Agency
Department of Economic Development

Subject
Personal Data

Inclusive Sections
§§ 32-1c-1—32-1c-7

CONTENTS

Personal Data

Sec. 32-1c-1. Definitions

(a) "Category of Personal Data" means the classification of personal information set forth in the Personal Data Act, Conn. Gen. Stat. Sec. 4-190 (9).

(b) "Other Data" means any information which because of name, identifying number, mark or description can be readily associated with a particular person.

(c) Department means the Department of Economic Development.

(d) Definitions of terms in Conn. Gen. Stat. Sec. 4-190 shall apply to these regulations.

(Effective July 18, 1986)

Sec. 32-1c-2. General nature and purpose of personal data systems

(a) The Department maintains the following personal data systems:

(1) Personnel Records

(A) All personnel records are maintained at 210 Washington Street, Hartford, Connecticut 06106.

(B) Personnel records are maintained in manual form.

(C) Personnel records are maintained for the purpose of providing a history of payroll, promotion, discipline and related personnel information concerning Economic Development employees.

(D) Personnel records are the responsibility of the Personnel Officer of the Department, whose business address is 210 Washington Street, Hartford, Connecticut 06106. All requests for disclosure or amendment of these records should be directed to the Personnel Officer.

(E) Routine sources for information retained in personal records are generally the employee, previous employers of the employee, references provided by applicants for employment, the employee's supervisor, the Comptroller's Office, Department of Administrative Services, Division of Personnel & Labor Relations, and State insurance carriers.

(F) Personal data in personnel records are collected, maintained and used under authority of the State Personnel Act, Conn. Gen. Stat. Sec. 5-193 et seq.

(2) Retirement system participants records

(A) Participant records are maintained with the Personnel Officer of the Department, 210 Washington Street, Hartford, Connecticut 06106.

(B) Participant records are maintained in manual form.

(C) Participant records are maintained for the purpose of determining the eligibility for and the amount of benefit payments to be made to participants and beneficiaries.

(D) Participant records are maintained with the Personnel Officer of the Department, 210 Washington Street, Hartford, Connecticut. All requests for disclosure or amendment of these records should be directed to the Personnel Officer.

(E) Routine sources of information retained in participant records are generally the participant, current and previous employers of the participant, and the Department.

(F) Personal data in Retirement System Participant Records are collected, maintained

and used under authority of Conn. Gen. Stat. Sec. 10-183b through 10-183dd, inclusive.

(Effective July 18, 1986)

Sec. 32-1c-3. Categories of personal data

(a) **Personnel records**

(1) The following categories of personal data are maintained in personnel records:

(A) Educational records.

(B) Medical or emotional condition or history.

(C) Employment records.

(D) Marital status.

(2) The following categories of other data may be maintained in personnel records:

(A) Addresses.

(B) Telephone numbers.

(3) Personnel records are maintained on employees of the Department and applicants for employment with the Department.

(b) **Retirement system participant records**

(1) The following categories of personal data are maintained in retirement system participant records:

(A) Educational records.

(B) Medical or emotional condition or history.

(C) Employment records.

(D) Salary records.

(E) Contributions records.

(F) Marital status.

(G) Date of birth.

(2) The following categories of other data may be maintained in retirement system participant records:

(A) Addresses.

(B) Social security number.

(C) Retirement System membership number.

(D) Telephone numbers.

(E) Bank account identification.

(F) Income tax withholding information.

(3) Retirement System Participant Records are maintained on current and former Department employees.

(Effective July 18, 1986)

Sec. 32-1c-4. Maintenance of personal data—general

(a) Personal data will not be maintained by the Department unless relevant and necessary to accomplish the lawful purposes of the agency. Where the agency finds irrelevant or unnecessary public records on its possession, the agency shall dispose of the records in

accordance with its records retention schedule, or, if the records are not disposable under the records retention schedule, request permission from the Public Records Administrator to dispose of the records under Conn. Gen. Stat. Sec. 11-8a.

(b) The Department will collect and maintain all records with accurateness and completeness.

(c) Insofar as it is consistent with the needs and mission of the Department, it, wherever practical, shall collect personal data directly from the persons to whom a record pertains.

(d) Employees of the Department involved in the operations of the agency's personal data systems will be informed of the provisions of the

(1) Personal Data Act, (2) the agency's regulations adopted pursuant to Sec. 4-196, (3) the Freedom of Information Act and (4) any other state or federal statute or regulations concerning maintenance or disclosure of personal data kept by the agency.

(e) All employees of the Department shall take reasonable precautions to protect personal data under their custody from the danger of fire, theft, flood, natural disaster and other physical threats.

(f) The Department shall incorporate by reference the provisions of the Personal Data Act and regulations promulgated thereunder in all contracts, agreements or licenses for the operation of a personal data system or for research, evaluation and reporting of personal data for the agency or on its behalf.

(g) The Department shall have an independent obligation to insure that personal data requested from any other state agency is properly maintained.

(h) Only employees of the Department who have a specific need to review personal data records for lawful purposes of the agency will be entitled to access to such records under the Personal Data Act.

(i) The Department will keep a written up-to-date list of individuals entitled to access of each of the agency's personal data systems.

(j) The Department will insure against unnecessary duplication of personal data records. In the event it is necessary to send personal data records through interdepartment mail, such records will be sent in envelopes or boxes sealed and marked "confidential."

(k) The Department will insure that all records in manual personal data systems are kept under lock and key and, to the greatest extent practical, are kept in controlled access areas.

(Effective July 18, 1986)

Sec. 32-1c-5. Maintenance of personal data—disclosure

(a) Within four business days of receipt of a written request therefor, the Department shall mail or deliver to the requesting individual a written response in plain language, informing him/her as to whether or not it maintains personal data on that individual, the category and location of the personal data maintained on that individual and procedures available to review the records.

(b) Except where nondisclosure is required or specifically permitted by law, the Department shall disclose to any person upon written request all personal data concerning

that individual which is maintained by it. The procedures for disclosure shall be in accordance with Conn. Gen. Stat. Sections 1-15 through 1-21K. If the personal data is maintained in coded form, the Department shall transcribe the data into a commonly understandable form before disclosure.

(c) The Department is responsible for verifying the identity of any person requesting access to his/her own personal data.

(d) The Department is responsible for ensuring that disclosure made pursuant to the Personal Data Act is conducted so as not to disclose any personal data concerning persons other than the person requesting the information.

(e) The Department may refuse to disclose to a person medical, psychiatric or psychological data on that person if the Agency determines that such disclosure would be detrimental to that person.

(f) In any case where the Department refuses disclosure, it shall advise that person of his/her right to seek judicial relief pursuant to the Personal Data Act.

(g) If the Department refuses to disclose medical, psychiatric or psychological data to a person based on its determination that disclosure would be detrimental to that person and nondisclosure is not mandated by law, it shall, at the written request of such person, permit a qualified medical doctor to review the personal data contained in the person's records to determine if the personal data should be disclosed. If disclosure is recommended by the person's medical doctor, the Department shall disclose the personal data to such person; if nondisclosure is recommended by such person's medical doctor, the Department shall not disclose the personal data and shall inform such person of the judicial relief provided under the Personal Data Act.

(h) The Department shall maintain a complete log of each person, individual, agency or organization who has obtained access to, or to whom disclosure has been made of, personal data under the Personal Data Act, together with the reason for each such disclosure or access. This log shall be maintained for not less than five years from the date of such disclosure or access or for the life of the personal data record, whichever is longer.

(Effective July 18, 1986)

Sec. 32-1c-6. Contesting the content of personal data records

(a) Any person who believes that the Department is maintaining inaccurate, incomplete or irrelevant personal data concerning him/her may file a written request with the Department for correction of said personal data.

(b) Within 30 days of receipt of such request, the Department shall give written notice to that person that it will make the requested correction, or if the correction is not to be made as submitted, the Department shall state the reason for its denial of such request and notify the person of his/her right to add his/her own statement to his/her personal data records.

(c) Following such denial by the Department, the person requesting such correction shall be permitted to add a statement to his or her personal data record setting forth what that

person believes to be an accurate, complete and relevant version of the personal data in question. Such statements shall become a permanent part of the Department's personal data system and shall be disclosed to any individual, agency or organization to which the disputed personal data is disclosed.

(Effective July 18, 1986)

Sec. 32-1c-7. Uses to be made of the personal data

(a) Employees of the Department who are assigned personnel and payroll responsibilities use the personal data contained in the Department's personnel records in processing promotions, reclassifications, transfers to another agency, retirement, and other personnel actions. Supervisors use the personal data when promotion, career counseling, or disciplinary action against such employee is contemplated, and for other employment-related purposes.

(b) All employees of the Department use retirement system participant records for the purpose of making an accurate determination of the retirement benefit to which such participants may be eligible, or the amount payable to such participant upon application for a refund of his/her retirement contributions.

(c) The Department retains personnel records according to schedules published by the Public Records Administrator, Connecticut State Library; it retains retirement system participant data permanently.

(d) When an individual is asked to supply personal data to the Department, it shall disclose to that individual, upon request, it's name and the division which is requesting the data, the legal authority under which it is empowered to collect and maintain the personal data, the individual's rights pertaining to such records under the Personal Data Act and the Department's regulations, the known consequences arising from supplying or refusing to supply the requested personal data, and the proposed use to be made of the requested personal data.

(Effective July 18, 1986)

Agency
Department of Economic and Community Development

Subject
Standards for Repayment of Loans or Grants Made to Business Organizations that Relocate Out of State

Inclusive Sections
§§ 32-5a-1—32-5a-5

CONTENTS

Standards for Repayment of Loans or Grants Made to Business Organizations that Relocate Out of State

Sec. 32-5a-1. Definitions

(a) "Award of a Grant" means the date of receipt by a business organization of the proceeds of any grant made to it by the department or the date specified in a contract, agreement or audit executed by the department and a business organization in connection with the provision of a grant.

(b) "Business Organization" means any private sole proprietorship, partnership, corporation or other entity, with twenty-five (25) employees or more, duly engaged in for-profit activities in the State of Connecticut, which receives a loan or grant directly from the department or indirectly through a municipality.

(c) "Commissioner" means the commissioner of economic development.

(d) "Department" means the department of economic development.

(e) "Legitimate Hardship" means any combination of factors which adversely impact upon a business organization, including but not limited to labor, financial, regulatory, or market conditions, and which, in the sole discretion of the commissioner, are of such magnitude that a deferral of repayment of any loan or grant is necessary to ensure the continued operations of the business organization or to ensure continued employment by such business organization of its employees within the state.

(f) "Relocate" means the physical transfer of the operations of a business organization in its entirety, or of any division of a business organization which independently receives any grant or loan from the state, from the location such business or division occupied at the time it accepted the grant or loan to another location.

(Effective October 25, 1990)

Sec. 32-5a-2. Terms and conditions of repayment of a loan or grant

(a) A business organization shall pay to the department the outstanding balance of any loan, including interest thereon, or the full amount of any grant made to it under any program administered by the department if such business organization or division thereof relocates outside of the state during the term of such loan or prior to the expiration of three years after the award of such grant, or such longer period of years specified in any agreement or contract for the provision of such grant.

(b) Payment shall be made to the department no later than thirty days after a business organization relocates outside of the state.

If payment is not received by the department within such thirty day period, such business organization shall pay interest monthly on the amount due and owing the department at a rate to be determined by the commissioner not to be less than one percent (1%) above the interest paid by the State of Connecticut on the latest general obligation bonds issued prior to the date such payment was due to be made to the department. Interest shall be charged

on the outstanding balance until payment is made in full to the department.

(Effective October 25, 1990)

Sec. 32-5a-3. Legitimate hardship

(a) Upon the determination of a legitimate hardship, as defined in Section 32-5a-1 (e) of these Regulations, the repayment of the outstanding balance of any loan, including interest thereon, or the full amount of any grant made to a business organization may be deferred for a period not to exceed five (5) years from the date of relocation.

(b) During the period that repayment of a loan or grant is deferred, the commissioner may require the business organization to provide appropriate security for such loan or grant, including but not limited to a lien on real property or a security interest in goods, equipment, inventory or other property.

If the business organization is required to provide security, it shall be enforceable against the business organization until repayment is made in full to the department.

(Effective October 25, 1990)

Action on Application for Financial Assistance

Sec. 32-5a-4. Definitions

As used in sections 32-5a-4 to 32-5a-6, inclusive, of the Regulations of Connecticut State Agencies:

(1) "Application" means a pre-application for financial assistance, as defined in subsection (6) of this section, in the form, and containing the information, specified by the department;

(2) "Approval" means a decision by the department to request State Bond Commission or any other reviews or approvals as required under section 3-20 of the Connecticut General Statutes;

(3) "Commissioner" means the Commissioner of Economic and Community Development;

(4) "Department" means the Department of Economic and Community Development;

(5) "Filing date" means the date on which a completed application, containing all of the information specified by the department, is filed with the department; and

(6) "Financial assistance" means grants, loans or other financial assistance provided or administered by the department pursuant to Title 8 and Title 32 of the Connecticut General Statutes. It shall not include the Community Development Block Grant Program, the HOME program or any other program funded by the United States or any agency or instrumentality thereof.

(Adopted effective August 26, 2004)

Sec. 32-5a-5. Application deadlines and extensions

(a) Except as otherwise provided in this section, the department shall approve or

disapprove an application for assistance within sixty (60) days of its filing date;

(b) The commissioner may, for good cause, extend the deadline for approval or disapproval for up to an additional sixty (60) days;

(c) In the event that the commissioner determines that additional information is required in order to evaluate an application, the information shall be requested in writing. The period from the date of such request until the date when the information is provided shall not count toward the deadline specified in subsection (c) of this section.

(Adopted effective August 26, 2004)

Agency
Department of Economic Development

Subject
Proposed Regulations for the Implementation of the Restoration of Historic Assets in Connecticut Fund

Inclusive Sections
§§ 32-6a-1—32-6a-9

CONTENTS

Proposed Regulations for the Implementation of the Restoration of Historic Assets in Connecticut Fund

Sec. 32-6a-1. Definitions

"Commissioner" means the Commissioner of the Department of Economic Development.
"Committee" means the Committee for the Restoration of Historic Assets in Connecticut.
"Department" means the Department of Economic Development.
"Director" means the director of tourism and the program in the Department.
"Fund" means the Restoration of Historic Assets in Connecticut Fund.
"Grant" means a loan or an outright grant made by the Commissioner from the Fund.
"Program" means the program for the restoration of historic assets in Connecticut.

(Effective May 23, 1979)

Sec. 32-6a-2. Committee for the restoration of historic assets in Connecticut

The Committee shall meet at 2:30 p.m. on the last Monday of January, April, July and October at the Department's offices. The Chairman of the Committee may call special meetings by giving each member written notice of such special meeting not less than twenty four hours before said special meeting. At regular and special meetings the Committee shall consider such matters as the Commissioner presents to it for its approval.

The Committee shall elect from its members a chairman, vice-chairman and secretary. The Commissioner shall provide such clerical services as the Committee requires.

(Effective May 23, 1979)

Sec. 32-6a-3. Description of the program

The purpose of the Program is to provide financial assistance for the restoration or repair of such historic assets as will enhance tourist travel to Connecticut. Grants may be made for the restoration or repair of real property or personal property. Grants shall not be made for operational, administrative or promotional costs. Grants may be made for planning, architectural, engineering, accounting and legal costs incurred in connection with the proposed project. Unless specifically authorized, no grant may be used to pay costs incurred prior to the approval of a grant except such costs as were incurred in connection with the application for the grant.

(Effective May 23, 1979)

Sec. 32-6a-4. Administration of the program

The Program shall be administered by the tourism division of the Department and the Director of Tourism shall be director of the Program. All communications should be addressed to the Commissioner, Department of Economic Development, 210 Washington St., Hartford, Connecticut 06106.

(Effective May 23, 1979)

Sec. 32-6a-5. Eligibility

Any person, partnership, corporation, unincorporated association, group, entity, political subdivision of the state, governmental unit or agency owning or having custody of an historic asset located or to be located in the state may apply for a grant. Where an applicant is not the owner of the historic asset, the owner must join in the application and in the terms and considerations of the Assistance Agreement. Operation of a commercial enterprise in connection with the historic asset shall not, of itself, cause the historic asset to be ineligible for a grant.

(Effective May 23, 1979)

Sec. 32-6a-6. Grant applications

Application for grants from the Fund shall be submitted on forms submitted by the Commissioner. No application shall be considered unless all information and exhibits required are furnished.

The Commissioner, after approving an application, shall present such application to the Committee which may approve the application in whole or in part and may impose conditions upon making of the grant. The Director shall notify each applicant of the action of the Commissioner and the Committee and shall submit to each applicant approved a proposed Assistance Agreement setting forth the amount of the grant, the conditions imposed, standard provisions applicable to all grants and such other provisions and conditions as are deemed necessary to carry out the purposes of the Program.

If, upon examination of the application and supporting information, the Commissioner or the Committee rejects an application, then the grant cannot be made, and the applicant shall be notified of the denial of the application. Once an applicant is denied, no applications for the same project will be accepted for a period of at least one year from the date of rejection.

(Effective May 23, 1979)

Sec. 32-6a-7. Terms of grant

The grant may be in the form of an outright grant, a matching grant or a loan. If the grant is in the form of a loan, the terms of the loan, the interest, if any, to be charged and the security to be furnished shall be as determined by the Commissioner. The Commissioner may also require such security as he deems necessary to insure the carrying out of the obligations under the Assistance Agreement of grantees receiving outright or conditional grants.

(Effective May 23, 1979)

Sec. 32-6a-8. Assistance agreements

Each applicant shall executive an Assistance Agreement with the Department which shall include a description of the project, the amount, if any, of matching funds to be provided by the applicant, the terms and conditions for the repayment of loans, the method of

certifying costs, the time and amount of disbursements of the grant, security required from the grantee, use and charge limitations imposed on the applicant and default provisions.

(Effective May 23, 1979)

Sec. 32-6a-9. Applicant's obligations

In carrying out the project, the Applicant will:

(A) Comply with the terms and conditions of the assistance agreement, all applicable federal, state and local laws, and all regulations and directives issued by the Commissioner.

(B) At all times during regular business hours and as often as the Commissioner requires, permit his representatives and all other authorized representatives of the State full and fee access to the project and to all related accounts, records and books.

(C) At such times as the Commissioner may require, furnish him with such periodic reports, statements and other documentary information as he may request relative to the progress and status of the project, and as to compliance with the terms and conditions of the agreement.

(D) Hold the State and all of its officers, agents, employees and representatives harmless from damages in any action arising from the acquisition, relocation, restoration or operation of any properties related to the grant.

(Effective May 23, 1979)

Agency
Department of Economic Development

Subject
Administration of and Eligibility for Dam Repair Loan Funds

Inclusive Sections
§§ 32-9bb-1—32-9bb-6

CONTENTS

Administration of and Eligibility for Dam Repair Loan Funds

Sec. 32-9bb-1. Definitions

"Commissioner" means the Commissioner of Economic Development or his Deputy.

"Department" means the Department of Economic Development.

"Authority" means the Connecticut Development Authority.

"Dams" means all dams, dikes, reservoirs and other similar structures, with their appurtenances, without exception and without further definition or enumeration herein, which, by breaking away or otherwise, might endanger life or property and which are subject to the provisions of Chapter 446j of the General Statutes.

"Borrower" means (1) an investor-owned water company which supplies water to at least twenty-five but less than ten thousand customers, (2) a municipally-owned water company, or (3) an owner of a privately owned dam which the commissioner of environmental protection has determined benefits the public, and which entity intends to repair a dam which is subject to the jurisdiction of the department of environmental protection under Chapter 446j of the General Statutes.

"Condition" means the absence of major problems, for good condition; the potential for failure is minimal for normal operations, but is great during a catastrophic flood, for fair condition; the potential for failure during normal operations or moderate floods is apparent, for poor condition, all as commonly used in acceptable engineering practice as approved by the commissioner of environmental protection.

"Investor-Owned Water Company" means an entity organized as a "for-profit" venture which is engaged in the business of supplying water and does supply water to at least twenty-five but less than ten thousand customers.

"Hazard Classification" has those meanings for high, significant and low as commonly used in acceptable engineering practice for the repairs and/or construction of dams as approved by the commissioner of environmental protection.

"Municipally-Owned Dams" means dams which are owned by any city, town, borough or specially chartered district, and which dams are subject to the jurisdiction of the department of environmental protection under Chapter 446j of the General Statutes.

"Privately-Owned Dams" means dams which are owned by any person, corporation, partnership, association or other entity, which the commissioner of environmental protection determines benefits the public, and which dams are subject to the jurisdiction of the department of environmental protection under Chapter 446j of the General Statutes.

"Repair Costs" include, but need not be limited to, fees and expenses of architects, engineers, attorneys, accountants and other professional consultants, and costs of preparing surveys, studies, site plans and specifications for such repair.

(Effective January 24, 1986)

Sec. 32-9bb-2. Eligibility

To be eligible for a loan:

(a) the Borrower must be:

(1) an investor-owned water company which supplies water to at least twenty-five but less than ten thousand customers; or

(2) a municipally-owned water company; or

(3) the owner of a privately-owned dam which the commissioner of environmental protection has determined benefits the public;

(b) the loan funds can only be used for the purpose of repairing dams which are subject to the jurisdiction of the department of environmental protection under Chapter 446j of the General Statutes.

(c) the dam shall have been cited by the department of environmental protection as being in an unsafe condition or as not meeting standards for dams as determined by acceptable engineering practice and the dam owner(s) shall have been ordered to perform engineering investigations and to construct repairs by the department of environmental protection;

(d) the Borrower has not received nor is eligible to receive any other State funds or grants or any federal funds or grants for the repair of the dam;

(e) the Borrower must present evidence satisfactory to the Authority that the intended repairs will comply with all federal, state and local health and safety laws and regulations.

(Effective January 24, 1986)

Sec. 32-9bb-3. Loan application and agreement

(a) Application for a loan shall be submitted on loan application forms prescribed by the Authority. No application shall be considered unless the exhibits required by such forms are furnished. The borrower shall pay up to $100.00 for the costs of processing the application for a loan under this program, if the Commissioner determines it is reasonable and necessary for the borrower to pay such costs.

(b) Loan applications shall be considered by the Authority on a quarterly basis, in the months of March, June, September and December, for those applications received by the Authority not later than the first day of the month preceding the respective month of each quarterly review. The total amount of all the loans approved by the Authority under this section shall not exceed $500,000 for any quarter.

(c) Each loan application will be scored in accordance with the Department of Environmental Protection Priority Scoring System.

Those applications receiving the highest priority score shall be considered first for loans under this section.

(1) Priority Scoring System

Category	*Points*
Hazard Classification	
High	40
Significant	30
Low (Moderate-Low)	20
Condition	

Good	1	
Fair	5	
Poor	15	
Use		
Recreation	2	
Fire Water	2	
Wildlife Management	2	
Industrial Process/Cooling	2	
Hydropower	2	
Flood Storage/Control	3	
Drinking Water	12	
Access	*Beach*	*Boat Launch*
Public	5	5
Private	2	2
Semi-Private	3	3
Ownership		
Profit Making		5
Non-profit Making		10

(2) In the event of a tie score, that application with the highest hazard and condition points would be given priority for processing and funding.

(d) Upon approval of an application by the Authority or, if the Authority so determines, by a Committee of the Authority consisting of the Chairman and either one other member of the Authority or its Executive Director, the Department and the borrower shall enter into a loan agreement which shall set forth the terms and conditions required by these regulations and other terms and conditions applicable to the particular loan, which may be established by the Authority.

(e) The loan agreement shall be executed on forms provided by the Authority, and all costs of closing shall be paid by the borrower.

(f) Each loan agreement shall be effective only upon execution by the Commissioner and the borrower, and approval by the Secretary of the Office of Policy and Management and the Attorney General.

(g) Such loan agreement shall provide, without limitation, that the Borrower agrees:

(1) That the funds provided will be used solely for the repair costs of the dam.

(2) To provide the Authority with such financial and other reports as it may require from time to time;

(3) To notify the Authority promptly of any material adverse change in the financial condition or business prospects of the borrower;

(4) To represent and warrant that it has the power and authority to enter into the loan agreement and to incur the obligations therein provided for, and that all documents and agreements executed and delivered in connection with the loan will be valid and binding upon the borrower in accordance with their respective terms;

(5) To provide such security for the loan as the Authority may require pursuant to section 4 (a) of these regulations and to execute and deliver all documents in connection therewith.

(h) The borrower must demonstrate to the satisfaction of the Authority that it has sufficient revenues to pay the principal and interest on the loan and to complete the repair of the dam in accordance with plans and specifications approved by the department of environmental protection.

(i) If, upon examination of the application, supporting information and results of any investigation, the Authority rejects such application, then the loan may not be granted and the Authority shall cause the applicant to be notified that the application has been denied.

(Effective January 24, 1986)

Sec. 32-9bb-4. Loans

(a) The loan may be secured or unsecured as the Authority determines to be appropriate under the particular circumstances. If the loan is to be secured, the Authority may require the borrower to provide the Department as security any or all of the following: real property, accounts, chattel paper, documents, instruments, general intangibles, goods, equipment, inventory or other personal property, and may further require the borrower to have executed and delivered to the Department security agreements, financing statements, mortgages, pledges, assignments, subordinations, guarantees or other documents or evidence of security as and in the form required by the Authority.

(b) The term of a loan shall not exceed thirty (30) years from the date of the first disbursement.

(c) No loan shall exceed the lesser of $150,000 or 75% of eligible repair costs.

(d) The loan shall be repaid on an amortized schedule of payments or upon such other method of payment of principal and interest as the Authority considers necessary and appropriate in the particular circumstances, but in no event shall the payments be scheduled to exceed thirty (30) years from the date of the first disbursement, as set forth in section 4 (b) of these regulations.

(e) Disbursement of the loan shall be made at the discretion of the Commissioner in accordance with the provisions of the loan agreement and the instructions of the Authority.

(Effective January 24, 1986)

Sec. 32-9bb-5. Note

(a) Each loan shall be evidenced by a promissory note which shall contain a provision permitting the borrower to prepay the loan in whole or in part upon any scheduled payment date.

(b) The promissory note shall provide for the payment of interest at a rate not to exceed

one percent per annum above the interest paid by the State of Connecticut on the latest general obligation bonds issued prior to the date of approval of the loan.

(c) The promissory note may provide for the collection of a late charge, not to exceed two percent of any instalment more than fifteen days in arrears. Late charges shall be separately charged to and collected from the borrower.

(d) Any misrepresentation, breach of warranty or other breach of any agreement or covenant contained in the loan agreement, the promissory note, or other documents signed by the borrower in connection with such loan shall be considered a default under the promissory note.

(e) The promissory note shall contain a provision that the failure of the borrower to make a payment of any instalment of principal or interest due under the promissory note within thirty days from the due date shall constitute a default.

(f) The promissory note shall contain a provision that it shall be an event of default if the dam repairs, as proposed or as constructed, fail to comply with all state and local health safety, and/or environmental regulations, and in particular, those applicable to dam repairs.

(g) The promissory note shall provide that upon default, any and all sums owing by the borrower under the promissory note shall, at the sole discretion of the Commissioner, become immediately due and payable.

(h) The promissory note shall provide that upon default, interest on the promissory note shall automatically increase two percent per annum above the rate of the promissory note and such increased interest rate shall apply not only after default, but after any judgment rendered upon said promissory note.

(i) The promissory note shall provide for payment of attorneys' reasonable fees and legal costs in the event the borrower shall default in the payment of the note.

(j) The promissory note shall contain such other clauses and covenants as the Authority, in its discretion, may require.

(Effective January 24, 1986)

Sec. 32-9bb-6. Disbursement and use of proceeds

Disbursement of the loan proceeds shall be made at the discretion of the Commissioner, either before or after construction of the dam repairs are complete, in accordance with the provisions of the commitment and the instructions of the Authority.

(Effective January 24, 1986)

Agency
Department of Economic Development

Subject
Small Contractors' Set Aside Program

Inclusive Sections
§§ 32-9f-1—32-9f-10a

CONTENTS

Small Contractors' Set Aside Program

Sec. 32-9f-1. Repealed

Repealed August 24, 1984.

Sec. 32-9f-1a. Definitions

"Commissioner" shall mean the Commissioner of the Department of Economic Development.

"Department" shall mean the Department of Economic Development.

"Authority" shall mean the Connecticut Development Authority.

"Set Aside" contracts means State Funded contracts or portions thereof, or purchase requests, for which competitive bids are to be sought by a State Agency only from eligible Contractors. Set Aside contracts also includes contracts for which competitive bids are not required by the General Statutes and which are let only to eligible Small Contractors. Any of the aforementioned contracts shall not be designated as Set Aside contracts if such designation would result in conflict with any federal Law or Regulation.

"Loan" shall mean a working capital loan.

"Working Capital" shall mean the cost related to material and labor.

(Effective June 21, 1988)

Sec. 32-9f-2. Repealed

Repealed August 24, 1984.

Sec. 32-9f-2a. Application for eligibility

(a) Small Contractors wishing to participate in the Set Aside Program must be certified as eligible by the Department.

(b) Applications for eligibility shall be submitted to the Department on forms provided by the Department. No application shall be considered unless the exhibits required by such forms accompany the application. Enterprises which are more than 51% minority owned may apply for certification as a MBE by providing substantiation of such minority ownership and providing the names and addresses of the owners of such enterprises on a form provided by the Department.

(c) The Department shall issue a Certificate of Eligibility stating the period of eligibility, as defined below, and any qualifications or conditions required by Law or Regulation.

(d) Upon issuance of a Certificate of Eligibility, the Department shall give notice of such certification to each State Agency.

(e) Each Certificate of Eligibility shall be valid only for the eligible Small Contractor's current fiscal year, and each Small Contractor shall be subject to recertification of Eligibility by the Department for each succeeding fiscal year.

(f) The Department shall rescind the Certificate of Eligibility of any Small Contractor found to have obtained the Certificate Eligibility through the use of false information or

misrepresentation, and the Department shall report such action to the appropriate State's Attorney.

(Effective August 24, 1984)

Sec. 32-9f-3. Repealed

Repealed August 24, 1984.

Sec. 32-9f-3a. Criteria for approval

(a) Set Aside contracts shall be solicited as "Small Contractors Set Aside Contracts."

(b) In addition to other statutory requirements with respect to bid solicitation, Set Aside contracts shall be advertised in newspapers that are likely to be read by Small Contractors and minorities. The advertisements shall be placed by the State Agency responsible for letting the contract.

(c) A Set Aside contract bid shall not be accepted by any State Agency if it is more than ten percent above the price which could be anticipated in general bidding, based on staff analysis prior to going to bid. The staff analysis shall be made part of the award recommendation.

(d) No minimum number of certified vendor bids shall be required for award consideration of Set Aside contracts.

(e) A Set Aside contract shall be awarded by the State Agency that solicited it in accordance with Section 32-9e of the General Statutes, other applicable statutes, these regulations and the normal practices and procedures of the State Agency.

(f) Each Agency shall submit to the Department its procedures for competitive bidding based on Section 32-9e of the Connecticut General Statutes as amended by Section 1 of Public Act 83-390 and Section 7 of Public Act 84-412. The Commissioner shall review said procedures and determine if such procedures are in compliance of said section and regulations adopted pursuant thereto. Upon determination by the Commissioner that said procedures are in compliance with said statute and regulations, the Commissioner shall provide written approval of said procedures.

(g) Payment to Small Contractors under Set Aside contracts shall be made as stipulated by each State Agency for its standard contracts, but in no case shall payment be made later than thirty days after performance of the contract.

(h) Each State Agency shall submit to the Commissioner, by the tenth day of each month, a list of Set Aside contracts awarded, including personal services contracts, during the preceding month. The list shall include the names and addresses of the Small Contractors and the dollar value of the awards.

(Effective August 24, 1984)

Sec. 32-9f-4—32-9f-5. Repealed

Repealed August 24, 1984.

Minority Contractors Loan

Sec. 32-9f-4a. Eligibility for the minority business enterprise loan program

To be eligible for a loan, a small contractor must be defined as a Minority Business Enterprise and:

(a) Must have been engaged in a construction, manufacturing or service business and maintained its principal office and place of business in Connecticut for a period of not less than one year.

(b) Must have gross revenues not in excess of $3,000,000 in its most recently completed fiscal year.

(c) Must have been selected as the lowest responsible bidder of a state set-aside contract.

(Effective June 21, 1988)

Sec. 32-9f-5a. Loan application and commitment agreement

(a) Application for a working capital loan shall be submitted on Department of Economic Development loan application form. No application shall be considered unless the exhibits required are furnished.

(b) Upon approval of an application by the Authority or, if, the Authority so determines, by a committee of the Authority, the Department and the borrower shall enter into a loan agreement which shall set forth the terms and conditions required by these regulations and other terms and conditions applicable to the particular loan, which may be set by the Authority or said committee of the Authority.

(c) Each loan agreement shall be effective only upon execution by the Commissioner and the borrower.

(d) Such loan agreement shall provide, without limitation, that the borrower agrees:

(1) That the funds provided will not be used to repay existing debt or to finance receivables;

(2) To provide the Department with such financial and other reports as the Commissioner, in his discretion, may require from time to time;

(3) To notify the Department promptly of any material adverse change in the financial condition or business prospects of the borrower;

(4) To provide such security for the loan as the Authority or the committee of the Authority may require pursuant to Section 32-9f-6a of these Regulations and to execute and deliver all documents in connection therewith;

(5) To the extent the loan is secured by a contract or contracts, to:

(A) Notify the Department of the modification of any provision of a contract which is security for the loan when said modification affects the total amount due under the contract affects the time or manner of payment, or in any other way substantially affects the contract or the manner of performance of said contract;

(B) Notify the Department of the termination of any part of a contract or the termination of the entire contract by any party to the contract;

(C) Notify the Department of the failure of either party to a contract to perform any of

its obligations under the contract;

(D) Notify the Department of the rejection of any material or article delivered in the performance of a contract;

(E) Use the funds advanced only to pay for labor and material, on the pledged contract;

(e) The Authority or the committee may cause an application to be denied based upon examination of the application, supporting information or results of any investigation.

(Effective June 21, 1988)

Sec. 32-9f-6a. Loans

(a) The loan must be secured by assignment of specific contract and personal guarantee of borrower and any other security deemed appropriate by the Commissioner.

(b) The terms of a working capital loan shall not exceed one year from the date of the first disbursement made under the loan.

(c) No loan shall exceed $10,000 and (shall in no event exceed the amount estimated to cover labor and material costs of the contract). If the loan is to be secured, the amount of the loan shall not exceed the value of the security provided pursuant to Section 32-9f-6a of these regulations.

(d) A small contractor must not have used the set-aside loan program fund for more than three state contracts.

(e) The Commissioner shall determine whether the loan is to be repaid in periodic payments or in a single payment of interest and a single payment of principal.

(f) The loan shall be made at the discretion of the Commissioner in accordance with the provisions of the loan agreement and the instructions of the Authority.

(Effective June 21, 1988)

Sec. 32-9f-7a. Note

(a) Each loan shall be evidenced by a promissory note which shall contain a provision permitting the borrower to prepay the loan in whole or in part upon any interest payment date without penalty.

(b) The promissory note shall provide for the payment of interest at a rate not to exceed 1% above the interest paid by the State of Connecticut on the latest general obligation issued prior to the date of the loan closing.

(c) The promissory note may provide for the collection of a late charge, not to exceed 2% percent of any installment more than fifteen days in arrears. Late charges shall be separately charged to and collected from the borrower.

(d) The failure of the borrower to abide by the terms of the loan agreement, the promissory note, or other documents signed by the borrower in connection with such loan shall be considered in default under such promissory note.

(e) The promissory note shall contain a provision that the failure of the borrower to make a full payment of any principal or interest due under the promissory note within fifteen days from the due date shall constitute a default.

(f) The promissory note shall provide that upon default, any and all sums owing by the borrower under the promissory note shall, at the option of the Commissioner, become immediately due and payable.

(g) The promissory note shall provide that in the event of default, interest on the promissory note shall automatically increase to twelve percent per annum and shall apply not only after default, but after any judgment rendered upon said promissory note.

(h) The promissory note shall provide for payment of reasonable attorney's fees and legal costs in the event the borrower shall default in the payment of the note.

(i) The promissory note shall contain such other clauses and covenants as the Commissioner, in its discretion, may require.

(j) Upon default the contractor will be ineligible to apply for funds under any other Department of Economic Development or the Connecticut Development Authority loan programs.

(k) Any borrower may have only one loan outstanding at a time.

(Effective June 21, 1988)

Sec. 32-9f-8a. Disbursement and use of proceeds

(a) Disbursement of the loan shall be made at the discretion of the Commissioner in accordance with the provisions of the commitment and the instructions of the Authority.

(b) Loan proceeds shall be used only to pay for labor and material, and equipment rental on specific contracts. The loan proceeds, for example, may not be used to repay existing obligations, purchase fixed assets or to finance receivables.

(Effective June 21, 1988)

Sec. 32-9f-9a. Loan agreement

The borrower shall enter into a loan agreement with the State of Connecticut wherein the borrower shall agree:

(1) To notify the Commissioner of the modification of any provision of the contract which is the basis for the loan when said modification affects the total amount due under the contract, affects the time or manner payment or any other modification which shall substantially affect contract or the manner or performance of said contract;

(2) To notify the Commissioner of the termination of any part of the contract or the termination of the entire contract by any party to the contract;

(3) To notify the Commissioner of the failure of either party to the contract to perform any of its obligations under the contract;

(4) To notify the Commissioner of the rejection of any material or article delivered in the performance of the contract;

(5) To make periodic progress reports at such time and in such manner as the Commissioner, in his discretion, shall require;

(6) That he will not take on or enter into any additional contracts without the prior written approval of the Commissioner;

(7) That the funds advanced shall be used only to pay for labor and material on a specific contract;

(8) To represent and warrant that it has the power and authority to enter into the loan agreement and to incur the obligations therein provided for, and that all documents and agreements executed and delivered in connection with the loan will be valid and binding upon the borrower in accordance with their respective terms.

(Effective June 21, 1988)

Sec. 32-9f-10a. Place of performance of contract

The place of performance of a contract pledged as security must be within the State of Connecticut.

(Effective June 21, 1988)

Agency
Department of Economic Development

Subject
Child Care Facilities Loan Program

Inclusive Sections
§§ 32-9hh-1—32-9hh-6

CONTENTS

Child Care Facilities Loan Program

Sec. 32-9hh-1. Definitions

"Commissioner" shall mean the Commissioner of the Department of Economic Development or his Deputy.

"Department" shall mean the Department of Economic Development.

"Authority" shall mean the Connecticut Development Authority.

"Nonprofit corporation" shall include all nonprofit corporations as the term is defined in Chapter 600 of the General Statutes, including corporations organized exclusively for religious, charitable, or educational purposes.

"Borrower"' shall mean a nonprofit corporation which intends to establish a child care facility to serve primarily children of the employees of the nonprofit corporation.

"Operator" shall mean an individual or group which is licensed by the State to operate the child care facility and which will do so on a nonprofit basis.

"Child care facility" shall mean a facility which will be licensed by the State and which will offer or provide a program of care to more than twelve related or unrelated children outside their own homes on a regular basis for a part of the twenty four hours in one or more days in the week.

"Renovation" shall include, but not be limited to, the purchase for the facility of partitions within the classroom, built-in tables and benches, shelving for toys and games, shelving for outdoor clothing, sinks and toilet facilities, and stationary indoor or stationary outdoor playground equipment, carpeting and major kitchen appliances.

(Effective January 24, 1985)

Sec. 32-9hh-2. Eligibility

To be eligible for a loan:

(a) the borrower must be a nonprofit corporation;

(b) the loan funds can only be used for the purpose of planning, site preparation, construction, renovation or acquisition of facilities for use as a child care facility;

(c) the borrower must present evidence to the satisfaction of the Authority that there is an unmet need for child care of this type in the vicinity of the planned facility, and that the planned facility will comply with all state and local health and safety laws and regulations and, in particular, all such laws and regulations applicable to child care facilities;

(d) the borrower must not be a municipality, state agency, instrumentality or nonprofit corporation which is eligible for or has received a grant for the development of child care facilities under Section 14 through 16 of Public Act 84-443 or under C.G.S. Section 8-210.

(e) the borrower must demonstrate to the satisfaction of the Authority that it has sufficient revenues to pay the principal and interest on the loan and to maintain the operation of the child care facility.

(Effective January 24, 1985)

Sec. 32-9hh-3. Loan application and agreement

(a) Application for a loan shall be submitted on loan application forms prescribed by the Authority. No application shall be considered unless the exhibits required by such forms are furnished. The Borrower shall pay for all costs of processing applications for loans or lines of credit to be made under this program, as the Commissioner determines are reasonable and necessary to pay such costs.

(b) Upon approval of an application by the Authority or, if the Authority so determines, by a Committee of the Authority consisting of the Chairman and either one other member of the Authority or its Executive Director, as specified in the determination, the Department and the borrower shall enter into a loan agreement which shall set forth the terms and conditions required by these regulations and other terms and conditions applicable to the particular loan, which may be set by the Authority or said Committee of the Authority.

(c) The loan agreement shall be executed on forms provided by the Authority, and all costs of closing shall be paid by the borrower.

(d) Each loan agreement shall be effective only upon execution by the Commissioner and the borrower.

(e) Such loan agreement shall provide, without limitation, that the borrower agrees:

(1) That the funds provided will not be used solely to finance the planning of the facilities and the funds must be used directly to develop the facility;

(2) To provide the Authority with such financial and other reports as the Commissioner, in his discretion, may require from time to time;

(3) To notify the Authority promptly of any material adverse change in the financial condition or business prospects of the borrower;

(4) To represent and warrant that it has the power and authority to enter into the loan agreement and to incur the obligations therein provided for, and that all documents and agreements executed and delivered in connection with the loan will be valid and binding upon the borrower in accordance with their respective terms;

(5) To provide such security for the loan as the Authority or the Committee of the Authority may require pursuant to section 4 (a) of these regulations and to execute and deliver all documents in connection therewith.

(f) If, upon examination of the application, supporting information and results of any investigation, the Authority or the Committee of the Authority rejects such application, then the loan may not be granted and the Authority shall cause the applicant to be notified that the application has been denied.

(Effective January 24, 1985)

Sec. 32-9hh-4. Loans

(a) The loan may be secured or unsecured as the Authority or the Committee of the Authority determines to be appropriate in the particular circumstances. If the loan is to be secured, the Authority or said Committee of the Authority may require the borrower to provide the Department as security any or all of the following: real property, accounts,

chattel paper, documents, instruments, general intangibles, goods, equipment, inventory or other personal property, and may further require the borrower to have executed and delivered to the Department security agreements, financing statements, mortgages, pledges, assignments, subordinations, guarantees or other documents or evidences of security as and in the form required by the Authority or said Committee of the Authority.

(b) The term of a loan shall not exceed five years from the date of the first disbursement. However, at the discretion of the Authority, payments may be deferred until one year from the date the facility is licensed.

(c) No loan shall exceed $50,000.00 and if the loan is to be secured, the amount of the loan shall not exceed the value of the security provided pursuant to Section 4 (a) of these regulations.

(d) The loan shall be repaid on an amortized schedule of payments or upon such other method of payment of principal and interest as the Authority or the Committee of the Authority considers necessary and appropriate in the particular circumstances, but in no event shall the payments be scheduled to exceed five years from the relevant date of disbursement referred to in section 4 (b) of these regulations.

(e) Disbursement of the loan shall be made at the discretion of the Commissioner in accordance with the provisions of the loan agreement and the instructions of the Authority.

(Effective January 24, 1985)

Sec. 32-9hh-5. Note

(a) Each loan shall be evidenced by a promissory note which shall contain a provision permitting the borrower to prepay the loan in whole or in part upon any interest payment date.

(b) The promissory note shall provide for the payment of interest at a rate not to exceed 1% above the interest paid by the State of Connecticut on the latest general obligation bonds issued prior to the date of approval of the loan.

(c) The promissory note may provide for the collection of a late charge, not to exceed two percent of any instalment more than fifteen days in arrears. Late charges shall be separately charged to and collected from the borrower.

(d) Any misrepresentation, breach of warranty or other breach of any agreement or covenant contained in the loan agreement, the promissory note, or other documents signed by the borrower in connection with such loan shall be considered a default under such promissory note.

(e) The promissory note shall contain a provision that the failure of the borrower to make a payment of any instalment of principal or interest due under the promissory note within thirty days from the due date shall constitute a default.

(f) The promissory note shall contain a provision that the failure of the facilities to comply with all state and local health and safety regulations, and in particular, those applicable to child care facilities, shall constitute a default.

(g) The promissory note shall provide that upon default, any and all sums owing by the

borrower under the promissory note shall, at the sole discretion of the Commissioner, become immediately due and payable.

(h) The promissory note shall provide that upon default interest on the promissory note shall automatically increase two percent per annum above the rate of the said note and shall apply not only after default, but after any judgment rendered upon said promissory note.

(i) The promissory note shall provide for payment of reasonable attorneys' fees and legal costs in the event the borrower shall default in the payment of the note.

(j) The promissory note shall contain such other clauses and covenants as the Authority, in its discretion, may require.

(Effective January 24, 1985)

Sec. 32-9hh-6. Disbursement and use of proceeds

Disbursement of the loan proceeds shall be made at the discretion of the Commissioner, either before or after construction of the facility is complete, in accordance with the provisions of the commitment and the instructions of the Authority.

(Effective January 24, 1985)

Agency
Department of Economic Development

Subject
Job Incentive Grant Program

Inclusive Sections
§§ 32-9*l*-1—32-9*l*-7

CONTENTS

Job Incentive Grant Program

Sec. 32-9*l*-1. Statement of purpose

To implement the provisions of the job incentive grant program established pursuant to sections 32-9i to 32-9m, inclusive of the Connecticut General Statutes.

(Effective October 3, 1991)

Sec. 32-9*l*-2. Applications for job incentive grants

Applications for job incentive grants shall be made on forms prescribed by the Department and available at its office on written request.

(Effective October 23, 1978)

Sec. 32-9*l*-3. Requirements of eligibility for a job incentive grant

(a) **In General.** In order to be eligible for a job incentive grant, an applicant business must show that its business facility:

(1) Is located in an eligible municipality;

(2) Carries on a business activity which is a qualified business activity under the job incentive grant program;

(3) Has undergone major expansion or renovation;

(4) Will employ not less than five additional full-time employees or in the case of any business facility located in an enterprise zone designated pursuant to Section 32-70, of the statutes, will employ not less than three additional full-time employees as a direct result of major expansion or renovation; and

(5) Was expanded or renovated as the result of a business decision in which the job incentive program was a significant incentive.

(b) **Eligible Municipality Requirement.**

(1) The term "eligible municipality" shall have the same definition ascribed to it as to an eligible municipality defined in section 32-9j of the statutes, as amended.

(2) The Department shall obtain from the Department of Labor, as soon after the commencement of each calendar year as it becomes available, a listing of all municipalities in the state which had a rate of unemployment described in the definition of an "eligible municipality" in section 32-9j of the statutes, as amended. The listing so obtained shall be designated by the Department as the list of eligible municipalities under the job incentive grant program for the calendar year in which the designation is made, and shall be made available on request to interested business and other persons.

(3) For the portion of each calendar year before the eligible municipality listing is made available to the Department by the Department of Labor, eligible municipalities shall be considered to be those contained in the eligible municipality listing for the preceding calendar year.

(c) **Eligible Business Activity Requirement.** Facilities which are used primarily for the manufacturing, processing or assembling of raw materials or manufactured products, for

research, for industrial warehousing or for any combination thereof and which do not primarily serve the municipality in which they are located or in the case of any facility located in an enterprise zone designated pursuant to Section 32-70 of the statutes, used for services which meet the criteria as set forth in Section 32-9p-5 (h) (5) of the Regulations of Connecticut State Agencies are facilities which carry on a qualified business activity.

(d) **Major Expansion or Renovation Requirement.** An acquisition, a construction, a lease of at least three (3) years, or an expansion or renovation involving a substantial level of capital expenditure by the applicant business shall be deemed to meet the major expansion or renovation requirement. Major renovation or expansion means the making of improvements or additions to the structure of a facility which involve capital expenditures which amount to 50% of current assessed value of the building, structure or part thereof being renovated or expanded.

(e) **Resulting Employment Requirement**.

(1) An applicant business must demonstrate that at least five new full-time employment positions have been created at the business facility at the completion of the firm's hiring program, which positions are a direct result of a major renovation or expansion. Notwithstanding provisions of this subsection, an applicant business located in an enterprise zone as designated pursuant to section 32-70, of the statutes, must demonstrate that at least three new full-time employment positions have been created at the business facility by the completion of the firm's hiring program, which positions are a direct result of a major renovation or expansion. The base employment figure, used in comparison to the number of new employment positions, will be the greater of either: (A) an average of the employment figures for the 24 months preceding the initiation of the hiring program or (B) the highest employment figures for any one week within a four week period prior to the initiation of the hiring program.

(2) The entire cost of the salaries of the employees whose positions were created by a major expansion or renovation of the business facility must be paid by the applicant business. Notwithstanding this provision, participation by employees in federal or state manpower training, education or apprentice training programs shall not disqualify those employees from being counted as eligible for the purpose of calculating the job incentive grant.

(3) The additional employees must be employed by the applicant business on a full-time basis. Employees will be considered employed on a full-time basis if their scheduled work week is at least thirty-five hours in length and if they are employed in positions which normally provide employment for the entire work year. Positions involving temporary or seasonal work or work which is cyclical or in which workers are subject to frequent layoffs are not positions for which a job incentive grant will be awarded.

(4) The additional employees need not be residents of an eligible municipality in order for an applicant business to qualify for a grant.

(f) **Significant Incentive Requirement.** (1) The primary purpose of the job incentive program is to reduce unemployment in eligible municipalities. The job incentive program

seeks to accomplish this purpose of providing job incentive grants to businesses as a means of inducing businesses to locate or expand business facilities in eligible municipalities. In view of the purpose and method of the program and the limited availability of funds for its implementation, the Department will award job incentive grants to those businesses which clearly demonstrate that the availability of the grant provided a significant incentive for the business to undertake the expansion or renovation of a business facility and that most clearly meet the goal of reducing unemployment and increasing income in the eligible municipality.

(Effective October 3, 1991)

Sec. 32-9*l*-4. Application and grant limits

(a) **Issuance.** Applications must be completed and submitted to the department prior to initiation of the firm's hiring program. Upon receipt of an application the Department shall undertake an evaluation to determine whether the business facility described in the application qualifies as a business facility and that the business facility would meet the requirements of eligibility for a job incentive grant provided in section 32-9*l*-3 if the business facility is expanded or renovated in the manner described in the grant application.

(b) **Use of Job Incentive Grant Monies.** The Department's policy in implementing the job incentive grant program shall be to make the most effective possible use of monies in the job incentive fund. To carry out this policy, the Department will seek to identify among eligible municipalities those in which the construction of a proposed business facility will have the greatest impact in reducing the unemployment level in the eligible municipality, and allocate job assistance grants accordingly. The Department will also take into consideration in the making of job incentive grants the number of unemployed persons in each eligible municipality and the seriousness of the need of eligible municipalities with higher number of unemployed persons for capital investment by private enterprise which creates full-time, relatively permanent employment opportunities. In order to assure that the benefits of the job incentive grant program accrue to a reasonable number of eligible municipalities throughout the state, no job incentive grant shall be awarded in an amount exceeding $75,000.

(Effective December 20, 1984)

Sec. 32-9*l*-5. Certificate of eligibility

(a) Each business determined by the department to be eligible for a job incentive grant in accordance with section 32-9*l*-4 (a) shall notify the Department as to the date on which the acquisition or physical construction, expansion, renovation or leasing of the business facility occurs. The notification shall be certified by an authorized officer of the applicant business and, if appropriate, shall describe the manner in which the expansion or renovation of the facility differs from that described in the business's application, including particularly any variation in the number or type of jobs expected to be created by the expansion or renovation. The notification shall be accompanied by documentation from the general contractor performing such expansion or renovation, or by the business's project manager

if the work is performed by the business itself, affirming the commencement of such expansion or renovation.

(b) Upon receipt of a notification of commencement of construction described in section 32-9*l*-5 (a) from a business the Department shall review the notification and the accompanying documentation and undertake such inquiries as it deems appropriate in the circumstances in order to confirm whether the business facility as then contemplated by the applicant business meets the requirements or a facility for which a job incentive grant may be awarded. If the Department determines that the facility meets such requirements it shall issue the applicant business a certificate of eligibility.

(c) The certificate of eligibility shall specify the number of full-time jobs expected to be created by the expansion or renovation at the business facility and the date or dates by which it is reasonably expected that the employees hired to fill such jobs will have commenced work. The Department shall determine such number and date (i) based upon the estimate given by the applicant business and the likelihood that the applicant's estimate will be achieved, (ii) in light of the Department's experience in administering the job incentive grant and similar programs and (iii) having consideration for all the facts and circumstances of each particular case.

(d) Upon the issuance of a certificate of eligibility the Department shall administratively segregate from available and previously unsegregated monies in the job incentive fund an amount equal to $500 multiplied by the number of full-time jobs specified by the Department in the certificate of eligibility. In the case of an eligible business facility located in an enterprise zone designated pursuant to Section 32-70 of the statutes, and used primarily for manufacturing, processing, or assembling of raw materials or manufactured products or for research or industrial warehousing for which not less than one hundred fifty full-time employees or thirty percent of the full-time employment positions created by the facility are held by (1) residents of such zone, (2) or residents of such municipality who, at the time of employment, were eligible for training under the federal comprehensive employment training act or any other training program that replaces the comprehensive employment training act, the department shall administratively segregate $1500 multiplied by the number of full-time jobs specified by the department in the certificate of eligibility. Such monies shall remain segregated until disbursed to the applicant business or released in accordance with sections 32-9*l*-6 (e) and 32-9*l*-6 (f) from the set aside established pursuant to this paragraph.

(e) In the event that the entire balance in the job incentive fund has been administratively segregated, certificates of eligibility will continue to be prepared but the Department shall suspend their issuance pending the availability of monies in the job incentive fund. Once such monies again become available the Department shall resume the issuance of certificates of eligibility in the order of priority in which they would have been issued had monies continued to be available in the job incentive fund.

(f) Neither the issuance of a certificate of eligibility nor the payment of a job incentive grant to an applicant business shall disqualify the business from applying for or receiving

other job incentive grants including state and/or federal manpower training assistance, with respect to the same or other business facilities as long as the business facility for which the subsequent job incentive grant is claimed is a facility which meets the requirements of eligibility for a job incentive grant established in section 32-9*l*-3.

(g) Each certificate of eligibility shall expire on the last day of the twenty four month period following the day on which the certificate of eligibility is issued.

(h) Any facility which has been issued a certificate of eligibility shall notify the Department of any change in fact or circumstance which may bear on the continued qualification as a business facility for which a certificate has been issued. Failure to comply with this requirement may result in the revocation of the certificate by the Department.

(Effective October 3, 1991)

Sec. 32-9*l*-6. Grant payments

(a) In order to receive a job incentive grant payment from the monies administratively segregated on its behalf, the applicant business shall submit to the Department a notice specifying the date upon which the expansion or renovation of the business facility was completed and the date upon which all of the employees filling the positions created by the expansion or renovation commenced work. The notice shall have attached a copy of the certificate of occupancy for the facility or documentation acceptable to the department from the project manager certifying the acquisition or leasing of the facility or the completion of the capital improvements being made thereto. The notice shall be certified by an authorized officer of the applicant business and shall confirm that the facility was expanded or renovated in accordance with the descriptions theretofore submitted to the Department or describe the manner in which the actual expansion or renovation differed from that approved by the Department in the issuance of its certificate of eligibility.

(b) The notice shall be submitted to the Department not earlier than three months following the date on which the last employee hired as a result of the expansion or renovation actually commenced work. The notice shall state that each of the positions for which a job incentive grant is claimed was filled by a full-time employee for such three month period and is a position which qualifies for the award of a job incentive grant under Section 32-9*l* of the General Statutes and section 32-9*l*-3 of the Regulations of Connecticut State Agencies as amended by section 2 of these regulations.

(c) Upon receipt of a notice of completion of construction from an applicant business pursuant to section 32-9*l*-6 (a), the Department shall review the certificate of eligibility issued to the business in the manner prescribed in section 32-9*l*-5 (b) for the review of notifications as to the commencement of construction. The Department shall modify the certificate of eligibility to reflect the results of the expansion or renovation actually undertaken and completed by the business or any other material change in the facts relevant to the Department's determination of eligibility for a job incentive grant. The certificate of eligibility shall also be modified by the Department if it finds that the facts as stated therein are not in accordance with the facts as determined by the Commissioner or if the application

or any information submitted to the Department by the applicant business failed to fully and fairly disclose facts relevant to the determination of eligibility of the business facility for a job incentive grant.

(d) The Department may revoke a certificate of eligibility if it finds, after a hearing, that the business facility described therein fails in any respect to meet the eligibility requirements established pursuant to sections 32-9i to 32-9*l* inclusive of the General Statutes or for any reason which under section 32-9*l*-6 (c) would warrant a modification of the certificate of eligibility.

(e) Job incentive grant payments shall be made in an amount calculated by multiplying $500 or, in case of any business facility located in an enterprise zone designated pursuant to Section 32-70 of the statutes, and used primarily for manufacturing, processing, or assembling of raw materials or manufactured products or for research or industrial warehousing for which not less than one hundred fifty full-time employees or 30% of the full time employment positions created by the facility are held by (1) residents of such zone, or (2) residents of such municipality who, at the time of employment, were eligible for training under the federal comprehensive employment training act or any training program that replaces the comprehensive employment training act, $1500 times the number of jobs specified in the final certificate of eligibility, as modified by the Department in accordance with Section 32-9*l*-6 (c). The Department shall advise the State Treasurer of its determination to make a job incentive grant payment, and shall direct the State Treasurer as custodian of the job incentive fund to disburse the amount of the approved grant to the business entitled to receive the grant.

(Effective October 3, 1991)

Sec. 32-9*l*-7. Job incentive program report

The Department shall submit to the Governor and the General Assembly on or before March first of every even numbered year, a report on the implementation of the job incentive grant program. The report shall evaluate the effectiveness of the program in stimulating and encouraging the creation and growth of jobs in areas of high unemployment.

(Effective December 20, 1984)

Agency
Department of Economic Development

Subject
Loans to Businesses Impacted by Road and Bridge Repair

Inclusive Sections
§§ 32-9nn-1—32-9nn-6

CONTENTS

Loans to Businesses Impacted by Road and Bridge Repair

Sec. 32-9nn-1. Definitions

(a) "Department" means the Department of Economic Development.

(b) "Borrower" means any sole proprietorship, partnership, or corporation duly engaged in for-profit activity which has been issued a commitment for a loan under this program.

(c) "Commissioner" means the Commissioner of Economic Development.

(d) "Impacted Area" means a geographic area, where a road or bridge project is being undertaken including those being conducted in phases by the Connecticut Department of Transportation and adversely affects the economy of that area as determined by the Commissioner of Economic Development in consultation with the Commissioner of Transportation.

(Effective October 29, 1986)

Sec. 32-9nn-2. Requirements for the determination of the extent of adverse impact

(a) To qualify for a loan, in addition to being located in an impacted area, a business must,

(1) have been located in that area for at least three months prior to the area being declared impacted; and

(2) show substantial loss in revenue for a minimum period of sixty calendar days which is simultaneous to the period in which road or bridge construction or repair has occurred.

(Effective October 29, 1986)

Sec. 32-9nn-3. Procedures for loans

(a) Application for a loan shall be submitted on forms provided by the Department. No application shall be considered unless the exhibits and all information required by such forms are furnished. A business may apply for a loan before the sixty day loss in revenue is sustained, however this requirement must be met at the time of loan closing.

(b) Loan applications will only be accepted by the Department during the time that the area is designated as impacted.

(c) All or a portion of the costs of processing applications for loans to be made under this program, including closing costs, may be waived by the Commissioner.

(d) Upon approval by the Commissioner, the Borrower shall enter into a loan agreement which shall set forth the terms and conditions required by Public Act 86-335, these Regulations and any other terms and conditions applicable to the particular loan which may be established by the Commissioner.

(e) Each loan agreement shall be effective only upon execution of such agreement by the Commissioner and the Borrower.

(f) In determining the maximum amount of each loan, the Commissioner shall take into account the availability of funds in relation to the number of businesses seeking funding as well as other criteria to best carry out the purposes of these regulations.

(g) Such loan agreement shall provide, without limitation, that the Borrower agrees:

(1) To provide the Department with such financial and other information as the Commissioner may in his discretion require from time to time;

(2) To notify the Department promptly of any material adverse change in the financial condition or business prospects of the Borrower;

(3) To represent and warrant that it has the power and authority to enter into the loan agreement and to incur the obligations therein provided for, and that all documents and agreements executed and delivered in connection with the loan will be valid and binding upon the Borrower enforceable in accord with their respective terms;

(4) To provide such security for the loan as the Commissioner may require pursuant to these Regulations and to execute and deliver all documents in connection therewith;

(5) That the funds provided will not be used otherwise than for the purpose for which the loan application was made and approved;

(Effective October 29, 1986)

Sec. 32-9nn-4. Working capital or current expenses loans to eligible business organizations

(a) Working capital and current expenses include items such as: payroll and fringe benefits for employees, utilities, purchase of materials and supplies used in day-to-day operations, and rent payments for the period in which the business location is designated an impacted area. Working capital and current expenses does not include refinancing existing loan indebtedness or capital improvements. The Department will take into account the historical expenses of the business when determining eligible uses of loan funds.

(b) The Department may require the Borrower to provide the Department, as security for the loan, mortgages or security interests in any or all of the following: real property, accounts, chattel paper, documents, instruments, general intangibles, goods, equipment, inventory or other personal property, and may further require the Borrower to have executed and delivered to the Department security agreements, financing statements, mortgages, pledges, assignments, subordinations, guarantees or other documents or evidences of security as and in the form required by the Department.

(c) A current expenses or working capital loan shall be repaid on an amortized schedule of monthly payments. The loan agreement shall provide that unless otherwise notified by the Commissioner, the borrower shall begin repayment 30 days after the area is no longer impacted. The Commissioner, at the time that the area is declared impacted may, based upon the best available information, establish a date upon which the area would no longer be impacted.

(d) Disbursement of the loan shall be made at the discretion of the Commissioner in accordance with the provisions of the loan agreement.

(Effective October 29, 1986)

Sec. 32-9nn-5. Note

(a) Each loan shall be evidenced by a promissory note which shall contain a provision permitting the Borrower to prepay the loan in whole or in part upon any interest payment date without prepayment penalty.

(b) The promissory note may provide for the collection of a late charge, not to exceed two percent of any installment which is not paid within ten days of the due date thereof. Late charges shall be separately charged to and collected from the Borrower.

(Effective October 29, 1986)

Sec. 32-9nn-6. Default and remedy

(a) The failure of the Borrower to abide by the terms of the loan agreement, promissory note or other documents, required of the Borrower by the Department in connection with such loan shall be considered a default under such promissory note.

(b) The promissory note shall contain a provision that the failure of the Borrower to make a payment of principal or interest due under the promissory note within fifteen days from the due date shall constitute a default.

(c) The promissory note shall provide that upon default, any and all sums owing by the Borrower under the promissory note shall, at the option of the Commissioner, become immediately due and payable.

(d) The promissory note shall provide that in the event of default, interest on the promissory note, at the option of the Commissioner, shall automatically increase to an annual rate of 3% greater than the interest rate of the loan and shall apply not only after default, but also after any judgment rendered upon the said promissory note.

(e) The promissory note shall provide for payment for reasonable attorneys' fees and legal costs in the event of default.

(f) The promissory note shall contain such other clauses and covenants as the Commissioner in his discretion may require.

(Effective October 29, 1986)

Agency
Department of Economic Development

Subject
Financial Assistance and Tax Incentives to Encourage Industrial and Business Growth in Areas of High Unemployment

Inclusive Sections
§§ 32-9p-1—32-9p-10

CONTENTS

Financial Assistance and Tax Incentives to Encourage Industrial and Business Growth in Areas of High Unemployment

Sec. 32-9p-1. Statement of purpose

These rules and regulations have been adopted to implement and are to be applied so as to accomplish the purposes of the investment incentive program of the jobs and development plan as established by and implemented in Sections 32-9o, 32-9p, 32-9r, 32-9s, 12-81 (59) and (60) and 12-217e of the General Statutes, as amended (collectively referred to herein as the ''Statutes''). The investment incentive program is administered by the Department of Economic Development in connection with the Department of Revenue Services and the Office of Policy and Management and provides property tax exemptions and corporation business tax credits in order to encourage the investment of private capital in manufacturing facilities located in municipalities with high levels of economic and social distress, so as to increase employment, improve the tax base in these municipalities and develop a more productive and balanced State economy.

(Effective December 20, 1984)

Sec. 32-9p-2. Program procedures

The Department has prepared a Procedural Guide which establishes detailed operating procedures for the investment incentive program. The Procedural Guide will be revised and supplemented and program bulletins will be available to participating businesses and municipalities from time to time in order to give effect to changes in administrative procedures which are appropriate in light of experience gained in carrying out the investment program. Revisions of the Procedural Guide will not affect the eligibility of any business to claim benefits or of any municipality to apply for grant payments from the State if the business or municipality is otherwise entitled to the benefits under the statutes and these regulations. Applications, eligibility certificates, notices, claim statements and other forms for the use by the Department of Economic Development, Department of Revenue Services, Office of Policy and Management, participating businesses and municipalities in the investment incentive program are provided in the Procedural Guide.

(Effective December 20, 1984)

Sec. 32-9p-3. General requirements of eligibility

To be eligible to file a claim for a corporation business tax credit under Section 12-217e of the statutes or for the exemption from property taxes under Section 12-81 (59) and Section 12-81 (60) of the statutes, a claimant must present to the Commissioner of Revenue Services or the secretary of the Office of Policy and Management or the tax assessor or board of assessors of the local taxing jurisdiction, as the case may be, a current eligibility certificate issued by the Department. Eligibility certificates will be issued by the Department in accordance with the criteria established by the statutes and these regulations with respect to any facility which qualifies as a manufacturing facility and is located in a distressed

municipality.

(Effective December 20, 1984)

Sec. 32-9p-4. Distressed municipality requirement

(a) Any manufacturing facility which is the subject of an application for an eligibility certificate must be located in a municipality which, at the time the eligibility certificate is issued, is a distressed municipality. A distressed municipality must meet one of the following criteria:

(1) A municipality meeting the necessary number of quantitative physical and economic distress thresholds then applicable for eligibility for the urban development action grant program under the federal Housing and Community Development Act of 1977, as amended, as such municipalities are designated by the United States Department of Housing and Urban Development.

(2) A municipality adversely impacted by a major plant closing, relocation or lay off of a covered establishment when such closing, relocation, or layoff results in the loss of at least 7½% of the total non-agricultural and manufacturing employment positions located in the municipality.

(3) A municipality adversely impacted by a major plant closing within the municipality or relocation from the municipality of a covered establishment when such establishment is one of the two largest tax payers within the municipality.

The Department will make the designation of a distressed municipality under the provisions of a major plant closing, relocation or lay off upon request of the legislative body of the municipality and submission of documentation by the municipality. Distressed municipalities may include any town, city or borough, or any town within which is located a distressed unconsolidated city or borough.

(4) A portion of a municipality that is contiguous to an enterprise zone which is located in another municipality, and is eligible for designation as an enterprise zone in accordance with the provisions of subdivisions (2) of subsection (b) of Section 32-70, of the statutes as amended.

(b) The Department shall prepare, keep current and make available for public inspection and distribution a list of municipalities under the investment incentive program.

(c) In the event the Commissioner of Economic Development determines that the distress thresholds referred to in Section 32-9p-4 (a) (1) of these regulations have been materially changed as a result of amendatory federal legislation or administrative regulation, the Department shall give public notice of the determination and establish comparable distress thresholds. The criteria of distress shall include those of high unemployment, poverty levels, the age of housing stock, the rates of growth in job creation, population and per capita income and may include other criteria that are consistent with the purposes of the statutes. The number and character of the municipalities which qualify for assistance under the investment incentive program under the comparable criteria established in such circumstances shall closely approximate that of the municipalities qualifying as distressed

municipalities under the superseded thresholds. These regulations shall be amended by the Department in accordance with Chapter 54 of the statutes to include the replacement criteria so established.

(d) Manufacturing facilities located partly within and partly outside a distressed municipality will qualify for an eligibility certificate only if the building, structure or improvement in which the manufacturing activity is carried on is located in a distressed municipality. Buildings, structures or improvements constituting a manufacturing facility which are located partly within and partly without a distressed municipality will qualify for an eligibility certificate, but this fact will be noted on the certificate and no claim for tax exemption will be allowed with respect to that portion of the facility located outside a distressed municipality. In this case, (1) the percentage of the credit against the corporation business tax permitted to be claimed by occupants of the manufacturing facility will be modified by the Department as appropriate to reflect the partial qualification of the facility for tax exemption, taking into account the amount of manufacturing floor space, the nature of the manufacturing activity carried on in each municipality and other appropriate factors and (2) the assessed valuation against which the property tax exemption may be claimed will be the assessed valuation which is determined by the assessor of the distressed municipality to be attributable to the property of the manufacturing facility and any installed machinery and equipment which is located in the distressed municipality. If the buildings, structures and improvements of a manufacturing facility in which the manufacturing activity is carried on are located in two distressed municipalities, the occupants of the facility will be entitled to the full corporation business tax credit and the full property tax exemption will apply, except that the exemption will be allocated between the distressed municipalities by the Department in the manner described above.

(e) The continued effectiveness of any eligibility certificate will not be impaired solely by reason of the fact that subsequent to the issuance of the original certificate the municipality in which a manufacturing facility is located ceases to be a distressed municipality. Such a change in the status of the municipality also will not affect the issuance of replacement eligibility certificates to otherwise qualified subsequent occupants of the facility.

(f) Benefits are extended under the statutes only to manufacturing facilities which at the time an eligibility certificate is issued are located in a distressed municipality. However, a manufacturing facility will not qualify for the issuance of an eligibility certificate if the facility is acquired or constructed in a municipality which at the time of acquisition or construction was included in the distressed municipality list but not included at the time an eligibility certificate is proposed to be issued. In order to minimize any inequities which may result from such circumstances, the Department will monitor the distressed municipality list to ascertain those municipalities which may cease to qualify as a distressed municipality and will process eligibility certificate applications in a manner which to the greatest extent possible preserves the eligibility of manufacturing facility whose location in a distressed municipality was legitimately induced by the prospect of the tax credit or

exemption provided by the statutes but whose eligibility is jeopardized by an impending change in the status of the municipality.

(Effective October 29, 1986)

Sec. 32-9p-5. Manufacturing facilities requirement

(a) To qualify for the issuance of an eligibility certificate, in addition to being located in a distressed municipality, a manufacturing facility must:

(1) consist of a plant, building, other real property improvement, or part thereof;

(2) be

(A) constructed or substantially renovated or expanded; or

(B) acquired by a business organization which is unrelated to or unaffiliated with the seller after having been idle for at least one year prior to its acquisition, regardless of its previous use, except in the case of a facility located in an enterprise zone designated pursuant to Section 32-70 of the statutes, the idleness requirement shall be as set forth in subsection (d) of Section 32-9p of the statutes as amended; and

(3) be used for:

(A) the manufacturing, processing or assembly of raw materials, parts or manufacturing products;

(B) the significant servicing, overhauling or rebuilding of machinery and equipment for industrial use;

(C) the distribution in bulk of manufactured products other than on a retail basis;

(D) research and development activities directly related to manufacturing. Research and development activities are considered to be directly related to the manufacturing process when the company has any of the standard industrial classification codes as listed in Section 32-9p-5 (h) (1) of these regulations; or

(E) in the case of a facility located in an enterprise zone designated pursuant to Section 32-70 of the statutes, for services satisfying the requirements of Section 32-9p-5 (h) (5) of these regulations.

(b) A manufacturing facility may consist of an entire plant, building, structure or other real property improvement or group of buildings or improvements, or may consist of a part, section, wing or floor of a plant, building or structure. In the event the acquisition or construction, substantial renovation or expansion is of a portion of a plant, the part, section, wing or floor so acquired, constructed, renovated or expanded will be designated as the manufacturing facility. The existing plant or structure need not itself house a business activity which would qualify the plant or structure as a manufacturing facility, as long as the activity carried on in the improvement or addition which is designated to be the manufacturing facility is an activity described in Section 32-9p-5 (a) (3) of these regulations.

(c) A manufacturing facility which is newly constructed will qualify for an eligibility certificate. An existing plant or building or part of floor thereof which is substantially renovated or an existing plant or building which is expanded will also qualify for an eligibility certificate. Substantial renovation or expansion for this purpose means the making

of improvements or additions to the structure of a facility which involve capital expenditures equal to or greater than 50% of the current assessed value of the building, structures or part thereof being renovated or expanded and constituting the manufacturing facility. The improvements may be made for any business reason, but must be of a nature requiring the issuance of a building permit and must in the judgment of the Department be likely to have the direct result of increasing employment or expanding the tax base in the distressed municipality.

(d) A manufacturing facility is acquired for the purposes of the statutes if (1) title to the facility is acquired by a new owner through purchase or (2) the facility is leased as provided in Section 32-9p-5 (f) herein to a new occupant or occupants. The purchaser or seller or lessor and lessee of an acquired facility may not be related or affiliated in any manner at all, whether business, familial or otherwise. Thus, the parties may not have any common owner, stockholder, director, officer or employee, nor may the owners or employees of the parties be members of the same family either by blood or marriage. This paragraph is intended to deny the benefits of the statutes to the participants in any acquisition which is not transacted at arms length by the parties. In appropriate instances where a strict application of the provisions of this paragraph would be contrary to the purpose of the statutes and where the purchaser and seller or lessor and lessee are in all practicality unrelated and unaffiliated the Department may deem this requirement to be met.

(e) A manufacturing facility will not be deemed to have been acquired unless a substantial portion of its productive capacity is again utilized on a continuous basis after a period of idleness of at least one year. Idle facilities are those which have not been used or occupied at all during the entire one year period. In instances where a facility has been used on a very limited basis, such as temporary usages for maintenance or for product or equipment testing, but nonetheless has been essentially unoccupied and not productive during the one year period, the Department may deem the facility to have been idle if the Department determines that such a finding will further the purposes expressed in the statutes. The uses of an acquired facility prior to the one year period of idleness will not affect the issuance of an eligibility certificate, as long as the use which is made of the facility subsequent to its acquisition is one described in Section 32-9p-5 (a) (3) of these regulations. Notwithstanding any provisions of this subsection, for a facility located in an enterprise zone designated pursuant to Section 32-70 of the statutes, the idleness requirement shall be as follows: for a facility with an average total employment of between 6 and 19 employees for the six months prior to the acquisition of the facility, the idleness requirement shall be six months; and for a facility which has five or fewer employees, the idleness requirement shall be waived provided no more than one eligibility certificate shall be issued for the same facility within a three year period. The Department may waive the requirement of idleness if it determines that absent qualification as a manufacturing facility, there is a high likelihood that the facility will remain idle for one year. Factors that the Department will consider in making this determination include the marketability of the facility, general economic condition of the distressed municipality, the size of the facility, the number of employment

positions to be established and the importance of benefits of the statutes in the decision of the manufacturer to acquire the facility.

(f) No leasing of a manufacturing facility constitutes an acquisition unless the contract of lease is for an initial minimum term of five years and evidences by its provisions a substantial, long term commitment in the form of a renewable option at the request of the lessee for an aggregate term which shall not be less than ten years, or the right of the lessee to purchase the facility at any time after the initial five-year term, or both. This commitment will be determined based upon an evaluation of all facts and circumstances involved in each case. Factors which would tend to indicate a substantial commitment include the construction of leasehold improvements at the lessee's expense and contractual provisions for a renewal of the lease at the lessee's option and for liquidated damages payable by the lessee upon a breach of the lease. Notwithstanding any provisions of this subsection, for a facility located in an enterprise zone and designated pursuant to Section 32-70 of the statutes that employs an average of 10 or fewer employees over the six month period preceding acquisition, the contract for lease: may be for an initial minimum term of three years with a renewable option at the request of the lessee for an aggregate term which shall not be less than six years or may include the right of the lessee to purchase the facility at any time after the initial three-year term or both; and may include the right for the lessee to relocate to some other space within the same enterprise zone provided the space is under the same ownership or control as the originally leased space or if such space is not under the same control as the originally leased space, permission to relocate is granted by the lessor of the originally leased space, provided that such relocation shall not extend the duration of benefits granted under the original eligibility certificate.

(g) An acquisition will be deemed to have occurred when the deed or lease for the facility is executed. The construction, renovation or expansion of a manufacturing facility will be deemed to have occurred when most of the construction time, expenditure of funds and physical improvement involved in the process has been completed.

(h) The facility for which an eligibility certificate is issued must be one in which the occupant conducts one of the following five qualified manufacturing or related activities:

(1) The manufacture, processing or assembly of raw materials, parts or manufactured products. All activities which are currently classified as manufacturing activities by the Standard Industrial Classification Manual (prepared by the Executive Office of the President, and published and periodically revised by the United States Government Printing Office) will meet this requirement. These activities are given SIC major group numbers 20 through 39, and are generally described as follows:

Major Group 20.	Food and kindred products
Major Group 21.	Tobacco manufacturers
Major Group 22.	Textile mill products
Major Group 23.	Apparel and other finished products made from fabrics and similar

	materials
Major Group 24.	Lumber and wood products, except furniture
Major Group 25.	Furniture and fixtures
Major Group 26.	Paper and allied products
Major Group 27.	Printing, publishing and allied industries
Major Group 28.	Chemical and allied products
Major Group 29.	Petroleum refining and related products
Major Group 30.	Rubber and miscellaneous plastics products
Major Group 31.	Leather and leather products
Major Group 32.	Stone, clay, glass, and concrete products
Major Group 33.	Primary metal products
Major Group 34.	Fabricated metal products, except machinery and transportation equipment
Major Group 35.	Machinery, except electrical
Major Group 36.	Electrical and electronic machinery, equipment, and supplies
Major Group 37.	Transportation equipment
Major Group 38.	Measuring, analyzing, and controlling instruments; photographic, medical and optical goods; watches and clocks
Major Group 39.	Miscellaneous manufacturing industries

Any activity not classified as manufacturing by the Manual, such as services and retail trade, will not qualify under this restriction. The use of the manufacturing facility for purposes which are functionally related, ancillary and subordinate to and are required for the primary manufacturing activity carried on at the facility will not disqualify the facility under the program. Examples include a small administrative area for the management of plant operations, or a small area for the testing of products produced by the facility.

(2) The significant servicing, overhauling or rebuilding of machinery and equipment for industrial use. This activity is an adjunct to the manufacturing process involving major repairs to industrial machinery and equipment. Machinery and equipment used for production in activities classified as manufacturing by the Standard Industrial Classification Manual is considered industrial machinery and equipment. A facility which services, overhauls or rebuilds industrial stamping presses, lathes or generating equipment will qualify as a manufacturing facility, but one which is involved in the repair of televisions, automobiles or other consumer goods will not. As a further example, facilities which service, overhaul or repair computers will qualify only if the computers are directly used in the industrial or manufacturing process.

(3) The warehousing and distribution in bulk of manufactured products on other than a retail basis. This activity is a further adjunct to the manufacturing process involving the bulk distribution of manufactured products prior to their retail sale. Only those facilities for

the warehousing and distribution of manufactured products on other than a retail basis which are newly constructed or which represent an expansion of an existing facility qualify as manufacturing facilities. Manufactured products are products which are produced through activities classified as manufacturing by the Standard Industrial Classification Manual. A facility which is a regional center for the distribution in bulk of automobiles, furniture, clothing or glassware to retail outlets will therefore qualify as a manufacturing facility. One which houses warehouse sales directly to the public, performs mail order warehouse sales, or warehouses and distributes to its own retail stores will not qualify, however, since each involves retail sales and sales in small rather than bulk quantities.

(4) Research and development directly related to manufacturing as defined in Section 32-9p-5 (a) (3) (D).

(5) If located in an enterprise zone designated pursuant to Section 32-70 of the statutes as amended, establishments having the following standard industrialization classifications or operating or auxiliary units of such establishments, provided that the establishments, operating, or auxiliary units do not regularly involve direct business with, or service to, the general public:

0912	Commercial fishing - finfish
0913	Commercial fishing - shellfish
0919	Commercial fishing - miscellaneous marine products
0921	Commercial fishing - fish hatcheries and preserves
4215	Courier services, except by air
4221	Farm product warehousing and storage
4222	Refrigerated warehousing and storage
4226	Special warehousing and storage, not elsewhere classified
4231	Terminal and joint terminal maintenance facilities for motor freight transportation
4412	Deep sea foreign transportation of freight
4424	Deep sea domestic transportation of freight
4432	Freight transportation on the Great Lakes–St. Lawrence Seaway
4449	Water transportation of freight, not elsewhere classified
4491	Marine cargo handling
4492	Towing and tugboat services
4499	Water transportation services, not elsewhere classified
4512	Air transportation, scheduled
4513	Air courier services
4731	Arrangement of transportation of freight and cargo

4741	Rental of railroad cars
4783	Packing and crating
4789	Transportation services, not elsewhere classified
6011	Federal reserve banks
6019	Central reserve depository institutions, not elsewhere classified
6021	National commercial banks
6022	State commercial banks
6029	Commercial banks, not elsewhere classified
6035	Savings institutions, federally charted
6036	Savings institutions, not federally chartered
6061	Credit unions, federally chartered
6062	Credit unions, not federally chartered
6081	Branches and agencies of foreign banks
6082	Foreign trade and international banking institutions
6091	Nondeposit trust facilities
6099	Functions related to depository banking, not elsewhere classified
6111	Federal and federally sponsored credit agencies
6141	Personal credit institutions
6153	Short-term business credit institutions, except agricultural
6159	Miscellaneous business credit institutions
6162	Mortgage bankers and loan correspondents
6163	Loan brokers
6211	Security brokers, dealers, and flotation companies
6221	Commodity contracts brokers and dealers
6231	Security and commodity exchanges
6282	Investment advice
6289	Services allied with the exchange of securities or commodities, not elsewhere classified
6311	Life insurance
6321	Accident and health insurance
6324	Hospital and medical service plans
6331	Fire, marine and casualty insurance
6351	Surety insurance
6361	Title insurance

6371	Pension, health and welfare funds
6399	Insurance carriers, not elsewhere classified
6712	Offices of bank holding companies
6719	Offices of holding companies, not elsewhere classified
6722	Management investment offices–open ended
6726	Unit investment trusts, face amount certificate offices, and closed-end management investment offices
6732	Educational, religious and charitable trusts
6733	Trusts except educational, religious and charitable
6792	Oil royalty traders
6794	Patent owners and lessors
6798	Real estate investment trusts
6799	Investors, not elsewhere classified
7323	Credit reports services
7371	Computer programming services
7372	Prepackaged software
7373	Computer integrated systems design
7374	Computer processing and data preparation and processing services
7375	Information retrieval services
7376	Computer facilities management services
7377	Computer rental and leasing
7378	Computer maintenance and repair
7379	Computer related services, not elsewhere classified
8071	Medical laboratories
8072	Dental laboratories
8731	Commercial physical and biological research
8732	Commercial economic, sociological, and educational research
8733	Noncommercial research organizations
8734	Testing laboratories

(Effective October 13, 1991)

Sec. 32-9p-6. Award and modification of eligibility certificates; Tax credit or abatement claims

The Department will award eligibility certificates in the manner set forth in the Procedural Guide. Any person with an interest in manufacturing facility may apply to the Department

for an eligibility certificate, but the application must be signed by each person who intends to claim a benefit under the investment program. Eligibility certificates will state the owner and each occupant of the facility and each user of any machinery and equipment installed in the manufacturing facility. Changes in such ownership, occupancy or use of the manufacturing facility are to be reported to the Department and eligibility certificates will be modified to reflect the change. No person may claim a benefit under the program from the Commissioner of Revenue Services or the secretary of the Office of Policy and Management or assessor of the local taxing jurisdiction unless the person is stated on a current and valid eligibility certificate to be an owner or occupant of a manufacturing facility or a user of its machinery and equipment.

(Effective December 20, 1984)

Sec. 32-9p-7. Corporation tax credit

(a) Each occupant of a manufacturing facility who is listed on an eligible certificate is entitled under Section 12-217e of the statutes to claim a credit against the corporation business tax payable under chapter 208 of the statutes. This credit will be in an amount equal to 25% of the portion of the corporation business tax which is allocable to the manufacturing facility; provided, however, that for any such manufacturing facility located in an enterprise zone designated pursuant to Section 32-70 of the General Statutes, and which satisfies the applicable requirements under Section 12-217e, this credit will be in the amount equal to 50% of the portion of the corporation business tax which is allocable to the manufacturing facility. Affected State agencies may conduct audits at any reasonable time of manufacturing facilities that have been issued certificates of eligibility entitling them to such tax credits to ensure compliance with the eligibility requirements described above. The owner of the facility may not claim this credit unless the owner is also an occupant of the facility.

(b) As provided in the statutes, the portion of the tax which is allocable to the manufacturing facility will be determined by multiplying the tax by a fraction computed as the simple arithmetical mean of the following fractions: First, a fraction, the numerator of which is the average monthly net book value of the income year of the manufacturing facility and machinery and equipment acquired for and installed in the manufacturing facility, without deduction on account of any encumbrance thereon, or if rented to the taxpayer, the value of the manufacturing facility and machinery and equipment acquired for and installed in the manufacturing facility, computed by multiplying the gross rents payable by the taxpayer for the manufacturing facility and such machinery and equipment during the income year or period by eight, and the denominator, which is the sum of the average monthly net book value of all real property and machinery and equipment held and owned by the taxpayers in the State, without deduction on account of any encumbrance thereon and the value of all real property and machinery and equipment rented to the taxpayers in the State, computed by multiplying the gross rents payable during the income year by eight; and second, a fraction the numerator of which is all wages, salaries and other

compensation paid during the income year to employees of the taxpayer whose positions are directly attributable to the manufacturing facility and the denominator of which is the wages, salaries and other compensation paid during the income year to all employees of the taxpayer in the State. An employee's position is directly so attributable if (1) the employee's service is performed or his base of operation is at the manufacturing facility, (2) the position did not exist prior to the construction, renovation, expansion or acquisition of the manufacturing facility, and (3) but for the construction, renovation, expansion or acquisition of the manufacturing facility the position would not have existed. For the purpose of this subsection, ''gross rents'' means gross rents as defined in Section 12-218 of the statutes.

(c) Limitations on the right of an occupant to claim a credit against corporation business taxes, including the aggregate ten year duration of the right, are described in Section 32-9p-9 of these regulations. In addition, no credit will be allowed unless a proper claim is filed with the claimant's tax return. Claim forms and instructions are contained in the Procedural Guide. Once an eligibility certificate is issued, the commissioner of revenue services is responsible for determining whether the credit claimed and any calculations made by any taxpayer are proper under the statutes.

(Effective December 20, 1984)

Sec. 32-9p-8. Property tax exemption

(a) Section 12-81 (59) of the statutes partially exempts manufacturing facilities from real property taxation imposed on the property by any taxing jurisdiction in the State. In the case of a building which is expanded or partially renovated, the exemption applies only to that part of the building which is the expansion or which has been renovated. This part is designated the manufacturing facility and is partially exempted from real property taxes. That part of the building which is not the expansion or has not been renovated is not exempt from taxation and will be treated separately from the manufacturing facility without regard to the statutes. Thus, in the case of a manufacturing facility which consists of a constructed, renovated or expanded portion of an existing plant, the assessed valuation of the manufacturing facility is the difference between the assessed valuation of the plant prior to its being improved and the assessed valuation of the plant upon completion of the improvements. In the case of a manufacturing facility which consists of an acquired portion of an existing plant, the assessed valuation of the manufacturing facility is the assessed valuation of the portion acquired.

(b) Machinery and equipment installed in any manufacturing facility is also partially exempt from Section 12-81 (60) of the statutes from personal property taxation imposed on the property by any taxing jurisdiction in the State. The exemption does not apply to any machinery and equipment installed in any part of the building which has not been designated as a manufacturing facility except for machinery and equipment acquired and installed on or after October 1, 1986 in a manufacturing facility for which an eligibility certificate had been previously issued, when such acquisition and installation is part of a business

expansion which involves a contiguous enlargement of the previously certified facility is not less than 50% of its floor space. To qualify under this provision, the facility being enlarged must continue to be used for manufacturing purposes and the area which represents the enlargement must meet the requirements of a manufacturing facility. Both the facility being enlarged and the enlarged area must be occupied by the same firm to whom the original certificate was issued or by a successor firm to whom a replacement certificate was issued by the department.

In order to qualify for the exemption the machinery and equipment must represent an addition to the assessment or grand list of the municipality in which the exemption is claimed and be directly attributable to and installed concurrently with the acquisition, construction, renovation or expansion established at the time the eligibility certificate is issued. Machinery and equipment existing in a manufacturing facility which has been acquired will also qualify for the exemption. Exempt machinery and equipment and the person responsible for paying taxes due with respect to the machinery and equipment will be stated in the eligibility certificate. Machinery and equipment installed in a manufacturing facility after an eligibility certificate is issued will also qualify for exemption from personal property taxation, but the exemption will not extend beyond the date the exemption of the manufacturing facility expires and will not apply unless the machinery and equipment is listed on the applicable replacement eligibility certificate together with the appropriate taxpayer. Any machinery and equipment installed in a building which has not been acquired, constructed, substantially renovated or expanded is not exempt from taxation under the program.

(c) The manufacturing facility and qualified machinery and equipment are exempt from property taxation to the extent of eighty percent (80%) of their assessed valuation. The owner, user or appropriate taxpayer is responsible for taxes payable with respect to the 20% of the assessed valuation which is not exempt from taxation. Taxes due the taxing jurisdiction are payable at the same times and in the same manner as they would be payable if the exemptions were inapplicable. The five year duration of the exemption of the real and personal property from taxation is described in Section 32-9p-9 of these regulations. The Procedural Guide contains instructions for persons desiring to claim a property tax exemption and forms which are required to be filed with the assessor of the taxing jurisdiction in making the claim. Once an eligibility certificate is issued the assessor or board of assessors is responsible for establishing the assessed valuation of the manufacturing facility. The statutes do not prohibit the lawful contest by interested persons of the valuation so established.

(Effective October 13, 1991)

Sec. 32-9p-9. Duration of benefits; Change in use, occupancy or ownership

(a) The benefits of the statutes are provided with respect to the manufacturing facility and qualified machinery and equipment, and are established for fixed terms which cannot be extended. Corporation business tax credits may be claimed only for the ten income years

following the income year of the issuance of an eligibility certificate for a manufacturing facility. Any qualified occupant of the facility may claim the credit during this period, and none after. Because the benefit is fixed with respect to the facility, a business which occupies the facility in any year after an eligibility certificate is issued may claim the benefit only for the years remaining in the eligibility term and not for a full ten years. The credit may not be claimed before the first full income year following the issuance of an eligibility certificate. Pro-rata allowances in the credit for changes in occupancy during one year of the ten-year term will be permitted as long as the change in occupancy is properly reflected on a replacement eligibility certificate.

(b) The fixed term for which the real property tax exemption applies is the five assessment years following the assessment year in which the acquisition, construction, renovation or expansion of the manufacturing facility is completed. The completion date will be determined by taking into account the date of completion of physical construction, the issuance of occupancy certificates, the commencement of business operations, employment considerations, and any other factors relevant in the circumstances. The personal property tax exemption applies during the same fixed term of the five assessment years for the real property tax exemption. Once established upon the issuance of an original or replacement eligibility certificate, these terms cannot be extended. The availability of the exemption to subsequent owners, users and other taxpayers terminates at the expiration of the term so established. Thus a sale of manufacturing facility in the fourth assessment year of the eligibility term will entitle the new owner only to one full assessment year of the exemption, the same as would have been available to the seller. The exemption applicable and taxes payable in the year of sale will apply on a pro-rata basis between the new and former owners in the manner applicable to any real property transfer. Similarly, a change in the use of qualified machinery and equipment will result in a pro-ration of the personal property taxes payable in the year of change in use, but will not result in an extension of the originally established five year exemption period.

(c) The entitlement to any benefit allowed by the statutes, whether the corporation business tax credit or the real or personal property tax exemption, will terminate if the facility ceases to be qualified as a manufacturing facility under the statutes. Section 32-9p-5 of these regulations describes the applicable qualification criteria. Each person listed on an eligibility certificate is responsible for reporting to the Department any abandonment of the facility or any change in use which would bear upon the continued qualification of the facility. A manufacturing facility for which an eligibility certificate has been issued which becomes idle for a period of more than ninety days will cease to be qualified as a manufacturing facility. Similarly, a facility's qualification will also cease when it is used for a purpose which would not qualify it as a manufacturing facility on an original application for an eligibility certificate. No credit or exemptions may be claimed in the income or assessment year of any such termination.

(Effective December 20, 1984)

Sec. 32-9p-10. Municipal grant claims and payment

Under the statutes, 20% of the taxes payable with respect to a manufacturing facility are payable by the owner of the facility reflected in the local land records. Pursuant to Section 32-9s of the statutes, an amount equal to 75% of the remaining 80% of such taxes will be paid by the State to the taxing jurisdiction upon proper application for the grant by the taxing jurisdiction. Notwithstanding provisions of this section, in the case of a business facility as defined in Sec. 32-9p-5 (h) (5) of these regulations an amount equal to 50% of the remaining 80% of such taxes will be paid by the state to the taxing jurisdiction. The amount payable by the State is based upon the total taxes due with respect to the exempt property, and will not be increased on account of the delinquency of any taxpayer. The taxing jurisdiction will have no claim against the State for real or personal property taxes which remain unpaid by the facility owner or machinery and equipment user.

(Effective October 29, 1986)

Agency
Department of Economic Development

Subject
Implementation of Employment Incentive Loan Program and Economic Development Loan Program under Section 32-9q of the General Statutes

Inclusive Sections
§§ 32-9q-1—32-9q-7

CONTENTS

Implementation of Employment Incentive Loan Program and Economic Development Loan Program under Section 32-9q of the General Statutes

Sec. 32-9q-1. Definitions

(a) "Commissioner" means the commissioner of economic development.

(b) "Department" means the department of economic development.

(c) "Distressed municipality" has the meaning given to that term in section 32-9p of the General Statutes.

(d) "Business organization" means any sole proprietorship, partnership, corporation or other form of association for profit recognized in Connecticut.

(e) "Industrial project" has the meaning given to that term in section 32-23d of the General Statutes.

(f) "New employment" means any increase, in the level of employment within a distressed municipality, directly attributable to the acquisition, construction, substantial renovation or expansion of an industrial project in respect of which a business organization has applied for a loan under section 32-9q of the General Statutes, measured without consideration of any increases or decreases in the level of employment within the distressed municipality due to other factors. The business organization shall be considered to have created new employment in such municipality if the number of persons employed at the industrial project with respect to which such loan is made, has increased or is expected to increase by more than five as a direct result of such acquisition, construction, substantial renovation or expansion.

(g) "Local development corporation" has the meaning given to that term in section 32-9q of the General Statutes.

(h) "Borrower" means any business organization, state development corporation or local development corporation for which a loan has been approved under these regulations.

(i) "Loan" means a working capital loan under section 32-9q-2 and a loan to a local development corporation under section 32-9q-3 unless the context otherwise requires.

(Effective August 5, 1980)

Sec. 32-9q-2. Eligibility for working capital loans

The department may make working capital loans to any business organization which meets the following criteria:

(1) The business organization has recently completed, has undertaken or is actively planning the acquisition, construction, substantial renovation or expansion of an industrial project in a distressed municipality and such acquisition, construction, renovation or expansion has or is reasonably expected to create new employment in such distressed municipality.

(2) The business organization has provided evidence satisfactory to the commissioner that it shall, concurrently with and in an amount not less than the loan made pursuant to this section, receive from a private financial institution or local development corporation a working capital loan, which shall be used for substantially the same purposes as the loan

made pursuant to this section;

(3) The business organization has provided evidence satisfactory to the commissioner that the availability of the loan provided pursuant to this section was an important factor in the decision of such business organization to acquire, construct, substantially renovate or expand such industrial project in such distressed municipality, and such evidence may include evidence that loans on substantially similar terms and conditions were not otherwise available, excepting only the loan referred to in clause (2) of this section.

(Effective August 5, 1980)

Sec. 32-9q-3. Economic development loans

(a) The department may make loans to any non-profit state development corporation or local development corporation for any economic development purpose determined to be worthwhile by the commissioner.

(b) The aggregate of such loans shall not exceed five hundred thousand dollars.

(c) such loans may be made for any developmental purpose, including but not limited to working capital, start-up and fixed assets.

(Effective August 5, 1980)

Sec. 32-9q-4. Loan application and agreement

(a) Application for a loan shall be submitted on forms provided by the department. No application shall be considered unless the exhibits required by such forms are furnished.

(b) Upon approval by the commissioner and the authority, the borrower shall enter into a loan agreement which shall set forth the terms and conditions required by these regulations and any other terms and conditions applicable to the particular loan, which may be set by the commissioner or the authority.

(c) Each loan agreement shall be effective only upon execution by the commissioner and the borrower.

(d) Such loan agreement shall provide, without limitation, that the borrower agrees:

(1) To provide the Department with such financial and other information as the commissioner may in his discretion require from time to time;

(2) To notify the department promptly of any material adverse change in the financial condition or business prospects of the borrower;

(3) To represent and warrant that it has the power and authority to enter into the loan agreement and to incur the obligations therein provided for, and that all documents and agreements executed and delivered in connection with the loan will be valid and binding upon the borrower in accordance with their respective terms;

(4) To provide such security for the loan as the commissioner may require pursuant to section 32-9q-5 of these regulations and to execute and deliver all documents in connection therewith;

(5) That the funds provided will not be used otherwise than in connection with the

development and operation of the industrial project for which the loan was approved.

(Effective August 5, 1980)

Sec. 32-9q-5. Loans

(a) The term of the working capital loan shall not exceed ten years from the date of first disbursements of the loan.

(b) No working capital loan shall exceed $75,000.00 with respect to a single industrial project.

(c) Disbursement of the loan shall be made at the discretion of the commissioner in accordance with the provisions of the loan agreements and the instructions of the authority.

(d) The loan shall be repaid on an amortized schedule of periodic payments or upon such other periodic method of payment of principal and interest as the commissioner considers necessary and appropriate in the particular circumstances, but in no event shall the periodic payments be scheduled to exceed ten years from the date of first disbursement of the loan.

(e) The loan may be secured or unsecured as the commissioner determines to be appropriate in the particular circumstances. If the loan is to be secured, the commissioner may require the borrower to provide the department as security any of the following: real property, accounts, chattel paper, documents, instruments, general intangibles, goods, equipment, inventory or other personal property, and may further require the borrower to have executed and delivered to the commissioner security agreements, financing statements, mortgages, pledges, assignments, subordinations, guarantees or other documents or evidences of security as and in the form required by the commissioner.

(Effective August 5, 1980)

Sec. 32-9q-6. Note

(a) Each loan shall be evidenced by a promissory note which shall contain a provision permitting the borrower to prepay the loan in whole or in part upon any interest payment date.

(b) The promissory note shall provide for the payment of interest at a rate of one percent above the rate of interest borne by the bonds of the state last issued prior to the date such loan is made.

(c) The promissory note may provide for the collection of a late charge, not to exceed two percent of any installment which is not paid within ten days of the due date thereof. Late charges shall be separately charged to and collected from the borrower.

(Effective August 5, 1980)

Sec. 32-9q-7. Default and remedy

(a) The failure of the borrower to abide by the terms of the loan agreement, promissory note or other document signed by the borrower in connection with such loan shall be considered a default under such promissory note.

(b) The promissory note shall contain a provision that the failure of the borrower to make

a payment of principal or interest due under the promissory note within fifteen days from the due date shall constitute a default.

(c) The promissory note shall provide that upon default, any and all sums owing by the borrower under the note shall, at the option of the commissioner, become immediately due and payable.

(d) The promissory note shall provide that in the event of default, interest on the promissory note shall automatically increase to twelve percent per annum and shall apply not only after default, but after any judgment rendered upon the said promissory note.

(e) The promissory note shall provide for payment of reasonable attorneys' fees and legal costs in the event of default.

(f) The promissory note shall contain such other clauses and covenants as the commissioner in his discretion may require.

(Effective August 5, 1980)

Agency
Department of Economic Development

Subject
Business Outreach Center Challenge Grant Program

Inclusive Sections
§§ 32-9qq-1—32-9qq-7

CONTENTS

Business Outreach Center Challenge Grant Program

Sec. 32-9qq-1. Definitions

(a) "Applicant" means any non-profit or governmental entity which intends to establish a business outreach center in a particular region of the state or for certain industry sectors to assist in providing services to small businesses and minority business enterprises.

(b) "Business Outreach Center" means any non-profit or governmental entity providing or able to provide assistance to small businesses and minority business enterprises in the areas of business plan development, financial projection, loan package planning, including loan packaging for small businesses and minority business enterprises which are seeking financial assistance from the Connecticut development authority, business counseling and related monitoring and follow-up services.

(c) "Commissioner" means the commissioner of economic development.

(d) "Connecticut Development Authority" means the quasi-public agency established pursuant to Section 32-11a of the Connecticut General Statutes.

(e) "Department" means the department of economic development.

(f) "Governmental Entity" means any department or agency of the State, or of any municipality of the State, including but not limited to, quasi-public agencies and public institutions of higher education.

(g) "Minority Business Enterprise" means a small contractor as defined in Section 32-9e (a) (3) of the Connecticut General Statutes.

(h) "Non-Profit Entity" means all non-profit corporations as the term is defined in Section 33-421 (*l*) of the Connecticut General Statutes, including but not limited to corporations organized exclusively for charitable or educational purposes.

(i) "Small Business" means any person or entity including affiliates engaged in or which intend to establish or acquire a for-profit activity or activities in this state, and whose gross revenues, including revenues of affiliates, did not exceed ten million dollars in its most recently completed fiscal year or if such person or entity has not been in business for one year, the commissioner determines in his discretion that such gross revenues, including revenues of affiliates, are not likely to exceed ten million dollars in its first fiscal year.

(Effective August 31, 1989)

Sec. 32-9qq-2. Eligibility

To be eligible for a grant pursuant to these Regulations an applicant must:

(a) be a non-profit or governmental entity;

(b) be applying for a grant hereunder to cover, in whole or in part, the cost of maintaining or operating a business outreach center as defined in Section 32-9qq-1 of these Regulations;

(c) be providing or able to provide assistance to small businesses and minority business enterprises in the areas of business plan development, financial projection, loan package planning, including loan packaging for small and minority businesses seeking financial assistance from the Connecticut development authority, business counseling and related monitoring and follow-up services; and

(d) establish and maintain business outreach centers solely in the State of Connecticut.

(Effective August 31, 1989)

Sec. 32-9qq-3. Application requirements

Each application for a grant shall be submitted on forms prescribed by the department. Such forms shall require applicants to submit sufficient information to make a determination of eligibility for receipt of a grant, including, but not limited to the following:

(a) evidence satisfactory to the commissioner and the department that the applicant is a non-profit or governmental entity;

(b) the applicant's plan for the use of the grant funds requested hereunder including:

(1) submission of a work plan which sets forth:

(A) the specific region or industry sector to be served by the business outreach center;

(B) an identification and assessment of the general needs of businesses in such region or industry sector;

(C) an identification and assessment of the general and specific needs of the small businesses and minority business enterprises to be served by the business outreach center;

(D) a statement of the mission, goals and objectives of the business outreach center;

(E) an overall work plan for the entire budget period;

(F) a detailed work plan for the first year of the budget period;

(G) an outreach and marketing plan;

(H) an explanation of how the activities of the business outreach center will coordinate with or supplement existing services within the region or industry sector;

(I) a detailed explanation of the manner in which the business outreach center intends to assist small businesses and minority business enterprises in the areas of business plan development, financial projection, loan package planning, including loan packaging for small businesses and minority business enterprises which are seeking financial assistance from the Connecticut development authority, business counseling and related monitoring and follow-up services; and

(J) any further information requested by the commissioner;

(2) submission of a financial plan which sets forth:

(A) actual or proposed sources of financial resources other than grant monies received pursuant to these Regulations, including specification of such resources as public or private and projected revenues from service fees; and

(B) an estimation of costs for the entire grant period and detailed identification of costs for the first year as follows:

(i) personnel;

(ii) travel;

(iii) outside consultants;

(iv) outreach and marketing efforts;

(v) rent, utilities and related expenses; and

(vi) any other expenses related to the work plan referred to in Section 32-9qq-3 (b) (1)

of these Regulations;

(3) submission of a plan detailing the proposed administrative structure of the business outreach center, which plan shall set forth:

(A) the type of policy-making board and administrative structure of the applicant;

(B) major participants in the applicant's program other than the policy-making board;

(C) the existing or proposed levels of expertise and previous experience of the staff employed or to be employed by the business outreach center;

(D) criteria applied or to be applied to develop or enhance the operations of the applicant; and,

(E) evidence of the level of commitment or other appropriate administrative support to the business outreach center.

(c) any further information requested by the commissioner.

(Effective August 31, 1989)

Sec. 32-9qq-4. Eligible use of grant funds

Grant funds may be utilized to:

(a) pay the salary, benefits and travel expenses of employees of the business outreach center;

(b) purchase the services of outside consultants or organizations;

(c) develop outreach materials and conduct outreach efforts;

(d) pay rent and related office expenses;

(e) pay for such other expenses as are deemed appropriate by the commissioner. Provided, however, the foregoing are eligible uses for grant funds only to the extent that the applicant conducts the services or activities of a business outreach center as identified in Section 32-9qq of the Connecticut General Statutes.

(Effective August 31, 1989)

Sec. 32-9qq-5. Grant award criteria

Grant awards will be reviewed on the basis of the following, among other criteria:

(a) the degree of need of the applicant and the businesses to be served by the applicant;

(b) the commitment and capability of the business outreach center to satisfy significant needs of small businesses and minority business enterprises;

(c) the degree to which the business outreach center will not duplicate or fund existing services;

(d) the capability of the business outreach center to coordinate with or improve and supplement existing services;

(e) evidence of financial and non-financial commitment to the business outreach center from sources other than the State or United States governments.

(f) the level of financial support relative to the identified needs of small businesses and minority business enterprises from sources other than the State or United States governments.

(g) the administrative capacity of the applicant to implement the work plan efficiently and effectively;

(h) the capability of the business outreach center to become self-sufficient during or by the end of the grant period;

(i) the need for assistance to small and minority businesses in the region or industry sector to be served by the business outreach center;

(j) the applicant's plan for outreach efforts designed to inform small businesses and minority business enterprises of available sources of financial and technical assistance; and

(k) such other factors the commissioner may deem appropriate to satisfying the needs of small businesses or minority business enterprises to be served by the outreach center.

(Effective August 31, 1989)

Sec. 32-9qq-6. Grant award and agreement

(a) Eligible and properly submitted applications shall be reviewed and approved by the commissioner or his designee. Such review shall include consideration of the criteria established pursuant to Section 32-9qq-5 of these Regulations.

(b) Upon approval of an application by the commissioner or his designee, an offer of grant funds will be made by the department, subject to the authorization of funds by the State Bond Commission and the execution of a Grant Assistance Agreement between the applicant and the department. Such Grant Assistance Agreement shall set forth the amount of the grant approved, the period of years over which grant funds will be paid, the terms and conditions required by these Regulations and such other terms and conditions considered by the commissioner necessary to carry out the purposes of these Regulations and Section 32-9qq of the Connecticut General Statutes.

(c) As a condition of approval of an application, the commissioner may require the applicant to obtain a matching grant, which matching grant may include cash and in-kind contributions.

Matching grants shall be in such amounts as the commissioner determines in his discretion and shall be based upon, but not limited to, such factors as the need of the applicant and the level of commitment of such applicant to provide assistance to small businesses and minority business enterprises.

(d) No grant assistance agreement shall exceed five (5) years in duration or five hundred thousand dollars ($500,000) in amount. Grant awards shall be determined on an annual basis in accordance with such assistance agreement, subject to a satisfactory review of past performance as determined by the commissioner.

(Effective August 31, 1989)

Sec. 32-9qq-7. Disbursement

Disbursement of the approved grant shall be made in accordance with the grant assistance agreement.

(Effective August 31, 1989)

Agency
Office of Policy and Management

Subject
Penalties and the Waiver of Penalties for Failure to Comply With Certain State Reporting Requirements

Inclusive Sections
§§ 32-9s-1—32-9s-2

CONTENTS

Penalties and the Waiver of Penalties for Failure to Comply With Certain State Reporting Requirements

Sec. 32-9s-1. Penalty forfeit

(a) As used in Section 32-9s-1 to Section 32-9s-2 of the Regulations of Connecticut State Agencies:

(1) "District" means a district created pursuant to Section 7-325 or Chapter 105a, which is located in a distressed municipality, targeted investment community or enterprise zone;

(2) "Distressed municipality" shall have the same meaning as provided in Section 32-9p of the general statutes;

(3) "Targeted investment community" shall have the same meaning as provided in Section 32-222 of the general statutes; and

(4) "Enterprise Zone" means an area of a municipality designated pursuant to Section 32-70 of the general statutes.

(b) In the event the secretary of the Office of Policy and Management determines that a municipality or district is required to forfeit the amount specified as a penalty for failure to comply with the provision of Section 32-9s of the general statutes, he shall cause to be sent to the chief executive officer of the municipality or district, a notification of the penalty amount due and a request for its prompt payment. The forfeit shall be required to be in the form of a bank check, certified check or money order made payable to the treasurer of the state of Connecticut and forwarded to the secretary of the Office of Policy and Management.

(Effective April 28, 1989; Amended July 26, 1999)

Sec. 32-9s-2. Penalty waiver procedures

(a) The penalty pursuant to Section 32-9s of the general statutes, may be waived by the Secretary of the Office of Policy and Management provided he receives a written application for waiver within thirty business days of the claim filing date. Such application, which shall set forth the reason for the waiver request, shall be signed by the official responsible for filing the claim and co-signed by the chief executive officer of the municipality or district. It must be established to the Secretary's satisfaction that the failure to file in a timely manner and in the form required, was due to reasonable cause and was not intentional or due to neglect. Examples of reasonable cause shall include, but not be limited to, the following:

(1) An Act of God;

(2) A vacancy in the position of the official responsible for filing the claim for reimbursement. Such vacancy, which may be due to death, serious illness or resignation, must have occurred within sixty days of the claim filing date;

(3) Failure regarding delivery of such claim, provided it is established to the Secretary's satisfaction that a reasonable attempt to make timely delivery has been made;

(4) Administrative or technical problems encountered with regard to the filing of such claim, including but not limited to:

(A) Adoption of a computer system, or conversion to an alternate computer system, wherein serious problems concerning retrieval of the data to be submitted were not resolved

prior to the claim filing date. It must be established to the Secretary's satisfaction that attempts to resolve such problems were undertaken within a reasonable period of time prior to such date;

(B) Failure on the part of the municipality or district to establish a mill rate within thirty days of the claim filing date.

(C) The enactment of legislation by the General Assembly in the session immediately preceding the claim filing date, which would require a substantial recalculation of the amount of reimbursement of revenue loss to be claimed;

(D) Failure on the part of the municipality or district to receive from the Secretary at least thirty days prior to the claim filing date, the form(s) necessary for submitting the required information.

(b) The Secretary shall promptly consider any such written application for penalty waiver and shall notify the applicants of his decision to grant or deny such waiver within fifteen business days.

(Effective April 28, 1989; Amended July 26, 1999)

Agency
Connecticut Industrial Building Commission

Subject
Insuring of Industrial Mortgages

Inclusive Sections
§§ 32-13-1—32-13-47

CONTENTS

Insuring of Industrial Mortgages

Sec. 32-13-1. Application and fees

Information required for the examination of an industrial project shall be submitted in the form of an application for mortgage insurance by an approved mortgagee and by the sponsors of such project through the executive secretary of the Connecticut Industrial Building Commission, on the commission's form executed in triplicate. No application will be considered unless the exhibits called for by such form are furnished and such application is accompanied by an application fee of *** such *** amount as the commission may from time to time prescribe.

(See 1969 Supp. § 32-15.)

(Effective November 26, 1968)

Sec. 32-13-2. Commitment or unacceptance

(a) *No commitment shall be valid unless authorized by the commission, and a commitment shall be effective for a stated period. A commitment may be renewed in such manner as the commission may from time to time specify.*

(b) *No such commitment shall become effective until the applicant has paid to the commission a commitment fee of one dollar and fifty cents for each one thousand dollars of the face amount of the mortgage to be insured or of such other amount as the commission may from time to time prescribe.*

(c) Upon approval of an application, a commitment shall be issued setting forth the terms and conditions upon which the mortgage payments shall be insured, including special requirements applicable to the project and requiring the submission in final form within a time specified of all appropriate documents, drawings, plans, specifications, appraisals, and other instruments evidencing full compliance, satisfactory to the commission.

(d) If, upon examination of the application and supporting information, the commission rejects such application, it shall inform the mortgagor and mortgagee submitting such application.

(Effective August 20, 1963)

Sec. 32-13-3. Covenant for fire and other hazard insurance

The mortgage shall contain a covenant acceptable to the commission binding the mortgagor to keep the property insured by a standard policy or policies against fire and such other hazards as the commission may stipulate, in an amount which will comply with the co-insurance clause applicable to the location and character of the property. The initial coverage shall be in an amount estimated by the commission at the time of completion of the entire project of units thereof. The policies evidencing such insurance shall *be with companies and in amounts acceptable to the commission and shall* have attached thereto a standard mortgagee clause making loss payable to the mortgagee and the commission as

interests may appear.

(Effective November 26, 1968)

Sec. 32-13-4. Other covenants

The mortgage shall contain covenants acceptable to the commission binding the mortgagor with respect to repairs and alterations to the property, or to the use of the property for purposes intended, and to payment of taxes and assessments, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens and other covenants as the commission may require.

Sec. 32-13-5. Accumulation of accruals

(a) The mortgage shall provide for payment by the mortgagor to the mortgagee on each interest payment date of an amount sufficient to accumulate in the hands of the mortgagee, one payment period prior to its due date, the next actual mortgage insurance premium payable by the mortgagee to the commission. Such payments shall continue only so long as the contract of insurance shall remain in effect.

(b) The mortgage shall provide for such equal periodic payments by the mortgagor to the mortgagee as will amortize the estimated amount of all taxes, water rates, *ground rents* and special assessments, if any, and fire and other hazard insurance premiums, within a period ending one period prior to the dates on which the same become delinquent. The mortgage shall further provide that such payments shall be held by the mortgagee, for the purpose of paying such taxes, water rates, *ground rents* and assessments, and insurance premiums, before the same become delinquent. The mortgage shall also make provision for adjustments, in case the estimated amount of such taxes, water rates, *ground rents* and assessments, and insurance premiums shall prove to be more or less than the actual amount thereof so paid by the mortgagor.

(Subsec. (a) effective August 20, 1963; subsec. (b) effective November 26, 1968)

(Effective August 20, 1963; Effective November 26, 1968)

Sec. 32-13-6. Application of payments

(a) The mortgage shall provide that all periodic payments to be made by the mortgagor to the mortgagee shall be added together and the aggregate amount thereof shall be paid by the mortgagor upon each periodic payment date in a single payment. The mortgagee shall apply the same to the following items in the order set forth: (1) Premium charges under the contract of insurance; (2) *ground rents,* taxes, special assessments and fire and other hazard insurance premiums; (3) interest on the mortgage; (4) any advances made by the mortgagee permitted by section 32-17a(a) of the 1969 supplement to the general statutes; (5) amortization of the principal of the mortgage.

(b) *Any deficiency in the amount of any such aggregate periodic payment shall constitute an event of default. The mortgage shall further provide for a grace period within which*

time the default shall be made good.

(Effective November 26, 1968)

Sec. 32-13-7. Prepayment and late charges

(a) **Prepayment privilege.** The mortgage shall contain a provision permitting the mortgagor to prepay the mortgage in whole or in part upon any interest payment date after giving to the mortgagee thirty days' notice in writing in advance of its intention to so prepay.

(b) **Prepayment charge.** The mortgage may contain a provision for such additional charge in the event of prepayment of principal as may be agreed upon between the mortgagor and mortgagee. However, the mortgagor shall be permitted to prepay up to fifteen per cent of the original principal amount of the mortgage in any one calendar year without any such additional charge.

(c) **Late charge.** The mortgage may provide for the collection by the mortgagee of a late charge, not to exceed two cents for each dollar of each payment to interest or principal more than fifteen days in arrears, to cover the expense involved in handling delinquent payments. Late charges shall be separately charged to and collected from the mortgagor and shall not be deducted from any aggregate periodic payments.

Sec. 32-13-8. Servicing by mortgagee

All approved mortgagees are required to service insured loans in accordance with acceptable mortgage practices of prudent lending institutions. In the event of default, the mortgagee shall contact the mortgagor and otherwise exercise diligence in collecting the amounts due.

Sec. 32-13-9. Eligibility of property

A mortgage to be eligible for insurance shall be on real estate held *(1)* in fee simple or *(2) on the interest of the lessee under a lease for not less than ninety-nine years having a period of not less than seventy-five years to run from the date the mortgage is executed, and which is renewable*, and the building or buildings and improvements thereon shall be completed before issuance of any such insurance.

(Effective November 26, 1968)

Sec. 32-13-10. Certification of cost requirements

Prior to the start of any construction, repair or rehabilitation, the mortgagor, the mortgagee and the commission shall enter into an agreement in form and content satisfactory to the commission for the purpose of precluding any excess of mortgage proceeds over statutory limitations. The agreement shall require that, upon completion of all physical improvements on the mortgaged property, the mortgagor shall execute an affidavit of actual costs. The agreement shall further require that any excess of mortgage proceeds over statutory limitations based on actual costs shall be applied to reduction of the principal of the mortgage committed for insurance by the commission.

Sec. 32-13-11. Adjustment resulting from cost certification

Upon receipt of mortgagor's affidavit of actual cost, there shall be added to the total amount thereof the commission's estimate of the fair market value of any land and existing improvements prior to the construction, repair or rehabilitation included in the mortgage security. *If the land is held under a leasehold or other interest less than a fee, the cost, if any, of acquiring the leasehold or other interest is considered an allowable expense which may be added to actual cost, provided such amount shall not be in excess of the fair market value of such leasehold or other interest exclusive of proposed improvements.* If the principal of the mortgage committed by the commission exceeds ninety per cent of this total amount, the commitment shall be reduced by the amount of such excess and the mortgage shall be similarly restricted in amount for insurance.

(Effective November 26, 1968)

Sec. 32-13-12. Eligibility of title

In order for the mortgaged property to be eligible for insurance, the commission shall determine that marketable title thereto is vested in the mortgagor, *subject only to leases, easements, restrictive covenants, current taxes and reservations of fissionable materials to the United States of America.*

(Effective August 20, 1963)

Sec. 32-13-13. Title evidence

Prior to insurance of the mortgage, the mortgagee, without expense to the commission, shall furnish to the commission a survey satisfactory to it and a policy of title insurance or an attorney's opinion of title as provided in subdivisions (1) and (2) of this section: (1) A policy of title insurance with respect to such mortgage, issued by a company satisfactory to the commission. Such policy shall comply with the ATA standard mortgages form or such other form as may be approved by the commission; shall be payable to the mortgagee and the commission as their respective interests may appear; and shall become an owner's policy, running to the mortgagee as owner upon the acquisition of the property by the mortgagee in extinguishment of a debt through foreclosure or by other means, and to the commission as owner upon the acquisition of the property by it pursuant to the mortgage insurance contract. (2) A legal opinion satisfactory to the commission, as to the quality of such title, signed by an attorney at law, *** experienced in the examination of titles.

(Subdiv. (2) effective November 26, 1968; remainder of section effective August 20, 1963)

(Effective November 26, 1968; Effective August 20, 1963)

Sec. 32-13-14. Premium

The mortgagee, upon execution of the insurance contract, shall pay to the commission a first mortgage insurance premium equal to two per cent of the original face amount of the mortgage or such lesser percentage as the commission shall require in their formal

commitment to insure the mortgage payments. Premiums thereafter shall be at the rate aforesaid on the unpaid principal balance at the beginning of each mortgage year, and shall be payable by the mortgagee at the beginning of each mortgage year and are payable in advance. If premiums are not paid when due, such nonpayment shall constitute a default under any such mortgage and, if such default is not cured within thirty days thereafter, mortgage insurance benefits shall terminate.

Sec. 32-13-15. Form of insurance contract

(a) **Procedure.** Upon compliance with the terms and conditions of a commitment, the commission shall execute a contract to insure the mortgage payments.

(b) **Effect of execution.** From the date of execution, the commission and mortgagee shall be bound by such contract, and the faith and credit of the state are pledged thereto.

Sec. 32-13-16. Defaults

The failure of the mortgagor to abide by the terms of the mortgage deed and mortgage note *** shall be considered a default under such mortgage.

(Effective August 20, 1963)

Sec. 32-13-17. Notice

If the default as defined in section 32-13-16 is not cured within *** *thirty days,* the mortgagee shall, within thirty days thereafter, notify the commission in writing of such default and *** of such action as the mortgagee intends to take to *** *correct such default.*

(Effective August 20, 1963)

Sec. 32-13-18. Commission's right to require acceleration (Repealed)

Repealed August 20, 1963.

Sec. 32-13-19. Insurance benefit requirements (Repealed)

Repealed November 26, 1968.

Sec. 32-13-19a. Procedure by mortgagee on default

The mortgagee shall become eligible for the benefits of the insurance provided by chapter 579 of the general statutes, as amended, if such default continues for more than sixty days, or within such other time as may be agreed upon by the commission and mortgagee in writing:

(a) The mortgagee shall notify the commission of its opinion of the prudence of revising the terms of financing, and, if such revision appears to the commission to be prudent, appropriate papers satisfactory to the commission shall be drawn and executed by the mortgagor and mortgagee.

(b) If a revision of the terms of financing does not appear prudent to the commission, and it is deemed advisable by the mortgagee or commission to institute foreclosure proceedings, then the mortgagee shall institute such foreclosure action and either obtain

possession of the mortgaged property and the income therefrom through the voluntary surrender thereof and of title thereto by the mortgagor, or prosecute to judgment, with reasonable diligence, such proceedings for the foreclosure of the mortgage, either strict or by sale, and if proper, obtain the appointment of a receiver to manage the mortgaged property and collect the income therefrom and proceed to exercise such other rights and remedies as may be available to it for the protection and preservation of the mortgaged property and to obtain the income therefrom under the mortgage and the laws of this state. Upon institution of foreclosure, the mortgagee shall furnish the commission with copies of the foreclosure complaint and all subsequent pleadings, including a copy of the appraisal report, and in the event of judgment in connection therewith, the mortgagee shall within thirty days after such judgment, file with the commission a certified copy of such judgment.

(c) If the mortgagee so acquires title to the mortgaged property, the mortgagee shall proceed to effect an orderly liquidation of the property within ninety days from such date of acquisition of title. If the property cannot be liquidated within such period at a price equal to or in excess of the total value of the mortgage as defined in section 32-17a of the 1969 supplement to the general statutes, any offer or offers shall be submitted to the commission, which shall, within thirty days of the receipt of the offer or offers, approve one thereof to whom the mortgagee shall then sell or the commission shall accept title as hereinafter provided for.

(d) In the event of foreclosure by sale and a deficiency judgment in connection therewith, the mortgagee shall within thirty days after such deficiency judgment, file with the commission a certified copy of deficiency judgment.

(e) If title to the property passes to the commission the mortgagee shall submit the following documents to the commission: (1) A properly executed deed conveying a marketable title and containing covenants satisfactory to the commission; (2) title evidence satisfactory to the commission and without expense to it, as of a date to include the recordation of the deed to the commission, which shall be in form satisfactory to the commission covering the period subsequent to the recording of the mortgage, or a satisfactory continuation of the title evidence accepted by the commission at the time the mortgage was insured, depending on the form of title evidence originally accepted by the commission; (3) a bill of sale, covering any personal property or other security to which the mortgagee is entitled by reason of the mortgage transaction, conveying title to such property or other security satisfactory to the commission; (4) an assignment of all claims of the mortgagee against the mortgagor or others arising out of the mortgage or the foreclosure, except such claims as may have been released with the consent of the commission.

(f) If the commission determines to accept an assignment of the mortgage indebtedness and all security therefor, the mortgagee shall assign, transfer and deliver to the commission the original mortgage note and the mortgage securing the same, without recourse or warrantee, except that the mortgagee in writing shall warrant that no act or omission of the mortgagee has impaired the validity and the priority of the mortgage, that the mortgage is

prior to all mechanics' and materialmen's liens filed of record subsequent to the recording of such mortgage regardless of whether such liens attached prior to such recording date and prior to all liens and encumbrances which may have attached or defects which may have arisen subsequent to the recording of such mortgage, except such liens or other matters as may be approved by the commission and shall provide an affidavit declaring that the amounts stated in the instrument or assignment are actually due and owing under the mortgage, that there are no offsets or counterclaims thereto, and that the mortgagee has a good right to assign same to the commission. In addition, the mortgagee shall assign, transfer and deliver by proper instrument the following: (1) All rights and interest arising under the mortgage so in default; (2) all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transaction; (3) all policies of title or other insurance or surety bonds or other guarantees, and any and all claims thereunder, including evidence satisfactory to the commission that the original title coverage has been extended to include the assignment of the mortgage to the commission; (4) any cash or property or other security held by the mortgagee and available to the mortgagee for application to the mortgage debt; (5) all records, documents, books, papers and accounts relating to the mortgage transaction; (6) any additional information or data which the commission may require, or an assignment of all claims of the mortgagee against the mortgagor or others arising out of the mortgage or the foreclosure, except such claims as may have been released with the consent of the commission.

(g) Notwithstanding the foregoing, the commission, after default or threatened default, may make payments of instalments of principal or interest or both, and of taxes and insurance, for a temporary period.

(Effective November 26, 1968)

Sec. 32-13-20. Insurance benefits (Repealed)

Repealed August 20, 1963.

Sec. 32-13-20a. Eligibility for insurance payments

Upon sale of property by the mortgagee, or upon assignment to the commission of the mortgage and of all claims against the mortgagor, or upon deeding the property to the commission, all in accordance with the provisions of section *32-13-19a* the mortgagee shall be entitled to the insurance benefits provided in section 32-17a of the 1969 supplement to the general statutes, after deducting any sums received in any sale by the mortgagee.

(Effective November 26, 1968)

Sec. 32-13-21. Protection of mortgage security

(a) **Annual inspection of property by mortgagee.** So long as the mortgage is an insured mortgage, the mortgagee shall ascertain the general physical condition of the mortgaged property in each calendar year commencing with the calendar year following completion of the project. The mortgagee shall furnish the commission and the mortgagor with a copy

of its inspection report, which shall contain the mortgagee's recommendations for any necessary corrective action.

(b) **Restoration of property by mortgagee.** If, at any time, it be determined by the mortgagee that, in addition to ordinary wear and tear, the mortgaged property is being subjected to permanent or substantial injury, through unreasonable use, abuse or neglect, the mortgagee shall, unless adequate provision satisfactory to a prudent lender is made for the prompt restoration of the mortgaged property, forthwith take such action as may be available to it under the mortgage and appropriate to the particular case, for the protection and preservation of the mortgaged property and the income therefrom.

(c) **Insurance of property against fire and hazard.** The mortgaged premises shall at all times be insured against fire and other hazards as provided in the mortgage. The mortgagee shall provide such coverage in the event the mortgagor fails to do so. If the mortgagee fails to pay any premiums necessary to keep the mortgaged premises so insured, the contract of insurance may be terminated at the election of the commission.

(d) **Effect of failure to provide adequate fire and hazard insurance.** If at the time claim is filed for the payment of insurance the property has been damaged by fire or other hazards and the loss has been sustained by reason of failure to keep the property insured as provided in the mortgage, the amount of such loss may be deducted from the amount of the insurance settlement.

(e) **Application of fire and hazard insurance proceeds.** (1) If a loss has occurred to the mortgaged property under any policy of fire or other hazard insurance and the mortgagee has received the proceeds therefrom, it shall not exercise its option under the mortgage to use the proceeds of such insurance for the repairing, replacing or rebuilding of the premises, or apply them to the mortgage indebtedness, without the prior written approval of the commission, *except for emergency repairs not to exceed the sum of five thousand dollars or five per cent of the insurance in force whichever may be less.* (2) If the proceeds are applied to the mortgage with such prior written approval and result in the payment in full of the entire mortgage indebtedness, the contract of mortgage insurance made with the commission shall thereupon terminate. (3) If the commission fails to give its approval to the use or application of such funds for either of said purposes within thirty days after written request by the mortgagee, the mortgagee may use or apply such funds for any of the purposes specified in the mortgage without the approval of the commission.

(Effective August 20, 1963)

Sec. 32-13-22. Assignment of insured mortgages

(a) An insured mortgage may be transferred only to a transferee who is a mortgagee approved by the commission. Upon such transfer and the assumption by the transferee of all obligations under the contract of insurance, the transferor shall be released from its obligations under the contract of insurance.

(b) The contract of insurance shall terminate with respect to mortgages described in subsection (a) of this section upon the transfer or pledge of the insured mortgage to any

person, firm, or corporation, public or private, other than an approved mortgagee.

Sec. 32-13-23. No vested right

Neither the mortgagee nor the mortgagor shall have any vested or other right in the industrial building mortgage insurance fund.

Sec. 32-13-24. Amendments not to change contractual rights

These regulations may be amended by the commission at any time and from time to time, in whole or in part, but such amendments may not adversely affect the interest of a mortgagee under the contract of insurance on any mortgage already insured or to be insured on which the commission has made a commitment to insure.

Sec. 32-13-25. Application for insurance

Information required for the examination of an insured loan on machinery and equipment shall be submitted in the form of an application for insurance by an approved mortgagee and by the sponsors of such project through the executive secretary of the Connecticut Industrial Building Commission, on the commission's form executed in triplicate. No application will be considered unless the exhibits called for by such form are furnished and such application is accompanied by an application fee of such amount as the commission may from time to time prescribe.

(Effective November 26, 1968)

Sec. 32-13-26. Commitments

(a) No commitment shall be valid unless authorized by the commission, and a commitment shall be effective for a stated period. A commitment may be renewed in such manner as the commission may from time to time specify.

(b) No such commitment shall become effective until the applicant has paid to the commission a commitment fee of such amount as the commission may from time to time prescribe.

(c) Upon approval of an application, a commitment shall be issued setting forth the terms and conditions upon which the loan payments shall be insured, including special requirements applicable to the project and requiring the submission in final form within a time specified of all appropriate documents and instruments evidencing full compliance, satisfactory to the commission.

(d) If, upon examination of the application and supporting information, the commission rejects such application, it shall inform the debtor and secured party submitting such application.

(Effective November 26, 1968)

Sec. 32-13-27. Covenant of debtor re insurance

The security agreement shall contain a covenant acceptable to the commission binding the debtor to keep the machinery and equipment insured by a standard policy or policies

against fire and such other hazards as the commission may stipulate, in an amount equal to the full value of such machinery and equipment and in no event less than the outstanding indebtedness thereon. The policies evidencing such insurance shall have attached thereto a loss payable clause making loss payable to the secured party and the commission, as their interests may appear prior to any other loss payments.

(Effective November 26, 1968)

Sec. 32-13-28. Covenant of debtor re repairs and statements

(a) The security agreement shall contain covenants acceptable to the commission binding the debtor with respect to repairs and alterations to the machinery and equipment, or to the use of the machinery and equipment for the purposes intended, and to the payment of taxes and assessments, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens.

(b) The security agreement shall also contain a covenant that the debtor will forward quarterly statements and an annual certified audited statement to the secured party and the commission within a prescribed period. The annual certified statement may be substituted for the fourth quarter statement.

(Effective November 26, 1968)

Sec. 32-13-29. Security agreement provisions for payment by debtor

(a) The security agreement shall provide for payment by the debtor to the secured party on each interest payment date of an amount sufficient to accumulate in the hands of the secured party, one payment period prior to its due date, the next actual insurance premium payable by the secured party to the commission. Such payments shall continue only so long as the contract of insurance shall remain in effect.

(b) The security agreement shall provide for such equal periodic payments by the debtor as will amortize the estimated amount of all taxes and fire and other hazard insurance premiums within a period ending one period prior to the dates on which the same become delinquent. The security agreement shall further provide that such payments shall be held by the mortgagee, for the purpose of paying such taxes and insurance premiums, before the same become delinquent. The security agreement shall also make provision for adjustments, in case the estimated amount of such taxes and insurance premiums shall prove to be more or less than the actual amount thereof so paid by the debtor.

(Effective November 26, 1968)

Sec. 32-13-30. Single payment on due date

The security agreement shall provide that all periodic payments to be made by the debtor to the secured party shall be added together and the aggregate amount thereof shall be paid by the debtor upon each periodic payment date in a single payment. The secured party shall apply the same to the following items in the order set forth: (1) Premium charges under the contract of insurance; (2) taxes and fire and other hazard insurance premiums; (3) interest

on the debt; (4) amortization of the principal of the debt.

(Effective November 26, 1968)

Sec. 32-13-31. Prepayment. Late charges

(a) The security agreement shall contain a provision permitting the debtor to prepay the debt in whole or in part upon any interest payment date after giving to the secured party thirty days' notice in writing in advance of its intention to so prepay.

(b) The security agreement may contain a provision for such additional charge in the event of prepayment of principal as may be agreed upon between the debtor and the secured party, provided the debtor shall be permitted to prepay up to thirty per cent of the original principal amount of the debt in any one calendar year without any such additional charge.

(c) The security agreement may provide for the collection by the secured party of a late charge, not to exceed two cents for each dollar of each payment to interest or principal more than fifteen days in arrears, to cover the expense involved in handling delinquent payments. Late charges shall be separately charged to and collected from the debtor and shall not be deducted from any aggregate periodic payment.

(Effective November 26, 1968)

Sec. 32-13-32. Service of insured loans by secured parties

All approved secured parties shall service insured loans in accordance with acceptable practices of prudent lending institutions. In the event of default, the secured party shall contact the debtor and otherwise exercise diligence in collecting the amounts due.

(Effective November 26, 1968)

Sec. 32-13-33. Requirements re insured equipment

A security agreement to be eligible for insurance shall be on machinery and equipment held (1) in fee simple, certified as new equipment by the original manufacturer, or (2) in fee simple, refurbished and remodeled heavy duty capital machinery and equipment which has been guaranteed by the manufacturer with the same guarantee as new machinery and equipment with a usable life of at least twice the term of the loan request.

(Effective November 26, 1968)

Sec. 32-13-34. Requirements of commitment

The commitment for insurance on machinery and equipment shall require (1) that the debtor execute a certificate of the actual cost of any machinery and equipment to be insured; (2) that the debtor file with the secured party and the commission copies of invoices or other documentary evidence of the cost of any machinery and equipment to be insured; (3) that any excess of loan proceeds over statutory limitations based on actual cost be applied to reduction of the principal of the loan committed for insurance by the commission.

(Effective November 26, 1968)

Sec. 32-13-35. Limitation on commitment

Upon receipt of the debtor's affidavit of actual cost, if the principal of the loan committed by the commission exceeds eighty per cent of such cost, the commitment shall be reduced by the amount of such excess and the loan shall be similarly restricted in amount for insurance.

(Effective November 26, 1968)

Sec. 32-13-36. Title of equipment to be vested in debtor

In order for machinery and equipment to be eligible for insurance, the commission shall determine that title thereto is vested in the debtor, subject only to current taxes.

(Effective November 26, 1968)

Sec. 32-13-37. Documents to be furnished prior to insurance

Prior to the insurance of the loan, the debtor or the secured party, without expense to the commission, shall furnish (1) a bill of sale or other sufficient title instrument for the machinery and equipment to be insured and (2) a certificate from the secretary of the state that as of the date of the security agreement there are no liens or encumbrances on file under the Uniform Commercial Code on any machinery and equipment to be insured.

(Effective November 26, 1968)

Sec. 32-13-38. Premium payments

The secured party, upon execution of the insurance contract, shall pay to the commission a first insurance premium equal to two per cent of the original face amount of the loan or such lesser percentage as the commission shall require in its formal commitment to insure the loan payments. Premiums thereafter shall be at the rate aforesaid on the unpaid principal balance on the anniversary date of the loan each year, and shall be payable by the secured party at the beginning of each year and shall be payable in advance. If premiums are not paid when due, such nonpayment shall constitute a default and if such default is not cured within thirty days thereafter, insurance benefits shall terminate.

(Effective November 26, 1968)

Sec. 32-13-39. Execution of insurance contract

Upon compliance with the terms and conditions of a commitment, the commission shall execute a contract to insure the loan payments.

(Effective November 26, 1968)

Sec. 32-13-40. Debtor's default

(a) The failure of the debtor to abide by the terms of the security agreement and note shall be considered a default.

(b) The note or security agreement shall contain a provision that the failure of the debtor to make a payment of an instalment of principal and interest due under the note within not

more than thirty days of the due date shall constitute a default. Upon the occurrence of any such default, any and all sums due and owing by the debtor under the security agreement and note shall, at the option of the secured party, become immediately due and payable.

(Effective November 26, 1968)

Sec. 32-13-41. Notice of default to commission

If a default as defined in section 32-13-40 occurs, the secured party shall, within thirty days thereafter, notify the commission in writing that the security agreement is in default and of such action as the secured party intends to take to correct such default.

(Effective November 26, 1968)

Sec. 32-13-42. Procedure on default

If such default continues for more than sixty days, or within such other time as may be agreed upon by the commission and secured party in writing: (1) The secured party shall notify the commission of its opinion of the prudence of revising the terms of financing, and, if such revision appears to the commission to be prudent, appropriate papers satisfactory to the commission shall be drawn and executed by the debtor and secured party. (2) If a revision of the terms of financing does not appear prudent to the commission and it is deemed advisable by the secured party or commission to institute foreclosure proceedings, reduce the claim to judgment or utilize any other available judicial procedure, then the secured party shall institute such proceedings and obtain possession of the collateral taking whatever judicial process may be necessary to so obtain possession. After obtaining possession of the collateral the secured party shall, with the approval of the commission, proceed to sell, lease or otherwise dispose of any or all collateral in its then condition or following any commercially reasonable preparation or processing and shall apply the proceeds therefrom as required under the laws of this state. Upon the institution of any legal proceedings after default the secured party shall furnish the commission with copies of any and all papers filed in court and shall, within thirty days after rendering of any judgment, file with the commission a certified copy thereof. (3) If title to the collateral passes to the commission, the secured party shall submit the following documents to the commission: (A) A bill of sale covering the machinery and equipment or other security to which the secured party is entitled by reason of the security agreement, conveying title to such property satisfactory to the commission; (B) an assignment of all claims of the secured party against the debtor or others arising out of the security agreement, except such claims as may have been released with the consent of the commission; (C) an assignment of the security interest under the Uniform Commercial Code. (4) If the commission determines to accept an assignment of the insured indebtedness and all security therefor, the secured party shall assign, transfer and deliver to the commission the original note and the security agreement, without recourse or warrantee, except that the secured party shall warrant in writing that no act or omission of the secured party has impaired the validity and the priority of the security interest, that the amounts stated in the instrument of assignment are actually due and owing,

that there are no offsets or counterclaims thereto and that the secured party has a good right to assign the same to the commission. In addition, the secured party shall assign, transfer and deliver by proper instrument the following: (A) All title and interest in the machinery and equipment or other security to which the secured party is entitled by reason of the security agreement; (B) all policies of insurance or surety bonds or other guarantees, and any and all claims thereunder; (C) any cash or property or other security held by the secured party and available to the secured party for application to the debt; (D) all records, documents, books, papers and accounts relating to the insured transaction; (E) any additional information or data which the commission may require; (F) notwithstanding the foregoing, the commission after default or threatened default may make payments of installments of principal or interest or both, and of taxes and insurance, for a temporary period.

(Effective November 26, 1968)

Sec. 32-13-43. Payment of insurance

Upon sale of the secured property by the secured party, or upon assignment to the commission of the insured indebtedness and all security therefor, or upon the passing of title to the secured property to the commission, all in accordance with the provisions of 32-15-19a, the secured party shall be entitled to the benefits of the insurance provided in section 32-16 of the 1969 supplement to the general statutes, after the deduction of any sums received from the sale, lease or other disposition of the secured property.

(Effective November 26, 1968)

Sec. 32-13-44. Inspections by secured party. Care and insuring of property against damage

(a) So long as the loan for machinery and equipment is an insured loan, the secured party shall ascertain the general physical condition of the security in each calendar year commencing with the calendar year following date of the note. The secured party shall furnish the commission and the debtor with a copy of its inspection report, which shall contain the secured party's recommendations for any necessary corrective action.

(b) If, at any time, it is determined by the secured party that, in addition to ordinary wear and tear, the security is being subjected to permanent or substantial injury, through unreasonable use, abuse or neglect, the secured party shall, unless adequate provision satisfactory to a prudent lender is made for prompt restoration of the machinery and equipment, forthwith take such action as may be available to it under the security agreement and appropriate to the particular case, for the protection and preservation of the machinery and equipment.

(c) The machinery and equipment shall at all times be insured against fire and other hazards as provided in the security agreement. The secured party shall provide coverage if the debtor fails to do so. If the secured party fails to pay any premiums necessary to keep the security so insured, the contract of insurance may be terminated at the election of the commission.

(d) If at the time claim is filed for payment of mortgage insurance, the machinery and equipment has been damaged by fire or other hazards and the loss has been sustained by reason of failure to keep the security insured as provided in the security agreement, the amount of such loss may be deducted from the amount of the insurance settlement.

(e) If a loss has occurred to machinery and equipment under any policy of fire or other hazard insurance, and the debtor or secured party has received the proceeds therefrom, they shall be applied to the indebtedness on such machinery and equipment unless the commission shall approve the application of such proceeds for the purpose of repairing or rebuilding such machinery and equipment. If such proceeds are applied to the indebtedness and result in payment in full thereof, the contract of insurance made with the commission shall terminate.

(Effective November 26, 1968)

Sec. 32-13-45. Transfer of mortgage

(a) An insured mortgage on machinery and equipment may be transferred with the prior written approval of the commission. Such a transferee shall meet all the conditions and obligations of the original secured party. Upon such transfer and the assumption by the transferee of all obligations under the contract of insurance, the transferor shall be released from its obligations under the contract of insurance.

(b) The contract of insurance shall terminate upon the transfer by the secured party to any person, firm or corporation, public or private, without the prior approval required by subsection (a).

(Effective November 26, 1968)

Sec. 32-13-46. Secured party and debtor to have no right in industrial building mortgage insurance fund

Neither the secured party nor the debtor shall have any vested or other right in the industrial building mortgage insurance fund.

(Effective November 26, 1968)

Sec. 32-13-47. Effect of regulation amendment

These regulations may be amended by the commission at any time and from time to time, in whole or in part, but such amendments may not adversely affect the interest of a secured party under the contract of insurance of any mortgage on machinery and equipment already insured or to be insured on which the commission has made a commitment to insure.

(Effective November 26, 1968)

Agency
Department of Economic Development

Subject
Small Contractor Loan Program

Inclusive Sections
§§ 32-23o-1—32-23o-7

CONTENTS

Small Contractor Loan Program

Sec. 32-23o-1. Definitions

"Commissioner" shall mean the commissioner of the department of economic development or his deputy.

"Department" shall mean the department of economic development.

"Authority" shall mean the Connecticut development authority.

"Loan" shall mean a working capital loan or line of credit.

(Effective November 6, 1980)

Sec. 32-23o-1a. Eligibility

To be eligible for a loan, a small contractor

(a) Must have been engaged in the construction, manufacturing or services business and maintained its principal office and place of business in Connecticut for a period of not less than one year prior to the date of application for a loan, have gross revenues not in excess of $1,000,000 in its most recently completed fiscal year, and

(b) Must meet the following size standards:

(1) In the case of a contractor or subcontractor, have not more than 15 full time employees;

(2) In the case of a manufacturer, have not more than 25 full time employees;

(3) In the case of a service company, have not more than 10 full time employees.

(Effective November 6, 1980)

Sec. 32-23o-2. Loan application and agreement

(a) Application for a loan shall be submitted on department of economic development small contractor loan application forms. No application shall be considered unless the exhibits required by such form are furnished.

(b) Upon approval of an application by the authority or, if the authority so determines, by a committee of the authority consisting of the chairman and either one other member of the authority or its executive director, as specified in the determination, the department and the borrower sall enter into a loan agreement which shall set forth the terms and conditions required by these regulations and other terms and conditions applicable to the particular loan, which may be set by the authority or said committee of the authority.

(c) Each loan agreement shall be effective only upon execution by the commissioner and the borrower.

(d) Such loan agreement shall provide, without limitation, that the borrower agrees:

(1) That the funds provided will not be used to repay existing obligations, purchase fixed assets, or to finance receivables;

(2) To provide the department with such financial and other reports as the commissioner, in his discretion, may require from time to time;

(3) To notify the department promptly of any material adverse change in the financial

condition or business prospects of the borrower;

(4) To represent and warrant that it has the power and authority to enter into the loan agreement and to incur the obligations therein provided for, and that all documents and agreements executed and delivered in connection with the loan will be valid and binding upon the borrower in accordance with their respective terms;

(5) To provide such security for the loan as the authority or the committee of the authority may require pursuant to section 32-23o-3 (a) of these regulations and to execute and deliver all documents in connection therewith;

(6) To the extent the loan is secured by a contract or contracts, to:

(A) Notify the department of the modification of any provision of a contract which is security for the loan when said modification affects the total amount due under the contract, affects the time or manner of payment, or in any other way substantially affects the contract or the manner of performance of said contract;

(B) Notify the department of the termination of any part of a contract or the termination of the entire contract by any party to the contract;

(C) Notify the department of the failure of either party to a contract to perform any of its obligations under such contract;

(D) Notify the department of the rejection of any material or article delivered in the performance of a contract;

(E) Use the funds advanced only to pay for labor and material on the pledged contract.

(e) If, upon examination of the application, supporting information and results of any investigation, the authority or the committee of the authority rejects such application, then the loan may not be granted and the authority shall cause the applicant to be notified that the application has been denied.

(Effective November 6, 1980)

Sec. 32-23o-3. Loans

(a) The loan may be secured or unsecured as the authority or the committee of the authority determines to be appropriate in the particular circumstances. If the loan is to be secured, the authority or said committee of the authority may require the borrower to provide the department as security any or all of the following: real property, accounts, chattel paper, documents, instruments, general intangibles, goods, equipment, inventory or other personal property, and may further require the borrower to have executed and delivered to the department security agreements, financing statements, mortgages, pledges, assignments, subordinations, guarantees or other documents or evidences of security as and in the form required by the authority or said committee of the authority.

(b) The term of a working capital loan shall not exceed twelve months from the date or the first disbursement and the term of an extension of credit on a line of credit shall not exceed twelve months from the date on which the proceeds were disbursed.

(c) No loan shall exceed $200,000.00 and if the loan is to be secured, the amount of the loan shall not exceed the value of the security provided pursuant to section 32-23o-3 (a) of

these regulations.

(d) The loan shall be repaid on an amortized schedule of periodic payments or upon such other periodic method of payment of principal and interest as the authority or the committee of the authority considers necessary and appropriate in the particular circumstances, but in no event shall the periodic payments be scheduled to exceed twelve months from the relevant date of disbursement referred to in section 32-23o-3 (b) of these regulations.

(e) Disbursement of the loan shall be made at the discretion of the commissioner in accordance with the provisions of the loan agreement and the instructions of the authority.

(Effective November 6, 1980)

Sec. 32-23o-4. Note

(a) Each loan shall be evidenced by a promissory note which shall contain a provision permitting the borrower to prepay the loan in whole or in part upon any interest payment date.

(b) The promissory note shall provide for the payment of interest at a rate not to exceed 1% above the interest paid by the state of Connecticut on the latest general obligation bonds issued prior to the date of approval of the loan application.

(c) The promissory note may provide for the collection of a late charge, not to exceed two percent of any instalment more than fifteen days in arrears. Late charges shall be separately charged to and collected from the borrower.

(d) The failure of the borrower to abide by the terms of the loan agreement, the promissory note, or other documents signed by the borrower in connection with such loan shall be considered a default under such promissory note.

(e) The promissory note shall contain a provision that the failure of the borrower to make a payment of any instalment of principal or interest due under the promissory note within fifteen days from the due date shall constitute a default.

(f) The promissory note shall provide that upon default, any and all sums owing by the borrower under the promissory note shall, at the option of the commissoiner, become immediately due and payable.

(g) The promissory note shall provide that in the event of default, interest on the promissory note shall automatically increase to twelve percent per annum and shall apply not only after default, but after any judgment rendered upon said promissory note.

(h) The promissory note shall provide for payment of reasonable attorneys' fees and legal costs in the event the borrower shall default in the payment of the note.

(i) The promissory note shall contain such other clauses and covenants as the authority, in its discretion, may require.

(Effective November 6, 1980)

Sec. 32-23o-5. Repealed

Repealed November 6, 1980.

Sec. 32-23o-6. Repealed

Repealed November 6, 1980.

Sec. 32-23o-7. Place of performance of contract

The place of performance of a contract pledged as security shall not be a material consideration in determining whether the loan shall be granted or not.

(Effective November 6, 1980)

Agency
Department of Economic Development

Subject
Business Environmental Clean Up Revolving Loan Fund Program

Inclusive Sections
§§ 32-23z-1—32-23z-6

CONTENTS

Business Environmental Clean Up Revolving Loan Fund Program

Sec. 32-23z-1. Definitions

The following definitions apply to Section 1 to Section 6 inclusive of these Regulations:

(a) "Applicant" means any business which makes application to the department for a loan or line of credit in accordance with Section 6 of Public Act 89-365 and these Regulations.

(b) "Authority" means the Connecticut Development Authority.

(c) "Borrower" means any business which has been issued a commitment for a loan or line of credit in accordance with Section 6 of Public Act 89-365 and these Regulations.

(d) "Business" means any sole proprietorship, partnership, corporation or other entity in the State of Connecticut which:

(1) has been in business for a period of at least one year prior to the date of its application for a loan or line of credit;

(2) has gross revenues, including revenues of affiliates, of less than three million dollars ($3,000,000) in the most recent fiscal year prior to the date of its application for a loan or line of credit or has fewer than one hundred fifty (150) employees; and

(3) has been doing business and has maintained its principal office and place of business in the State of Connecticut for a period of at least one year prior to the date of its application for a loan or line of credit.

(e) "Commissioner" means the commissioner of economic development.

(f) "Department" means the department of economic development.

(g) "Project Costs" mean expenses incurred in connection with the containment and removal or mitigation of property contamination including but not limited to, fees and expenses of architects, engineers, contractors and other professional consultants, expenses incurred in connection with the removal or treatment of waste and expenses incurred in connection with the purchase, installation and operation of remediation equipment.

(h) "Project" means any action taken in the remediation of property contamination.

(i) "Property Contamination" means the discharge, spillage, uncontrolled loss, seepage or filtration of oil or petroleum or chemical liquids or solid, liquid or gaseous products or hazardous waste.

(Effective October 25, 1990)

Sec. 32-23z-2. Application requirements

(a) Each application for a loan or line of credit shall be submitted on forms prescribed by the department.

(b) No application shall be considered unless the applicant submits the following information required by such forms:

(1) evidence that the applicant is a business, as defined in Section 1 (d) of these Regulations;

(2) a letter from a professional engineer licensed pursuant to Chapter 391 of the General Statutes certifying with his professional seal that he has examined the applicant's place of

business, that property contamination exists and containing a brief description of the contamination including the materials, source and the potential for environmental harm;

(3) evidence of compliance with Section 22a-450 of the General Statutes, if applicable;

(4) a description of the project for which the applicant is seeking a loan or line of credit including total project costs;

(5) the amount of the loan or line of credit requested in accordance with these Regulations and Section 6 of Public Act 89-365;

(6) a history and brief description of the applicant business, including but not limited to the type of products manufactured or services performed by such business, methods of business operations and distribution of products, sales policies, present and future markets and potential customers;

(7) a resume of all directors, shareholders and senior management personnel of the applicant, which resume shall include the following information:

(A) age;

(B) business experience;

(C) length of association with the applicant;

(D) salary and other compensation; and

(E) other business affiliations;

(8) a description of subsidiaries or affiliates of the applicant business, if any, including their activities, the extent and nature of any transactions between such subsidiaries or affiliates and the applicant and the ownership interest of the applicant in such subsidiaries or affiliates;

(9) a list of the principal suppliers of the applicant, indicating the approximate percentage of total yearly purchases;

(10) a list of the principal customers of the applicant, indicating the approximate percentage of total yearly sales;

(11) a list of the principal competitors of the applicant;

(12) a description of the future expansion plans of the applicant, other than the planned use of the proceeds of the loan or line of credit, including research and development, new products, acquisitions and mergers;

(13) information concerning the employees of the applicant, including the number of employees, current hourly wage rates for each position, a description of the types of employment offered by the applicant, records of work stoppages, if any, copies of union contracts and a copy of the existing affirmative action plan of the applicant;

(14) an appraisal of the land, buildings, machinery, equipment or other property to be used to secure the loan or line of credit by an appraiser acceptable to the authority;

(15) letters of recommendation from commercial banks with which the applicant is associated, which letters shall set forth the length of the relationship between the bank and the applicant, average balances, credit experiences and an opinion concerning the management ability of personnel of the applicant;

(16) copies of fiscal year end statements for the five years preceding the date of the

application, an interim financial statement dated within sixty (60) days prior to the application, if available, and proforma financial statements for the two years subsequent to the date of the application;

(17) a description of long term liabilities, guarantees, long term leases or contracts and other contingent liabilities, including security or liens not included in the footnotes of the corporate or personal financial statements;

(18) a description of any pending litigation;

(19) a description of any bankruptcy proceedings or compromise settlements of any litigation which occurred during the seven (7) year period prior to the date of the application;

(20) copies of any outstanding citations or orders from federal, state or local agencies regarding environmental pollution;

(21) the amount, source, terms and conditions of any other financial accommodations which will be available to the applicant business, including the applicant's own equity contribution, if applicable; and

(22) personal financial statements of all shareholders of the applicant.

(Effective October 25, 1990)

Sec. 32-23z-3. Procedures for loans or lines of credit

(a) Applications shall be reviewed and approved by the commissioner or his designee and authorized by the authority or, if the authority so determines, by a committee of the authority consisting of the chairman and either one other member of the authority or its executive director, as specified in the determination of the authority.

(b) Upon approval by the commissioner and authorization by the authority, the borrower shall be issued a commitment letter which shall set forth the terms and conditions applicable to the loan or line of credit, including but not limited to the amount for which such loan or line of credit was made and approved, a description of the type and amount of security required to be provided the department, the term of the loan or line of credit, loan guaranty requirements, the rate of interest, affirmative action requirements, requirements concerning legal opinions to be submitted by the borrower's attorney, requirements concerning the provision of financial statements to the department or the authority and the permitted use of the proceeds of the loan or line of credit.

(c) Each commitment letter shall be effective only upon execution by the commissioner and the borrower.

(d) If, upon examination of the application, supporting information and results of any investigation, the department and the authority reject such application, then the loan or line of credit shall not be made and the department shall cause the applicant to be notified that the application has been denied.

(Effective October 25, 1990)

Sec. 32-23z-4. Loans and lines of credit

(a) The loan or line of credit may be secured or unsecured as the authority determines to

be appropriate under the particular circumstances. If the loan or line of credit is to be secured, the authority may require the borrower to provide the department as security mortgages or security interests in any or all of the following: real property, accounts, chattel paper, documents, instruments, general intangibles, goods, equipment, inventory or other personal property. The authority may further require the borrower to have executed and delivered to the department security agreements, financing statements, mortgages, pledges, assignments, subordinations, guarantees or other documents or evidence of security as and in the form required by the authority.

(b) The term of a loan or line of credit shall not exceed ten (10) years from the date of the first disbursement.

(c) No loan or line of credit provided to any single business shall exceed a total of two hundred thousand dollars ($200,000) in any period of twelve consecutive months.

(d) The loan or line of credit shall be repaid on an amortized schedule of payments or upon such other method of payment of principal and interest as the authority considers necessary or appropriate in the particular circumstances, but in no event shall the payments be scheduled to exceed ten (10) years from the date of the first disbursement, as set forth in Section 4 (b) of these Regulations.

(e) Disbursement of the loan or line of credit shall be made at the discretion of the commissioner in accordance with the provisions of the commitment letter and the instructions of the authority.

(Effective October 25, 1990)

Sec. 32-23z-5. Note

(a) Each loan or line of credit shall be evidenced by a promissory note which shall contain a provision permitting the borrower to prepay the loan in whole or in part upon any interest payment date.

(b) The promissory note shall provide for the payment of interest at a rate not to exceed prime plus one percent (1%) as designated by the Wall Street Journal, at the time of closing. In determining such interest rate the department and authority shall consider factors such as the financial strength of the borrower and loan guarantors, if any, and the amount of security provided by the borrower.

(c) The promissory note may provide for the collection of a late charge, not to exceed two percent of any installment which is not paid within ten days of the due date thereof. Late charges shall be separately charged to and collected from the borrower.

(Effective October 25, 1990)

Sec. 32-23z-6. Default and remedy

(a) The failure of the borrower to abide by the terms of the commitment letter, promissory note or other document delivered by the borrower to the authority or the department in connection with a loan or line of credit shall be considered a default under such promissory note.

(b) The promissory note shall contain a provision that the failure of the borrower to make a payment of principal or interest due under the promissory note within fifteen days from the due date shall constitute a default.

(c) The promissory note shall provide that upon default, any and all sums owing by the borrower under the promissory note shall, at the option of the commissioner, become immediately due and payable.

(d) The promissory note shall contain a provision that it shall be an event of default if the project, as proposed or constructed, fails to comply with all federal, state and local health, environmental and safety laws and regulations.

(e) The promissory note shall provide that upon default, interest on the promissory note shall automatically increase two percent per annum above the rate of the promissory note and such increased interest rate shall apply not only after default, but after any judgement rendered upon said promissory note.

(f) The promissory note shall provide for payment of reasonable attorneys fees and legal costs in the event the borrower shall default in the payment of the note.

(g) The promissory note shall contain such other clauses and covenants as the commissioner in his discretion may require for the purpose of protecting the financial investment made by the state.

(Effective October 25, 1990)

Agency
Connecticut Product Development Corporation

Subject
Implementation of the Connecticut Product Development Corporation Act

Inclusive Sections
§§ 32-36-1—32-36-7

CONTENTS

Implementation of the Connecticut Product Development Corporation Act

Sec. 32-36-1. Definitions

Board of Directors shall mean the Board of Directors of the Connecticut Product Development Corporation.

Chairman shall mean the Chairman of the Board of Directors of the Connecticut Product Development Corporation.

Secretary shall mean the Secretary of the Board of Directors of the Connecticut Product Development Corporation.

President shall mean the President of the Connecticut Product Development Corporation.

Corporation shall mean the Connecticut Product Development Corporation. Eligible person shall mean any individual, partnership, corporation or joint venture carrying on business, or proposing to early on business, within the State of Connecticut.

(Effective February 22, 1979)

Sec. 32-36-2. Application for financial aid

(a) Application for financial aid shall be submitted to the President by each person on the Connecticut Product Development Corporation form titled "Request for Product Development Funds." Each application shall be accompanied by an application fee as prescribed on the "Request for Product Development Funds" form.

(b) The application fee is non-returnable once the application has been placed on the agenda of a regular meeting of the Board of Directors of the Corporation.

(c) The Corporation shall not be liable for expenses incurred by the person in the preparation and submission to the Corporation of an application for financial aid.

(Effective February 22, 1979)

Sec. 32-36-3. Evaluation of financial aid application

(a) The President shall forward each application for financial aid to the staff of the Corporation for an investigation and report concerning the advisability of approving the application for financial aid and concerning any other factors deemed relevant by the Corporation.

(b) The investigation and report on the application for financial aid shall include, but shall not be limited to, such facts as the person's history, wage standards, job opportunities, stability of employment, past and present financial condition and structure, pro-forma income statements, present and future markets and prospects, integrity of management and the reasonableness of the basis, if any, on which funds are available for the project from commercial sources, as well as the state of development of the proposed product and the likelihood of its commercial feasibility.

(c) After receipt and consideration of the staff report, the Board shall approve the application for financial aid, reject it or return it to the staff for further information and analysis.

(d) The person shall be promptly notified of the action taken by the Corporation regarding his application for financial aid.

(e) Approval or denial of an application for financial aid shall be at the sole discretion of the Corporation.

(f) Approval of an application for financial aid by the Corporation shall be conditioned on the execution of a financial aid agreement between the person and the Corporation.

(g) Because matters of commercial importance to the person will be involved, the Corporation will make every effort to maintain the confidentiality of the material contained in the application for financial aid and in any additional material furnished by the person to the Corporation.

(h) The Corporation shall be free to approve any application for financial aid without regard to the existence of any other application for financial aid, and shall not be liable to any other person submitting an application for financial aid in doing so.

(i) Neither the Corporation nor the person submitting an application for financial aid shall make or authorize the making of any public statement concerning the application for financial aid without the consent of the other party.

(Effective February 22, 1979)

Sec. 32-36-4. Repayment of financial aid

(a) The financial aid provided by the Corporation shall take the form of risk capital such that in the event that the product or process developed with financial aid from the Corporation does not prove to be marketable, the Corporation shall stand to lose its investment.

(b) The financial aid provided by the Corporation for the development of a product shall be repaid to the Corporation through the medium of a royalty arrangement, which is tied to the sale of the product that has been developed with financial aid from the Corporation or to the sale of products which are produced from the process that has been developed with financial aid from the Corporation, or through such other forms of repayment as the Corporation shall deem appropriate.

(c) Unless otherwise provided for in the financial aid agreement, the royalty return to the Corporation from the sale of the product developed with financial aid from the Corporation shall continue for the life of this product.

(Effective February 22, 1979)

Sec. 32-36-5. Disbursement and use of financial aid

(a) Disbursement of the financial aid being provided by the Corporation shall be made at the sole discretion of the Corporation.

(b) The financial aid being provided by the Corporation shall be used only to pay for expenses incurred in the performance of projects whose purpose is the development and exploitation of specific inventions and products.

(c) The Corporation’s purpose in making available financial aid is not to provide funds

to repay a person for financial obligations that are incurred other than in the performance of a project whose purpose is the development and exploitation of specific inventions and products.

(Effective February 22, 1979)

Sec. 32-36-6. Financial aid agreement

(a) As part of the consideration for the Corporation providing financial aid to a person, that person shall enter into a financial aid agreement jointly with the Corporation.

(b) Each such financial aid agreement shall, at least, include terms and conditions relating to the following:

(1) The identity of the parties to the Agreement;

(2) A definition of the project which is to be performed with the financial aid that is being provided by the Corporation;

(3) The dates of commencement and completion of the project;

(4) The amount of financial aid which the person and the Corporation shall each contribute towards the cost of performing the project;

(5) The manner in which the financial aid being provided by the Corporation shall be repaid to the Corporation;

(6) The method which the Corporation shall employ to monitor the performance of the project;

(7) Methods by which termination of the project may be effected;

(8) Requirements that the benefits of increased employment and tax revenues derived from the project shall remain in and accrue to the State of Connecticut;

(9) Inclusion of all relevant Executive Orders;

(10) Signatures in behalf of the person, the Corporation, and any other appropriate parties.

(Effective February 22, 1979)

Sec. 32-36-7. Place of performance of the financial aid agreement

(a) The project being funded with financial aid provided by the Corporation in accordance with the terms and conditions of the financial aid agreement jointly executed by the person and the Corporation shall be performed within the State of Connecticut.

(Effective February 22, 1979)

Agency
Department of Economic Development

Subject
Surety Bond Guarantee Program for Small Contractors

Inclusive Sections
§§ 32-55-1—32-55-6

CONTENTS

Surety Bond Guarantee Program for Small Contractors

Sec. 32-55-1. Definitions

(a) Commissioner means the Commissioner of Economic Development.

(b) Department means the Department of Economic Development.

(c) Small Contractor means a contractor or subcontractor who has been engaged in construction, manufacturing or services, and who has been doing business in Connecticut and maintained his principle place of business in Connecticut for a period of not less than one year prior to the date of the Surety Bond Guarantee application, and whose gross revenues for the most recently completed fiscal year did not exceed the amount specified in subsection (2) of Section 32-49 of the General Statutes.

(d) "Surety Bond Guarantee" means a Guarantee by the State pursuant to Section 32-49 of the General Statutes, as administered by the Department, of a Surety against loss as the result of the breach of the terms of a Bid Bond, Performance Bond or Payment Bond.

(Effective May 28, 1985)

Sec. 32-55-2. Eligibility

In order to be eligible for a Surety Bond Guarantee, the applicant must:

(a) be a Small Contractor as defined in these regulations;

(b) demonstrate, to the satisfaction of the Commissioner, independent ownership and operation;

(c) represent that a bond is required in order to bid on a contract or to serve as a prime contractor or subcontractor thereon;

(d) represent that a bond is not obtainable on reasonable terms and conditions without the Department's Bond Guarantee assistance;

(e) represent that such applicant is not the principal on any existing bond guaranteed under the Department's Surety Bond Guarantee Program; and

(f) file an application for Surety Bond Guarantee assistance on Department Surety Bond Guarantee application forms and include any additional information required in supporting schedules and forms;

(g) the application shall be submitted to a representative of a Surety in duplicate, with all other supporting material. The representative will forward one copy to the Department and one copy to the Surety.

(Effective May 28, 1985)

Sec. 32-55-3. Guarantee agreement

Any agreement by the Department to guarantee a Surety Bond Guarantee shall provide that:

(a) the Surety shall represent that the terms and conditions of such bond when executed by it will be in accord with those executed by professional Sureties for that type of contract for which such bond is required to be furnished by principal;

(b) the Surety shall affirm that without the Department guarantee to the Surety, it will not issue said bond to principal;

(c) the term "loss" shall mean any and all liability, damages, court costs, counsel fees, charges and expenses of whatever kind or nature which the Surety shall or may at any time, sustain or incur by reason, or consequence, of having executed the bond guaranteed by the Department;

(d) unless otherwise agreed, the Surety shall take charge of all claim matters arising under said bond; determine its liability and the amount thereof; compromise, settle or defend any claim or suit; and take such action as it deems necessary to minimize loss; and

(e) the Surety shall pay the Department 20 percent of its bond premium for and in consideration of the Department's agreement to issue the Surety Bond Guarantee contemplated by the agreement. It shall be further agreed by the Department and the Surety that, the Surety will pay the Department an amount equal to 20 percent of the additional premiums on any increase in the contract price and the Department will make a refund to the Surety an amount equal to 20 percent on any premium reduction resulting from a reduction in the contract price. When the Department's or Surety's share of any premium increase or decrease is $10.00 or less, there shall be no adjustment.

(Effective May 28, 1985)

Sec. 32-55-4. Guarantee fees

(a) A small contractor on whose behalf a Surety Bond Guarantee has been issued shall pay to the Department a guarantee fee not to exceed the lesser of (1) five-tenths of one percent (5/10 of 1%) of the contract face value; or (2) One Hundred Thirty-Five Dollars ($135).

(b) The Surety shall pay to the Department a Surety Bond Guarantee fee of 20 percent of the bond premium subject to adjustment as described in these regulations.

(c) Each application for a Surety Bond Guarantee submitted to the Department shall be accompanied by an application fee of $10 from the Small Contractor on whose behalf a Surety Bond Guarantee is sought. Such fee shall not be refundable in the event the application is rejected.

(d) The Department accepts the bond premium rates listed in the contract section of the Surety Association of America's "Rating Manual." The Department will accept Surety Bond Guarantee requests from Surety companies charging more than "Rating Manual" rates; provided, that their premium rates have been authorized by the Department of Insurance of the State of Connecticut.

(e) The Department will not participate in any Surety Bond Guarantee in which either the Surety company or the Surety's representative (including agent/brokers) charge any other fee above and beyond the stated premium for services, processing, etc., except those permitted by the Department of Insurance of the State of Connecticut. The Department shall not receive any portion of such non-premium charges.

(Effective May 28, 1985)

Sec. 32-55-5. Approval or decline of application

(a) No application for a Surety Bond Guarantee shall be approved unless the following determinations have been made by the Department.

(i) That there is a reasonable expectation that the applicant will perform the covenants and conditions of the contract with respect to which a Surety Bond Guarantee is required;

(ii) That the successful completion of the contract is feasible and the cost of such completion reasonable;

(iii) That the terms and conditions of any Surety bond guaranteed are reasonable in light of the risks involved and the extent of the Surety's participation.

(b) Surety Bond Guarantees for bid bonds shall obligate the State to pay the Surety a sum not to exceed the lesser of (1) 90 percent of the loss incurred by the Surety in fulfilling the terms of its bond as a result of the breach by the principal of its contract; or (2) $10,000.

(c) Surety Bond Guarantees of performance and payment bonds shall obligate the State to pay the Surety a sum not to exceed the lesser of (1) 90 percent of the loss incurred by the Surety in fulfilling the terms of its bond as a result of the breach by the principal of its contract; or (2) $100,000.

(d) An application for a Surety Bond Guarantee shall be approved or approval shall be declined within 15 working days of receipt by the Department of Economic Development of the completed Surety Bond Guarantee application forms, including all additional information required in supporting schedules and forms and the application fee of $10.

(Effective May 28, 1985)

Sec. 32-55-6. Allocation to minority business enterprise

(a) As of July 1 of each year a total of twenty five percent of funds available shall be set aside for Minority Bond Guarantees.

(b) Upon completion of a fiscal year, a review is made to determine compliance.

(c) The cumulative percentage of Surety Bond Guarantees to Minority Business Enterprises relative to the total Surety Bond Guarantees shall be determined. If such percentage is less than twenty five percent, an amount equal to twenty five percent plus the amount equal to the previous year's short fall shall be set aside for the coming year.

(Effective May 28, 1985)

Agency
Department of Economic Development

Subject
Enterprise Zone Designation

Section
§ 32-70-1

CONTENTS

Enterprise Zone Designation

Sec. 32-70-1. Application procedure

If a municipality contains a census tract that meets the criteria set forth in Section 1 (a) of Public Act 81-445, as amended, the Commissioner of Economic Development shall notify the municipality of its eligibility to submit an application to have the area designated as an enterprise zone. The application shall be made on forms prescribed by the Department of Economic Development and available at its office on written request. The application may require the following information in order to allow the Commissioner to evaluate the enterprise zone designation proposals:

(a) a copy of the approved ordinance with the seal of the municipality affixed, referred to in section 3 (a) of Public Act 81-445, as amended;

(b) maps and information delineating the specific boundaries of the proposed enterprise zone;

(c) an inventory of the existing land use in the proposed enterprise zone area;

(d) information detailing the local activities and programs that will encourage development within the enterprise zone area, and

(e) other factors that will contribute to the success of the development of the enterprise zone area.

The commissioner will base his decision on the information contained in the application, the local capacity to effectively administer a development program in the enterprise zone area, the innovation of the proposed program for the enterprise zone area, and the likelihood of success of the enterprise zone program.

(Effective July 27, 1982)

Agency
Department of Economic Development

Subject
Enterprise Zone Capital Formation Revolving Loan Fund

Inclusive Sections
§§ 32-72-1—32-72-5

CONTENTS

Enterprise Zone Capital Formation Revolving Loan Fund

Sec. 32-72-1. Definitions

(a) Commissioner means the Commissioner of Economic Development

(b) Department means the Department of Economic Development;

(c) Small business means a business whose gross revenues in the most recently completed fiscal year do not exceed $1.5 million, who complete a business plan providing evidence that the necessary capital required is available after the State's injection of not more than 50% of the total capital requirements of the business from this loan fund.

(Effective August 28, 1984)

Sec. 32-72-2. Eligibility

(a) Eligible applicants shall include:

(1) New small industrial and commercial business ventures within the zone, provided such applicants shall provide a minimum of 10 percent of the capital required to commence the venture and evidence that the business will provide a minimum of two full time, permanent positions or gross receipts of at least $50,000 within one year; or

(2) Existing small industrial and commercial businesses within the zone.

(b) A borrower is eligible for only one loan from the fund at a particular point in time.

(c) The Commissioner may reject an otherwise eligible applicant if the loan made from this fund would place another business in the enterprise zone at a competitive disadvantage.

(d) No loan shall be made to a business who:

(1) is relocating from an area that meets the eligibility criteria in Section 1 (a) of the act, to a designated enterprise zone; or

(2) is relocating from an area not meeting the eligibility criteria in Section 1 (a) of the act but located in a distressed municipality, as defined in Section 32-9p, to a designated enterprise zone; provided that in cases where the Commissioner makes a finding that the relocation of the business will represent a net expansion of business operations and employees, the business will be eligible for a loan. For the purposes of this section, relocation is defined as the transferring of personnel or employment positions from one or more existing locations to another location.

(Effective August 28, 1984)

Sec. 32-72-3. Loan application and agreement

(a) Applications for loans shall be submitted to the Department on loan forms prescribed by the Department and available at their office upon written request. No application shall be considered unless all exhibits required by such form are furnished.

(b) Upon approval of an application by the Department, the applicant and Department shall enter into a loan agreement which shall set forth the terms and conditions upon which the loan shall be made, as determined by the Commissioner.

(c) Each loan agreement shall be effective only upon execution by the Commissioner

and the applicant.

(d) Such agreement shall provide without limitation that the applicant agrees:

(1) That the funds provided will be used exclusively for working capital, capital equipment purchases, real estate purchase or real estate improvement or rehabilitation. Refinancing will not be permitted.

(2) To provide the Department with such financial and other reports as the Commissioner in his discretion may require from time to time;

(3) To notify the Department promptly of any material adverse change in the financial condition or business prospects of the applicant;

(4) To represent and warrant that it has the power and authority to enter into the loan agreement and to incur the obligations therein provided for, and that all documents and agreements executed and delivered in connection with the loan will be valid and binding upon the borrower in accordance with their respective terms; and

(5) To provide such security for the loan as the Commissioner may deem necessary and appropriate.

(Effective July 27, 1982)

Sec. 32-72-4. Loan amounts and terms

(a) The term for repayment of any real estate loan shall not exceed ten years. The term of loans for all other purposes shall not exceed seven years.

(b) The maximum loan amount shall be $200,000. The maximum amount of a specific loan shall be based on a general guideline of $15,000 of financing from this loan fund for each new, permanent full time position created by the business.

(c) The applicant is responsible for all attorney's fees and any other closing costs. Legal fees may be drawn from the fund.

(d) Disbursement of the loan shall be made at the discretion of the Commissioner in accordance with the provisions of the loan agreement.

(e) The Commissioner shall determine the method of payment of interest and principal due with respect to each loan.

(Effective August 28, 1984)

Sec. 32-72-5. Loan documentation

(a) Each loan shall be evidenced by a promissory note in the amount of the loan set forth in the loan agreement and shall contain a provision permitting the borrower to prepay the loan in whole or in part upon any interest payment date.

(b) The promissory note shall provide for the payment of interest at a rate of not more than 1% above the rate of interest borne by the bonds of the State of Connecticut last issued prior to the date of approval of the loan application.

(c) The promissory note may provide for the collection of a late charge not to exceed two percent of any installment which is not paid within ten days of the date thereof. Late charges shall be separately charged to and collected from the borrower.

(d) The failure of the borrower to abide by the terms of the loan agreement of the promissory note shall be considered a default under such promissory note.

(e) The promissory note shall contain a provision that the failure of the borrower to make a payment of any installments of principal or interest due under the promissory note within fifteen days from the due shall constitute a default.

(f) The promissory note shall provide that upon default, any and all sums owing by the borrower under the promissory note shall, at the option of the Commissioner, become immediately due and payable.

(g) The promissory note shall provide for the payment of reasonable attorney's fees and legal costs in the event the borrower shall default in payment of the note.

(h) The promissory note shall contain such other clauses and convenants as the Commissioner, in his discretion, may require.

(Effective July 27, 1982)

Agency
Department of Economic and Community Development

Subject
Enterprise Zone Program: Non-Eligible Businesses

Inclusive Sections
§§ 32-75-1—32-75-2

CONTENTS

Enterprise Zone Program: Non-Eligible Businesses

Sec. 32-75-1. Definitions

As used in section 32-75-2, of the Regulations of Connecticut State Agencies:

(1) "Commissioner" means the Commissioner of Economic and Community Development;

(2) "Department" means the Department of Economic and Community Development;

(3) "Enterprise zone benefits" means those tax abatements and tax credits provided under the Connecticut General Statutes to companies locating in designated enterprise zones;

(4) "Relocation" means the transferring of personnel or employment positions from one or more existing locations to another location.

(Adopted effective March 6, 2006)

Sec. 32-75-2. Eligibility requirements

(a) A business facility applying for continuations of enterprise zone benefits, relocating from either a municipality's enterprise zone which has been designated under the provisions of section 32-70 of the Connecticut General Statutes, or a distressed municipality to an enterprise zone designated under the provisions of section 32-70 of the Connecticut General Statutes, shall show either:

(i) an increase in operations through the submission of a lease to the Commissioner that indicates a net increase of at least 100 square feet in the number of square feet being occupied in the new enterprise zone versus the amount of square feet currently occupied in the existing enterprise zone municipality or distressed municipality; or

(ii) an increase in employment by a minimum of one new full time job, the existence of which shall be attested to on an applicant's pre-application.

(a) Business facilities which fail to meet the requirements of subsection (a) of this section shall be deemed to be ineligible to receive enterprise zone benefits.

(Adopted effective March 6, 2006)

Agency
Department of Economic and Community Development

Subject
Railroad Depot Zone Designation

Inclusive Sections
§§ 32-75a-1—32-75a-6

CONTENTS

Railroad Depot Zone Designation

Sec. 32-75a-1. Definitions

As used in sections 32-75a-1 to 32-75a-6, inclusive, of these regulations:

(1) "Applicant" means a company which completes a preliminary questionnaire and an application for certification of eligibility;

(2) "Certificate of Eligibility" means a document issued by the department pursuant to section 32-9r of the Connecticut General Statutes as they may be amended from time to time evidencing its determination that a facility for which an application for assistance has been submitted qualifies as a manufacturing facility and is eligible for assistance under section 12-217e of the Connecticut General Statutes as they may be amended from time to time and subsections (59) and (60) of section 12-81 of the Connecticut General Statutes as they may be amended from time to time;

(3) "Chief Executive Officer" of a municipality means one of the following: the first selectman; a chief administrative officer appointed by the board of selectmen; a mayor elected by the electors of the municipality; a warden elected by the electors of the borough; a town, city of borough manager appointed by the board of selectmen, the council, the board of directors, the board of aldermen or the board of burgesses; or a chief administrative officer appointed by the mayor;

(4) "Commissioner" means the Commissioner of the Department of Economic and Community Development;

(5) "Department" means the Department of Economic and Community Development;

(6) "Manufacturing Facility" means any plant, building, or other real property improvement as defined in section 32-9p(d) of the Connecticut General Statutes as they may be amended from time to time;

(7) "Municipality" means city, town or borough;

(8) "Personal Property" means machinery, equipment and furnishings which are not considered real property and are subject to a local property tax;

(9) "Railroad Depot" means an area within a municipality containing an enterprise zone but located outside the enterprise zone that abuts an active or inactive rail line and contains one or more vacant or underutilized manufacturing facilities which are or were, all or partially, dependent on railroad access to operate;

(10) "Real Property Improvement" means land, buildings and other structures and improvements thereto, subterranean or subsurface rights, any and all easements, air rights and franchises of any kind or nature; and

(11) "Substantial Rehabilitation" means a construction or renovation project which requires a building permit and has a cost which is greater than 50% of the assessed value of the real property.

(Effective November 4, 1998)

Sec. 32-75a-2. Railroad depot zone designation application process

The application to have a railroad depot zone designated shall be made on application

forms provided by the commissioner and available at the department upon request. The application may require the following information:

(1) A certified copy of the minutes of the governing body of the municipality at which a vote was taken the chief executive officer of the municipality to apply to the commissioner for the establishment of a railroad depot zone pursuant to section 32-75a of the Connecticut General Statutes as they may be amended from time to time;

(2) Mylar maps delineating the specific boundaries of the proposed railroad depot zone. The scale of the maps shall meet standards established by the commissioner;

(3) Certification from the chief elected official that the proposal is in conformance with the plan of development for the municipality;

(4) Information detailing the local activities and programs that will encourage development for the purposes of this act;

(5) An inventory of the existing land uses in the proposed railroad depot zone;

(6) An administrative plan for operation of the program by the municipality;

(7) A professionally prepared market study that evaluates the effect of the proposal on the economic development of the municipality, the region and the state, taking into consideration market potential, specific development plans and private commitments to the area;

(8) The goals, objectives and timetables of the railroad depot zone designation including, but not limited to, increasing private investment, expanding the tax base, providing job training and job creation for residents of railroad depot zones and reducing property abandonment and housing blight in railroad depot zones; and

(9) A description of other factors that will contribute to the success of the development of the railroad depot zone.

(Effective November 4, 1998)

Sec. 32-75a-3. Railroad depot zone designation approval process

The commissioner shall base his decision on the information contained in the application, the local capacity to effectively administer a development program in the railroad depot zone, the innovation of the proposed program for the railroad depot zone and the likelihood of success of the railroad depot zone program.

(Effective November 4, 1998)

Sec. 32-75a-4. Railroad depot business application process

The two-step application process for businesses located in a railroad depot zone consists of a preliminary questionnaire and an application for certificate of eligibility. Application forms shall be approved by the commissioner. The information required shall include:

(1) Name, owner and location of company;

(2) Location, size and type of business activity;

(3) Standard Industrial Classification number of the company;

(4) Number of jobs that will be created or retained;

(5) Owner of proposed facility;

(6) Owner of equipment (if applicable); and

(7) Other factors that the commissioner deems necessary to complete the certification process.

(Effective November 4, 1998)

Sec. 32-75a-5. Railroad depot business approval process

The commissioner shall review the application for certification of eligibility and shall notify the applicant, in writing, of his findings. Upon approval, certificates of eligibility shall be issued to the owner(s) of the manufacturing facility and the owner(s) of the equipment (if applicable), and notification shall be provided to the assessor of the municipality and the Secretary of the Office of Policy and Management and the Commissioner of the Department of Revenue Services. If the application for certification of eligibility is disapproved, the commissioner shall indicate the reasons for disapproval.

(Effective November 4, 1998)

Sec. 32-75a-6. Reporting procedures

The municipality shall submit completed activity reports on or before July 1 annually to the department which shall describe the progress made towards meeting the goals and objectives described in section 32-75a-2(8) and (9) of this regulation. The first reports shall be due no later than July first of the year subsequent to receipt of the certificate of eligibility.

(Effective November 4, 1998)

Agency
Department of Economic and Community Development

Subject
Qualified Manufacturing Plant Designation

Inclusive Sections
§§ 32-75c-1—32-75c-6

CONTENTS

Qualified Manufacturing Plant Designation

Sec. 32-75c-1. Definitions

As used in sections 32-75c-1 to 32-75c-6, inclusive, of these regulations:

(1) "Applicant" means a company which completes a preliminary questionnaire and an application for certification of eligibility;

(2) "Certificate of Eligibility" means a document issued by the department pursuant to section 32-9r of the Connecticut General Statutes as they may be amended from time to time evidencing its determination that a facility for which an application for assistance has been submitted qualifies as a manufacturing facility and is eligible for assistance under section 12-217e of the Connecticut General Statutes as they may be amended from time to time and subsections (59) and (60) of section 12-81 of the Connecticut General Statutes as they may be amended from time to time;

(3) "Chief Executive Officer" means one of the following: the first selectman; a chief administrative officer appointed by the board of selectmen; a mayor elected by the electors of the municipality; a warden elected by the electors of the borough; a town, city or borough manager appointed by the board of selectmen, the council, the board of directors, the board of aldermen or the board of burgesses; or a chief administrative officer appointed by the mayor;

(4) "Commissioner" means the Commissioner of the Department of Economic and Community Development;

(5) "Department" means the Department of Economic and Community Development;

(6) "Manufacturing facility" means any plant, building, or other real property improvement as defined in section 32-9p(d) of the Connecticut General Statutes as they may be amended from time to time;

(7) "Manufacturing plant" means any vacant plant, building, or other real property improvement as defined in section 32-75c of the Connecticut General Statutes as they may be amended from time to time;

(8) "Municipality" means a city, town or borough;

(9) "Personal Property" means machinery, equipment and furnishings which are not considered real property and are subject to a local property tax;

(10) "Substantial Rehabilitation" means a construction or renovation project which requires a building permit and has a cost which is greater than 50% of the assessed value of the real property.

(Effective November 4, 1998)

Sec. 32-75c-2. Qualified manufacturing plant designation application process

The application to have a qualified manufacturing plant designated shall be made on application forms provided by the commissioner and available at the department upon request. The application may require the following information:

(1) A certified copy of the minutes of the governing body of the municipality at which a vote was taken authorizing the chief executive officer of the municipality to apply to the

commissioner for the establishment of a qualified manufacturing plant designation pursuant to section 32-75c of the Connecticut General Statutes as they may be amended from time to time;

(2) Certification from the chief elected official that the proposal is in conformance with the plan of development for the municipality;

(3) Information detailing the local activities and programs that will encourage development for the purposes of this act;

(4) An administrative plan for operation of the program by the municipality;

(5) A professionally prepared market study that evaluates the effect of the proposal on the economic development of the municipality, the region and the state, taking into consideration, market potential, specific development plans and private commitments to the manufacturing plant;

(6) The goals, objectives and timetables of the qualifying manufacturing plant designation including, but not limited to, increasing private investment and expanding the tax base; and

(7) A description of other factors that will contribute to the success of the development of the qualifying manufacturing plant.

(Effective November 4, 1998)

Sec. 32-75c-3. Qualifying manufacturing plant designation approval process

The commissioner shall base his decision on the information contained in the application, the local capacity to effectively administer a development program in the qualifying manufacturing plant, the innovation of the proposed program for the qualifying manufacturing plant and the likelihood of success of the qualifying manufacturing plant program.

(Effective November 4, 1998)

Sec. 32-75c-4. Qualifying manufacturing plant business application process

The two-step application process consists of a preliminary questionnaire and an application for certificate of eligibility. Application forms shall be approved by the commissioner. The information required shall include:

(1) Name, owner and location of company;

(2) Locations size and type of business activity;

(3) Standard Industrial Classification number of the company;

(4) Number of jobs that will be created or retained;

(5) Owner of proposed facility;

(6) Owner of equipment (if applicable); and

(7) Other factors that the commissioner deems necessary to complete the certification process.

(Effective November 4, 1998)

Sec. 32-75c-5. Qualifying manufacturing plant business approval process

The commissioner shall review the application for certificate of eligibility and shall notify the applicant, in writing, of his findings. Upon approval, certificates of eligibility shall be issued to the owner(s) of the manufacturing facility and the owner(s) of the equipment (if applicable) and notification shall be provided to the assessor of the municipality and the Secretary of the Office of Policy and Management and the Commissioner of the Department of Revenue Services. If the application for certificate of eligibility is disapproved, the commissioner shall indicate the reasons for disapproval.

(Effective November 4, 1998)

Sec. 32-75c-6. Reporting procedures

The municipality shall submit completed activity reports on or before July 1st annually to the department which shall describe the progress made towards meeting the goals and objectives described in section 32-75c-2(8) and (9) of this regulation. The first report shall be due no later than July first of the year subsequent to receipt of the certificate of eligibility.

(Effective November 4, 1998)

Agency
Department of Economic and Community Development

Subject
Entertainment District Designation

Inclusive Sections
§§ 32-76-1—32-76-7

CONTENTS

Entertainment District Designation

Sec. 32-76-1. Definitions

As used in sections 32-76-1 to 32-76-7, inclusive, of these regulations:

(1) "Applicant" means a company which completes a preliminary questionnaire and an application for certification of eligibility;

(2) "Certificate of Eligibility" means a document issued by the department pursuant to section 32-9r of the Connecticut General Statutes as they may be amended from time to time evidencing its determination that a facility for which an application for assistance has been submitted qualifies as a manufacturing facility and is eligible for assistance under section 12-217e of the Connecticut General Statutes as they may be amended from time to time and subsections (59) and (60) of section 12-81 of the Connecticut General Statutes as they may be amended from time to time;

(3) "Chief Executive Officer" of a municipality means one of the following: the first selectman; a chief administrative officer appointed by the board of selectmen; a mayor elected by the electors of the municipality; a warden elected by the electors of the borough; a town, city or borough manager appointed by the board of selectmen, the council, the board of directors, the board of aldermen or the board of burgesses; or a chief administrative officer appointed by the mayor;

(4) "Commissioner" means the Commissioner of the Department of Economic and Community Development;

(5) "Department" means the Department of Economic and Community Development;

(6) "Manufacturing facility," means any plant, building, or other real property improvement as defined in section 32-9p(d) of the Connecticut General Statutes as they may be amended from time to time;

(7) "Municipality" means city, town or borough;

(8) "Personal Property" means machinery, equipment and furnishings which are not considered real property and are subject to a local property tax;

(9) "Real Property Improvement" means land, buildings and other structures and improvements thereto, subterranean or subsurface right, any and all easements, air rights and franchises of any kind or nature; and

(10) "Substantial rehabilitation" means a construction or renovation project which requires a building permit and has a cost which is greater than 50% of the assessed value of the real property.

(Effective November 4, 1998)

Sec. 32-76-2. Eligible entertainment related industries

The following businesses may qualify as manufacturing facilities for the purpose of receiving benefits under the Entertainment District program according to the following standard industrial classifications including but not limited to:

Manufacturing: Electrical and Electronic Equipment

3609 Stage Lighting Equipment

3620 Radio and TV Communications Equipment Manufacturing.

Manufacturing: Miscellaneous Manufacturing Industries

3908 Stage Hardware and Equipment, except Lighting Equipment.

Communications

4802 Radio Broadcasting Stations; Television Broadcasting Stations; Cable and other Pay television Services.

Wholesale Trade: Durable Goods

5043 Photographic Equipment and Supplies; Restricted to the entertainment industry.

Retail Trade: Apparel and Accessory Stores

5699 Miscellaneous Apparel and Accessory Store; Restricted to Dancewear and Theatrical Costumes for commercial use.

Finance, Insurance and Real Estate; Real estate

6512 Operators of Nonresidential Buildings; Restricted to Establishments primarily engaged in owning and operating (leasing) theater buildings to promoters or producers.

Finance, Insurance, and Real Estate: Holding and Other Investment Services

6700 Holding and other Investment Offices; restricted to Investors in the Entertainment Industry.

Services: Business Services

7313 Radio, Television and Publishers Advertising Representatives; restricted to Radio and Television Advertising Representatives.

7334 Photocopying and Duplicating Services; Restricted to Commercial Photography: Photographic Studios specializing in the Entertainment Industry.

7336 Commercial Art Graphic Design; Restricted to Graphic Arts and Related Design: Establishments primarily engaged in Film Strips and Slides; Studio and Offices of slide Producers.

Services: Motion Pictures

7812 Motion Pictures and Video Tape Production (including Services allied to Motion Picture Production)

7822 Motion Picture and Video Tape Distribution

Services: Amusement and recreation Services

7911 Dance Studios, Schools and Halls; Restricted to Professional Dance Schools, Theatrical Producers (except Motion Picture) and Miscellaneous Theatrical Services; Restricted to Studios and Offices of such Producers and Services.

7929 Bands, Orchestras, Actors, and other Entertainers and Entertainment Groups; Restricted to Rehearsal Spaces, Performance Spaces, Studios, Theaters, and Offices.

Specifically excluded are the following: Entertainment provided by or shown at a gambling or gaming facility or a facility whose primary business is the sale or serving of alcoholic beverages; retail establishments serving the general public; businesses operating within a residential zone.

Businesses not specifically listed in this section must submit a letter to the commissioner indicating how they meet the definition of an entertainment related business.

(Effective November 4, 1998)

Sec. 32-76-3. Entertainment district designation application

The application to have an entertainment district designated shall be made on application forms provided by the commissioner and available at the department upon request. The application may require the following information:

(1) A certified copy of the ordinance designating the entertainment district, and a certified copy of the minutes of the governing body of the municipality authorizing the chief executive officer of the municipality to apply to the commissioner for approval of the district so designated, pursuant to section 32-76 of the general statutes as they may be amended from time to time;

(2) Mylar maps delineating the specific boundaries of the proposed entertainment district. The scale of the maps shall meet standards as established by the commissioner;

(3) Certification from the chief executive officer that the proposal is in conformance with the plan of development for the municipality;

(4) Information detailing the local activities and programs that will encourage development for purposes of this act;

(5) An inventory of the existing land uses in the proposed entertainment district;

(6) An administrative plan for operation of the program by the municipality;

(7) A professionally prepared market study that evaluates the effect of the proposal on the economic development of the municipality, the region and the state, taking into consideration market potential, specific development plans and private commitments to the area;

(8) The goals, objectives and timetables of the entertainment district designation including, but not limited to, increasing private investment, expanding the tax base, providing job training and job creation for residents of entertainment districts and reducing property abandonment and housing blight in entertainment districts; and

(9) A description of other factors that will contribute to the success of the development

of the entertainment district.

(Effective November 4, 1998)

Sec. 32-76-4. Entertainment district designation approval process

The commissioner shall base his decision on the information contained in the application, the local capacity to effectively administer a development program in the entertainment district, the innovation of the proposed program for the entertainment district and the likelihood of success of the entertainment district program.

(Effective November 4, 1998)

Sec. 32-76-5. Manufacturing facility application process

The two-step application process for qualification as a manufacturing facility consists of a preliminary questionnaire and an application for certificate of eligibility. Application forms shall be approved by the commissioner. The information required shall include:

(1) Name, owner and location of company;

(2) Location, size and type of proposed business activity;

(3) Standard Industrial Classification number of the company;

(4) Number of jobs that will be created or retained;

(5) Owner of proposed facility;

(6) Owner of equipment (if applicable); and

(7) Other factors that the commissioner deems necessary to complete the certification process.

(Effective November 4, 1998)

Sec. 32-76-6. Manufacturing facility approval process

The Commissioner shall review the application for certificate of eligibility and shall notify the applicant, in writing, of his findings. Upon approval, certificates of eligibility shall be issued to the owner(s) of the manufacturing facility and the owner(s) of the equipment (if applicable) and notification shall be provided to the assessor of the municipality and to the Secretary of the Office of Policy and Management and the Commissioner of the Department of Revenue Services. If the application for certificate of eligibility is disapproved, the Commissioner shall indicate the reasons for disapproval.

(Effective November 4, 1998)

Sec. 32-76-7. Reporting procedures

The municipality shall submit completed activity reports on or before July 1 annually to the department which shall describe the progress made towards meeting the goals and objectives described in section 32-76-3(8) and (9) of this regulation. The first reports shall be due no later than July first of the year subsequent to the receipt of the certificate of eligibility.

(Effective November 4, 1998)

Agency
Department of Economic Development

Subject
Small Contractors and Small Manufacturers Loan Program

Inclusive Sections
§§ 32-82-1—32-82-8

CONTENTS

Small Contractors and Small Manufacturers Loan Program

Sec. 32-82-1. Definitions

"Authority" means the Connecticut Development Authority.

"Department" means the Department of Economic Development.

"Rolling Stock" means any and all wheel or track vehicles, cars, trucks, railroad cars, off-the-road construction equipment and lift trucks.

"Borrower" means any small contractor, small manufacturer, state development corporation or local development corporation which has been issued a commitment for a loan or line of credit under this program.

(Effective July 31, 1984)

Sec. 32-82-2. Procedures for loans or lines of credit

(a) Application for a loan or line of credit shall be submitted on forms provided by the Department. No application shall be considered unless the exhibits and all information required by such forms are furnished.

(b) The Borrower shall pay for all costs of processing applications for loans or lines of credit to be made under this program, including closing costs, as the Commissioner determines are reasonable and necessary to pay such costs.

(c) Upon approval by the Commissioner and the Authority, the Borrower shall enter into a loan agreement which shall set forth the terms and conditions required by Section 2 of Public Act 83-580, these Regulations and any other terms and conditions applicable to the particular loan or line of credit, which may be established by the Commissioner or the Authority.

(d) Each loan agreement shall be effective only upon execution by the Commissioner and the Borrower.

(e) Such loan agreement shall provide, without limitation, that the Borrower agrees:

(1) To provide the Department with such financial and other information as the Commissioner may in his discretion require from time to time;

(2) To notify the Department promptly of any material adverse change in the financial condition or business prospects of the Borrower;

(3) To represent and warrant that it has the power and authority to enter into the loan agreement and to incur the obligations therein provided for, and that all documents and agreements executed and delivered in connection with the loan or line of credit will be valid and binding upon the Borrower enforceable in accordance with their respective terms;

(4) To provide such security for the loan or line of credit as the Commissioner may require pursuant to these Regulations and to execute and deliver all documents in connection therewith;

(5) That the funds provided will not be used otherwise than for the purpose for which the loan application was made and approved.

(6) To the extent the loan, or line of credit is secured by a contract or contracts, to:

(a) Notify the Department of the modification of any provision of a contract which is

security for the loan or line of credit when said modification affects the total amount due under the contract, affects the time or manner of payment, or in any other way substantially affects the contract or the manner of performance of said contract;

(b) Notify the Department of the termination of any part of a contract or the termination of the entire contract by any party to the contract;

(c) Notify the Department of the failure of either party to a contract to perform any of its obligations under such contract;

(d) Notify the Department of the rejection of any material or article delivered in the performance of a contract;

(e) Use the funds advanced only to pay for labor and material on the pledged contract.

(Effective July 31, 1984)

Sec. 32-82-3. Loans to small contractors

(a) The Authority may require the Borrower to provide the Department as further security for the loan or line of credit, mortgages or security interests in any or all of the following: real property, accounts, chattel paper, documents, instruments, general intangibles, goods, equipment, inventory or other personal property, and may further require the Borrower to have executed and delivered to the Department security agreements, financing statements, mortgages, pledges, assignments, subordinations, guarantees or other documents or evidences of security as and in the form required by the Authority.

(b) The term of a working capital loan shall not exceed twelve months from the date of the first disbursement and the term of an extension of credit on a line of credit shall not exceed twelve months from the date on which proceeds were first disbursed.

(c) No loan or line of credit shall exceed the amount provided in subsection (d) of Section 2 of Public Act 83-580.

(d) The loan or line of credit shall be repaid on an amortized schedule of periodic payments or upon such other periodic methods of payment of principal and interest as the Authority considers appropriate in the particular circumstances, but in no event shall the periodic payments be scheduled to exceed twelve months from the relevant date of disbursement referred to in Subsection (d) of Section 2 of Public Act 83-580.

(e) Disbursement of the loan shall be made at the discretion of the Commissioner in accordance with the provisions of the loan agreement and the instructions of the Authority.

(Effective July 31, 1984)

Sec. 32-82-4. Fixed asset loans to small manufacturers

(a) The Authority may require the Borrower to provide the Department as security for the loan or line of credit mortgages or security interests in any or all of the following: real property, accounts, chattel paper, documents, instruments, general intangibles, goods, equipment, inventory or other personal property, and may further require the Borrower to have executed and delivered to the Department security agreements, financing statements, mortgages, pledges, assignments, subordinations, guarantees or other documents or

evidences of security as and in the form required by the Authority.

(b) The term of a fixed asset loan shall not exceed ten years from the date of disbursement of the loan and shall be repaid on an amortized schedule of periodic payments or upon such other periodic methods of payment of principal and interest as the Authority considers appropriate in the particular circumstances.

(c) Disbursement of the loan shall be made at the discretion of the Commissioner in accordance with the provisions of the loan agreement and the instructions of the Authority.

(Effective July 31, 1984)

Sec. 32-82-5. Other loans or lines of credit to small manufacturers

(a) The Borrower shall provide evidence satisfactory to the Commissioner that it shall, concurrently with and in an amount not less than the loan or line of credit made pursuant to this Section, receive from a private financial institution, a local development corporation, or from the owners, partners or shareholders of the Borrower, a working capital loan, which shall be used for substantially the same purposes as the loan made pursuant to this section.

(b) The term of the loan or line of credit shall not exceed seven years from the date of the first disbursement of the loan or line of credit.

(c) The loan or line of credit shall be repaid on an amortized schedule of periodic payments or upon such other periodic methods of payment of principal and interest as the Commissioner considers appropriate in the particular circumstances, but in no event shall the periodic payments be scheduled to exceed seven years from the date of first disbursement of the loan.

(d) The Authority may require the Borrower to provide the Department as security for the loan or line of credit mortgages or security interests in any of the following: real property, accounts, chattel paper, documents, instruments, general intangibles, goods, equipment, inventory or other personal property, and may further require the Borrower to have executed and delivered to the Commissioner security agreements, financing statements, mortgages, pledges, assignments, subordinations, guarantees or other documents or evidences of security as and in the form required by the Authority.

(e) Disbursement of the loan shall be made at the discretion of the Commissioner in accordance with the provisions of the loan agreements and the instructions of the Authority.

(Effective July 31, 1984)

Sec. 32-82-6. Loans to state or local development corporations

(a) The amount of any loan provided to any one state or local development corporation shall not exceed five hundred thousand dollars.

(b) The loan may be repaid upon an amortized schedule of payments or upon demand or upon such other method of payment of principal and interest, if applicable, as the Commissioner considers appropriate in the particular circumstances.

(c) The Authority may require the state or local development corporation to provide the Department as security for the loan mortgages or security interests in any of the following:

real property, accounts, chattel paper, documents, instruments, general intangibles, goods, equipment, inventory or other personal property, and may further require the Borrower to have executed and delivered to the Commissioner security agreements, financing statements, mortgages, pledges, assignments, subordinations, guarantees or other documents or evidences of security as and in the form required by the Authority.

(d) Disbursement of the loan shall be made at the discretion of the Commissioner in accordance with the provisions of the loan agreements and the instructions of the Authority.

(Effective July 31, 1984)

Sec. 32-82-7. Note

(a) Each loan or line of credit shall be evidenced by a promissory note which shall contain a provision permitting the Borrower to prepay the loan in whole or in part upon any interest payment date.

(b) The promissory note shall provide for the payment of interest at a rate of one percent above the rate of interest borne by the bonds of the state last issued prior to the date such loan is made or such line of credit extended.

(c) The promissory note may provide for the collection of a late charge, not to exceed two percent of any installment which is not paid within ten days of the due date thereof. Late charges shall be separately charged to and collected from the Borrower.

(Effective July 31, 1984)

Sec. 32-82-8. Default and remedy

(a) The failure of the Borrower to abide by the terms of the loan agreement, promissory note or other document delivered by the Borrower to the Authority or the Department in connection with such loan shall be considered a default under such promissory note.

(b) The promissory note shall contain a provision that the failure of the Borrower to make a payment of principal or interest due under the promissory note within fifteen days from the due date shall constitute a default.

(c) The promissory note shall provide that upon default, any and all sums owing by the Borrower under the promissory note shall, at the option of the Commissioner, become immediately due and payable.

(d) The promissory note shall provide that in the event of default, interest on the promissory note shall automatically increase to twelve percent per annum and shall apply not only after default, but also after any judgment rendered upon the said promissory note.

(e) The promissory note shall provide for payment of reasonable attorneys' fees and legal costs in the event of default.

(f) The promissory note shall contain such other clauses and covenants as the Commissioner in his discretion may require.

(Effective July 31, 1984)

Agency
Department of Economic Development

Subject
Motion Picture Film Commission

Inclusive Sections
§§ 32-90-1—32-90-3

CONTENTS

Motion Picture Film Commission

Sec. 32-90-1. Purpose

The state motion picture film commission established under sections 32-86 to 32-91 inclusive of the General Statutes shall be known as the Connecticut Film Commission. In carrying out its legislative mandate, the commission shall act as a liaison between filmmakers and various public and private agencies and shall be responsible for providing location information and technical assistance to the motion picture, television and commercial film industry, and for actively soliciting and encouraging filmmaking activity in Connecticut.

(Effective July 15, 1985)

Sec. 32-90-2. Organization of commission

(a) The Commission shall meet not less than quarterly at such times and places as the chairperson shall designate. Additional meetings may be held at the call of the chairperson provided written notice is given to each member not less than twenty-four hours before the meeting is scheduled to take place.

(b) At the first meeting in each calendar year a vice chairperson shall be elected by the commission members to serve one year.

(c) For each meeting the chairperson or vice chairperson shall provide a written agenda. Written minutes shall be recorded documenting the dates of meetings, attendance, agenda items and recommendations. The minutes shall be presented, read and accepted at the next regular meeting of the Commission.

(Effective July 15, 1985)

Sec. 32-90-3. Correspondence

All correspondence should be addressed to the Connecticut Film Commission, c/o the Commissioner of Economic Development.

(Effective July 15, 1985)

Agency
Department of Economic Development

Subject
Infrastructure Development Economic Assistance Program

Inclusive Sections
§§ 32-116-1—32-116-6

CONTENTS

Infrastructure Development Economic Assistance Program

Sec. 32-116-1. Definitions

(a) "Act" means Public Act 85-571 as amended.

(b) "Commissioner" means the Commissioner of Economic Development.

(c) "Department" means the Department of Economic Development.

(Effective December 20, 1985)

Sec. 32-116-2. General eligibility requirements

(a) The Commissioner is authorized to make grants or loans or a combination of a grant and loan to an eligible municipality to carry out the provisions of the Act. In order to be eligible to receive such grants or loans or combination thereof, the municipality must have a planning commission.

(b) The municipality is authorized, by vote of its legislative body and with the approval of the Commissioner, to designate as its implementing agency, the agency, commission, authority or corporation defined in the Act. The municipality may with the approval of the Commissioner, designate a separate implementing agency for each development project it undertakes under the Act.

(Effective December 20, 1985)

Sec. 32-116-3. Eligibility requirements for development grants or loans

(a) Any implementing agency which has prepared, adopted and approved a project plan in accordance with the Act and with these regulations, subject to approval by the Commissioner, is eligible to apply for an infrastructure development economic assistance grant or loan or combination thereof.

(b) Applications for development grants or loans or combination thereof shall be made on forms prescribed by the Department and available at its office on written request and shall be submitted simultaneously with the project plan. Such application shall include minutes of the public hearing specified in subsection (a) of Section 5 of the Act, a Statement of Minority Participation specifying goals, timetables and other information required by the Commissioner to ensure that minority groups, women and the mentally or physically disabled will benefit from the project, and information specified in subsection (d) of Section 5 of the Act. When determining whether to grant disapproval, final approval or conditional approval of a project plan and application, the commissioner shall consider the criteria set forth in subsections (b) and (d) of sec. 5 of P.A. 85-571 and the information required to be submitted in the application. Upon final approval of the Project Plan and approval of the application by the Department, an offer of grant or loan or combination thereof shall be made by the Department, subject to authorization of funds by the State Bond Commission and the execution of an Assistance Agreement between the implementing agency and the Department.

(Effective December 20, 1985)

Sec. 32-116-4. Modification of plan

An approved Project Plan may be modified under the following procedures and criteria:

(a) if the modification is minor, through adoption of a resolution by the implementing agency and approval of the Commissioner, consistent with the criteria set forth in subsection (d) of sec. 5 of P.A. 85-571.

(b) if the modification is substantial, through the same manner as the adoption and approval of the project plan, with the written consent of the eligible business and approval of the Commissioner, consistent with the criteria set forth in subsection (d) of sec. 5 of P.A. 85-571.

(Effective December 20, 1985)

Sec. 32-116-5. Determination of the amount of funding for development grants and/or loans

(a) The maximum amount of funds for a development grant or loan or combination thereof for which a municipality may be eligible is fifty percent of the net project cost. The net project cost is the total project cost less the estimated income from the project and other State grants and federal capital grants. Eligible project costs are costs directly related to and necessary for the infrastructure development economic assistance project including:

(1) real estate acquisition and disposition;

(2) clearance and development activities;

(3) project inspection fees;

(4) planning, engineering design and project administration to the extent permitted under Subsection (6) of Section 2 of the Act;

(5) interest costs for temporary and definitive financing for a period not to exceed five years on a principal amount not to exceed the required matching local share, but excluding interest costs related to any loan specified under Section 6 of these Regulations.

(6) relocation as required by Chapter 135 of the Connecticut General Statutes; and

(7) to the extent approved by the Commissioner, project plan preparation, if such costs have already been paid or reimbursed by the municipality.

The purchase of vehicles and interim and final audits are not eligible costs. Interim audits are required every two years through the duration of the development project.

(b) The project income includes monies or the value of goods and services received from:

(1) the sale or lease of land;

(2) the temporary use of land, residence or businesses prior to their dispositions;

(3) the sale or lease of sand, gravel, or other earthen or salvage materials;

(4) the sale or lease of buildings, machinery, equipment or other materials of value, occupying land areas within the project area; and

(5) interest income realized from the investment of project monies.

(Effective December 20, 1985)

Sec. 32-116-6. Loan procedures

(a) Subject to the provisions of Section 7 of the Act, the Commissioner shall charge and collect interest on each infrastructure development economic assistance loan. In establishing both the interest rate and the term of each loan, the Commissioner shall take into consideration the general financial conditions of the municipality, the tax revenues to be generated by the project and the relative cost of the project.

(b) No loan may be made to a municipality unless the municipality pledges its full faith and credit for the payment of the principal thereof and interest thereon.

(Effective December 20, 1985)

Agency
Department of Economic Development

Subject
Loan Incentives for Employment Fund

Inclusive Sections
§§ 32-130-1—32-130-5

CONTENTS

Loan Incentives for Employment Fund

Sec. 32-130-1. Definitions

(a) "Authority" means the Connecticut Development Authority.

(b) "Department" means the Department of Economic Development.

(c) "Borrower" means any eligible business organization which has been issued a commitment for a loan or line of credit under this program.

(d) "Commissioner" means the Commissioner of Economic Development.

(Effective November 22, 1985)

Sec. 32-130-2. Procedures for loans

(a) Application for a loan shall be submitted on forms provided by the Department. No application shall be considered unless the exhibits and all information required by such forms are furnished.

(b) The Borrower shall pay for all costs of processing applications for loans to be made under this program, including closing costs, as the Commissioner determines are reasonable and necessary to pay such costs.

(c) Upon approval by the Commissioner and the Authority, the Borrower shall enter into a loan agreement which shall set forth the terms and conditions required by Public Act 85-536, these Regulations and any other terms and conditions applicable to the particular loan which may be established by the Commissioner or the Authority.

(d) Each loan agreement shall be effective only upon execution by the Commissioner and the Borrower.

(e) Such loan agreement shall provide, without limitation, that the Borrower agrees:

(1) To provide the Department with such financial and other information as the Commissioner may in his discretion require from time to time;

(2) To notify the Department promptly of any material adverse change in the financial condition or business prospects of the Borrower;

(3) To represent and warrant that it has the power and authority to enter into the loan agreement and to incur the obligations therein provided for, and that all documents and agreements executed and delivered in connection with the loan or line of credit will be valid and binding upon the Borrower enforceable in accord with their respective terms;

(4) To provide such security for the loan or line of credit as the Commissioner may require pursuant to these Regulations and to execute and deliver all documents in connection therewith;

(5) That the funds provided will not be used otherwise than for the purpose for which the loan application was made and approved;

(Effective November 22, 1985)

Sec. 32-130-3. Working capital or fixed asset loans to eligible business organizations

(a) The Authority may require the Borrower to provide the Department, as security for

the loan, mortgages or security interests in any or all of the following: real property, accounts, chattel paper, documents, instruments, general intangibles, goods, equipment, inventory or other personal property, and may further require the Borrower to have executed and delivered to the Department security agreements, financing statements, mortgages, pledges, assignments, subordinations, guarantees or other documents or evidences of security as and in the form required by the Authority.

(b) The term of a fixed asset or working capital loan shall not exceed ten years from the date of disbursement of the loan and shall be repaid on an amortized schedule of periodic payments or upon such other periodic methods of payment of principal and interest as the Authority considers appropriate in the particular circumstances.

(c) Disbursement of the loan shall be made at the discretion of the Commissioner in accordance with the provisions of the loan agreement and the instructions of the Authority.

(d) The Borrower shall provide evidence satisfactory to the Commissioner that it shall, concurrently with and in an amount not less than the loan made pursuant to this Section, receive a new loan or loans, or new equity capital investment. Such new loan or loans may not include funding from the Naugatuck Valley Revolving Loan Fund.

(Effective November 22, 1985)

Sec. 32-130-4. Note

(a) Each loan shall be evidenced by a promissory note which shall contain a provision permitting the Borrower to prepay the loan in whole or in part upon any interest payment date.

(b) The promissory note shall provide for the payment of interest at a rate not in excess of one percent above the rate of interest borne by the bonds of the state last issued prior to the date such loan is made.

(c) The promissory note may provide for the collection of a late charge, not to exceed two percent of any installment which is not paid within ten days of the due date thereof. Late charges shall be separately charged to and collected from the Borrower.

(Effective November 22, 1985)

Sec. 32-130-5. Default and remedy

(a) The failure of the Borrower to abide by the terms of the loan agreement, promissory note or other document delivered by the Borrower to the Authority or the Department in connection with such loan shall be considered a default under such promissory note.

(b) The promissory note shall contain a provision that the failure of the Borrower to make a payment of principal or interest due under the promissory note within fifteen days from the due date shall constitute a default.

(c) The promissory note shall provide that upon default, any and all sums owing by the Borrower under the promissory note shall, at the option of the Commissioner, become immediately due and payable.

(d) The promissory note shall provide that in the event of default, interest on the

promissory note, at the option of the Commissioner, shall automatically increase by an annual rate of 3% greater than the interest rate of the loan and shall apply not only after default, but also after any judgment rendered upon the said promissory note.

(e) The promissory note shall provide for payment for reasonable attorneys' fees and legal costs in the event of default.

(f) The promissory note shall contain such other clauses and covenants as the Commissioner in his discretion may require.

(Effective November 22, 1985)

Agency
Office of Policy and Management

Subject
Issuance of Private Activity Bonds

Inclusive Sections
§§ 32-141-1—32-141-3

CONTENTS

Issuance of Private Activity Bonds

Sec. 32-141-1. Definitions

As used in Sections 32-141-1 to 32-141-3, inclusive, the following terms have the meaning ascribed to them in this section.

"Private activity bonds" means any bonds or notes which meet the criteria set forth in section 141 of the Internal Revenue Code of 1986, as amended, the interest on which is exempt from tax under Section 103 of the Internal Revenue Code of 1986, as amended, except for those bonds which are specifically excluded from the state ceiling under the terms of Section 146 of the Internal Revenue Code of 1986, as amended.

"Secretary" means the Secretary of the Office of Policy and Management.

"State ceiling" means the limit which is prescribed by Section 146 of the Internal Revenue Code of 1986, as amended, on the amount of private activity bonds which may be issued collectively by all state issuers in any calendar year.

"State issuer" means the state or any political subdivision thereof, any municipality or any political subdivision thereof or any department, agency, authority or other body of the state or any municipality, which is authorized to issue private activity bonds.

(Effective August 23, 1988)

Sec. 32-141-2. Issuance of private activity bonds by municipalities

(a) Any municipality or political subdivision, department, agency, authority or other body of a municipality shall obtain the written approval of the secretary of the office of policy and management prior to the issuance of any private activity bonds. Applications for such approval shall include:

(1) The exact legal name of the prospective issuer;

(2) The exact amount of private activity bonds that are proposed to be issued;

(3) The prospective date of such issuance;

(4) The purpose for which such bonds will be issued; and

(5) The statutory authorization for the issuance of such bonds by the issuer.

(b) Within fourteen days of receipt of an application, the secretary shall notify the applicant in writing of his approval or disapproval. The secretary shall approve the request if he finds that: (1) the application for approval is complete; (2) an allocation from the portion of the state ceiling reserved for municipalities under Section 32-141 of the General Statutes, as amended by Section 2 of Public Act 87-539, is available and that the needs for such allocations by all other municipalities which have applied, have been or can be satisfied; and (3) the applicant intends to use the proceeds of the bond issuance to carry out legislatively determined public purposes.

(c) Any approval to a municipality or political subdivision, department, agency, authority or other body of a municipality to issue private activity bonds shall terminate ninety days after such approval has been granted. If the bonds for which approval to issue has been granted by the secretary have not been sold within such ninety days, the issuer must reapply

to the secretary for approval to issue.

(Effective August 23, 1988)

Sec. 32-141-3. Issuance of private activity bonds from the allocation for contingencies

(a) Any state issuer shall obtain the written approval of the secretary prior to the issuance of private activity bonds which are allocated from the portion under the state ceiling reserved for contingencies under Section 32-141 of the General Statutes, as amended by Section 2 of Public Act 87-539. Applications for such approval shall include:

(1) The exact legal name of the prospective issuer;

(2) The exact amount of private activity bonds that are proposed to be issued;

(3) The prospective date of such issuance;

(4) The purposes for which such bonds will be issued; and

(5) The statutory authorization for the issuance of such bonds by the issuer.

(b) Within fourteen days of receipt of an application, the secretary shall notify the applicant in writing of his approval or disapproval. The secretary shall approve the request if he finds that: (1) the application for approval is complete; (2) an allocation from such portion reserved for contingencies is available and that the needs for such allocations by all other state issuers which have applied have been or can be satisfied; and (3) the applicant intends to use the proceeds of the bond issuance for purposes which the secretary deems to be in the best interest of the state.

(c) Any approval to a state issuer to issue private activity bonds which are allocated from such portion of the state ceiling reserved for contingencies shall terminate ninety days after such approval has been granted. If the bonds for which approval has been granted by the secretary have not been sold within such ninety days, the issuer must reapply to the secretary for approval to issue.

(Effective August 23, 1988)

Agency
Department of Economic Development

Subject
Employee Ownership Loans and Interest Rate Subsidies

Inclusive Sections
§§ 32-150-1—32-150-6

CONTENTS

Employee Ownership Loans and Interest Rate Subsidies

Sec. 32-150-1. Repealed

Repealed April 27, 1987.

Sec. 32-150-1a. Definitions

The following terms have the following meanings as used in these regulations:

"Borrower" means, with respect to a direct loan(s), the employee group or the entity formed by the employee group which is the primary obligor of the direct loan.

"Business" means any occupation, trade or profession engaged in by any individual, partnership, corporation or other entity (1) for profit, (2) for manufacturing, industrial, warehousing or distribution purposes and/or research and development activities or administrative purposes directly related to any of the forgoing purposes.

"Commissioner" means Commissioner of Economic Development or his Deputy.

"Corporate Ownership" means ownership of capital stock possessing (1) more than fifty percent (50%) of the total combined voting power of all classes of capital stock entitled to vote, provided however that in making such calculation there shall be included the voting power of shares of capital stock to be issued upon the exercise of all outstanding options to purchase said capital stock unless said options are subject to a substantial risk of forfeiture; and (2) more than fifty percent (50%) of the aggregate value of all shares of all classes of outstanding capital stock including the value of all shares of capital stock to be issued upon the exercise of all outstanding options to purchase said capital stock.

"Department" means the Connecticut Department of Economic Development.

"Direct Loan" means any Loan(s) made from the assets of the Fund pursuant to Section 32-150 of the Connecticut General Statutes.

"Eligible Loan" means a Loan(s) (1) issued by a bank, savings and loan association, insurance company, mutual fund, investment company, venture capital fund, or other similar institutional lender; (2) to an employee group purchasing a business or to a corporation partnership, ESOT or other entity established to purchase the business; (3) which in the aggregate does not exceed the purchase price as set forth in the purchase agreement for the business less any equity capital contributed by the Employee Group or others; (4) the repayment of which is not guaranteed in whole or in part, directly or indirectly, by either (a) the federal or any state government, political subdivision, agency, department, authority or other instrumentality thereof; or (b) the seller of the business being acquired with the proceeds of such Loan, provided however that Loans failing to satisfy the requirements of clause (1), (3), or (4) (a) hereof for which the Commissioner determines that Interest Rate Subsidies are necessary both to effect the acquisition of the Business and to permit the Employee Group to successfully repay the Loan(s) shall be deemed Eligible Loans.

"Employee" means any person who comes within the definition of "Employee" under Section 3121 (d) of the Internal Revenue Code of 1954, as amended.

"Employee Group" means any group consisting primarily of employees of a Business whether formed through Corporate Ownership, Partnership Ownership or through an ESOP

or any entity formed by the Employee Group contemporaneously with the acquisition of the Business to own or lease all or a significant portion of the assets of the Business and/or to operate the Business being acquired.

"ESOP" means an employee stock ownership plan described in Section 4975 (e) (7) of the Internal Revenue Code of 1954, as amended.

"ESOT" means an employee stock ownership trust established under an ESOP.

"Fund" means the Employee Ownership Trust Fund established pursuant to Section 32-151 of the Connecticut General Statutes.

"Interest Rate Subsidies" means amounts paid from the Fund to reimburse an obligor for interest paid on one or more Eligible Loans incurred for the purchase of a Business.

"Loan" or "Loans" means any bona fide debt obligation issued at arms' length for the purchase of a business.

"Partnership Ownership" means ownership of partnership interests possessing in the aggregate more than fifty percent (50%) of the right to share in (1) the capital; and (2) the earnings and profits of the partnership.

"Program of Interest Rate Subsidies" means a series of interest rate subsidies paid over a period not to exceed three (3) years to the Employee Group to whom they were granted.

(Effective April 27, 1987)

Sec. 32-150-2. Repealed

Repealed April 27, 1987.

Sec. 32-150-2a. Eligibility

To be eligible for an Interest Rate Subsidy, a Program of Interest Rate Subsidies or a Direct Loan:

(a) **The Employee Group:**

(1) must include fifty percent (50%) or more of all employees of the Business being acquired by the Employee Group immediately following the purchase; and

(2) must own more than fifty (50%) of the outstanding equity interest in the Business being acquired by the Employee Group immediately following the purchase; and

(3) must demonstrate to the satisfaction of the Commissioner:

(A) the financial viability of the Business;

(B) that the acquisition of the Business will tend to maintain or provide gainful employment, maintain or increase the tax base of the economy or maintain or diversify industry in the State of Connecticut; and

(C) that the proceeds of any Direct Loan or Loan for which an Interest Subsidy is sought will not essentially be used to refinance interests held in the Business prior to the acquisition by the Employee Group, its members or related parties thereto.

(b) The Loan or Loans for which an Interest Rate Subsidy is sought must be Eligible Loan(s), provided however that the proceeds of the Eligible Loans are used for acquisition costs or expenses related to the proposed purchase of such Business.

(c) The proceeds of any Direct Loan must be used for the purpose of the initial purchase of the Business, including without limitation, initial working capital requirements of the Employee Group.

(Effective April 27, 1987)

Sec. 32-150-3. Application and agreement

(a) Application for an interest rate subsidy and/or a direct loan shall be submitted on forms prescribed by the Commissioner. No application shall be considered unless the information required by such forms is furnished and, in the case of an application for a direct loan, an application fee is paid in such amount as the Commissioner may from time to time determine to be reasonable and necessary.

(b) Upon approval of an application by the Commissioner, the Department and the Employee Group shall enter into an agreement which shall set forth the terms and conditions set forth by these regulations and other terms and conditions considered by the Commissioner to be necessary.

(c) The agreement shall be executed on forms provided by the Commissioner and shall be effective only upon approval by the Commissioner and the Employee Group and, in the case of a direct loan(s), payment by the Employee Group of a commitment fee considered by the Commissioner to be reasonable and necessary.

(d) The agreement with respect to interest subsidies shall provide, without limitation:

(1) the percentage of the interest rate subsidy,

(2) the number of years for which the subsidy is committed,

(3) the maximum amount of the interest rate subsidy,

(4) the condition(s) for termination of the Interest Rate Subsidy.

(e) The agreement with respect to a Direct Loan(s) shall provide, without limitation:

(1) that the proceeds will be used solely for purposes related to the initial purchase of the business;

(2) that the Borrower shall provide the Department with such financial and other reports as the Commissioner, in his discretion, may require from time to time;

(3) that the Borrower shall notify the Department promptly of any material adverse change in the financial condition or business prospects of the Borrower or its business;

(4) that the Borrower shall represent and warrant that it has the power and authority to enter into the direct loan agreement and to incur the obligations therein provided for, and that all documents and agreements executed and delivered in connection with the direct loan will be valid and binding upon the Borrower in accordance with their respective terms;

(5) for such collateral security for the direct loan(s) as the Commissioner may require pursuant to Section 32-150-4 (b) (1) of these regulations and to execute and deliver all documents in connection therewith;

(6) the conditions for termination of, and default under, the direct loan;

(7) that all costs of closing will be paid by the borrower; and

(8) for such other representations and warranties as may be determined by the

Commissioner to be necessary.

(f) If, upon examination of the application, supporting information and results of any investigation, the Commissioner rejects such application, then the request may not be granted and the Department shall cause the applicant to be notified that the application has been denied.

(Effective April 27, 1987)

Sec. 32-150-4. Interest rate subsidy and direct loans

(a) **An interest rate subsidy:**

(1) may be granted on all or a portion of any Eligible Loan(s).

(2) shall not reduce the interest rate on any Eligible Loan by more than five percent (5%).

(3) shall not exceed in total the lesser of fifteen percent (15%) of the total principal amount of any Eligible Loan(s) or $1,000,000.

(4) shall not exceed three (3) years in term.

(5) shall be solely for the benefit of the Employee Group to whom they are granted and shall not be assignable.

(6) shall be payable annually, upon certification in form and substance acceptable to the Commissioner.

(b) **Direct loan(s):**

(1) The Direct Loans(s) may be secured or unsecured as the Commissioner determines to be appropriate in the particular circumstances. If a Direct Loan(s) is to be secured, the Commissioner may require the borrower to provide as security any or all of the following: real property, accounts, chattel paper, documents, instruments, general intangibles, goods, equipment, inventory or other personal property, and may further require the borrower to have executed and delivered such security agreements, financing statements, mortgages, pledges, assignments, subordinations, guarantees or other documents or evidences of security as and in the form required by the Commissioner.

(2) Direct Loan(s) shall not exceed in amount the lesser of:

(A) $500,000, or

(B) 10% of the purchase price as set forth in the purchase agreement for the business being acquired.

(3) The term of a direct loan shall not exceed twenty five years from the date of the first disbursement and shall be repaid on an amortized schedule of payments or upon such other method of payment of principal and interest as the Commissioner considers necessary and appropriate in the particular circumstances.

(4) At no time shall the aggregate principal balance of all outstanding direct loans issued under this Section 32-150-4 (b) exceed $4,000,000.

(c) **Direct loan note:**

(1) Each Direct Loan shall be evidenced by a promissory note which shall contain a provision permitting the borrower to prepay the loan in whole or in part upon any interest payment date.

(2) The promissory note shall provide for the payment of interest at a rate not to exceed 1% above the interest paid by the State of Connecticut on the latest general obligation bonds issued prior to the date of approval of the Direct Loan.

(3) The promissory note may provide for the collection of a late charge, not to exceed two percent of any installment more than fifteen days in arrears. Late charges shall be separately charged to and collected from the borrower.

(4) Any misrepresentation, breach of warranty or other breach of any agreement or covenant contained in the agreement, the promissory note, or other documents signed by the borrower in connection with such loan shall be considered a default under such promissory note.

(5) The promissory note shall contain a provision that the failure of the borrower to make a payment of any installment of principal or interest due under the promissory note within thirty days from the due date shall constitute a default.

(6) The promissory note shall provide that upon default, any and all sums owing by the borrower under the promissory note shall, at the sole discretion of the Commissioner, become immediately due and payable.

(7) The promissory note shall provide that upon default interest on the promissory note shall automatically increase two percent per annum above the rate of the said note and shall apply not only after default, but after any judgment rendered upon said promissory note.

(8) The promissory note shall provide for payment of reasonable attorneys' fees and legal costs in the event the borrower shall default in the payment of the note.

(9) The promissory note shall contain such other clauses and covenants as the Commissioner in his discretion, may require.

(d) **Disbursement and use of proceeds**:

Disbursement of direct loan proceeds and interest rate subsidies shall be made at the discretion of the Commissioner in accordance with the agreement(s).

(Effective April 27, 1987)

Sec. 32-150-5. Termination

The Commissioner may terminate the Interest Rate Subsidy and/or accelerate the direct loan under any of the following:

(a) if he determines that all or part of the Business has been removed from the State or that there are pending plans to remove all or part of said Business from the State, or

(b) if he determines at any time that the Employee Group no longer meets the eligibility criteria set forth in Section 32-150-2a of these regulations, or

(c) if he determines the Employee Group is in default of its obligation to make any payment of principle or interest due under an Eligibile Loan or Direct Loan and said default has not been cured under any applicable cure provision of such Eligible Loan, Direct Loan or the agreement of the Interest Rate Subsidy.

(d) if he determines that the Business has acted or failed to act in a manner that results in a significant violation of federal, state, or local laws or ordinances, creates or causes the

facilities to become a public nuisance, fails to maintain and insure the business facilities and equipment, or fails to pay all taxes, assessments and other charges, allows any change in the nature of the occupancy, use or operation of the Business which is inconsistent with the application for subsidy, or sells, assigns, conveys, leases or otherwise disposes of any real estate, equipment or capital stock acquired with a subsidized loan or Direct Loan.

(Effective April 27, 1987)

Sec. 32-150-6. Reservation of funds

The Commissioner shall reserve from the Fund the total amount of the Rate Subsidy for the term committed.

(Effective April 4, 1986)

Agency
Department of Economic Development

Subject
Northeast Connecticut Capital Assistance Fund

Inclusive Sections
§§ 32-156-1—32-156-5

CONTENTS

Northeast Connecticut Capital Assistance Fund

Sec. 32-156-1. Definitions

(a) "Capital assistance" means a loan provided to an eligible business organization under this section which is used to finance a fixed asset or working capital investment solely at the Northeast Connecticut business location of the eligible business organization.

(b) "Commissioner" means the commissioner of economic development.

(c) "Eligible business organization" means any private sole proprietorship, partnership or corporation duly engaged in for-profit activities in the areas of manufacturing, industrial, research, product warehousing or distribution, and offices related thereto, that either (1) has been doing business and maintained a business location in Northeast Connecticut for a period of at least one year prior to the date of its application for assistance under this section and whose gross revenues did not exceed ten million dollars in its most recently completed fiscal year prior to the date of such application; or (2) has been doing business and maintained a business location in Northeast Connecticut for a period of at least two calendar months but less than one year prior to the date of its application for assistance under this section and whose gross revenues did not exceed an average of six hundred thousand dollars per calendar month during such period.

(d) "Northeast Connecticut" means the geographic area of the municipalities of Ashford, Brooklyn, Canterbury, Chaplin, Eastford, Hampton, Killingly, Lebanon, Mansfield, Plainfield, Pomfret, Putnam, Scotland, Sterling, Thompson, Union, Voluntown, Windham and Woodstock.

(e) "Authority" means the Connecticut Development Authority.

(f) "Borrower" means any eligible business organization which has been issued a commitment for a loan under this program.

(g) "Department" means the Department of Economic Development.

(Effective October 29, 1986)

Sec. 32-156-2. Procedures for loans

(a) Application for a loan shall be submitted on forms provided by the Department. No application shall be considered unless the exhibits and all information required by such forms are furnished.

(b) The Borrower shall pay for all costs of processing applications for loans to be made under this program, including closing costs, as the Commissioner determines are reasonable and necessary to pay such costs.

(c) Upon approval by the Commissioner and the Authority or if the Authority so determines, by a committee of the Authority consisting of the chairman and either one other member of the Authority or its executive director, as specified in the determination of the authority, the Borrower shall enter into a loan agreement which shall set forth the terms and conditions required by Public Act 86-342, these Regulations, and any other terms and conditions applicable to the particular loan which may be established by the Commissioner or the Authority.

(d) Each loan agreement shall be effective only upon execution by the Commissioner and the Borrower.

(e) Such loan agreement shall provide, without limitation, that the Borrower agrees:

(1) To provide the Department with such financial and other information as the Commissioner may in his discretion require from time to time;

(2) To notify the Department promptly of any material adverse change in the financial condition or business prospects of the Borrower;

(3) To represent and warrant that it has the power and authority to enter into the loan agreement and to incur the obligations therein provided for, and that all documents and agreements executed and delivered in connection with the loan will be valid and binding upon the Borrower enforceable in accord with their respective terms;

(4) To provide such security for the loan as the Commissioner may require pursuant to these Regulations and to execute and deliver all documents in connection therewith;

(5) That the funds provided will not be used otherwise than for the purpose for which the loan application was made and approved.

(Effective October 29, 1986)

Sec. 32-156-3. Working capital or fixed asset loans to eligible business organizations

(a) The Authority may require the Borrower to provide the Department, as security for the loan, mortgages or security interests in any or all of the following: real property, accounts, chattel paper, documents, instruments, general intangibles, goods, equipment, inventory or other personal property, and may further require the Borrower to have executed and delivered to the Department security agreements, financing statements, mortgages, pledges, assignments, subordinations, guarantees or other documents or evidences of security as, and in the form required by the Authority.

(b) A fixed asset or working capital loan shall be repaid on an amortized schedule of periodic payments or upon such other periodic methods of payment of principal and interest as the Authority considers appropriate in the particular circumstances.

(c) Disbursement of the loan shall be made at the discretion of the Commissioner in accordance with the provisions of the loan agreement and the instructions of the Authority.

(Effective October 29, 1986)

Sec. 32-156-4. Note

(a) Each loan shall be evidenced by a promissory note which shall contain a provision permitting the Borrower to prepay the loan in whole or in part upon any interest payment date without penalty.

(b) The promissory note shall provide for the payment of interest at a rate not in excess of one percent above the rate of interest borne by the general obligation bonds of the state last issued prior to the date such loan is made.

(c) The promissory note may provide for the collection of a late charge, not to exceed two percent of any installment which is not paid within ten days of the due date thereof.

Late charges shall be separately charged to and collected from the Borrower.

(Effective October 29, 1986)

Sec. 32-156-5. Default and remedy

(a) The failure of the Borrower to abide by the terms of the loan agreement, promissory note or other documents required of the Borrower by the Authority or the Department in connection with such loan shall be considered a default under such promissory note.

(b) The promissory note shall contain a provision that the failure of the Borrower to make a payment of principal or interest due under the promissory note within fifteen days from the due date shall constitute a default.

(c) The promissory note shall provide that upon default, any and all sums owing by the Borrower under the promissory note shall, at the option of the Commissioner, become immediately due and payable.

(d) The promissory note shall provide that in the event of default, interest on the promissory note, at the option of the Commissioner, shall automatically increase to an annual rate of 3% greater than the interest rate of the loan and shall apply not only after default, but also after any judgement rendered upon the said promissory note.

(e) The promissory note shall provide for payment for reasonable attorneys' fees and legal costs in the event of default.

(f) The promissory note shall contain such other clauses and covenants as the Commissioner in his discretion may require.

(Effective October 29, 1986)

Agency
Department of Economic Development

Subject
Exporters Revolving Loan Fund

Inclusive Sections
§§ 32-162-1—32-162-8

CONTENTS

Exporters Revolving Loan Fund

Sec. 32-162-1. Definitions

"Authority" means the Connecticut Development Authority.

"Affiliate" means a business concern which directly controls or is controlled by another business concern, or a third party which controls both business concerns.

"Commissioner" means the Commissioner of Economic Development.

"Connecticut Content" means that part of the total value of exported goods which contains or represents Connecticut source components, labor or intellectual property.

"Control" means, for the purpose of these regulations, either (a) the ownership by a party of more than fifty percent (50%) of the assets, partnership interests or total combined voting power of all classes of stock entitled to vote of another party or (b) if the stockholders individually holding ten percent (10%) or more, owners, partners, officers, directors or employees of one party constitute a majority of the ownership, partnership interests or Board of Directors of another party.

"Department" means the Department of Economic Development.

"Distressed Municipality" shall be construed as defined in subsection (b) of section 32-9p of the general statutes.

"Eligible Connecticut Based Manufacturer" means a manufacturer organized under the laws of Connecticut or having its principal place of business in Connecticut, and having, together with all of its affiliates, gross annual sales of less than twenty-five million dollars or, in the case of any other manufacturer which is new-to-export or new-to-market, fifty million dollars.

"Export" means the sale or lease of goods destined for use outside the United States.

"Export Contract," for the purpose of these regulations, shall mean a contract for the exportation of goods, including, without limitation, confirmed purchase orders.

"Export Receivable" means any money due to an eligible Connecticut based manufacturer for merchandise sold or leased or services performed under an export contract.

"Manufacturer" means any person or entity engaged in manufacturing, processing or assembling raw materials or manufactured products, including the wholesale distribution of such products, or in the significant servicing, overhauling or rebuilding of such products.

"Net Commercial Exposure" means, for the purpose of these regulations, the total risk incurred with respect to an export contract less any portion of such risk insured or guaranteed by domestic United States insurers of foreign credit or transactions.

"New-to-Export" means a concern having gross annual sales of less than ten thousand dollars from export in each of its previous two fiscal years prior to approval of a guarantee or direct loan hereunder.

"New-to-Market" means a concern having gross annual sales of less than ten thousand dollars from export to a particular foreign country in each of its previous two fiscal years prior to approval of a guarantee or direct loan hereunder.

"Pre-Export" means the cost and expenses related to the acquisition or production, financing and shipment of exported goods, which are being exported under contract.

"Post-Export" means the financing of sale or lease of exported goods after shipment from the United States.

"United States" means the states, the District of Columbia, Puerto Rico and the possessions of the United States.

(Effective May 22, 1987)

Sec. 32-162-2. Eligibility

To be eligible for a loan or loan guarantee:

(1) The borrower must be an Eligible Connecticut Based Manufacturer.

(2) The goods or services being financed must have a Connecticut Content of at least fifty-one percent (51%).

(3) The aggregate principal amount of all loans and loan guarantees issued for any one borrower, together with its affiliates, may not exceed in any twelve consecutive months:

(A) $250,000; or

(B) in the case of a borrower located in a Distressed Municipality, $350,000.

(4) With respect to a loan, the sole purpose of the loan must be to finance export receivables.

(5) With respect to a loan guarantee:

(A) The loan to be guaranteed must be made to the borrower by a financial institution, other than the Authority or other governmental body, which is eligible to do business in Connecticut and considered by the Commissioner and Authority to have a continuing ability to evaluate, perform, and service the loan or credit, to make reports as required by these rules, and to collect the loan if requested by the Authority upon default.

(B) The loan to be guaranteed shall be made only for the purpose of Pre-Export or Post-Export financing.

(Effective May 22, 1987)

Sec. 32-162-3. Application and agreement

(a) Application for a loan or loan guarantee shall be submitted on loan application forms prescribed by the Authority. No application shall be considered unless the exhibits required by such forms are furnished. The Borrower shall pay for all costs of processing applications for loans or guarantees to be made under this program, as the Commissioner determines are reasonable and necessary to pay such costs.

(b) Upon approval of an application by the Authority or, if the Authority so determines, by a Committee of the Authority consisting of the Chairman and either one other member of the Authority or its Executive Director, as specified in the determination, the Department, the borrower and, where applicable, the financial institution shall enter into a loan or guarantee agreement which shall set forth the terms and conditions required by these regulations and other terms and conditions applicable to the particular loan or guarantee, which may be set by the Authority or said Committee of the Authority.

(c) The loan or guarantee agreement shall be executed on forms provided by the

Authority and shall be effective only upon execution by the Commissioner, the borrower and, where applicable, the financial institution.

(d) Such loan or guarantee agreement shall provide, without limitation, that the borrower and, where applicable, the financial institution agree:

(1) That the funds provided will be used solely in accordance with the eligibility requirements of Section 32-162-2 of these regulations;

(2) To provide the Authority with such financial and other reports as required from time to time;

(3) To notify the Authority promptly of any material adverse change in the financial condition or business prospects of the borrower;

(4) To represent and warrant that they have the power and authority to enter into the loan or guarantee agreement and to incur the obligations therein provided for, and that all documents and agreements executed and delivered in connection with the loan or guarantee will be valid and binding upon the borrower in accordance with their respective terms;

(5) To provide such security for the loan or guarantee as the Authority or the Committee or the Authority may require pursuant to sections 32-162-4 (a) or 32-162-5 (a) of these regulations and to execute and deliver all documents in connection therewith.

(6) The borrower shall be responsible for closing costs incurred by the Department in such amounts that the Commissioner from time to time determines to be reasonable and necessary.

(e) If, upon examination of the application, supporting information and results of any investigation, the Authority or the Committee of the Authority rejects such application, then the loan or guarantee may not be granted and the Authority shall cause the applicant to be notified that the application has been denied.

(Effective May 22, 1987)

Sec. 32-162-4. Loans

(a) A loan issued by the Authority may be secured or unsecured as the Authority or the Committee of the Authority determines to be appropriate in the particular circumstances. If the loan is to be secured, the Authority or said Committee of the Authority may require the borrower to provide the Department as security any or all of the following: real property, accounts, chattel paper, letters of credit, insurance documents, instruments, general intangibles, goods, equipment, inventory or other personal property, and may further require the borrower to have executed and delivered to the Department security agreements, financing statements, mortgages, pledges, assignments, subordinations, guarantees or other documents or evidences of security or delivery as and in the form required by the Authority or said Committee of the Authority.

(b) The loan shall be repaid by such method of payment of principal and interest as the Authority or the Committee of the Authority considers necessary and appropriate in the particular circumstances, but in no event shall the payments be scheduled to exceed 180

days from the date of disbursement of the loan.

(Effective May 22, 1987)

Sec. 32-162-5. Loan guarantees

(a) The loan being guaranteed or the guarantee itself may be secured or unsecured as the Authority or the Committee of the Authority determines to be appropriate in the particular circumstances. If the loan being guaranteed or the guarantee itself is to be secured, the Authority or said Committee of the Authority may require the borrower to provide the Department or financial institution as security any or all of the following: real property, accounts, chattel paper, letters of credit, insurance documents, instruments, general intangibles, goods, equipment, inventory or other personal property, and may further require the borrower to have executed and delivered to the Department or financial institution security agreements, financing statements, mortgages, pledges, assignments, subordinations, guarantees or other documents or evidences of security or delivery as and in the form required by the Authority or said Committee of the Authority.

(b) The term of a loan guarantee shall not exceed five years from the date of the first disbursement.

(c) The loan being guaranteed shall be repaid on an amortized schedule of payments or upon such other method of payment of principal and interest as the Authority or the Committee of the Authority considers necessary and appropriate in the particular circumstances.

(d) Issuance of the loan guarantee shall be made at the discretion of the Commissioner in accordance with the provisions of the loan agreement and the instructions of the Authority.

(e) Each loan guarantee shall apply only to an amount up to the lesser of:

(1) The principal balance of the loan being guaranteed, together with such interest thereon that does not exceed the lesser of the rate charged by the financial institution or one percent (1%) over the United States Treasury note rate comparable at the time of disbursement to the period of the loan guarantee; or

(2) Fifty percent (50%) of the Net Commercial Exposure with respect to the specific export contract.

(Effective May 22, 1987)

Sec. 32-162-6. Note

Each loan shall be evidenced by a promissory note which shall contain such provisions, clauses and covenants as the Authority, in its sole discretion, may require including, without limitation, provisions:

(1) Permitting the borrower to prepay the loan in whole or in part upon any interest payment date.

(2) Providing for the payment of interest at a rate not to exceed one percent (1%) above the interest paid by the State of Connecticut on the latest general obligation bonds issued prior to the date of approval of the loan.

(3) Providing for the collection of a late charge, not to exceed two percent of any installment more than fifteen days in arrears. Late charges shall be separately charged to and collected from the borrower.

(4) That any misrepresentation, breach of warranty or other breach of any agreement or covenant contained in the loan agreement, the promissory note, or other documents signed by the borrower in connection with such loan shall be considered a default under such promissory note.

(5) That the failure of the borrower to make a payment of any installment of principal or interest due under the promissory note within thirty days from the due date shall constitute a default.

(6) That upon default, any and all sums owing by the borrower under the promissory note shall, at the sole discretion of the Commissioner, become immediately due and payable.

(7) That upon default interest on the promissory note shall automatically increase two percent per annum above the rate of the said note and shall apply not only after default, but after any judgment rendered upon said promissory note.

(8) Providing for payment of reasonable attorneys' fees and legal costs in the event the borrower shall default in the payment of the note.

(Effective May 22, 1987)

Sec. 32-162-7. Guarantee contract

Each loan guarantee issued shall be evidenced by a guarantee contract executed by the Commissioner, the borrower and the financial institution and shall contain such provisions, clauses and covenants as the Authority, in its sole discretion may require, including without limitation, provisions:

(1) Providing for a guarantee fee of either (A) up to six percent (6%) of the initial principal balance guaranteed or (B) up to six percent (6%) per year of the principal balance guaranteed from time to time;

(2) Conditions and procedures precedent to the honoring of the loan guarantee; (3) That the lender shall service the loan and receive all payment of principal and interest. In the event of default, the lender shall continue to service the loan if requested by the Authority to do so;

(4) That if the borrower fails to make any payment of principal or interest on the due date, the lender shall immediately notify the borrower of the payments due. If the borrower fails to cure the nonpayment within 30 days, the lender shall notify the Authority;

(5) Conditions under which the loan guarantee may be terminated by the Department including without limitation:

(A) Any misrepresentation or, with respect only to breaches by the financial institution, any breach of any agreement or covenant contained in the loan agreement or guarantee contract;

(B) Failure of the borrower or financial institution to pay guarantee fees when due;

(C) Any changes made without the prior written consent of the Department in the terms

and conditions of, or security for, the loan being guaranteed;

(D) Failure by the financial institution to administer the loan being guaranteed in accordance with the guarantee agreement.

(Effective May 22, 1987)

Sec. 32-162-8. Disbursement

(a) Disbursement of the loan proceeds shall be made at the discretion of the Commissioner in accordance with the provisions of the commitment and the instructions of the Authority.

(b) Payments honoring guarantees shall be made in accordance with the terms and conditions of the Loan Agreement and Guarantee Contract.

(Effective May 22, 1987)

Agency
Department of Commerce

Subject
Organization of Department of Commerce

Inclusive Sections
§§ 32-167-1—32-167-7

CONTENTS

Organization of Department of Commerce

Sec. 32-167-1. General

The Connecticut Department of Commerce is the agency of state government responsible for promoting the economic development of Connecticut.

Its three major programs are:

Services to foster the growth and vigor of business and industry in Connecticut.

Selective attraction of business and industry into Connecticut from out of state.

The year-round promotion of tourism in Connecticut.

To implement these programs, the Commerce Department is structured into six functional divisions: administrative, business, communication, financial, location and tourism.

(Effective May 8, 1974)

Sec. 32-167-2. Administrative services

The administrative services division is responsible for the overall supervision of the department staff and performs all administrative services required by the department. It cooperates with the Committee of Concern for Connecticut Jobs, provides state funds for use by Small Business Development Centers and offers services to minority groups. It also manages the Connecticut Building at the Eastern States Exposition grounds in West Springfield, Massachusetts.

(Effective May 8, 1974)

Sec. 32-167-3. Business services

The busienss services division supplies a variety of technical and informational assistance to business and industry though the following units: development technology, economic and marketing research, international trade and marine commerce. The results of this work are measured in terms of new non-defense business for Connecticut firms, new product markets, improved technological skills and more diversified production.

(Effective May 8, 1974)

Sec. 32-167-4. Communication services

The communication services division provides the public with a better understanding of the state's economic problems and opportunities, reports on department activities and promotes Connecticut's advantages as a place to live and work. It also promotes tourism in Connecticut. It produces news and features stories, photographs, promotional films and a variety of special publications, as well as advertising campaigns to promote industrial and business locations, the state's tourist attractions and to support department services. It also answers inquiries about Connecticut from the general public.

(Effective May 8, 1974)

Sec. 32-167-5. Financial services

The financial services division works with the Connecticut Development Authority and administers the industrial revenue bonding program. The division also administers the state's industrial mortgage insurance plan. It offers cooperative financing to local development corporations for federal Small Business Administration and Economic Development Administration loan programs.

(Effective May 8, 1974)

Sec. 32-167-6. Location services

The location services division provides site and locational assistance to Connecticut firms seeking to expand or relocate within the state. It works to attract desirable new business and industry into Connecticut, providing prospects with necessary information, then dealing cooperatively with incoming firms in all phases of company relocation. The division also is responsible for administering the industrial and business development grant-in-aid program established by Chapter 132, Connecticut General Statutes.

(Effective May 8, 1974)

Sec. 32-167-7. Tourism services

The tourism services division executes a year-round campaign to promote Connecticut vacation attractions to out-of-state tourists. This involves the creation and placement of sales advertising in out-of-state media, issuance of feature material dealing with points of interest and special events, operation of in-state highway travel information centers at major points of entry, the packaging and promotion of group travel plans and the co-sponsorship with four other New England states of a travel information center in New York City. It also seeks to promote Connecticut's vacation attractions to its residents of the state.

(Effective May 8, 1974)

Agency
Department of Economic Development

Subject
Small Business Innovation Research Assistance Grants

Inclusive Sections
§§ 32-176-1—32-176-6

CONTENTS

Small Business Innovation Research Assistance Grants

Sec. 32-176-1. Definitions

"Commissioner" means the Commissioner of Economic Development.

"Department" means the Connecticut Department of Economic Development.

"Small Business" means a corporation, partnership, sole proprietorship or individual, operating a business for profit, which employs two hundred fifty or fewer employees, including employees employed in any subsidiary or affiliated corporation, which otherwise meets the requirements of the Federal Small Business Innovation Research Program.

"Small Business Innovation Research Program (SBIR)" means the federal program established pursuant to the Small Business Innovation Development Act of 1982 (P.L. 97-219) which provides funds to small businesses to conduct innovative research which has potential commercial applications.

"Connecticut Small Business" means, for the purpose of these Regulations, a Small Business with a principal place of business or branch facilities in Connecticut.

"Phase I and Phase II" means stages of research work as defined in the federal Small Business Innovation Development Act of 1982 (P.L. 97-219) or the federal Regulations relating to such Act.

(Effective November 3, 1987)

Sec. 32-176-2. Eligibility

To be eligible for a grant under these Regulations an applicant must:

1. be a Connecticut Small Business;

2. be a recipient of, and performing research work under, a federal SBIR Phase I grant which expires after July 1, 1987;

3. have submitted a federal Final Report for its federal SBIR Phase I research work and have submitted a proposal for a federal SBIR Phase II continuing research grant;

4. be applying for a grant hereunder to cover, in whole or in part, the cost of labor, consumable materials and, to the extent acceptable to the Commissioner, subcontracted research work necessary to continue to perform its research effort until the receipt of further funding from a related federal SBIR Phase II grant; and

5. perform such research solely in Connecticut.

(Effective November 3, 1987)

Sec. 32-176-3. Applications and procedures

To be considered for a grant the applicant must within thirty (30) days following submission of its federal Phase II proposal and on forms prescribed by the Commissioner, submit to the Commissioner an application for grant, together with:

1. A copy of the applicant's federal SBIR Phase I Program proposal and award notification;

2. A copy of the applicant's final Phase I report and the related federal SBIR program

Phase II research proposal, as well as evidence that they have been properly submitted to the federal agency involved;

3. A proposal describing research work to be performed with the grant requested under these Regulations;

4. The applicant's certification that the continuing research work will be performed solely in Connecticut; and

5. Such other information and documents as the Commissioner may from time to time require.

(Effective July 28, 1992)

Sec. 32-176-4. Grant award criteria

Applications will be reviewed and evaluated on the basis of the following, among other criteria:

1. The prospects that the research will lead to a commercially viable product having a significant potential for technological and economic development in Connecticut;

2. The degree to which the requested grant is needed and necessary to enable the applicant to continue its research effort; and

3. The degree to which there exists a linkage of the applicant or its research work to Connecticut institutions of higher education.

(Effective November 3, 1987)

Sec. 32-176-5. Grant awards and agreements

(a) Eligible and properly submitted applications shall be reviewed and approved by the Commissioner or by his or her designee. Such review shall consider the criteria established in Sec. 4 of these Regulations.

(b) No grant may exceed $20,000.

(c) Upon approval of an application by the Commissioner or his or her designee, the Commissioner and the applicant shall enter into a Grant Agreement which shall set forth the amount of grant approved, the terms and conditions set forth by these Regulations, and such other terms and conditions considered by the Commissioner to be necessary, including, without limitation, conditions for the termination of the grant.

(d) Conditions for the termination of a grant issued under these Regulations shall, without limitation, include:

1. Determination by the Commissioner that the work being, or to be, performed with the proceeds of the grant, or with the proceeds of any other grant approved for the benefit of the applicant under Section 5 (c) of these Regulations, is inconsistent with the applicant's respective grant application;

2. Receipt by the applicant or Department of a notification of denial of the related federal SBIR Phase II continuing research grant; and

3. Evidence of fraud or mismanagement, voluntary or involuntary bankruptcy or any felony conviction which, in the Commissioner's opinion, incapacitates the applicant's ability

to perform the work for which the grant was approved or renders such performance contrary to the interest of the State of Connecticut.

(Effective March 28, 1991)

Sec. 32-176-6. Disbursement

Disbursement of the approved grant shall be in accordance with the grant agreement.

(Effective November 3, 1987)

Agency
Department of Economic Development

Subject
Entrepreneur Program

Inclusive Sections
§§ 32-290-1—32-290-4

CONTENTS

Entrepreneur Program

Sec. 32-290-1. Definitions

Whenever used in Section 32-290-1 to 32-290-4 of these regulations:

(1) "Commissioner" means the commissioner of the department of economic development.

(2) "Department" means the department of economic development.

(3) "Social Service Providers" means public and private agencies designated to provide health, educational, social, employment and training, family and other related services to residents.

(4) "Municipal economic development agencies" means any municipality that is designated by the Commissioner as a separate economic development agency as established under section 7-136 of the CT General Statutes.

(5) "Business Outreach Centers" means any non-profit or governmental entity providing, or able to provide, assistance to small businesses and minority enterprises in the areas of business plan development, financial projection, loan packaging planning, including loan packaging for small businesses and minority business enterprises which are seeking financial assistance from the Connecticut Development Authority, business counseling and related monitoring and follow-up services.

(6) "Low Income Persons" means families or individuals who are determined by the commissioner of income maintenance to have incomes below the federal poverty level, based on the latest available data from the United States Department of Commerce.

(7) "Aid to families with Dependent Children" means a cash assistance program designed for families with children up to eighteen (18) years old who are deprived of support due to the absence, death, physical or mental incapacity, or unemployment of a parent.

(8) "Displaced Homemaker" is an individual who: (A) has worked in the home providing unpaid services for family members, (B) has been dependent on the income of another family member, but is no longer supported by that income or is receiving public assistance, and (C) has had, or would have difficulty in securing employment sufficient to provide economic independence.

(9) "Dislocated Worker" means any eligible individual as established under 299 USC 1651 et seq with income below the poverty level.

(Effective February 15, 1994)

Sec. 32-290-2. Eligibility

To be eligible for a grant pursuant to Sections 32-290-1 to 32-290-4 inclusive, of these Regulations an applicant shall:

(1) be a profit or non-profit entity and;

(2) have demonstrated experience and ability in training and assistance in establishing participants in small business enterprises which will allow them to achieve economic self

sufficiency and permanent independence from public assistance.

(Effective February 15, 1994)

Sec. 32-290-3. Application requirements

Each grant application shall be submitted to the Commissioner with sufficient information to make a determination of eligibility for receipt of a grant, including, but not limited to, the following:

(1) evidence satisfactory to the Commissioner and the department that the applicant is capable of working with department of income maintenance regional offices, social service providers, municipal economic development agencies and business outreach centers;

(2) demonstrated ability to train low-income persons in entrepreneurial skills which will enable them to start their own businesses and;

(3) capability of developing contacts with banks and/or other financial institutions willing to provide capital seed money for participants with an approved business plan.

(Effective February 15, 1994)

Sec. 32-290-4. Procedures

The grantee shall:

(1) develop a program plan for outreach and recruitment of AFDC recipients which includes recruiting from community based organizations and educational agencies, especially those that provide remediation, including but not limited to the Private Industry Councils (PICs), Adult Basic Education (ABE) programs, CETO programs and General Equivalency Diploma (GED) programs. The recipients shall also include displaced homemakers and dislocated workers.

(2) specify the geographical area that the program will serve;

(3) prepare a summary of the program, outlining goals and objectives, including the participants' responsibilities;

(4) provide an effective self-assessment component of the participants' business ideas and commitment to self employment, an assessment of the candidates' abilities and skill competency levels to market, finance and manage a business;

(5) train the participant in fundamental business skills. This basic business training may be up to six months long covering areas such as marketing and finance (including record keeping, tax management, leasing, loan packaging, financial analysis and business planning). During this training phase, the participant shall develop a business plan which will serve as a tool for managing the business.

(Effective February 15, 1994)

Agency
Department of Economic and Community Development

Subject
Energy Conservation Loan Program

Inclusive Sections
§§ 32-317-1—32-317-9

CONTENTS

Energy Conservation Loan Program

Sec. 32-317-1. Definitions

Whenever used in sections 32-317-1 to 32-317-9, inclusive, of these regulations:

(1) "Adjusted Gross Income" means the total of all the adjusted gross income for federal income tax purposes of all family members residing in the dwelling unit.

(2) "Alternative Energy Device" means a wood-burning stove for space heating and any system or mechanism which uses wood, solar radiation, wind, water or geothermal resources as a source for space heating, water heating, cooling or generation of electrical energy.

(3) "Commissioner" means the Commissioner of Economic and Community Development.

(4) "Cost Effective" means the energy conservation measure that was made should cause a reduction in energy loss and provide a savings over time equivalent to the loan amount borrowed to make the improvement.

(5) "Countable Obligation" means the amount and source of additional income or debt which can be added or subtracted to the applicants total funds for qualification purposes.

(6) "Department" means the Department of Economic and Community Development.

(7) "Eligible person" means any resident of the State of Connecticut holding title to real property in Connecticut which consists of a residential property.

(8) "Energy Conservation Revolving Loan Account" means the account established and used to make loans or loan guarantees authorized by sections 32-315 to 32-318, inclusive, of the General Statutes and for expenses incurred by the Commissioner in the implementation of the program of loans and loan guarantees established by sections 32-315 to 32-318, inclusive, of the General Statutes.

(9) "Family" means one of more persons residing in the same household.

(10) "Gross Income" means the aggregate annual income of all family members residing in the dwelling unit from all sources, before any deductions.

(11) "Interest Rate Subsidy Payment" means the annual payment made by electric and gas companies which is used to subsidize the interest rates charged on loans extended under the Energy Conservation Loan Program.

(12) "Liberalized Underwriting (LU)" means a method that is used to qualify an applicant which exceeds the 39% Debt/Income Ratio and is at or below 115% median income level established and can show an energy savings of at least 10% due to and after the energy improvement has been made.

(13) "Loan" means monies provided from the Energy Conservation Revolving Loan Account to an eligible person for the purchase and installation of insulation, alternative energy devices, energy conservation materials, and replacement furnaces and boilers; or in certain electrically heated structures, for the purchase of a secondary heating system using a source of heat other than electricity, or for the conversion of a primary electric heating system using a source of heat other than electricity.

(14) "Loan Guarantee" means an agreement by the Department to guarantee a loan made by a private institution for purposes, terms and limits as covered in these regulations.

(15) "Normalized Savings" means the savings from the energy conservation measure that will result from reducing the heat loss and the excess use of oil, gas or any other fuel source used by the applicant to a normal level of usage. Normal usage is the average usage of fuel in a residential or multi-family dwelling of a similar size with the same number of units and/or an equal number of square feet per unit.

(16) "Primary Heating System" means a heating system which will satisfy all heating requirements of a dwelling unit in a residential structure.

(17) "Residential Structure" means any building in which at least two-thirds of the usable square footage is used for dwelling purposes and contains a maximum of four (4) dwelling units; a "Multi-Family Residential Structure" shall contain more than four (4) dwelling units.

(18) "Secondary Heating System" means a heating system which will satisfy only a portion of the heating requirements of a residential structure or of a dwelling used in a residential structure.

(Effective June 11, 1996)

Sec. 32-317-2. Loans for residential structures with not more than four dwelling units

(a) **Income Limit.** All eligible persons shall submit evidence, satisfactory to the Commissioner, that their adjusted gross income is not in excess of the amount established as the income limit in section 32-317-2 (e) (3) and (4) of these regulations.

(b) **Loan Limits.** The loan shall not be less than four hundred dollars ($400) and not more than six thousand dollars ($6,000) per structure.

(c) **Term.** The term of the loan shall not exceed ten years.

(d) **Interest rates.** The State Bond Commission shall establish a range of rates of interest payable on all loans for residential structures containing not more than four dwelling units as established by section 32-317(b) of the General Statutes. The range shall be applied to applicants in accordance with a formula which reflects their income.

(e) **Underwriting.** All eligible persons shall meet the following underwriting criteria:

(1) Income/Debt Ratio. Not more than thirty-nine percent (39%) of gross income shall be applied to payments of the first mortgage, taxes, homeowners insurance and all countable obligations (debt), including the Energy Conservation Loan.

(2) Saving/Payment Ratio. Eligible persons whose adjusted gross income is no more than 115% of median area income adjusted for family size, as determined from time to time by the U.S. Department of Housing and Urban Development, and who do not qualify for a loan under subdivision (1) above may qualify if the energy conservation improvements financed by this loan result in net savings, as projected by a technical energy audit performed according to standards set in regulations adopted by the secretary of policy and management under section 16a-14 of the General Statutes, is at least ten (10%) greater than the energy loan monthly payment. In case of multiple improvements, the net savings is the sum of the normalized savings from individual measures as projected by a technical energy audit

performed according to standards set in regulations adopted by the secretary of policy and management under section 16a-14 of the General Statutes. In the case of an inoperable heating system, the Energy Conservation improvement shall be considered cost effective when determining the net savings.

(3) Income.

(A) Eligible person(s) shall identify and verify the amount and source of all income, including that from primary and/or other employment, that is necessary to meet the debt-to-income ratio.

(B) Primary Employment.

(i) The commissioner shall require the eligible person(s) to provide verification of current employment and copies of federal income tax returns as filed with the Internal Revenue Service.

(ii) Overtime income shall be verified as likely to continue by using: year to date earnings; proof of continuous history of overtime working for the same company and department; and last year's overtime income.

(iii) Self-employed eligible person(s) shall submit a profit and loss statement prepared by a CPA or a qualified accountant showing a minimum of one year in business as indicated on the federal income tax return; a copy of the tax return is to be provided with the loan application. Only net business income will be counted.

(iv) Bonuses or commissions shall have been received for the past two years and from the applicants present employer. An average of the last two years generally shall be used.

(C) Income from second jobs may be counted if verified as permanent and likely to continue. The commissioner may accept new second job income if verified as permanent and the eligible person has had a verifiable second job in the recent past.

(D) Income shall include alimony, child support or child maintenance payment, (receipts) only to the extent that they are likely to be received consistently. Factors to be considered in determining the likelihood of consistent payments include, but are not limited to: whether payments are received pursuant to a written agreement or court decree; the length of time payments have been received; regularity of payment; availability of procedures to compel payment; whether full or partial payments have been made; the age of any child for whom child support is to be paid; and the credit worthiness of the obligor, including the credit history of the obligee where available.

(E) Social Security payments and pensions shall be verified.

(F) Income from Rents.

(i) One hundred percent (100%) of rental income shall be added to the eligible person's gross income where the residential dwelling is owner occupied. Proof of rental income will be in the form of federal income tax returns and/or copies of canceled checks for a minimum of six months and a copy of the tenant's lease

(ii) Net rental income shall be used for investment properties. Such properties shall have been owned for a minimum of one year with at least six months reflected on the investment rental analysis of the federal income tax return (Schedule E).

(G) Interest and dividends may be counted and verified from the applicant's tax return from the last two years and is likely to continue at a similar amount.

(4) Countable Obligation. Countable obligations shall include, but are not limited to:

(A) All installment debts and credit union loans with ten or more months remaining from date of closing and all monthly interest charged on demand notes;

(B) Five percent (5%) of the balance of all revolving credit per month;

(C) Court-ordered alimony, child support or maintenance payments;

(D) Condominium fees and other association assessments.

(5) Credit requirement and grounds for rejection:

(A) All applications for loans shall be accompanied by a written credit report obtained not more than six months prior to the date of application.

(B) Written explanation for previous poor credit, bankruptcies, delinquencies, collections, and/or creditor write-offs shall be included with the loan application.

(C) Grounds for rejection of any application shall include, but are not limited to situations where an eligible applicant: (i) has a history of continued payment delinquencies in the year prior to the date of application; (ii) had an account in collections in the year prior to application; (iii) had an account written off to profit and loss, bankruptcy or creditor write-off within the past four (4) years; (iv) and has not reestablished good credit and/or a good credit report within the past two (2) years; or (v) has property taxes and/or assessments which are not current with city, town or state government.

(f) **Loan Security.** Pursuant to sections 32-315 to 32-318, inclusive, of the General Statutes, the State shall have a lien on each property for which a loan has been made in order to ensure compliance with the terms and conditions of such loan.

(g) **Condominium and/or Co-op - type home ownership** shall require the approval and permission from its association/governing board to make any exterior and/or interior improvements; a copy of the governing board's resolution and authorization shall be included with each application.

(Effective June 11, 1996)

Sec. 32-317-3. Loans and loan guarantees for residential structures of more than four dwelling units (Multi-family residential structure)

(a) **Income Limits.** There shall be no income limit for eligible persons under this section. The Commissioner shall, however, give preference, through reduced interest rates or other means, to applications for loans for structures which are occupied by persons of low or moderate income. Standards for low or moderate income shall be established by the Commissioner. The Commissioner shall consider, but not be limited to, the following statistics in making this determination: poverty level statistics as determined by the U.S. Department of Health and Human Services and median income statistics as determined by the United States Department of Housing and Urban Development.

(b) **Loan Limits.** The loan shall not be more than one thousand dollars ($1,000) multiplied by the number of dwelling units in each structure provided no such loan shall

exceed thirty thousand dollars ($30,000). If the cost of the energy improvements exceeds this amount for a structure containing more than thirty dwelling units, the eligible person shall include in his application a commitment to make comparable energy improvements to all dwelling units in the structure in addition to the thirty units which are eligible for the loan.

(c) **Term.** The term of the loan or loan guarantee shall not exceed ten years.

(d) **Interest Rates.** A range of interest rates payable on loans made under this section shall be established by the Commissioner in accordance with section 32-317(c) of the General Statutes.

(e) **Underwriting**.

(1) Savings/Payment Ratio. The energy conservation improvement financed by this loan shall result in net savings, as projected by a technical energy audit performed according to standards set in regulations adopted by the secretary of policy and management under section 16a-14 of the General Statutes, is at least ten percent (10%) greater than the energy loan monthly payment. In the case of multiple improvements, the net savings is the sum of the normalized savings from individual measures as projected by a technical energy audit performed according to standards set in regulations adopted by the secretary of policy and management under section 16a-14 of the General Statutes. In the case of inoperable heating systems, no technical energy audit shall be required and the energy conservation improvements shall be considered cost effective to determine the net savings.

(2) Credit.

(A) All applications for loans shall be accompanied by a written credit report obtained not more than six months prior to the date of application. Said credit report shall be for the corporation, partnership, association, or legal entity which owns and/or manages the property. If an individual owns the property, a credit report shall also be provided.

(B) All mortgages on the building to be improved shall be current and show a satisfactory payment history.

(C) Written explanation for previous poor credit, bankruptcies, delinquencies, profit and loss write-off, court judgements, collections, and/or creditor write-off shall be included with the loan application.

(D) If credit is not satisfactory and a critical or emergency condition exists, the Commissioner may approve the loan with special arrangements for payment satisfactory to the Commissioner.

(E) At the option of the Commissioner, an eligible person may be required to submit evidence that, for the property to be improved, property taxes are current.

(F) Grounds for rejection of any application shall include, but are not limited to situations where an eligible applicant: (i) has a history of any loan payment delinquency in the year prior to the date of application; (ii) had an account in collections in the year prior to application; (iii) has had an account written off to profit and loss, bankruptcy or creditor write-off within the past four (4) years; (iv) has not reestablished good credit and/or a good credit report within the past two (2) years; or (v) has property taxes or assessments which

are not current with the city/town or state government.

(f) **Loan Security.** Pursuant to sections 32-315 to 32-318, inclusive, of the General Statutes, the State shall have a lien on each property for which a loan has been made to ensure compliance with the terms and conditions of such loan.

(g) The Commissioner may employ the criteria in this section of these regulations to provide loans to owners of residential structures which contain four or fewer dwelling units which share common property with other multi-unit structures so long as the aggregate number of units on the property is more than four.

(Effective June 11, 1996)

Sec. 32-317-4. Loans for residential structures with electrical heating systems

(a) **Type Structures.** To be eligible a residential structure shall:

(1) Be located in the State of Connecticut;

(2) Have been constructed prior to January 1, 1980;

(3) Have an existing primary electric heating system which the applicant either is replacing with a primary heating system or is supplementing with a secondary heating system; and

(4) Have had at least fifty percent (50%) of the area of structure heated by the existing electric heating system or predecessor electric heating systems since December 31, 1979.

(b) **Eligible Replacement Heating Systems**.

(1) The following heating systems are eligible for funding as primary heating systems:

(A) Oil-fired boiler or furnace and distribution system;

(B) Gas-fired boiler or furnace and distribution system;

(C) Coal-fired boiler or furnace and distribution system;

(D) Wood-fired boiler or furnace and distribution system;

(E) Multi-fueled boiler or furnace and distribution system;

(F) Air or water source heat pumps and distribution system; and

(G) Chimney and fuel tank when needed.

(2) The following heating systems are eligible for funding as secondary heating systems:

(A) Vented kerosene, oil, and gas (natural or bottled) space heaters;

(B) Wood stoves;

(C) Coal stoves;

(D) Passive solar heating systems including sunspaces, thermosiphon air panels, fan-assisted air panels, integral storage passive space heating systems;

(E) Active solar space heating;

(F) Chimney and fuel tank when needed; and

(G) Energy efficient windows, doors, and other energy efficient improvements to standards set in regulations adopted by the secretary of policy and management under section 16a-14 of the General Statutes.

(3) All secondary heating systems shall be permanent fixtures to be eligible for a loan.

(Effective June 11, 1996)

Sec. 32-317-5. Eligibility requirements for residential structures with not more than four dwelling units

(a) **Eligible Costs**.

(1) Loans made under this program shall be used for the purchase and installation of energy efficient insulation, windows, and doors; alternative energy conservation devices or materials; replacement furnaces and boilers; and secondary heating systems using a source of heat other than electricity; loans may be used for the conversion of a primary electric heating system to a system using a source of heat other than electricity.

(2) All materials purchased and/or installed shall be in accordance with the standards set in regulations adopted by the secretary of policy and management under section 16a-14 of the General Statutes.

(3) Insulation purchased and installed in residential structures built after December 31, 1979, shall exceed the requirements of the state building code to be an eligible cost.

(b) **Type Structures**.

(1) Loans in the program shall be used for residential structures with less than four (4) dwelling units.

(2) Any eligible residential structure shall be located within the State of Connecticut.

(Effective June 11, 1996)

Sec. 32-317-6. Eligibility requirements for residential structures with more than four dwelling units (Multi-family residential structure)

(a) **Eligible Costs**.

(1) Loans made under this program shall be used for the purchase and installation of energy efficient: insulation, windows, doors, weatherization material and alternative energy conservation devices or materials according to the standards set in regulations adopted by the secretary of policy and management under section 16a-14 of the General Statutes. Loans can be made for standard heating unit replacement of furnaces and/or boilers. Certain electrically heated structures, loans can be obtained for the purchase of a secondary heating system using a source of heat other than electricity or for the conversion of a primary electric heating system to a system using a source of heat other than electricity.

(2) Materials purchased and/or installed shall be in accordance with the standards set in regulations adopted by the secretary of policy and management under section 16a-14 of the General Statutes.

(3) Insulation purchased and installed in residential structures built after December 31, 1979, shall exceed the requirements of the state building code to be an eligible cost.

(b) **Type Structures**

(1) Loans in this program shall be used for multi-family residential structures containing more than four (4) dwelling units.

(2) All eligible residential structure shall be located within the State of Connecticut; (3) Any delinquent property taxes or outstanding code violations shall be satisfactorily resolved

prior to acceptance of an application.

(Effective June 11, 1996)

Sec. 32-317-7. Interest rate subsidy payment

(a) **Calculation.** Not later than August 1 of each year, the Commissioner shall calculate the interest rate subsidy payment which shall be the lesser of the following amounts:

(1) The difference between (1) the weighted average of the percentage rates of interest payable on all subsidized loans made from the energy conservation revolving loan account, and (2) the average of the percentage rates of interest on any bonds and notes issued pursuant to section 3-20 of the General Statutes, which have been dedicated to the energy conservation loan program under sections 32-315 to 32-318, inclusive, of the General Statutes and used to fund such loans (3) multiplied by the outstanding amount of all such loans.

(2) The maximum allowable under Section 103 (b) (2) of the Internal Revenue Code of 1986 or any successor legislation thereto; or

(3) Six percent of the sum of the outstanding principal amount at the end of each fiscal year of all loans made from the energy conservation revolving loan account and the balance remaining in the energy conservation revolving loan account.

(b) **Collection.** The amount of the interest rate subsidy payment shall be paid by the electric and gas companies having at least seventy-five thousand (75,000) customers, as allocated by the Ct. Department of Public Utility Control. Not later than September 1 of each year, the Commissioner shall bill the electric and gas companies. Payment shall be due no later than October 1 of each year.

(Effective June 11, 1996)

Sec. 32-317-8. Priorities

The Department shall endeavor to ensure that loans for dwelling units owned or occupied by low or moderate income persons are facilitated to the extent possible. In the event the allocation of funds available for loans is not sufficient to finance all of the qualified applicants, priority shall be established first by the extent to which the loan will be used by or for low or moderate income persons and then by date of the Department, receipt of applications.

(Effective June 11, 1996)

Sec. 32-317-9. Program management

(a) The Commissioner shall adopt such internal management procedures as may be required for the processing and servicing of loans made from the Energy Conservation Revolving Loan Account.

(1) At the commissioner's discretion a "Program Manager" shall be appointed to act in behalf of the commissioner as an internal manager and coordinator for the Energy Conservation Loan Program.

(2) The program manager shall be responsible for the daily operation, and policy enforcement for application review and approval; compliance review for energy conservation program improvements; contract compliance; coordination of outside services and contracts; staff and personnel management; accounting; and any other duties as delegated by the Commissioner.

(b) The Commissioner has the option to refuse to provide a loan for any work done prior to receipt, acceptance and approval of a formal application from the applicant by the Department. The Department shall not be liable for any work performed, materials purchased, contracts signed or any other debt incurred in connection with any unsuccessful application for an energy conservation loan. If, in the case of a faulty heating unit, it has been determined (by a Utility Company or Fire Dept.) that an emergency exists and that life or property could be in danger, the Commissioner can grant permission and/or approval in writing to proceed with the replacement heating unit at the time of application or credit report approval; the balance of all remaining paperwork should be completed at the earliest possible date.

(c) The Commissioner shall recall any loan granted from the Energy Conservation Loan Account when the proceeds of such loan are used for purposes other than those identified in sections 32-315 to 32-317, inclusive, of the General Statutes.

(d) The Commissioner shall recall and demand immediate repayment of any loan granted to an applicant if the required work completion forms, cancelled checks, signed contractor statements, and receipts for the energy improvement as agreed to in the signed commitment letter is not received by the date specified in the closing documents.

(e) In the event a loan is in arrears for a period of 120 days or more, the Commissioner may:

(1) Require the recipient of the loan to repay the loan in full; or

(2) To facilitate repayment, the Commissioner may recast the balance of the outstanding indebtedness, at an interest rate not less than that originally levied, for a period of time not exceeding the original loan term and consistent with the appropriate underwriting income ratio.

(f) The Commissioner shall take steps to make the existence of the Energy Conservation Loan Revolving Account known to low and moderate income families. He may use radio, newspaper, and/or television media. In addition, he shall consult with the Department of Social Services and local Community Action Agencies in an effort to reach as many low and moderate income families as possible.

(g) The Commissioner shall reimburse the general fund for interest on the outstanding bonds and notes used to fund loans made under this program by applying to the general fund (1) the interest payments received from recipients of loans made by the Commissioner under the Energy Conservation Loan Program, less the administrative expenses incurred by the Commissioner, and (2) the payments received from electric and gas companies as interest rate subsidy payments.

(Effective June 11, 1996)