

1 Department of Trade and Economic Development

2

3 Adopted Permanent Rules Relating to Tourism Loan Program

4

5 Rules as Adopted

6 4308.0010 PURPOSE OF TOURISM LOAN PROGRAM.

7 The purpose of the tourism loan program of the department
8 is to provide loans or to participate in loans to
9 tourism-related businesses in Minnesota for upgrading and
10 improvement of facilities. The program will provide direct
11 loans, participation loans, or loan guarantees in cooperation
12 with local financial institutions. The state will share credit
13 risks with the financial institutions and provide for lower
14 interest rates than are otherwise available.

15 4308.0020 DEFINITIONS.

16 [For text of subps 1 to 5, see M.R.]

17 Subp. 6. **Eligible borrower.** "Eligible borrower" means a
18 sole proprietorship, partnership, corporation, or other person
19 engaged in, and determined by the Community Development Division
20 to constitute, a tourism-related business or other entity that
21 is defined by the standard industrial classification codes of
22 7011 and 7033 in Code of Federal Regulations, title 13, section
23 121.2. A person to whom a loan has been made under parts
24 4308.0010 to 4308.0110 must maintain the standard industrial
25 classification code through the term of the loan. A borrower is
26 not eligible to receive another loan under the tourism loan
27 program for three years from approval of the earlier loan to
28 approval of the next loan, except that if the loan is a septic
29 system loan, the three-year waiting period shall be waived.

30 [For text of subps 7 and 8, see M.R.]

31 Subp. 8a. **Guaranteed loan.** "Guaranteed loan" means a loan
32 made by a financial institution to an eligible borrower for
33 which payment is guaranteed by the full faith and credit of the
34 state.

35 [For text of subps 9 to 11, see M.R.]

1 Subp. 11a. **Septic system loan.** "Septic system loan" means
2 a loan in which the proceeds of the loan will be used only for
3 the replacement or upgrading of a failing or nonconforming
4 septic system or systems with a new sewage treatment system or
5 connection to a sewer system. Septic system loan disbursements
6 must be debited to the state water pollution control revolving
7 fund created in Minnesota Statutes, section 446A.07, not the
8 tourism loan account, in order to be considered a septic system
9 loan.

10 Subp. 12. **Tourism loan.** "Tourism loan" means a loan for
11 which the disbursements are made out of the tourism loan account
12 created in Minnesota Statutes, section 116J.617.

13 4308.0030 ELIGIBILITY OF PROJECT FOR LOANS.

14 A loan must be to an eligible borrower for an eligible cost
15 in an eligible project. The maximum state contribution for a
16 loan may not be for more than 50 percent of the total cost of
17 the project loan, with a maximum state loan of ~~\$50,000~~ \$65,000
18 for any one project.

19 Proposed eligible projects of \$10,000 or greater require a
20 participation loan. Proposed eligible projects of under \$10,000
21 may receive a direct loan. The Community Development Division
22 may require a participation loan in lieu of a direct loan if it
23 determines that such action would further the purposes of the
24 loan program.

25 4308.0040 ELIGIBLE COSTS FOR LOANS.

26 Subpart 1. **Eligible costs.** Eligible costs for the program
27 include costs not prohibited by subpart 2 for:

- 28 A. building construction and improvement;
29 B. site preparation;
30 C. equipment;
31 D. other construction costs, such as construction of
32 facilities other than buildings, or costs that may be
33 capitalized as part of overall construction costs;
34 E. fees that may be required by the department for
35 administration of the loan; and

1 F. septic systems.

2 [For text of subps 2 and 3, see M.R.]

3 4308.0050 INTEREST RATE FOR LOANS.

4 The interest rate on a direct loan or on the department's
5 portion of a participation loan shall be determined at the time
6 of closing by the department and shall be set at, or up to,
7 three percentage points below a full faith and credit obligation
8 of the United States government of comparable maturity,
9 calculated at the time of initial implementation of the program,
10 rounded to the nearest one-half percent, and revised as needed
11 on a semiannual basis. The interest rate for septic system
12 loans shall be fixed at two percent per annum. The interest
13 rate on a participation loan to the borrower shall be a blended
14 rate of the bank's rate and the state's rate in proportion to
15 the respective rate of participation.

16 4308.0060 TERM OF LOANS.

17 The maximum term of a loan must not exceed the useful life
18 of the real property, or 80 percent of the useful life of the
19 equipment or machinery, or the following limits, whichever is
20 less:

- 21 A. ten years for land, buildings, septic systems, or
22 other real property;
- 23 B. five years for equipment or machinery; or
- 24 C. a weighted average of the limits under items A and
25 B for loans for a combination of real property and equipment or
26 machinery.

27 4308.0070 SECURITY REQUIREMENTS FOR LOANS.

28 All loans must be secured by collateral. The financial
29 institution or the department shall take a security interest in
30 any collateral acceptable to the financial institution and the
31 state. The personal guarantee of principal owners must also be
32 given to the financial institution or department before the loan
33 is approved. For purposes of this part, principal owners are
34 those having 20 percent or more ownership of a tourism project.

1 4308.0090 PROCEDURE FOR TOURISM LOAN EVALUATION AND APPROVAL.

2 [For text of subps 1 and 2, see M.R.]

3 Subp. 3. **Approval.** The Community Development Division may
4 reject or disapprove an application for a loan that does not
5 provide sufficient documentation or otherwise comply with parts
6 4308.0010 to 4308.0110. If the Community Development Division
7 approves an application for a loan, it shall address a
8 commitment letter to the financial institution and the
9 borrower. It shall also notify the financial institution and
10 the borrower of the amount of the loan and the amount of
11 interest charged on the department's portion of the loan.

12 Subp. 4. **Documentation required.** The state shall require
13 an executed promissory note or notes, an executed participation
14 agreement, recorded mortgage, security agreements, personal
15 guarantees, assignments, title opinion or title insurance, fire
16 insurance, recorded UCC documents, and other documentation
17 needed to close the loan. The Community Development Division
18 shall prepare a loan agreement to be signed by the financial
19 institution, the borrower, and the state. The financial
20 institution shall also certify in the participation agreement
21 that the interest rate approved by the Community Development
22 Division will be passed on to the borrower.

23

24 **TERM CHANGE.** In part 4308.0080, the revisor of statutes shall
25 delete the word "TOURISM" from the part headnote.