

DRAFT FOR PUBLIC COMMENT

94-457 FINANCE AUTHORITY OF MAINE

Chapter 619: FOREIGN CREDENTIALING AND SKILLS RECOGNITION REVOLVING LOAN PROGRAM

SUMMARY: This rule establishes the criteria to be met and procedures to be followed by individuals seeking to participate in the Foreign Credentialing and Skills Recognition Revolving Loan Program.

SECTION 1. DEFINITIONS

- A. Certain terms used in this rule, which are defined in the *Finance Authority of Maine Act*, 10 M.R.S.A. §961 et seq. and in 10 M.R.S.A. Chapter 110, subchapter 13, shall have the meanings set forth therein, unless clearly specified otherwise or unless the context clearly indicates otherwise.
- B. Defined Terms:
1. "Authority" means the Finance Authority of Maine
 2. "Borrower" means any applicant who incurs indebtedness from the Authority for a loan under the program.
 3. "Chief Executive Officer" means the chief executive officer of the Authority or a person acting under the supervisory control of the chief executive officer.
 4. "Eligible costs" means the following costs incurred or to be incurred by an applicant prior to their obtaining a work permit and incurred or to be incurred for the purpose of improving the applicant's work-readiness once they obtain a work permit:
 - (a) Costs of translating into English any diplomas, transcripts, certifications or other proof of trainings or experience in trades, or other documents establishing courses studied or the completion of secondary school or of higher education at either the undergraduate or graduate level;
 - (b) Fees related to education evaluations establishing the equivalency level of education or experience attained abroad;
 - (c) Costs of translation into English of documents related to professional licenses, registrations or certifications of trainings or other experience obtained abroad;
 - (d) Costs of translation into English of letters of reference or recommendations related to education or experience obtained abroad;
 - (e) Fees related to test preparation courses or registration fees for a standard test of English as a foreign language such as the Test of English as a Foreign Language®

(TOEFL) or other standardized test recognized worldwide that measures English language proficiency, when necessary for an immigrant's work;

(f) Expenses for employment or professional applications, certifications, licensing fees and related requirements for seeking employment, including but not limited to fingerprinting and required tests;

(g) Fees related to obtaining a Maine driver's license, including a commercial driver's license, including but not limited to driver's education course fees, learner's permit application fees and driver's license fees; and

(h) Costs to travel to the nearest location of any exam or test needed to establish the applicant's skills or credentials or English language proficiency, such as the TOEFL, if there is no location within sixty miles of the Maine town in which the immigrant resides.

5. "Fund" means the Foreign Credentialing and Skills Recognition Revolving Loan Program Fund established in P.L. 2019, Ch. 447.
6. "Immigrant" means a person who:
 - (a) Is not a United States citizen;
 - (b) Has filed applications or petitions with the United States Citizenship and Immigration Services or with the immigration courts of the United States Department of Justice, Executive Office for Immigration Review or with any successor federal immigration authority entitling the person to request a work permit while the person's applications or petitions are pending; and
 - (c) Has received education, work experience or work training, or any combination, in a foreign country.
7. "Program" means the Foreign Credentialing and Skills Recognition Revolving Loan Program, established in P.L. 2019, Ch. 447.
8. "Work permit" means a federal authorization of a person who is not a United States citizen to work in the United States.

SECTION 2. PROGRAM IMPLEMENTATION

The program shall be administered by and is delegated to the Chief Executive Officer.

SECTION 3. LOAN APPLICATION AND ELIGIBILITY

A. Application

An applicant shall apply for a loan on forms designated by the Authority. The application may be filed directly by the applicant or, at the request of and on behalf of the applicant, by an adult education program of a school administrative unit that provides English as a second language, job skills or other instruction or assistance to improve the work readiness of the immigrant. Applications will be considered by the Authority on a first-come, first-served basis as long as sufficient funds remain in the fund. In the event the Authority

receives multiple applications on a day that would deplete the remaining fund balance, the Authority may award the remaining funds at its discretion.

B. Eligibility

To be eligible for a loan under the program, an applicant must:

1. Be an immigrant residing in Maine and have filed an application or petition with federal immigration authorities that entitles the immigrant to request a work permit in any of the categories set forth in 8 Code of Federal Regulations, Section 274a.12(c)(2019). The immigrant shall provide electronic or paper evidence establishing that such application or petition was filed with federal immigration authorities and shall state which section of 8 Code of Federal Regulations, Section 274a.12(c)(2019) allows the immigrant to request a work permit. An immigrant is not eligible if the immigrant has been denied a work permit at the time of making the application to the program. In the case of asylum seekers, an immigrant is eligible if the immigrant's request for asylum has been pending for fewer than 150 days since the date of its filing and the immigrant has not yet been able to apply for a work permit pursuant to 8 Code of Federal Regulations, Section 274a.12(c)(8)(2019) or, if more than 150 days have elapsed since the asylum application was filed, the immigrant has a pending application for a work permit at the time of making the application to the program; and
2. Submit evidence acceptable to the Authority of the costs incurred or to be incurred in the amount of the loan requested.

The Authority shall review the application for eligibility and, if the Authority determines the applicant is eligible, may authorize a loan to the borrower.

SECTION 4. LOANS

A. Loans under the program must conform to the following requirements:

1. A loan to any individual for eligible costs may not exceed \$700, but this limit may be adjusted upward by the Authority from time to time to reflect inflation or cost of living or other necessary adjustments. No individual who receives more than one program loan may receive more than \$700 (or such other amount as may have been set by the Authority) in the aggregate;
2. Loans are not subject to interest but are subject to a loan origination fee due to the Authority as set forth in the loan agreement of 5% of the total loan amount;
3. Loans must be repaid in full within 18 months of disbursement by the Authority with interim payments to be made on a schedule established by the Authority and acceptable to the borrower, except that:
 - (a) In any case of demonstrable hardship, the Authority may, in its discretion, allow extensions of time for repayment or other flexibility in repayment terms; and

(b) Repayment of a loan may not be required until at least sixty days after the borrower has obtained a work permit, except that, if the borrower has obtained a work permit but has not obtained employment, repayment may not be required until at least thirty days after the borrower has obtained employment as long as the borrower is in compliance with the provisions of 22 M.R.S.A. § 4316-A.

4. In no event may any person charge an applicant a user fee for providing assistance with preparing and/or submitting an application to the program.

B. Agreement Requirements. An individual who has been approved for a program loan shall enter into an agreement with the Authority, which shall include the following terms and conditions:

1. Agreement by the borrower that they will use the funds only to pay for eligible costs;

2. Agreement by the borrower to repay the loan in compliance with the terms and conditions established by the Authority;

3. Agreement by the borrower to retain copies of receipts for expenditures on eligible costs incurred and provide these to the Authority upon request for auditing or reporting purposes;

4. A provision that, if the borrower breaches the contract with the Authority, the Authority may require immediate repayment of the loan balance to the Authority; and

5. Until the loan is satisfied, the borrower must report any change of address to the Authority within four weeks of any address change.

C. Disbursement from the Fund. Upon approval of an application, the Authority shall determine the amount to be disbursed from the fund to the borrower. Funds will be disbursed directly to and must be used by the borrower pursuant to the agreement entered into between the borrower and the Authority in accordance with subsection B above. Funds shall be disbursed by the Authority in one lump sum.

SECTION 5. DEFAULT. If a payment is not made within thirty days following the due date, the Authority may declare the loan in default and give the borrower thirty days to cure the default. If the borrower fails to cure the default after thirty days' notice, the Authority may declare the entire loan balance due and payable and take legal action to enforce the loan documents, and shall be entitled to collect reasonable attorney's fees if permitted by law.

SECTION 6. DEFERMENT. Deferments during the repayment period may be granted by the Chief Executive Officer. A written request must be made to the Chief Executive Officer requesting a deferment by a borrower. The request must state the justification for the deferment and must include all supporting documentation. Deferments will be decided on a case-by-case basis. The decision of the Chief Executive Officer shall be final. Deferments may be granted for each of the following reasons:

(1) The temporary disability of the borrower;

- (2) The borrower's temporary inability to meet the requirements necessary to repay the loan. A temporary economic hardship may be established by providing evidence that the borrower's income is below 150% of the Federal Poverty Level as determined annually by the U.S. Department of Health & Human Services, such as proof of current receipt of: General Assistance as defined by 22 M.R.S.A. § 4301(7); Supplemental Nutrition Assistance Program (SNAP) benefits through the U.S. Department of Agriculture; Temporary Assistance for Needy Families (TANF) benefits through the U.S. Department of Health & Human Services; or MaineCare benefits through the state of Maine or any successor program to any of the foregoing;
- (3) The demonstration of the borrower that immediate repayment of the loan will cause an undue hardship, as determined by the Chief Executive Officer;
- (4) Such other reasons as the Chief Executive Officer may approve.

A deferment will not ordinarily be granted for a period greater than six months. Deferments may be granted for up to three months at a time, but in no event shall more than two three-month deferments be granted. Upon request of the borrower, the chief executive officer may renew any deferment on a case-by-case basis.

SECTION 7. ADMINISTRATIVE COSTS. The Authority may, in addition to any loan origination fees assessed under Section 4(A)(2), charge the fund for its reasonable administrative costs, not to exceed 5% annually of the fund balance, for its administration of the fund.

SECTION 8. WAIVER OF RULE. The chief executive officer may waive any requirement of this rule, except to the extent that the requirement is mandated by the governing program statute, in cases where the deviation from the rule is insubstantial and is not contrary to the purposes of the program.

BASIS STATEMENT

The rule is necessary in order for the Authority to implement the Foreign Credentialing and Skills Recognition Revolving Loan Program established by P.L 2019, Ch. 447. The program is a revolving loan program for eligible individuals residing in Maine who meet the program definition of "immigrant" and who have incurred or will incur eligible costs related to obtaining work permits or achieving work readiness upon receipt of a work permit. The rule sets forth the requirements for applying for and receiving a program loan, including loan amounts, applicable fees, and repayment.

In accordance with 5 M.R.S. 8052(4) and Executive Order No. 4 FY 19/20, the Authority has considered:

1. the environmental and social impacts of the rule, with the goal of prioritizing the health safety and welfare of Maine people, and find that the rule will have no negative environmental or social impacts requiring such prioritization; and
2. the economic and fiscal impacts of the rule, including the extent to which other laws and regulations address the rule subject matter and the impact on employers in retaining and attracting a skilled workforce, and find that (a) the rule will have no adverse economic or fiscal impact; (b) no other laws or regulations address the rule subject matter; and (c) the rule will have no adverse effect on employers' ability to retain and attract a skilled workforce.

ECONOMIC IMPACT STATEMENT – SMAL BUSINESSES

The rule amendment is not expected to have any adverse impacts on small businesses.

FISCAL IMPACT NOTE

The rule amendment will not impose any costs on municipalities or counties.

STATUTORY AUTHORITY: P.L. 2019, Ch. 447

EFFECTIVE DATE: December ____, 2019