

## Loan Guarantee Program

### *(COVID-19 Relief Consumer Loan Program)*

PART I (as revised by Governor's Executive Order No. 42 FY 19/20 dated April 21, 2020)

**\*Note: The changes highlighted below remain in effect until amended, rescinded or until the State of Civil Emergency to Protect Public Health is terminated, whichever occurs first.**

Sec. I-1. 5 MRS §157 is enacted to read:

#### **§ 157. Loan Guarantee Program Fund established**

**1. Establishment; purpose.** The Loan Guarantee Program Fund, referred to in this section as "the fund," is established as a nonlapsing Other Special Revenue Funds account within the Office of the Treasurer of State. All money received by the fund from any source, including any transfers from the General Fund unappropriated surplus, must be credited to the fund. Money credited to the fund must be used to guarantee the repayment of loans made by a credit union or financial institution to an eligible affected employee pursuant to the Loan Guarantee Program established in Title 10, chapter 110, subchapter 14.

**2. Termination; repeal.** The fund is terminated on June 30, 2022. Upon the termination of the Loan Guarantee Program, the State Controller shall transfer any funds remaining in the fund to the unappropriated surplus of the General Fund.

Sec. I-2. 10 MRS c. 110, sub-c. 14 is enacted to read:

#### **SUBCHAPTER 14**

#### **LOAN GUARANTEE PROGRAM**

#### **§ 1100-BB. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Affected employee.** "Affected employee" means a resident of this State, including a self-employed resident, who has experienced a reduction in income since January 1, 2020 due to circumstances related to COVID-19.

**2. Credit union.** "Credit union" has the same meaning as "credit union authorized to do business in this State" as defined in Title 9-B, section 131, subsection 12-A.

**3. Eligible affected employee.** "Eligible affected employee" means an affected employee who is eligible to receive a loan as determined pursuant to section 1100-DD, subsection 1.

**4. Financial institution.** "Financial institution" has the same meaning as in Title 9-B, section 131, subsection 17-A.

**5. Grace period.** "Grace period" means the 90-day period after an eligible affected employee receives disbursement of a loan under this subchapter.

**6. Loan guarantee payment.** "Loan guarantee payment" means the amount paid by the Treasurer of State in satisfaction of a claim filed by a credit union or financial institution pursuant to section 1100-EE.

**7. Program.** "Program" means the Loan Guarantee Program established in section 1100-CC.

#### **§ 1100-CC. Loan Guarantee Program established**

**1. Establishment; purpose.** The Loan Guarantee Program is established within and administered by the authority. The authority shall guarantee the repayment of loans made by a credit union or financial institution to an eligible affected employee pursuant to section 1100-EE. The authority shall submit all approved claims to the Treasurer of State, who shall pay from the Loan Guarantee Program Fund, established in Title 5, section 157, any claims submitted by the authority pursuant to the program.

**2. Notification of loan and borrower information.** Each credit union or financial institution that makes a loan pursuant to section 1100-DD shall notify the authority in writing not later than one business day after making the loan, specifying such information about the borrower as the authority may request.

#### **§ 1100-DD. Eligibility of affected employees; loan terms; process**

**1. Determination of eligibility of affected employee.** A credit union or financial institution may make a loan to an affected employee who meets the following eligibility requirements.

A. An affected employee shall provide the credit union or financial institution proof that the affected employee has experienced a reduction in income and is a resident of this State. An affected employee may meet the requirements of this paragraph by providing to the credit union or financial institution proof such as a pay stub or bank statement indicating earned income in any 3 months prior to March 1, 2020.

B. In addition to the proof required in paragraph A, an affected employee shall submit to the credit union or financial institution a sworn affidavit from the affected employee stating:

(1) The affected employee is currently living in the State;

(2) The affected employee has experienced a reduction in income likely due to circumstances related to COVID-19 and is not receiving a loan from any other credit union or financial institution pursuant to this subchapter; and

(3) The amount of unemployment compensation benefits, if any, pursuant to Title 26, chapter 13:

(a) The affected employee received per week during the period of March 15, 2020 to December 31, 2020; and

(b) The affected employee is eligible to receive per week during the period of March 15, 2020 to December 31, 2020.

**2. Loan amount.** The amount of the loan, after subtracting 4 times the amount, if any, the affected employee has reported to the credit union or financial institution under subsection 1, paragraph B, subparagraph (3), division (a) or (b), whichever is greater, may not exceed the lesser of:

A. Five thousand dollars; and

B. The affected employee's most recent monthly after-tax pay.

**3. Creditworthiness.** A credit union or financial institution may not use [now "may use" per E.O.] an affected employee's creditworthiness as a factor for the purposes of determining eligibility for a loan under this subchapter. [This portion of the statute is suspended per E.O. to allow a credit union or bank to consider an applicant's creditworthiness as a factor for the purposes of determining eligibility for a loan under this program.]

**4. Terms of loan agreement.** Notwithstanding any provision of law to the contrary, the following terms apply to a loan issued pursuant to this subchapter.

A. A loan agreement may not:

(1) Require repayment during the grace period;

(2) Charge interest on the principal amount before or during the grace period or for 180 days [now 365 days per E.O.] after the grace period; or

(3) Contain a fee or penalty for the prepayment or early payment of the loan.

B. The loan agreement must require that the affected employee repay the loan in full not later than 180 days [now 1,825 days or 5 years per E.O.] after the end of the grace period by making at least 3 and no more than 6 [now 60 per E.O.] equal installment payments.

C. After 180 days [now 365 days per E.O.] have elapsed following the grace period, the credit union or financial institution may charge interest or fees in accordance with the credit union's or financial institution's lending policy and the terms of the loan agreement.

**5. Multiple loans to same eligible affected employee.** An eligible affected employee who has received a loan pursuant to this section may apply to the same credit union or financial institution for an additional loan for each 30-day period that the employee remains an eligible affected employee, except that an eligible affected employee may not receive more than 3 loans under the program. An eligible affected employee who applies for an additional loan shall provide the credit union or financial institution with updated information as required under subsection 1, including the amount of unemployment compensation benefits the employee has been determined eligible to receive or has received during the period of March 1, 2020 to December 31, 2020. Each additional loan must be made in accordance with this section.

**6. Treatment of deferred interest.** Notwithstanding any provision of Title 36, Part 8 to the contrary, any interest deferred or not charged related to a loan issued pursuant to this section is exempt from all state taxes that may be applicable to such interest amounts as they relate to an affected employee. A credit union or financial institution shall disclose to eligible affected employee borrowers in the signed affidavit or loan documents that there may be federal tax consequences to the program loans and that loan information may be shared with the authority.

#### **§ 1100-EE. Loan guarantee**

**1. Claims.** No sooner than the 180th day [now 1,825<sup>th</sup> day or 5 years per E.O.] following the end of the grace period and no later than the 300th day [now 2,095<sup>th</sup> day or 5 years and 9 months per E.O.] following the end of the grace period, a credit union or financial institution that has made a good faith

effort to collect the outstanding principal of a loan issued pursuant to section 1100-DD and has been unsuccessful may make a claim to the authority for recovery of an amount equal to the outstanding principal of that loan.

A credit union or financial institution shall demonstrate, by affidavit or other documentation, to the satisfaction of the authority that the credit union or financial institution has made a good faith effort to collect the outstanding principal from the eligible affected employee substantially in accordance with the credit union's or financial institution's loan servicing and collection policies and has been unsuccessful.

**2. Loan guarantee payment.** The authority, upon receipt of a properly documented claim submitted by a credit union or financial institution pursuant to subsection 1, shall submit the claim immediately to the Treasurer of State for payment. The Treasurer of State immediately shall pay to the authority from the Loan Guarantee Program Fund established in Title 5, section 157 any claims submitted by the authority pursuant to the program. The authority shall distribute the loan guarantee payment to the credit union or financial institution.

**3. Effect of payment of claim.** After payment of a loan guarantee payment to a credit union or financial institution pursuant to subsection 2:

A. The loan must be assigned by the credit union or financial institution to the authority on behalf of the State; and

B. The authority shall continue collection efforts on the loan.

#### **§ 1100-FF. Duties and powers of authority**

**1. Maintenance and review of records.** The authority shall maintain records in the regular course of administration of the program, including a record of loans issued pursuant to section 1100-DD and loan guarantee payments issued pursuant to section 1100-EE, subsection 2 to honor claims on defaulted loans. The authority shall regularly review these records to monitor all the loans issued and identify duplicative applications.

**2. Termination of loan recovery guarantee based on misrepresentation by credit union or financial institution.** The authority may terminate any agreement to pay the claim of a credit union or financial institution pursuant to section 1100-EE if the credit union or financial institution misrepresents any information pertaining to the loan or fails to comply with any requirements of this section or section 1100-EE in connection with the claim for the loan.

**3. Termination of loan recovery guarantee based on excess claims.** If the amount expended for loan guarantee payments under section 1100-EE equals 10% of the total of all loans issued, the authority shall immediately cease to approve claims and shall notify the Treasurer of State and each credit union or financial institution of the total amount of loan guarantee payments made and that the authority has ceased honoring loan claims. The authority may delay payment of claims until it has calculated an amount that equals 10% of the total loans issued.

**4. Recovery of defaulted loans.** The authority, on its own or by contracting with a private entity, shall make reasonable efforts to recover the amount of guaranteed loan payments made pursuant to section

1100-EE, subsection 2. Any funds recovered pursuant to this subsection, less reasonable administrative costs, must be deposited in the Loan Guarantee Program Fund established in Title 5, section 157.

**§ 1100-GG. Termination of program; repeal**

**1. New loans prohibited after December 31, 2020.** An affected employee may not apply for a loan under the program after December 31, 2020. A credit union or financial institution may not approve a loan under the program after December 31, 2020.

**2. Termination.** The program terminates upon the earlier of the:

A. Repayment or discharge of all loans made under the program;

B. Payment of all claims filed pursuant to section 1100-EE that are eligible for loan guarantee payments; and

C. Repayment or discharge of loan guarantee payments.

**3. Repeal.** This subchapter is repealed upon the termination of the program.

**Sec. I-3. Transfer.** Notwithstanding any provision of law to the contrary, the State Controller shall transfer \$500,000 from the General Fund unappropriated surplus to the Loan Guarantee Program Fund established within the Office of the Treasurer of State pursuant to the Maine Revised Statutes, Title 5, section 157 no later than April 1, 2020 to be used to guarantee the repayment of loans made by a credit union or financial institution to an eligible affected employee pursuant to Title 10, chapter 110, subchapter 14.

**Sec. I-4. Additional transfer and allocation.** The Joint Standing Committee on Appropriations and Financial Affairs may report out legislation to the 129th Legislature to address any funding needs of the Loan Guarantee Program established in the Maine Revised Statutes, Title 10, chapter 110, subchapter 14.

**Sec. I-5. Appropriations and allocations.** The following appropriations and allocations are made.

**TREASURER OF STATE, OFFICE OF**

**Administration - Treasury 0022**

Initiative: Creates the Loan Guarantee Program Fund and provides allocations in order to guarantee repayment of loans made by credit unions and financial institutions to eligible affected employees.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2019-20</b>	<b>2020-21</b>
All Other	\$500,000	\$500,000
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<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$500,000</b>	<b>\$500,000</b>