

CHAPTER 4305
DEPARTMENT OF EMPLOYMENT AND ECONOMIC
DEVELOPMENT
MILITARY RESERVIST ECONOMIC INJURY LOAN
PROGRAM

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4305.0010 SCOPE AND PURPOSE.

Parts 4305.0010 to 4305.0080 govern the implementation of the military reservist economic injury loan program.

Statutory Authority: *MS s 14.389; 116J.996*

History: *33 SR 2052*

4305.0020 DEFINITIONS.

Subpart 1. **Scope.** For purposes of parts 4305.0010 to 4305.0080, the terms defined in this part have the meanings given them.

Subp. 2. **Active service.** "Active service" means state active service, federally funded state active service, or federal active service, as defined in Minnesota Statutes, section 190.05.

Subp. 3. **Agency.** "Agency" means the Department of Employment and Economic Development.

Subp. 4. **Application.** "Application" means a submittal requesting a loan from the military reservist economic injury loan program.

Subp. 5. **Applicant.** "Applicant" means an eligible business that submits an application to the military reservist economic injury loan program.

Subp. 6. **Commissioner.** "Commissioner" means the commissioner of the Department of Employment and Economic Development.

Subp. 7. **Eligible business.** "Eligible business" means a small business as defined in Minnesota Statutes, section 645.445, which was operating in Minnesota on the date that one or more of its essential employees received orders for active service of 180 days or more.

Subp. 8. **Essential employee.** "Essential employee" means a military reservist:

- A. who is the owner or employee of an eligible business; and
- B. whose managerial or technical expertise is critical to the day-to-day operation of the eligible business.

Subp. 9. **Military reservist.** "Military reservist" means a member of the reserve component of the armed services.

Subp. 10. **Program.** "Program" means the military reservist economic injury loan program as authorized by Minnesota Statutes, section 116J.996.

Subp. 11. **Reserve component of the armed services.** "Reserve component of the armed services" means reserve components as defined by United States Code, title 10, section 101(c), which includes the Army National Guard and the Air National Guard.

Subp. 12. **Reservist economic injury loan or loan.** "Reservist economic injury loan" or "loan" means a disbursement under the military reservist economic injury loan program.

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Subp. 13. **Substantial economic injury.** "Substantial economic injury" means an economic harm to an eligible business that results in the inability of the business to:

- A. meet its obligations as they mature;
- B. pay its ordinary and necessary operating expenses, meaning its business expenses as defined by United States Code, title 26, section 162, and Code of Federal Regulations, title 26, section 1.162 -1, but excluding taxes, civil or criminal fines or penalties, and lobbying expenses; or
- C. manufacture, produce, market, or provide a product or service ordinarily manufactured, produced, marketed, or provided by the eligible business.

Statutory Authority: *MS s 14.389; 116J.996*

History: *33 SR 2052*

4305.0030 APPLICATION REQUIREMENTS AND PROCESS.

Subpart 1. **Requirements.** The applicant must submit to the agency an application in the form prescribed by the agency. At a minimum, the application must include:

- A. the name of each essential employee who has been called to active service for 180 days or more, including:
 - (1) the employee's date of hire;
 - (2) the employee's job title;
 - (3) the nature of the employee's expertise;
 - (4) a statement as to how that expertise is critical to the day-to-day operation of the business;
 - (5) the employee's military unit name;
 - (6) the total length of the call to active service;
 - (7) a copy of the employee's active duty orders; and
 - (8) the employee's military unit contact person's name, telephone number, and e-mail address;
- B. the name of the business, including:
 - (1) the type of legal business entity;
 - (2) a statement as to whether it is an affiliate or subsidiary of a business dominant in its field of operation;
 - (3) the number of employees;
 - (4) the annual gross revenues in the preceding fiscal year;
 - (5) whether the business is a technical or professional service; and
 - (6) evidence that the business is operating in Minnesota and, if the business is incorporated, that it is a corporation in good standing;
- C. a proposed budget for the use of the loan funds received from the program; and
- D. a statement of how this use will prevent, remedy, or ameliorate the business's substantial economic injury.

Subp. 2. **Process.** The agency shall accept applications on an open application basis and make loans until all funds are committed. When all funds are committed, the agency may suspend the program until sufficient funds to make additional loans are available.

Statutory Authority: *MS s 14.389; 116J.996*

History: *33 SR 2052*

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4305.0040 SELECTION CRITERIA.

The agency shall consider the following criteria when determining whether an applicant is eligible for a loan under the program:

- A. the likelihood of repayment of the loan funds; and
- B. the extent to which the loan funds will help to prevent, remedy, or ameliorate substantial economic injury shown by the applicant.

Statutory Authority: *MS s 14.389; 116J.996*

History: *33 SR 2052*

4305.0050 ELIGIBLE USES OF LOAN FUNDS.

Subpart 1. **In general.** The agency shall make interest-free loans to eligible businesses that sustain or are likely to sustain a substantial economic injury resulting from an essential employee being called to active duty according to parts 4305.0010 to 4305.0080 and Minnesota Statutes, section 116J.996.

Subp. 2. **Permitted uses of loan.** An eligible business must use a loan under the program to:

- A. meet its obligations as they mature;
- B. pay its ordinary and necessary operating expenses as defined by United States Code, title 26, section 162, and Code of Federal Regulations, title 26, section 1.162-1; or
- C. manufacture, produce, market, or provide a product or service ordinarily manufactured, produced, marketed, or provided by the eligible business.

Subp. 3. **Prohibited uses of loan funds.** An eligible business may not use loan funds for the following:

- A. charitable contributions and gifts;
- B. illegal payments to government officials or employees;
- C. illegal payments under any Minnesota or federal law;
- D. kickbacks, rebates, and bribes under Medicare and Medicaid;
- E. lobbying and political expenditures;
- F. fines and penalties due or paid to a government for the violation of any civil or criminal law;
- G. payment of taxes;
- H. treble damage payments under the antitrust laws; or
- I. employee remuneration exceeding \$1,000,000.

Statutory Authority: *MS s 14.389; 116J.996*

History: *33 SR 2052*

4305.0060 LOAN TERMS.

The loan agreement must identify specific loan terms and include, at a minimum, the following:

- A. maximum loan period;
- B. repayment terms; and
- C. default terms.

Statutory Authority: *MS s 14.389; 116J.996*

History: *33 SR 2052*

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4305.0070 LOAN DEFAULT.

The loan agreement must identify what constitutes default of the loan. The agency may pursue any course of action authorized by statute, rule, or loan agreement to remedy default.

Statutory Authority: *MS s 14.389; 116J.996*

History: *33 SR 2052*

4305.0080 SECURITY REQUIREMENTS.

The agency must require applicants to provide security for the loan equal to or in excess of the loan value. Security may be in the form of one or more of the following:

- A. a lien on real property owned by the applicant; or
- B. other security satisfactory to the agency such as:
 - (1) a senior, junior, or parity lien on other assets of the applicant;
 - (2) a senior, junior, or parity lien on assets of certain owners, officers, and affiliated proprietors and their spouses, partners and their spouses, and major shareholders or corporate officers; or
 - (3) a guaranty of owners; officers; and affiliated persons of the applicant, including partners and their spouses, and major shareholders or corporate officers and their spouses; or other related corporations of the applicant.

Statutory Authority: *MS s 14.389; 116J.996*

History: *33 SR 2052*