

January 4, 2018

TO: Louisiana House Committee on Commerce and
Louisiana Senate Committee on Commerce, Consumer Protection, and International Affairs

Ladies and Gentlemen:

RE: Summary Report; Small Business Loan and Guaranty Program

The Louisiana Department of Economic Development, Office of the Secretary, Office of Business Development, and Louisiana Economic Development Corporation, hereby announce their plan to proceed with rule-making by finalizing the October 20, 2017, Notice of Intent that was promulgated on page 2008 of the *Louisiana Register*. The final Rule adopts amendments, supplements and clarifies the existing Rules of the Small Business Loan & Guaranty Program (SBL&GP), and is to be published in the February issue of the *Louisiana Register*. The Rules of the existing Program are provided in LAC Title 19: Part VII, Subpart 1, Chapter 1.

These amendments affect Section 107, B, 1, 3, & 4 b, by broadening the eligibility requirements for small businesses participating in this Program, and include some slight rewording to clarify the meaning, but not to change the intent, of some of the rule's provisions; and Section 109, C, 1 through 5, by reducing the dollar value of collateral requirements for obtaining loan guaranties, and include some slight rewording to clarify the meaning, but not to change the intent, of some of the rule's provisions. A new Section 117 is added, to provide for the creation of guidelines to interpret, construe or explain the meaning and intent of the rules, but not to change the rules.

The prior Rules of the Small Business Loan and Guaranty Program required the owners or principal stockholders of the small Louisiana domiciled businesses seeking credit guaranties under this Program to be residents of Louisiana. In today's business climate this Rule prevents a large number of small businesses operating in this state from obtaining loan guaranties under this program because the owner or principal stockholder lives in another state. These amended rules broaden the eligibility requirements for small businesses and make more small businesses eligible for these loans and guaranties, without residency requirements for its owners or stockholders, provided the business enterprise is authorized to do and doing business in Louisiana and maintains an office in Louisiana.

The prior Rules also required the dollar value of collateral being used to obtain loan guaranties to be equal to the total dollar amount of the loan; but the dollar amount of the guaranties are only equal to 75% or less of the total dollar amount of the loan. These amended rules reduce the dollar value of collateral requirements for obtaining guaranties for various types of loans (including but not limited to Revolving Lines of Credit, equipment term loans, and real estate term loans) to a dollar value no less than the guaranteed portion of the loan, making such loans and guaranties easier to obtain.

This action is being taken pursuant to the provisions of the Administrative Procedure Act, LA. R.S. 49:950 et seq., and under the authority of LA. R.S. 36:104, 36:108, 51:2302, and 51:2312. This Program promotes economic development in our state; and this Summary Report is being provided to you in accordance with LA. R.S. 49:968(D).

These rule changes are needed in response to the current state business climate, and the needs of small businesses in this state, as suggested and recommended by Louisiana business leaders and lending institutions desiring to utilize the loan guaranty Program of the state in connection with their small business loans. These Rule amendments will also assist in generating more loans and loan guaranties for small businesses operating in this state, thereby enhancing the economic development and competitiveness of small business enterprises in this state.

This Program is administered by the existing staff of the Louisiana Department of Economic Development (LED). The funding is borne by Louisiana Economic Development Corporation's (LEDC's) operating budget and by LED under its general fund operating appropriation. The state currently has access to federal funds to supplement this program related to capital investment in small businesses in this state. It is not anticipated that there will be any additional costs or any additional revenue collections to the state as a result of these Rule amendments.

This Agency has received no comments and therefore has not conducted a hearing nor received any testimony pursuant to LA. R.S. 49:953(A)(2).

The Agency has made no changes to the actual proposed Rule; but it was necessary to insert a technical typographical correction (showing the numbers to existing sections that were not amended between Sections 109 and 117), which was overlooked in the previous publication, but was shown in the original signed Notice of Intent. The full text of the amendments to the Rule is attached with the changes highlighted.

Subject to legislative oversight by either the House Committee on Commerce or the Senate Committee on Commerce, Consumer Protection, and International Affairs, the Agency intends to submit a Rule to the Office of the State Register for publication.

If you have any questions about this Summary Report or final Rule, please contact the undersigned, at the direct phone line shown below, or by mail or e-mail at the Louisiana Department of Economic Development, at either of the addresses shown below.

Thank You, *Robert L. Cangelosi*

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RULE

**Department of Economic Development,
Office of the Secretary,
Office of Business Development,
Louisiana Economic Development Corporation**

**Small Business Loan and Guaranty Program (SBL and GP)
(LAC Title 19: Part VII. Subpart 1, Chapter 1.)**

The Louisiana Department of Economic Development, Office of the Secretary, Office of Business Development, and Louisiana Economic Development Corporation, pursuant to the provisions of the Administrative Procedure Act, LA. R.S. 49:950 et seq., and under the authority of LA. R.S. 36:104, 36:108, 51:2302, and 51:2312, hereby amend, supplement and clarify portions of the existing rules of the Small Business Loan and Guaranty Program (SBL&GP) provided in LAC Title 19: Part VII, Subpart 1, Chapter 1, amend Section 107, B, 1, 3, & 4 b, by broadening the eligibility requirements for small businesses participating in this Program, and including some slight rewording to clarify the meaning, but not to change the intent, of some of the rule's provisions; and amend Section 109, C, 1 through 5, by reducing the dollar value of collateral requirements for obtaining loan guaranties, and including some slight rewording to clarify the meaning, but not to change the intent of some of the rule's provisions. A new Section 117 is added, providing for the creation of guidelines to interpret, construe or explain the meaning and intent of the rules, but not to change the rules.

Title 19
CORPORATIONS AND BUSINESS
Part VII. Louisiana Economic Development Corporation
Subpart 1. Small Business Loan and Guaranty Program
(SBL and GP)

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

....

§107. Eligibility / Ineligibility for Participation in This Program

A. ...

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;
2. Certified Small and Emerging Businesses (SEBs);
3. Disabled person's business enterprises authorized to do and doing business in Louisiana, that maintain an office in Louisiana; or
4. Funding requests for any business purpose may be considered, except for the following ineligible businesses or purposes:
 - a. ...
 - b. bars, saloons, daiquiri shops, packaged liquor stores, including any other business or project established for the principal purpose of dispensing alcoholic beverages;
 - c. – i. ...

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), amended LR : (2018).

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

A. – B. 3. ...

C. Collateral:

1. The value of the collateral shall be no less than the guaranteed portion of the loan.
2. ...
3. 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.
4. Acceptable collateral may include, but shall not be limited to, the following:
- a. - b. ...
 - c. 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. ...
5. Unacceptable collateral may include, but shall not be limited to the following:
- a. ...
 - b. personal items or borrower's primary residence;
 - c. ...
- D. – H. 6. ...

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 40:274 (February 2014), amended LR : (2018).

§111. - §115. A. ...

§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 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 : (2018).

Mandi D. Mitchell

Mandi D. Mitchell, Assistant Secretary,
Department of Economic Development