

[CHAPTER 210D]
COMMUNITY-BASED DEVELOPMENT

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§210D-1 Findings and purpose. The legislature finds that:

- (1) It is in the best interest of the State to bring about a diversification of opportunities in all aspects of life for the residents and communities of the State;
- (2) Community-based enterprises play an important part in providing a diversification of opportunities for Hawaii's residents and communities;
- (3) Community-based enterprises are characterized by their interests not only in profits but in community empowerment, that is, building the community to enable it to be more self-reliant, which encourages diversification of opportunities for Hawaii's residents and communities;
- (4) Community-based enterprises have the potential to increase self-determination, provide employment opportunities, strengthen community identity, retain and create community cultural anchors, and reinforce community social, cultural, economic, and spiritual values, and are thus of crucial importance in securing the diversification of opportunities;
- (5) Programs to develop community-based enterprises have the potential to increase self-reliance and provide employment opportunities to Hawaii's people;

(6) Conventional financial institutions traditionally do not provide loans to establish or expand community-based enterprises;

(7) No present state agency or program has the authority to financially assist community-based enterprises; and

(8) The State should initiate a program to assist community-based enterprises through loans, grants, and technical assistance.

The purpose of this chapter is to establish a program of technical and financial assistance for community-based organizations to assist the establishment and development of community-based enterprises in the State. [L 1990, c 111, pt of §2; am L 1996, c 192, §2]

§210D-2 Definitions. As used in this chapter:

"Community-based economic development" means a community institution-building process that results in community-based enterprises and other economic development activities which are designed and implemented by a community; consistent with a community's values, culture, and vision; and intended to increase community control over local resources and decision-making processes.

"Community-based organization" means a nonprofit corporation incorporated in the State of Hawaii that is organized and controlled by either a geographic community, a community of identity, or a community of interest and that is directly involved in community-based economic development activities.

"Community of identity" means a group of people who may not live in the same geographic area but who are bound together through a common ethnicity or other personal characteristic such as age or social status.

"Community of interest" means a group of people who may not live in the same geographic area but who are bound together through a common economic interest such as coffee growers or an aquaculture cooperative.

"Council" means the community-based economic development advisory council.

"Department" means the department of business, economic development, and tourism. [L 1990, c 111, pt of §2; am L 1996, c 192, §3; am L 2009, c 124, §2; am L 2017, c 47, §1]

§210D-3 Hawaii community-based economic development technical and financial assistance program. There is established the Hawaii community-based economic development technical and financial assistance program, placed within the department. [L 1990, c 111, pt of §2; am L 1996, c 192, §4]

§210D-4 Hawaii community-based economic development revolving fund; established. There is established a revolving fund to be known as the Hawaii community-based economic development revolving fund from which moneys shall be loaned or granted by the

department under this chapter. All moneys appropriated to the fund by the legislature, received as repayments of loans, payments of interest or fees, and all other moneys received by the fund from any other source shall be deposited into the revolving fund and used for the purposes of this chapter. The department may deposit moneys it receives from the repayments of loans and payments of interest or fees from the Hawaii capital loan program established by chapter 210, the Hawaii large fishing vessel purchase, construction, renovation, maintenance, and repair loan program established by part II of chapter 189, and the Hawaii small fishing vessel loan program established by part IV of chapter 189, into the Hawaii community-based economic development revolving fund to be used for the purposes of this chapter. The department may use all appropriations and other moneys in the revolving fund not appropriated for a designated purpose to make grants or loans. [L 1990, c 111, pt of §2; am L 1991, c 255, §2(1); am L 1996, c 192, §5; am L 2009, c 124, §3; am L 2018, c 28, §1]

§210D-5 Community-based economic development advisory council; established. There is established the community-based economic development advisory council, which shall consist of ten members. The director of business, economic development, and tourism, the chairperson of the board of agriculture, and the chairperson of the office of Hawaiian affairs, or their respective designees, shall be ex officio[,] voting members of the council. The remaining seven members shall be appointed by the governor in accordance with section 26-34. Each county shall be represented by at least one member who is a resident of that county, and at least one member of the council shall be a representative of the financial community. The council shall be placed for administrative purposes in the department of business, economic development, and tourism. [L 1990, c 111, pt of §2; am L 1996, c 192, §6; am L 2017, c 47, §2]

§210D-6 Compensation and expenses of members. All members shall serve without compensation, but may be reimbursed for any actual and necessary expenses, including travel expenses, incurred in carrying out their official duties. [L 1990, c 111, pt of §2; am L 2009, c 124, §4]

§210D-7 Authority of council. The council shall review all requests for financial assistance to assess whether the proposed community-based economic development activity or enterprise is likely to achieve the purposes of this chapter. The council shall make recommendations to the department regarding the appropriateness of the proposed activity or enterprise, and the department shall then have final authority to approve or disapprove the application for financial assistance. [L 1990, c 111, pt of §2; am L 1996, c 192, §7]

§210D-8 Powers and duties. The department shall have the necessary powers to carry out the purposes of this chapter, including the following:

(1) With advice from the council, prescribe the qualifications for eligibility of applicants for loans and grants;

(2) With advice from the council, establish preferences and priorities in determining eligibility for financial assistance;

(3) Establish the conditions, consistent with the purpose of this chapter, for the awarding of financial assistance;

(4) Provide for inspection at reasonable hours of facilities, books, and records of a community-based organization that has applied for or has been awarded financial assistance and require the submission of progress and final reports;

(5) Provide loans and grants for community-based economic development activities and community-based enterprises for purposes consistent with this chapter;

(6) Determine the necessity for and the extent of security required in a loan;

(7) Prescribe and provide appropriate management counseling and monitoring of business activities;

(8) Administer the Hawaii community-based economic development revolving fund;

(9) Include in its budget for subsequent fiscal periods amounts necessary to effectuate the purposes of this chapter;

(10) Participate in loans made to qualified persons by private lenders;

(11) Establish interest rates chargeable by the State for direct and participation loans; and

(12) Adopt rules pursuant to chapter 91 to implement this chapter. [L 1990, c 111, pt of §2; am L 1996, c 192, §8; am L 2009, c 124, §5]

§210D-9 Loans; limitation and terms. Loans made under this chapter shall be for the purposes and in accordance with the terms specified in paragraphs (1) and (2) and shall be made only to applicants who meet the eligibility requirements specified therein.

(1) Community-based enterprise establishment and improvement loans may be made to provide for:

(A) The start-up costs, purchase or improvement of a community-based enterprise or working capital; and

(B) The purchase, construction, or improvement of facilities; and

(2) Operating loans may be made to carry on and improve an existing enterprise, including:

(A) The purchase of equipment; and

(B) The payment of production and marketing expenses including materials, labor, and services.

The loans shall be for an amount not to exceed \$250,000 and for a term not to exceed ten years. [L 1990, c 111, pt of §2; am L 1996, c 192, §9; am L 2009, c 124, §6]

§210D-10 Terms of loans. Loans shall be made to qualified applicants with the following terms and conditions:

(1) The amount of the outstanding balance on all loans issued under this chapter to any one applicant at any one time shall not exceed \$250,000;

(2) The maximum term of a loan shall not exceed ten years;

(3) Each loan shall bear simple interest at a rate of not less than three and not more than six per cent a year, depending on the nature of the loan; and

(4) The commencement date for the repayment of the first installment on principal and interest of each loan may be deferred by the director of business, economic development, and tourism for a period not to exceed two years. [L 1990, c 111, pt of §2; am L 1996, c 192, §10; am L 2009, c 124, §7]

§210D-11 Grants; conditions and qualifications. (a) Grants shall be made for amounts not to exceed \$100,000 for each applicant. Applications for grants shall be made to the department and contain such information as the department shall require by rules adopted pursuant to chapter 91. At a minimum, the applicant must show that:

(1) The grant shall be used exclusively for community-based economic development activities, a community-based business or enterprise, or the provision of technical assistance to community-based organizations, consistent with the purposes of this chapter;

(2) The community-based business or enterprise shall have applied for or received all applicable licenses and permits;

(3) The applicant shall comply with all applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex,

age, sexual orientation, disability, or any other characteristic protected under applicable federal or state law;

(4) The grant shall not be used for purposes of entertainment or perquisites;

(5) The applicant shall comply with other requirements as the department may prescribe;

(6) All activities and improvements undertaken with funds received shall comply with all applicable federal, state, and county statutes and ordinances, including applicable building codes and agency rules;

(7) The applicant shall indemnify and save harmless the State of Hawaii and its officers, agents, and employees from and against any and all claims arising out of or resulting from activities carried out or projects undertaken with funds provided hereunder, and procure sufficient insurance to provide this indemnification if requested to do so by the department; and

(8) The facilities shall not be used and are not intended to be used for sectarian instruction or as a place of worship.

(b) To receive a grant under this section for community-based economic development activities, a community-based enterprise or business, or the provision of technical assistance to community-based organizations, an applicant shall:

(1) Be either:

(A) A profit subsidiary of a nonprofit community-based organization incorporated under the laws of the State;

(B) A nonprofit community-based organization determined to be exempt from federal income taxation by the Internal Revenue Service;

(C) A cooperative association; or

(D) An organization providing technical assistance to community-based organizations;

(2) In the case of a nonprofit organization, have a governing board whose members have no material conflict of interest and serve without compensation, have bylaws or policies that describe the manner in which business is conducted and policies relating to nepotism and management of potential conflict of interest situations, and employ or contract with no two or more members of a family or kin of the first or second degree unless specifically permitted by the department;

(3) Agree to make available to the department all records the applicant may have relating to the grant, to allow state agencies to monitor the applicant's compliance with the purpose of this chapter; and

(4) Establish, to the satisfaction of the department, that sufficient funds are available for the effective operation of the activity, business, enterprise, or technical assistance for the purpose for which the grant is awarded. [L 1990, c 111, pt of §2; am L 1991, c 255, §2(2); am L 1996, c 192, §11; am L 2009, c 124, §8; am L 2017, c 47, §3]

§210D-12 Priorities and preferences. In selecting applicants for funding, the department shall make every effort to ensure that community-based economic development activities and community-based enterprises are distributed throughout the State. [L 1990, c 111, pt of §2; am L 1996, c 192, §12]

§210D-13 Exemption from chapters 42F and 103D. The provisions of chapters 42F and 103D shall not apply to the grants made pursuant to this chapter, but all grants made under this chapter shall be made only in accordance with the standards and conditions specified in section 210D-11. [L 1990, c 111, pt of §2; am L 1991, c 335, §4; am L 1997, c 190, §6; am L 2012, c 240, §2]

[§210D-14] Annual report. The department shall submit a report of the actions taken under this chapter which shall be included in the annual report pursuant to section 201-10. [L 1990, c 111, pt of §2]