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EMERGENCY RULE NOTICE OF INTENT RULE POT POURRI

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This is your authority to publish in the (month) April, 2022 *Louisiana Register* the document indicated above.

Office of Business Development

Office/Board/Commission promulgating this document

Anne G. Villa Undersecretary

(name) (title)
 Name and title of person whose signature will appear in the publication (at the end of the document)

Department of Economic Development

Department under which office/board/commission is classified

Shamelda Pete (225) 342-3000

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 Name, phone number, and FAX number of person to contact regarding this document

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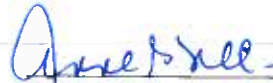
E-mail address of contact person

SSBCI Micro Lending Program ARPA 2021

Short descriptive listing for this document to be used in the *Louisiana Register's* TABLE OF CONTENTS/INDEX

File name

Important: If submitting both an Emergency Rule (ER) and a Notice of Intent (NOI) to be published this month, AND if the rule text in the ER is identical to the rule text in the NOI, check here:



Signature of Agency Head or Designee

Anne G. Villa, Undersecretary

Print Name and Title of Agency Head or Designee

CERTIFICATION OF AVAILABLE FUNDS

DOCUMENT # _____

LAGOV AGENCY:

I certify the availability of fiscal year _____ appropriated funds for the payment of the above referenced publication and authorize the processing of an Interagency Billing with the following coding on the 30th of the month of the publication. Attach supplemental sheet for additional lines of coding.

252		2522151400		2520000000			
Business Area	General Ledger	Cost Center	Grant	Fund	WBS	Internal Order	Functional

NON-LAGOV AGENCY:

I certify the availability of fiscal year _____ appropriated funds for the payment of the above referenced publication and agree to place corresponding invoice in line for payment upon receipt.

Billing Contact Information:

Department of Economic Development

Agency Name

Taylor Richard

Agency Contact Person for Billing

Taylor.Richard@la.gov

Agency E-Mail Address for Billing



Signature of Agency Head or Designee

Phone Number

Per Page Charge _____ + Revision Charge \$ _____ = TOTAL \$ _____

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

Person Preparing Statement: Stephanie Le Grange Dept.: Department of Economic Development
 Phone: (225) 342-5406 Office: Office of Business Development
 Return Address: 617 North Third Street Rule Title: SSBCI Micro Lending ARPA 2021
Baton Rouge, LA 70802
 Date Rule Takes Effect: Upon promulgation

SUMMARY

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. **THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no incremental costs or savings to state or local governmental units due to the implementation of these rules, since they will be managed by existing staff under the current budget. The proposed rule establishes program guidelines for the Micro Lending Program for the State Small Business Credit Initiative (SSBCI) authorized by the American Rescue Plan Act (ARPA) of 2021, otherwise known as "SSBCI Venture Capital ARPA 2021".

Louisiana anticipates receiving over \$74 M with incentives which could bring total Federal funding for the SSBCI program to \$113 M, of which a portion will be devoted to the Micro Lending program. The current estimate is \$9 M for this program. These Federal funds may be utilized for any additional administrative costs in connection with the new program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no expected direct impact or effect on revenue collections or state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

SSBCI funds are Federal funds (Department of the US Treasury) intended to support new and existing small businesses as a response to the economic effects of the COVID-19 pandemic. US Treasury guidance for SSBCI funds also states that these funds will support socially and economically disadvantaged individuals (SEDI).

Louisiana anticipates receiving over \$74 M with incentives which could bring total Federal funding for the SSBCI program to \$113 M, of which a portion will be devoted to the Micro Lending program. The current estimate is \$9 M for this program. The program will require adherence to the application procedures which will involve submission of paperwork by the applicants. However, recipients will benefit by obtaining access to capital made available to them through the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The long term effects of the overall SSBCI program could be significant. The program should result in a significant amount of additional capital being deployed in Louisiana over the program's existence, due to the potential to leverage Federal SSBCI funds to attract private capital matches. The impact of this additional capital could be extensive, particularly for new and existing small businesses and SEDIs.

Anne G. Villa
Signature of Agency Head or Designee

Anne G. Villa, Undersecretary
Date of Signature

Evann Brasco, *Interim Deputy Fiscal Officer*
Legislative Fiscal Officer or Designee

4/8/22
Date of Signature

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The proposed rule establishes program guidelines for the Venture Capital Program for the State Small Business Credit Initiative (SSBCI) authorized by the American Rescue Plan Act (ARPA) of 2021, otherwise known as "SSBCI Micro Lending Program ARPA 2021".

There will be no incremental costs or savings to state or local governmental units due to the implementation of these rules, since they will be managed by existing staff under the current budget.

Louisiana anticipates receiving over \$74 M with incentives which could bring total Federal funding for the SSBCI program to \$113 M, of which a portion will be devoted to the Micro Lending program. The current estimate is \$9 M for this program. These Federal funds may be utilized for any additional administrative costs in connection with the new program.

- B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

The proposed rule establishes program guidelines for the Micro Lending Program for the State Small Business Credit Initiative (SSBCI) authorized by the American Rescue Plan Act (ARPA) of 2021, otherwise known as "SSBCI Venture Capital ARPA 2021".

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

Louisiana anticipates receiving over \$74 million with incentives which could bring total Federal funding for the SSBCI program to \$113 M, of which a portion will be devoted to the Venture Capital program.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) _____ Yes. If yes, attach documentation.

(b) X NO. If no, provide justification as to why this rule change should be published at this time

There will be no incremental costs or savings to state or local governmental units due to the implementation of these rules, since they will be managed by existing staff under the current budget.

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 22	FY 23	FY 24
Personal Services			
Operating Expenses			
Professional Services			
Other Charges	Increase*		
Equipment			
Major Repairs & Constr.			
TOTAL			
POSITIONS (#)			

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

Louisiana anticipates receiving over \$74 M with incentives which could bring total Federal funding for the SSBCI program to \$113 M, of which a portion will be devoted to the Micro Lending program. The current estimate is \$9 M for this program. These Federal funds may be utilized for any additional administrative costs in connection with the new program.

On February 11, 2022, Economic Development submitted paperwork to the federal government for this program. The department anticipates funding from this program will be awarded in the current fiscal year and will subsequently submit a BA-7 for the Federal funds to be added to the operating budget of the department.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 22	FY 23	FY 24
State General Fund			
Agency Self-Generated			
Dedicated			
Federal Funds	Increase*		
Other (Specify)			
TOTAL			

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Louisiana anticipates receiving over \$74 M with incentives which could bring total Federal funding for the SSBCI program to \$113 M, of which a portion will be devoted to the Micro Lending program. The current estimate is \$9 M for this program. These Federal funds may be utilized for any additional administrative costs in connection with the new program.

On February 11, 2022, Economic Development submitted paperwork to the federal government for this program. The department anticipates funding from this program will be awarded in the current fiscal year and will subsequently submit a BA-7 for the Federal funds to be added to the operating budget of the department.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There will be no incremental costs or savings to state or local governmental units due to the implementation of these rules, since they will be managed by existing staff under the current budget.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

Not Applicable

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 22	FY 23	FY 24
State General Fund			
Agency Self-Generated			
Dedicated Funds*			
Federal Funds			
Local Funds			
TOTAL			

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

There is no expected direct impact or effect on revenue collections or state or local governmental units.

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS

- A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

SSBCI funds are Federal funds (Department of the US Treasury) intended to support new and existing small businesses as a response to the economic effects of the COVID-19 pandemic. US Treasury guidance for SSBCI funds also states that these funds will support socially and economically disadvantaged individuals (SEDIs). SEDIs are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.

Louisiana anticipates receiving over \$74 M with incentives which could bring total Federal funding for the SSBCI program to \$113 M, of which a portion will be devoted to the Micro Lending program. The current estimate is \$9 M for this program. The program will require adherence to the application procedures which will involve submission of paperwork by the applicants. However, recipients will benefit by obtaining access to capital made available to them through the program.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

There will be no incremental costs or savings to state or local governmental units due to the implementation of these rules, since they will be managed by existing staff under the current budget.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The long term effects of the overall SSBCI program could be significant. The program should result in a significant amount of additional capital being deployed in Louisiana over the program's existence, due to the potential to leverage Federal SSBCI funds to attract private capital matches. The impact of this additional capital could be extensive, particularly for new and existing small businesses and SEDIs. Due to the nature of the target beneficiaries (small businesses), it is likely that many of the most significant effects of the SSBCI program will not be realized for an extended period of time, potentially multiple decades or longer. The distant time horizon and the wide range of potential outcomes for small businesses that receive these funds do not lend to accurate near-term estimates of the impact of the program.

NOTICE OF INTENT

Department of Economic Development Louisiana Economic Development Corporation

SSBCI Micro Lending Program ARPA 2021

(LAC 19:VII.Chapter 76)

The Department of Economic Development, Office of Business Development and the Louisiana Economic Development Corporation, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., R.S. 36:104, 36:108 and 51:2312, hereby give notice of their intent to adopt Rules for the Micro Lending Program for the State Small Business Credit Initiative (SSBCI) authorized by the American Rescue Plan Act (ARPA) of 2021, otherwise known as “SSBCI Micro Lending Program ARPA 2021”.

Title 19

Part VII. Louisiana Economic Development Corporation

Subpart 9. Micro Loan Program

Chapter 76. SSBCI Micro Lending Program ARPA 2021

§7601. Purpose

A. The Louisiana Economic Development Corporation (LEDC) wishes to stimulate the flow of private capital, short term loans, lines of credit loans, and other financial assistance through a mission driven focus in creating a revolving loan fund for the sound financing of the development, expansion, and retention of small business concerns in Louisiana as a means of helping to start or grow their business and of providing employment, income growth, and expanded economic opportunities, especially to Small Businesses owned by Socially and Economically Disadvantaged Individuals (SEDI) and to those Very Small Businesses (VSB).

B. Through the American Rescue Plan Act of 2021, which reauthorized the State Small Business Initiative (SSBCI), the U.S. Congress has appropriated funds to be allocated and disbursed to the states that have created programs to increase the amount of capital made available by private lenders to small businesses, and the State of Louisiana has been approved to receive and disburse SSBCI funds within the SSBCI Program. The Louisiana Department of Economic Development, which will be working with and through LEDC, has been designated to provide services for the SSBCI, including the Micro Lending Program (MLP), which by a Program Participation Agreement previously entered into, between LEDC and the Lender to make additional capital available for the loan. The LEDC will utilize SSBCI funds to increase access to credit and capital funding to further assist small businesses statewide, to expand loan capabilities to a broader range of businesses statewide, to direct a greater concentration to those small businesses, and to reach, identify and promote small business growth in low and moderate income communities, in minority communities, in other underserved communities, and to small businesses owned by Socially and Economically Disadvantaged Individuals across our state.

C. By partnering with Louisiana CDFIs and other qualifying lenders who share a similar mission driven focus as the purpose of this program, LEDC will provide funding to participating CDFIs, and other qualifying lenders having been approved as a participating lender, for the purpose of making direct loans up to \$100,000 to small businesses meeting the SSBCI criteria as outlined in the Program Participation Agreement.

D. Interested small businesses will be referred to participating Lenders for loan qualification purposes. Participating Lenders will apply to LEDC for acceptance to enroll a loan or line of credit under the Program on behalf of their qualified small business borrowers. Participating Lenders are responsible for their own credit underwriting decisions and originating the loans. LEDC's responsibility is: to ensure compliance with the Micro Lending Program requirements; ensure compliance with the SSBCI requirements as directed by Treasury, as well as participation in the Program; and to report to the U.S. Treasury.

E. In considering acceptance of the loans presented to LEDC through Lenders having agreed to participate in the Micro Lending Program, the Corporation will consider sound business purpose loans and lines of credit, so long as SSBCI resources permit. The Board of Directors of the Corporation recognizes that loan participations carry certain risks and are willing to undertake reasonable exposure.

F. LEDC will monitor the Program, including the repayment progress of borrowers, as well as the servicing performance of participating Lenders, in order to ensure successful outcomes in the form of Program utilization and eventual securing of funds for these groups.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108 and 51:2312

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and the Louisiana Economic Development Corporation, LR.

§7603. Definitions.

A. Terms not otherwise defined in this Chapter shall have the same meaning given to them in prevailing federal guidelines issued by the U.S. Treasury, unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

Board — Board of Directors of Louisiana Economic Development Corporation.

Borrower — also referred to herein as the *applicant/borrower* or *customer/borrower*; the business person or entity borrowing and accepting the loaned funds from the Lender.

Corporation — Louisiana Economic Development Corporation.

CDFI – Community Development Financial Institution - has the meaning given that term under section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994

CDFI Investment Area – defined in 12 C.F.R. § 1805.201(b)(3)(ii) – are generally low-income, high-poverty geographies that receive neither sufficient access to capital nor support for the needs of small businesses, including minority-owned businesses.

Eligible Loan – a loan or line of credit commitment made by the lender to the borrower which meets the established SSBCI criteria.

Enrolled Loan- a loan enrolled by the Lender to a Borrower pursuant to the terms of the Lender Participation Agreement whereby the eligible loan has been accepted in writing by LEDC.

LED — Louisiana Department of Economic Development.

LEDC — Louisiana Economic Development Corporation.

Lender — for purposes of this Program Chapter, also referred to herein as the *lender*; the Community Development Financial Institution or other qualifying lender sharing a similar mission driven focus as this program and who has been approved by LED as a participating MLP lender to originate the loan and provide the loan funds to the Borrower.

Lender Insider - means an executive officer, director, or principal shareholder of the Lender, or a member of the immediate family of an executive officer, director or principal shareholder of the Lender, or a related interest of such executive officer, director, principal shareholder or member of the immediate family. For the purposes of this provision, the terms "executive officer", "director", "principal shareholder", "immediate family" and "related interest" shall have the respective meaning ascribed thereto in Federal Reserve Act Sections 22(g) and (h), Federal Reserve Board Regulation O and applicable Office of the Comptroller of the Currency or Office of Thrift Supervision.

Loan — the temporary provision of money or funds for a business purpose, usually for a limited term and requiring the payment of interest along with the repayment of the loaned funds. As used herein, the word "loan" includes a line of credit or term loan originated by a participating CDFI, or other participating lender, of this chapter.

Lender Loan Documents – written documentation evidencing an Enrolled Loan from the Lender to the Borrower pursuant to the Micro Loan Program describe herein and includes, but is not limited to, a loan agreement, note, mortgage, security agreement and guaranty agreement.

Maximum Enrolled Loan Amount – the aggregate outstanding amount of \$500,000 for any enrolled loans or loans of a borrower or any common enterprise in which the borrower has an ownership interest.

Micro Loans—those loans ranging in size from \$1,000 to \$100,000.

Micro Lending Program (MLP) – an OSCP program approved by Treasury which is the subject of this Chapter

Passive Real Estate Ownership- ownership of real estate for the purpose of deriving income from speculation, trade or rental, except that such term shall not include: (a) the ownership of that portion of real estate being used or intended to be used for the operation of the business of the owner of the real estate; or (b) ownership of real estate for the purpose of construction or renovation, until the completion of the construction or renovation phase.

Small Business Concerns— for purposes of size; eligibility for this program will be limited to businesses with 100 employees or less.

Socially & Economically Disadvantaged Individual (SEDI) Owned Business –

(a) business enterprises that certify that they are owned and controlled by individuals who have had their access to credit on reasonable terms diminished as compared to others in comparable economic circumstances, due to their (1) membership of a group that has been subjected to racial or ethnic prejudice or cultural bias within American Society; (2) gender; (3) veteran status; (4) limited English proficiency; (5) physical handicap; (6) long-term residence in an environment isolated from the mainstream of American society; (7) membership of a federally or state-recognized Indian Tribe; (8) long-term residence in a rural community; (9) residence in a U.S. Territory; (10) residence in a community undergoing economic transitions (including communities impacted by the shift towards a net-zero economy or deindustrialization); or (11) membership of another “underserved community” as defined in Executive Order 13985;

(b) business enterprises that certify that they are owned and controlled by individuals where residences are in CDFI investment Areas, as defined in 12 C.F.R. § 1805.201(b)(3)(ii);

(c) business enterprises that certify that they will operate a location in a CDFI Investment Area, as defined in 12 C.F.R. § 1805.201(b)(3)(ii); or

(d) business enterprises that are located in CDFI Investment Areas, as defined in 12 C.F.R. § 1805.201(b)(3)(ii).

Very Small Business – a business with fewer than 10 employees; may include independent contractors and sole proprietors

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108 and 51:2312

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and the Louisiana Economic Development Corporation, LR.

§7605. Application Process

A. Applicant is required to first contact a participating community development financial lending institution (CDFI), or other participating lender, under the Louisiana Economic Development (LED) SSBCI Micro Lending Program that is willing to entertain, originate, process and service such a loan or line of credit; and confirms the loan request is an SSBCI eligible loan before completing the program enrollment application process with LEDC. The participating Lender will then contact LEDC for qualification and shall submit a complete Micro Lending Program Enrollment Application to LEDC for its review and acceptance as an enrolled loan, or enrolled line of credit, under the Program. The Lender shall also submit to LEDC the Lender’s assurances, certifications, representations and warranties, and shall be responsible for obtaining and submitting to LEDC assurances of eligibility, including certifications, representations and warranties from each borrower, all as required by the American Rescue Plan Act of 2021.

B. Information submitted to LEDC with the enrollment application representing the applicant's business plan, financial position, financial projections, personal financial statements and background checks will be kept confidential

to the extent allowed under the Public Records Law, R.S. 44:1 et seq. Confidential information in the files of LEDC and its accounts acquired in the course of duty will be used solely by and for LEDC.

C. In order to enroll a loan under the SSBCI Micro Lending Program, the Lender shall (i) file the loan for enrollment by delivering or causing to be delivered to LEDC a copy of the program enrollment application packet as may be specified by LEDC, bearing an execution signature of an authorized officer of the Lender, (ii) submit such additional documentation required for Lender to review and underwrite the loan request, (iii) executed Lender and Borrower assurances, certifications and information reasonably required by the Corporation and related to the loan to be enrolled. The loan shall be deemed enrolled in the SSBCI Micro Lending Program at such time as the program enrollment application is accepted, in writing, by LEDC.

D. Businesses applying for consideration as a SEDI owned business will have to self-certify under conditions (a), (b) and (c) as noted above in §7503 under SEDI-Owned Business definition.

E. The following Micro Lending Program Submission and Review Policies shall be followed:

1. A completed Louisiana Economic Development Corporation Micro Lending Program enrollment application form along with information identified by LEDC as appropriate must be submitted to LEDC prior to any loan closing.

2. The participating Lender is expected to use its best efforts to provide small Louisiana businesses, SEDI, with maximum practicable opportunity to participate in the Micro Lending Program.

3. The borrower's completed Micro Lending Program Enrollment Application Packet must be submitted by the Lender to LEDC and include:

a. Borrower's completed LED Micro Lending program Enrollment Application and related information and materials.

b. The participating lender shall submit to LEDC its complete analysis and evaluation, proposed loan structure, and commitment letter to the borrower. LEDC staff may do its own review and evaluation of the enrollment application packet. The participating lender shall submit to LEDC the same pertinent data that it submitted to the lending institution's loan committee, whatever pertinent data the lending institution can legally supply.

c. Businesses applying for consideration as a SEDI owned business will have to self-certify under conditions (a), (b) and (c) as noted above in §7503 under SEDI-Owned Business definition.

d. Lender and Borrower signed assurances and certifications as required by Treasury at the time of application for enrollment.

4. LEDC staff will review the enrollment application for completeness and compliance requirements as required by Treasury under the SSBCI Program and then approve and accept as an enrolled loan or disapprove and reject the enrollment application, if the dollar amount of the loan is within its Board approved authority, or make recommendations to the Board committees and to the Board for approval and acceptance as an enrolled loan or disapproval and rejection under the Micro Lending Program.

5. The LEDC's Board Screening Committee, the Board's other designated committee, or the Board itself, may review only the completed enrollment applications and related materials submitted by LEDC staff and may approve and accept as an enrolled loan or disapprove and deny applications for enrollment under the Program within the committee's authority as established by the LEDC Board, or Board committees will make recommendation to the LEDC Board for its decision.

6. The applicant/borrower or their designated representative(s), and the loan officer or a representative of the Lender may be required to attend the LEDC's Board of Directors meeting wherein the program enrollment application will be considered by the Board.

7. LEDC's Board of Directors, the Board Screening Committee, or the Board's other designated committee that has considered the enrollment application within its authority has for such enrollment applications; except for those loans which shall be within the staff's authority to approve and accept for enrollment or disapprove, as established by the LEDC Board, the staff shall have the final approval of acceptance as an enrolled loan under the Program or disapproval and denial authority, unless the Board overrules the staff's decision.

8. The LEDC staff will report to the Board monthly those loans accepted for enrollment under the program,

as well as those loans not approved by the Lender under the program.

9. Loans originated by participating community development financial institutions (CDFIs), or other participating lenders, under the Micro Lending Program must qualify under the SSBCI Treasury guidance. Lenders interested in participating under the Program must first gain approval by LEDC. CDFIs, and other participating lenders, will reference their internal credit policies to underwrite the loan for acceptable terms and structure. The lender is responsible for all loan closing documentation.

10. LEDC staff will email the Lender within 3 business days of the loan closing written notice that the enrollment application has been approved and accepted as an enrolled loan under the Micro Lending Program.

F. Loan Purpose Requirements and Prohibitions. In addition to the application process provisions provided in the Section mentioned in the above subparagraph A, in connection with each loan to be enrolled under this Chapter the lender shall also be responsible for obtaining and providing to LEDC with the lender's enrollment application an assurance from each borrower stating that the loan proceeds shall not be used for any impermissible purpose under the SSBCI Program. And additionally, each lender must also obtain and provide to LEDC with its enrollment application under this Chapter an assurance from the borrower affirming:

1. The loan proceeds must be used for a "business purpose." A business purpose includes, but is not limited to, start-up costs, working capital, business procurement, franchise fees, equipment, inventory, as well as the purchase, construction renovation or tenant improvements of an eligible place of business that is not for passive real estate investment purposes. The definition of business purpose excludes activities that relate to acquiring or holding passive investments such as commercial real estate ownership, the purchase of securities; and lobbying activities as defined in Section 3 (7) of the Lobbying Disclosure Act of 1995, P.L. 104-65, as amended.

2. The loan proceeds will not be used to:

- a. repay a delinquent federal or state income taxes unless the borrower has a payment plan in place with the relevant taxing authority; or
- b. repay taxes held in trust or escrow, e.g. payroll or sales taxes; or
- c. reimburse funds owed to any owner, including any equity injection or injection of capital for the business' continuance; or
- d. purchase any portion of the ownership interest of any owner of the business.

3. The borrower is not:

- a. an executive officer, director, or principal shareholder of the financial institution lender; or
- b. a member of the immediate family of an executive officer, director, or principal shareholder of the financial institution lenders; or
- c. a related interest of such executive officer, director, principal shareholder, or member of the immediate family.

(For the purposes of these three borrower restrictions, the terms "executive officer", "director", "principal shareholder", "immediate family", and "related interest" refer to the same relationship to a financial institution lender as the relationship described in part 215 of title 12 of the Code of Federal Regulations, or any successor to such part.)

4. The borrower is not:

- a. a business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade, such as wildcatting for oil, investments in stock market and dealing in commodities futures, unless those activities are incidental to the regular activities of the business and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business; (Note: Permissible borrowers include state-designated charitable, religious, or other non-profit or eleemosynary institutions, government-owned corporations, consumer and marketing cooperatives, and faith-based organizations provided the loan is for a "business purpose" as defined above.) or
- b. a business that earns more than half of its annual net revenue from lending activities; unless the business is a non-bank or non-bank holding company certified as a Community Development Financial Institution; or
- c. a business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants; or

d. a business engaged in activities that are prohibited by federal law or applicable law in the jurisdiction where the business is located or conducted. (Included in these activities is the production, servicing, or distribution of otherwise legal products that are to be used in connection with an illegal activity, such as selling drug paraphernalia or operating a motel that knowingly permits illegal prostitution); this category of business includes direct and indirect marijuana businesses, as defined in SBA Standard Operating Procedures 50 10 6; or

e. a business engaged in gambling enterprises, unless the business earns less than 33% of its annual net revenue from lottery sales.

f. The corporation shall not knowingly accept any enrollment applications under the Micro Lending Program if the applicant/borrower has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit or any legal proceeding involving a criminal violation other than misdemeanor traffic violations. Nor should they accept any enrollment applications under the Micro Lending Program if the applicant/borrower or his/her/its principle management has a criminal record showing convictions for any criminal violations other than misdemeanor traffic violations in which the applicant has not been reinstated into society.

5. No principal of the borrowing entity has been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)). For the purposes of this certification, "principal" is defined as "if a sole proprietorship, the proprietor; if a partnership, each managing partner and each partner who is a natural person and holds a 20% or more ownership interest in the partnership; and if a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct or indirect holder of 20% or more of the ownership stock or stock equivalent of the entity."

G. The lender must also provide to LEDC with its enrollment application, in connection with each loan to be enrolled under this Chapter, an assurance affirming:

1. The loan has not been made in order to place under the protection of the approved state Capital Access Program (CAP) prior debt that is not covered under the approved state CAP and that is or was owed by the borrower to the lender or to an affiliate of the lender.

2. The loan is not a refinancing or a loan previously made to that borrower by the lender or an affiliate of the lender.

3. No principal of the lender has been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)). For the purposes of this certification, "principal" is defined as "if a sole proprietorship, the proprietor; if a partnership, each partner; if a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives, officers, or employees of the entity, and each direct or indirect holder of 20% or more of the ownership stock or stock equivalent of the entity."

4. The corporation shall not knowingly accept any enrollment applications under the Micro Lending Program if the applicant/borrower has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit or any legal proceeding involving a criminal violation other than misdemeanor traffic violations. Nor should they accept enrollment applications under the Micro Lending Program if the applicant/borrower or his/her/its principle management has a criminal record showing convictions for any criminal violations other than misdemeanor traffic violations in which the applicant has not been reinstated into society.

5. The borrower business structure is a for-profit corporation, partnership, limited liability company, limited liability partnership, joint venture, cooperative, non-profit entity with an eligible business purpose as defined above or other entity which is registered and authorized to conduct business in the State of Louisiana that maintain an office in Louisiana. The borrower business structure is a sole proprietor qualified to do business in Louisiana that maintains an office in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108 and 51:2312

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and the Louisiana Economic Development Corporation. LR.

§7607. Eligibility/ Ineligibility for Participation in This Program

A. This Program is for loans (including lines of credit) for an “eligible business purpose”, having a principal amount of \$500,000 or less, to eligible borrowers doing business in Louisiana having 100 employees or less at the time the loan is enrolled in this Program. An “eligible business purpose” includes but is not limited to: start-up costs; working capital; business procurement; franchise fees; and acquisition of equipment, inventory, or services used in the production, manufacturing, or delivery of a business’s goods or services, or the purchase, construction, renovation, or tenant improvements of an eligible place of business that is not for passive real estate investment purposes. The definition of “eligible business purpose” excludes activities that relate to acquiring or holding passive investments such as commercial real estate ownership for investment or leasing; the purchase of securities; and lobbying activities as defined in Section 3 (7) of the Lobbying Disclosure Act of 1995, P.L. 104-65, as amended.

B. The loan should be a new extension of credit to the borrower, and shall NOT be used to support existing extensions of credit, including but not limited to prior loans, lines of credit, or other borrowings that were previously made available as a part of a state small business credit enhancement program; NO portion of the loan shall be used for any guaranteed or unguaranteed portion of a Small Business Administration (SBA) guaranteed loan or any other federal loan without prior written consent of the Treasury; and SBA guaranteed loans shall NOT be purchased through this Program.

C. In connection with the business purpose for the requested loan the applicant/borrower(s) shall create or retain in this State at least one (1) new permanent full-time jobs.

D. In addition to the eligibility and ineligibility provisions provided in the Section, the applicant/borrowers loans and lines of credit in connection with this Chapter shall meet the following criteria:

1. The applicant/borrower(s) shall employ 100 employees or less at the time the loan is enrolled in this Program. The borrower business structure is a for-profit corporation, partnership, limited liability company, limited liability partnership, joint venture, cooperative, non-profit entity with an eligible business purpose as defined above or other entity which is registered and authorized to conduct business in the State of Louisiana that maintain an office in Louisiana.

2. The borrower business structure is a sole proprietor qualified to do business in Louisiana that maintains an office in Louisiana. Small and Emerging Businesses (SEBs) certified by LED’s Small Business Services that maintain an office in Louisiana.

3. Small and Emerging Businesses (SEBs) certified by LED’s Small Business Services that maintain an office in Louisiana.

4. Small Businesses owned by Socially and Economically Disadvantaged Individuals (SEDI) that meet the SEDI definition above.

5. Small business concerns as defined above for size purposes.

E. The small business is domiciled in Louisiana with preference given to socially and economically disadvantaged individuals as defined herein this Chapter.

F. Funding request for all but the following may be considered:

1. Restaurants having been in business less than two years, except for regional or national franchises;

2. bars, saloons, daiquiri shops, operations for the sale of alcoholic popsicles and other alcoholic food items, packaged liquor stores, including any other business or project established for the principal purpose of dispensing, packaging, or distributing alcoholic beverages;

3. any establishment which has gaming or gambling as its principal business;

4. any establishment which has consumer or commercial financing as its business;

5. funding for the acquisition, renovation, or alteration of a building or property for the principal purpose of real estate speculation;

6. direct or indirect activities related to cryptocurrency;

7. any business engaged in pyramid sales;

8. any business engaged in activities that are prohibited by federal law or applicable law in the jurisdiction where the business is located or conducted. (Included in these activities is the production, servicing, or distribution of products that are to be used in connection with any illegal activity, such as but not limited to selling drug paraphernalia or operating a motel that knowingly permits illegal prostitution); this category of business includes direct and indirect

marijuana businesses, as defined by SBA Standard Operating Procedures 50 10 6;

9. funding for the principal purpose of refinancing existing debt; a refinancing of a loan previously made to the borrower by the Lender or an affiliate of the Lender; or a loan made in order to place under the Micro Lending Program prior debt that is not covered under this Program and that is or was owed by the borrower to the Lender or to an affiliate of the Lender;

10. funding for the purpose of buying out any stockholder or equity holder by another stockholder or equity holder in a business; for the purpose of purchasing any portion of the ownership interest of any owner of the business; or for buying out any family member or reimbursing any family member;

11. funding for the purpose of reimbursing funds owed to any owner, including any equity injection or injection of capital for the business's continuance;

12. funding for paying any person to influence or attempt to influence any agency, elected official, officer or employee of a state or local Government in connection with lobbying activities, the making, award, extension, continuation, renewal, amendment, or modification of any State or Local Government contract, grant, loan or cooperative agreement as such terms are defined in 31 U.S.C. §1352;

13. funding for paying any costs incurred in connection with (i) any defense against any claim or appeal of the United States Government, any agency or instrumentality thereof (including the U.S. Department of Treasury), against the State of Louisiana, or (ii) any prosecution of any claim or appeal against the United States Government, any agency or instrumentality thereof (including the U.S. Department of Treasury), which the State of Louisiana instituted or in which the State of Louisiana has joined as a claimant;

14. funding to be used to pay any delinquent federal or state income taxes, as well as any taxes held in trust or escrow, such as payroll taxes or sales taxes.

15. funding for the purpose of buying out any stockholder or equity holder by another stockholder or equity holder in a business;

16. funding for the purpose of establishing a park, theme park, amusement park, or camping facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108 and 51:2312

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and the Louisiana Economic Development Corporation, LR.

§7609. General Loan Provisions

A. Those CDFIs, and other qualifying lenders, participating in the Micro Lending Program shall be guided by the following general principles in making loans.

1. The lender shall not knowingly approve any loans if the applicant has presently pending or outstanding any claim or liability relating to failure or inability to pay promissory notes or other evidence of indebtedness including state or federal taxes, or bankruptcy proceeding; nor shall the lender approve any loan if the applicant has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

2. The terms or conditions imposed and made part of any enrolled loan authorized by vote of the corporation board shall not be amended or altered by any member of the board or employee of the Department of Economic Development except by subsequent vote of approval to accept the changes of said enrolled loan by the Board, its Board Screening Committee or other designated committees at the next meeting of the Board or committee in in open session with full explanation for such action.

B. Loan amounts under this program are intended to be smaller in size and may range from \$1,000 to \$100,000.

C. Interest Rates

1. On all loans or lines of credits under this chapter, at the time of obligation, the interest rate is to be negotiated between the lender and borrower, but shall not exceed the **National Credit Union Administration's (NCUA) interest rate ceiling for loans made by federal credit unions as described in 12 U.S.C. § 1757(A)(vi)(I) and set by the NCUA board. Further, on all loans or lines of credits, the interest rate shall not exceed the lesser interest rate of either; the National Credit Union Administration (NCUA) interest rate ceiling, that established by the Federal Credit Union Act (FCUA), that established by the Office of the Comptroller of the Currency (OCC), or applicable State legislation that may be enacted.

D. Borrower's Collateral

1. The value of the borrower's collateral shall be determined according to the lender's normal lending criteria and policy. Loans greater than \$50,000 shall require collateral.
2. Collateral position shall be negotiated but will be no less than a sole second position.
3. Unacceptable collateral includes :
 - a. stock in applicant company and/or related companies;
 - b. personal residence

E. Equity

1. Equity requirements shall be determined according to the lenders normal loan criteria and policy.

F. Terms

1. Terms may be negotiated with the lender but in no case shall the terms exceed five years.

G. LEDC Fees

1. LEDC may charge a \$100 application fee, unless the Board, the Board Screening Committee, other designated committee, or LEDC staff waives the application fee.
2. LEDC will waive the application fee for SEDI, SEB and VSB business types.
3. LEDC may charge a program fee up to \$500 for loans less than \$25,000 or may charge a program fee up to 2% for loans greater than \$25,000.

H. Use of Funds

1. Purchase of fixed assets, including buildings that will be occupied by the applicant to the extent of at least 51 percent.
2. Purchase of equipment, machinery, or inventory.
3. Line of credit for accounts receivable or inventory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108 and 51:2312

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and the Louisiana Economic Development Corporation, LR.

§7611. General Agreement Provisions

A. Program Participation Agreement

1. The lender shall market the Micro Lending Program, identify eligible borrowers for the program, originate the loan, conduct all of the customer/borrower interaction, and shall be responsible for the proper administration and monitoring of the loan (or line of credit), including monthly invoicing, collections, and loan workouts, and the proper liquidation of the collateral in the event of a default.
2. The Lender shall agree to underwrite each loan (including line of credit) using its normal underwriting criteria and will perform a credit analysis of the Borrower for each loan, assuming full responsibility for credit and ongoing security of the loan and will follow prudent industry loan underwriting processes and will determine that the funds to be provided under the Micro Lending Program will be instrumental in order for the Lender to make the loan.
3. The Lender shall be responsible for the preparation of all loan (including line of credit) documents to be used in connection with such loans made and accepted under this Program.
4. The lender is able to set its rate according to risk but shall not exceed that stated in the Treasury SSBCI guidance under this program.
5. Delinquency will be defined according to the lender's normal lending policy and all remedies will be

outlined. Notification of delinquency will be made to the corporation in writing and verbally in a time satisfactory to the bank and the corporation on the monthly lender loan status report.

B. Reporting:

1. Reporting will be required by all participating lenders under this Program as required by Treasury under the SSBCI Program and as required by the State.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108 and 51:2312

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and the Louisiana Economic Development Corporation, LR.

§7613. Confidentiality

A. Confidential information in the files of the corporation and its accounts acquired in the course of duty is to be used solely for the corporation. The corporation is not obliged to give credit rating or confidential information regarding applicant. Also see Attorney General Opinion Number 82-860.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108 and 51:2312

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and the Louisiana Economic Development Corporation, LR.

§7615. Conflict of Interest

A. No member of the corporation, employee thereof, or employee of the Department of Economic Development, members of their immediate families shall either directly or indirectly be a party to or be in any manner interested in any contract or agreement with the corporation for any matter, cause, or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against such corporation. If any contract or agreement shall be made in violation of the provisions of this Section the same shall be null and void and no action shall be maintained thereon against the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108 and 51:2312

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and the Louisiana Economic Development Corporation, LR.

§7617. Guidelines

A. The Louisiana Economic Development Corporation (LEDC), or the Louisiana Department of Economic Development, also known as Louisiana Economic Development (LED), as the administrator of this program for LEDC, may make, create, or issue from time to time Guidelines interpreting, construing, explaining and/or supplementing these Rules; and may revise, supplement, or otherwise change or modify the Guidelines at any time with or without notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108 and 51:2312

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and the Louisiana Economic Development Corporation, LR.

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Statement

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services as described in HCR 170 of the 2014 Regular Legislative Session.

Small Business Analysis

The purpose of this program is to utilize federal SSBCI funds to strengthen state programs that support private financing to small businesses with less than 500 employees. Voluntary participation in the program could also cause a direct economic impact on some very small businesses that have no more than 10 employees, if meeting certain criteria. However, the benefit from additional funding received, at a nominal cost of some additional planning and paperwork associated with the application process and reporting requirements should provide a positive impact to any small businesses that choose to apply to the program.

Public Comments

Interested persons should submit written comments on the proposed Rules to Shamelda Pete through the close of business on Tuesday, May 24, 2022 at Department of Economic Development, 617 North 3rd Street, 11th Floor, Baton Rouge, LA 70802 or via email to Shamelda.Pete@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 1:30 p.m. on Wednesday, May 25, 2022 in the Griffon Conference Room at the LaSalle Building, 617 North 3rd Street, Baton Rouge, LA 70802.



Anne G. Villa
Undersecretary, LED
Secretary-Treasurer, Louisiana Economic Development Corporation