

256R.55 FINANCIALLY DISTRESSED NURSING FACILITY LOAN PROGRAM.

Subdivision 1. **Financially distressed nursing facility loans.** The commissioner of human services shall establish a competitive financially distressed nursing facility loan program to provide operating loans to eligible nursing facilities. The commissioner shall initiate the application process for the loan described in this section at least once annually. A second application process may be initiated each year at the discretion of the commissioner.

Subd. 2. **Eligibility.** To be an eligible applicant for a loan under this section, a nursing facility must submit to the commissioner of human services a loan application in the form and according to the timelines established by the commissioner. In its loan application, a loan applicant must demonstrate that:

(1) the total net income of the nursing facility is not generating sufficient revenue to cover the nursing facility's operating expenses;

(2) the nursing facility is at risk of closure; and

(3) additional operating revenue is necessary to either preserve access to nursing facility services within the community or support people with complex, high-acuity support needs.

Subd. 3. **Approving loans.** The commissioner must evaluate all loan applications on a competitive basis and award loans to successful applicants within available appropriations for this purpose. The commissioner's decisions are final and not subject to appeal.

Subd. 4. **Disbursement schedule.** Successful loan applicants under this section may receive loan disbursements as a lump sum, on an agreed upon disbursement schedule, or as a time-limited line of credit. The commissioner shall approve disbursements to successful loan applicants through a memorandum of understanding. Memoranda of understanding must specify the amount and schedule of loan disbursements.

Subd. 5. **Loan administration.** The commissioner may contract with an independent third party to administer the loan program under this section.

Subd. 6. **Loan payments.** The commissioner shall negotiate the terms of the loan repayment, including the start of the repayment plan, the due date of the repayment, and the frequency of the repayment installments. Repayment installments must not begin until at least 18 months after the first disbursement date. The memoranda of understanding must specify the amount and schedule of loan payments. The repayment term must not exceed 72 months. If any loan payment to the commissioner is not paid within the time specified by the memoranda of understanding, the late payment must be assessed a penalty rate of 0.01 percent of the original loan amount each month the payment is past due. This late fee is not an allowable cost on the department's cost report. The commissioner shall have the power to abate penalties when discrepancies occur resulting from but not limited to circumstances of error and mail delivery.

Subd. 7. **Loan repayment.** (a) If a borrower is more than 60 calendar days delinquent in the timely payment of a contractual payment under this section, the provisions in paragraphs (b) to (e) apply.

(b) The commissioner may withhold some or all of the amount of the delinquent loan payment, together with any penalties due and owing on those amounts, from any money the department owes to the borrower. The commissioner may, at the commissioner's discretion, also withhold future contractual payments from any money the commissioner owes the provider as those contractual payments become due and owing. The commissioner may continue this withholding until the commissioner determines there is no longer any need to do so.

(c) The commissioner shall give prior notice of the commissioner's intention to withhold by mail, facsimile, or email at least ten business days before the date of the first payment period for which the withholding begins. The notice must be deemed received as of the date of mailing or receipt of the facsimile or electronic notice. The notice must:

- (1) state the amount of the delinquent contractual payment;
- (2) state the amount of the withholding per payment period;
- (3) state the date on which the withholding is to begin;
- (4) state whether the commissioner intends to withhold future installments of the provider's contractual payments; and
- (5) state other contents as the commissioner deems appropriate.

(d) The commissioner, or the commissioner's designee, may enter into written settlement agreements with a provider to resolve disputes and other matters involving unpaid loan contractual payments or future loan contractual payments.

(e) Notwithstanding any law to the contrary, all unpaid loans, plus any accrued penalties, are overpayments for the purposes of section 256B.0641, subdivision 1. The current owner of a nursing home or boarding care home is liable for the overpayment amount owed by a former owner for any facility sold, transferred, or reorganized.

Subd. 8. **Audit.** Loan money allocated under this section is subject to audit to determine whether the money was spent as authorized under this section.

Subd. 9. **Carryforward.** Notwithstanding section 16A.28, subdivision 3, any appropriation for the purposes under this section carries forward and does not lapse until the close of the fiscal year in which this section expires.

Subd. 10. **Expiration.** This section expires June 30, 2029.

History: 2023 c 61 art 2 s 12