a loan of up to \$560,000;~~
- b. ~~no greater than eighty-five (85%) percent of a loan of up to \$875,000;~~
- c. ~~no greater than seventy-five (75%) percent of a loan of up to \$2,000,000; or~~
- d. ~~if the loan request exceeds \$2,000,000, the guaranty shall not exceed \$1,500,000.~~

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

4. For certified Small and Emerging Businesses, or disabled person's business enterprises, the corporation's loan participation shall be no greater than fifty (50%) percent, but in no case shall it exceed \$1,000,000.

F. Terms:

1. Maturity, collateral, and other loan terms shall be negotiated between the borrower and the applicant/lending institution, and the LEDC shall have an opportunity to approve the terms of such loans prior to the closing; but guaranty term periods with regard to various types of loan guaranties shall be limited as follows:

- a. For Revolving Lines of Credit (RLOC) guaranty term periods may extend for up to and not exceed ~~seven (7)~~ years.
- b. For equipment term loans guaranty term periods may extend for up to and not exceed ~~ten (10)~~ years.
- c. For real estate term loans guaranty term periods may extend for up to and shall not exceed ~~twenty-five (25)~~ years.

G. LEDC SBLGP Program Fees:

1. LEDC will charge a guaranty program fee not to exceed a maximum amount of four (4%) percent on the guaranteed loan amount, unless the Board, the Board Screening Committee or other designated committee waives the guaranty fee.

2. LEDC will charge a \$100 application fee, unless the Board, the Board Screening Committee or other designated committee waives the application fee.

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

4. LEDC will waive the application fee and program fee for businesses certified by LED as an SEB.

H. Use of Loan Funds (~~including Line of Credit, Guaranty and Participation Funds~~):

1. Loan funds may be used for business purposes, including but not limited to the purchase of fixed assets, including buildings that will be occupied by the applicant/borrower to the extent of at least fifty-one (51%) percent.

2. Loan funds may be used for the purchase of equipment, machinery, or inventory.

3. Loan funds may be used for a 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 twenty-five (25%) percent of the total loan, with the following exception:

i. a maximum of thirty-five (35%) percent may be considered on a guaranteed loan, but the guaranteed percentage will be decreased by five (5%) percent;

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

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

d. provides funds to pay off family members.

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

6. Loan 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), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:995 (April 2012), LR 40: , LR : (January 2018).

§111. General Guaranty Agreement Provisions

A. Guaranty Agreement:

1. The lending institution shall conduct all of the customer/borrower interaction, and shall be responsible for the proper administration and monitoring of the loan or line of credit, including monthly invoicing, collections, and loan workouts, and the proper liquidation of the collateral in the event of a default.

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

3. If liquidation through foreclosure occurs, the lender will sell the collateral, and handle the legal proceedings, and absorb all expenses associated with these activities.

4. There will be a reduction of the guarantee:

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

b. if no principal reduction has occurred in any annual period of the loan or line of credit, 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 lender'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 by submitting a completed, signed and dated SBLGP Banker Loan Status Monthly Report within 5 business days after the end of the month/reporting period and verbally in a time satisfactory to the lender and the corporation, as stated in the guarantee agreement.

B. Loan Participation Agreement:

1. The lending institution shall conduct all of the customer/borrower interaction, and shall be responsible for the proper administration and monitoring of the loan, including monthly invoicing, collections, and loan workouts, and the proper liquidation of the collateral in the event of a default.

2. The lead lender 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 lender may sell other participations with LEDC's consent.

4. Should liquidation through foreclosure occur, the lender will sell the collateral and handle the legal proceedings and absorb all expenses associated with these activities.

5. The lender 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 lender's normal lending policy and all remedies will be outlined in the participation agreement. Notification of delinquency will be made to the corporation in writing by submitting a completed, signed and dated SBLGP Banker Loan Status Monthly Report within 5 business days after the end of the month/reporting period and verbally in a time satisfactory to the lender and the corporation, as stated in the loan participation agreement.

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), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:996 (April 2012).

§113. Confidentiality

A. Confidential information in the files of the corporation and its accounts acquired in the course of its duty is to be used solely for the corporation. The corporation is not obliged to give out any credit rating or confidential information regarding the applicant/borrower. (See Louisiana Attorney General's 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), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:997 (April 2012).

§115. Conflict of Interest

A. No member of the corporation, employee thereof, or employee of the Department of Economic Development, or 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), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:997 (April 2012).

§117. Guidelines

The Louisiana Economic Development Corporation (LEDC), or the Louisiana Department of Economic Development, also known as Louisiana Economic Development (LED), as the administrator of this program for LEDC, may make, create, or issue from time to time Guidelines interpreting, construing, explaining and/or supplementing these Rules; and may revise, supplement, or otherwise change or modify the Guidelines at any time with or without notice.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR : (January 2018).