

MINNESOTA CODE OF AGENCY RULES

RULES OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT

1982 Reprint



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Prepared by

**THE OFFICE OF REVISOR OF STATUTES
Room 3, State Capitol, St. Paul, Minnesota 55155**

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117 University Avenue, St. Paul, Minnesota 55155**

DEPARTMENT OF ECONOMIC DEVELOPMENT

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ED 101 PURPOSE. The purpose of these rules is to augment Minn. Laws 1975, ch. 331, S 3, by establishing criteria for the establishment of pilot community development corporation projects.

ED 102 DEFINITIONS. As used in these rules the following words and terms shall have the meanings given:

- A. "Program" means the program of funding of pilot community development corporation projects pursuant to Minn. Laws 1975, ch. 331, S 3.
- B. "Federal poverty level" means the income level established by the United States Office of Economic Opportunity in Community Services Administration Instruction 6004-1.
- C. "Economic development region" means any of the geographical areas defined as such by Executive Order #60 of Governor Wendell Anderson, dated June 12, 1970.
- D. "Low-income" means having an annual income below the federal poverty level.
- E. "Commissioner" means the Commissioner of the Minnesota Department of Economic Development or his designated representative.

ED 103 AVAILABILITY OF PROGRAM FUNDS. Program funds shall be available only to eligible community development corporations designated as such by the Commissioner, with the approval of the State Executive Council.

ED 104 ORGANIZATIONAL CRITERIA FOR COMMUNITY DEVELOPMENT CORPORATIONS. No corporation shall be designated an eligible community development corporation unless it conforms to the following requirements:

- A. **Form of Organization.** A community development corporation must be incorporated under the Minnesota Non-profit Corporations Act, Minn. Stat. ch. 317.
- B. **Designated Community.** A community development corporation must identify in its articles of incorporation or its by-laws a defined geographic area within which it will operate, called its designated community.
 - (1) At least ten percent (10%) of the population of the designated community must have incomes below the existing federal poverty level at the time of incorporation.
 - (2) No more than one (1) community development corporation shall be designated within any one out-state economic development region, with the exception of economic development regions in which a community development corporation was in existence at the time of promulgation of these rules.

- (3) Within the metropolitan area, the designated community shall be an identifiable neighborhood or combination of neighborhoods where designated by the Metropolitan Council. Elsewhere in Region Eleven, the designated community shall be townships, cities, unincorporated areas or combinations thereof.
- C. **Membership.** Voting membership in a community development corporation shall be limited to residents of the corporation's designated community.
- D. **Board of Directors.** The articles of incorporation or by-laws of a community development corporation shall conform to the following requirements concerning its Board of Directors:
 - (1) **Size.** The board shall be composed of not less than fifteen (15) and not more than thirty (30) directors, unless the corporation can demonstrate to the satisfaction of the Commissioner that the disadvantages of a smaller or larger board will be overcome.
 - (2) **Qualifications of Directors.**
 - (a) Not less than sixty percent (60%) of the directors of a community development corporation shall be low-income members of the corporation.
 - (b) The remaining directors shall be members of the business, financial, and general communities, who, to the maximum extent possible, shall be residents of the designated community.
 - (3) **Election of Directors.**
 - (a) The low-income directors shall be elected by the members of the community development corporation.
 - (b) The remaining directors shall be elected either by the members of the corporation or by the low-income directors.
- E. **Employees.** Non-managerial and non-professional employees of a community development corporation shall be hired from among the low-income residents of the designated community.

ED 105 PROJECT GRANTS. Program funds shall be made available to eligible community development corporations in the form of project grants, on approval by the Commissioner of an application therefor, with the concurrence of the State Executive Council. All applications shall be in a form prescribed by the Commissioner. Project grants shall be made only with respect to projects that will be carried on within the designated community of the applicant community development corporation, except where the applicant demonstrates that a project carried on outside the designated community will have a significant impact within the designated community.

- A. Types of Grants.** Grants shall be available for planning and capital venture projects.
- (1) **Planning Grants.** Planning grants shall be available for:
 - (a) The organizational development of a community development corporation.
 - (b) Comprehensive economic development planning for the designated community.
 - (c) The development of operational funding proposals.
 - (2) **Capital Venture Grants.** Capital venture grants shall be available for two categories of projects:
 - (a) **Business ventures.** Projects in this category involve the community development corporation's establishment of, assistance to existing or purchase of a partial or full ownership interest in, a business venture to be carried on for profit within the designated community.
 - (b) **Infra-structure development.** Projects in this category involve the community development corporation's development of resources or facilities within its designated community that are necessary pre-conditions to the development of business ventures. Such projects shall be approved only where it can be shown that they will, in fact, lead to immediate business development and employment opportunities.
- B. Priorities for Approval of Project Applications.** Project applications that present the greatest potential for achievement of the following goals shall receive priority in the distribution of program funds:
- (1) Creation of employment opportunities;
 - (2) Maximization of profits;
 - (3) Short-term economic impact on the designated community;
 - (4) Use of non-state funds to complement program funds.
- C. Restrictions on Use of Program Funds.**
- (1) No part of a project funded by program funds shall be conducted by a religious or church-related institution. Projects must be entirely secular in content and purpose.
 - (2) No program funds shall be expended for the cost of meals for employees or officers of community development corporations or authorized business ventures.

- (3) No program funds shall be expended for the cost of securing or developing social services.

ED 106 NO DISCRIMINATION. No person shall on the grounds of race, color, religion, sex, age, or national origin be excluded from participation in, be denied the proceeds of, or be the subject of discrimination in a project approved and funded under the program. In all hiring or employment made possible by or resulting from a grant action, each employer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin, and will take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, age, or national origin.

Filed April 1, 1976

4 MCAR S 2.110 Definitions.

A. Applicability. For the purposes of 4 MCAR SS 2.110-2.112, the terms defined in this rule have the meanings given them.

B. Agency. "Agency" has the meaning given it in Minn. Stat. S 15.0411, subd. 2.

C. Director. "Director" has the meaning given it in Minn. Stat. S 362.463, subd. 6.

D. Initial response period. "Initial response period" means the 60-day time limit imposed by Minn. Stat. S 362.473, subd. 3 on an agency for the rendering of a written review and opinion.

E. License. "License" has the meaning given "business license" in Minn. Stat. S 362.452, subd. 2.

F. Person. "Person" has the meaning given it in Minn. Stat. S 362.463, subd. 8.

G. Written review and opinion. "Written review and opinion" means a written statement by an agency which incorporates the information required by Minn. Stat. S 362.473, subd. 2 relating to a proposed business activity.

4 MCAR S 2.111 Preapplication conference.

A. Request. Any person may request a preapplication conference by submitting to the bureau of business licenses a formal request in the format prescribed by the bureau.

B. Approval and notice. If the director determines, after consideration of a formal request, that a preapplication conference is warranted, he shall secure the participation of the interested agencies and notify the person in writing of the date, time, and place of the conference.

The director will consider the following factors in making his determination as to whether a preapplication conference is warranted:

1. the dollar volume of the proposed activity;
2. whether the proposed activity involves multiple licenses from agencies; and
3. whether the proposed activity involves business or corporate structures, activities, technologies, products, or processes which are different from, or reasonably appear to be different from, those for which a license has been required in the past.

C. Supervision. The director or his designated

representative shall preside over the preapplication conference to insure that it achieves the purposes set forth in Minn. Stat. S 362.473, subd. 1.

D. Effect upon participants. A preapplication conference is not binding upon any of the participants.

4 MCAR S 2.112 Written review and opinion.

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A. Authorization. If during a preapplication conference the director determines that a proposed business activity meets the criteria set forth in Minn. Stat. S 362.473, subd. 2, he shall request each affected agency to provide the person with a written review and opinion as to every license the agency requires for the proposed business activity.

B. Request. The director's request for a written review and opinion shall be submitted in writing to the agency. The request shall specify the date on which the agency's initial response period begins.

C. Extensions. A request for an extension of the initial response period shall be set forth in writing by the agency and include the specific reasons justifying the extension.

If the agency does not receive written notice from the director denying the extension within ten days of submission of its request, the extension is granted and is effective for an additional 60-day period.

The director shall provide the person with written notice of his approval of the extension, its duration, and the reasons the extension was approved.

D. Modification or amendment. An agency may modify or amend a written review and opinion by notifying the person and the director in writing of its intent to do so. The notice shall include a statement setting forth the reasons for the modification or amendment.

The modification or amendment shall be provided to the person and director within 30 days of transmittal of the agency's notification of modification or amendment.

002536
4 MCAR S 2.201 Rule, as amended, governing business loans to Indians in Minnesota.

A. Scope of the program. To provide an opportunity for eligible Indians in Minnesota to improve economic independence by implementing a business loan program which will promote an environment for economic expansion and diversification in the field of business ownership.

B. Purpose of rule. The purpose of the rule is to augment Minnesota Statutes 362.40 (1978) and Laws of 1979, ch. 333, Sections 100-102, by establishing criteria which will enable Indians in Minnesota to utilize the business loan program for the expansion or establishment of Indian-owned businesses in the state.

C. Definitions. As used in this rule, the following words and terms shall have the meaning given, except where the context clearly indicates otherwise.

1. "Department" means the Department of Economic Development.

2. "Administrative costs" means those costs incurred in administering the Tribal Council's portion of the program.

3. "Commissioner" means the Commissioner of the Department of Economic Development or his/her designated representative.

4. "Borrower" means the person making application to the department for loan funds to start or expand a business.

D. Criteria for the acceptance or rejection of business loan applications. Criteria for the acceptance or rejection of business loan applications will be based on the following requested information which will convey to the department a complete basis of information on which to evaluate the loan request, ability to repay and management of the business so that comparisons may be made with known industry standards as indicators of a company's ability to succeed.

1. Application must only be made for a profit oriented business.

2. Approval by commissioner of:

a. Personal financial statement(s) and resume(s) of management personnel which will indicate that an applicant is not in an excessive debt position and serve to demonstrate the expertise of management.

b. Operating statements of existing business for which expansion, technical or management assistance loans are requested which will demonstrate the need for and feasibility of the application.

c. Financial statements for past three (3) years for existing businesses, if applicable.

d. Credit verifications to ascertain financial responsibility.

e. Employment verification to ascertain steadiness and extent of past work experience.

f. Documentation supporting cost of real estate, building(s) machinery and/or equipment which will be used to ascertain reasonableness of cost and present condition(s).

g. Detailed project description which will demonstrate dollar scope of the project, estimated revenue anticipated and indicate ability to repay the loan.

h. Equity or collateral available which must be at least five percent (5%), to demonstrate applicant's insertion of risk capital.

i. Income and expense projections which will indicate cash flow anticipated.

j. Applicants who will establish a business on a reservation must have or obtain approval of: tribal licenses if applicable, and/or leases when tribal lands are to be leased by the proposed business enterprise.

k. Last two (2) filed tax returns, if applicable.

3. All documents a.-k. shall be submitted to the department at one time, and because this program is a participant in the total loan package, the department's evaluation will be only one of other financial institutions' evaluations.

4. Loans for the purchase of land will require the construction of a physical facility and establishment of a business on that land within one year of receiving the loan approval; construction of a physical facility to begin within six (6) months of receiving loan approval.

5. Business loans shall not be made to repay or consolidate existing liabilities.

6. Any loan made hereunder will become due and payable if the ownership of the business for which it was made is transferred in whole or in part to any individual, partnership or corporation that would have been ineligible to have received the loan in the first instance.

E. Procedures for making business loan applications.

1. Complete standard application on forms prescribed by the department.

2. A time limitation of sixty (60) days shall be imposed for the completion and submission of all documentation, which will allow applicant a reasonable time to obtain supplemental financing for the total project. The commissioner shall extend the time limitation if based on good cause shown in writing.

F. Repayment. The department shall establish repayment of the loan on a schedule which will be determined by an assessment of the cash flow and ability to repay.

G. Review. There will be a monthly review of all loan accounts by the commissioner.

H. Maximum participation. Maximum participation in any one loan will be twenty-five percent (25%) of the project cost.

*insert new:
4 MCAR SS 2.501 -
2.508, AR 0235ST*