

CR 84-104

CERTIFICATE

STATE OF WISCONSIN)

SS

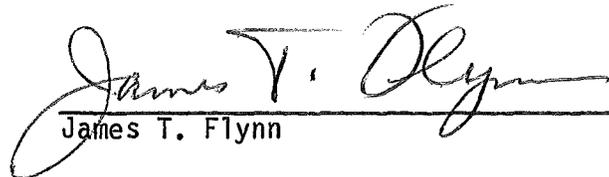
DEPARTMENT OF DEVELOPMENT)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, James T. Flynn, Lieutenant Governor and custodian of the official records of the Department of Development, do hereby certify that the annexed rules relating to the certification of economic development loans to be financed by the Wisconsin Housing and Economic Development Authority were duly approved and adopted by this Department on August 17, 1984.

I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand as Lieutenant Governor at 123 West Washington Avenue in the City of Madison, this 17th day of August, 1984.

  
James T. Flynn

1-182

**RECEIVED**

AUG 17 1984  
8:40 pm  
Revisor of Statutes  
Bureau

10-1-84

ORDER OF THE DEPARTMENT OF DEVELOPMENT  
CREATING RULES

Relating to rules for the certification of economic development loans to be financed by the Wisconsin Housing and Economic Development Authority.

Analysis prepared by the Department of Development.

Chapter 83, Laws of 1983, provides the Wisconsin Housing and Economic Development Authority with the authority to establish economic development programs and to fund them through the issuance of taxable and tax-exempt revenue bonds and notes. Section 234.65 (3m) of the statutes, as created by Chapter 83, Laws of 1983, stipulates that the Department of Development must certify that an economic development loan complies with the six conditions established under s. 234.65 (3) of the statutes, in order for the Wisconsin Housing and Economic Development Authority to finance the loan. Chapter DOD 9, Wisconsin Administrative Code, sets forth the criteria the Department will use in certifying whether an economic development loan to be financed by the Wisconsin Housing and Economic Development Authority complies with the statutory conditions established for the loan program. The proposed rules define key terms for the Department's certification of economic development loans and also specify the certification process.

Pursuant to the authority vested in the Department of Development by ss. 234.65 (1m) and 560.02 (4), Stats., the Department of Development hereby proposes to adopt and create rules interpreting ss. 234.65 (3) and (3m), Stats., as follows:

SECTION 1. Chapter DOD 9 is created to read:

CHAPTER DOD 9

ECONOMIC DEVELOPMENT LOAN CERTIFICATION

DOD 9.01 PURPOSE. The purpose of this chapter is to set forth the criteria the department will use in certifying whether an economic development loan to be financed by the Wisconsin housing and economic development authority complies with the statutory conditions under s. 234.65 (3), Stats.

DOD 9.02 ELIGIBILITY. Small- and medium-sized businesses, together with affiliates, subsidiaries and parent companies, which have current gross annual sales of \$35 million or less, are located in or in the process of locating in the state of Wisconsin, and which will use authority-assisted financing programs for economic development projects, are eligible. The purpose of these projects will be to preserve or increase permanent, full-time employment.

DOD 9.03 DEFINITIONS. In this chapter:

(1) "Authority" means the Wisconsin housing and economic development authority.

(2) "Business receiving the benefits of the loan proceeds" means the borrower owning the facilities or equipment financed with the proceeds of an authority economic development loan.

(3) "Collateral" means the term as defined in s. 234.01 (3m), Stats.

(4) "Conventional financing is unavailable on reasonably equivalent terms and conditions" means:

(a) that financing has been declined for the economic development project; or,

(b) that the maturity, rate or the amount of available financing or requirements related to the financing, such as collateral, equity, closing costs, service charges and repayment schedules offered on such financing are materially different from the financing available from the authority;

(c) The requirements of paragraphs (a) and (b) shall be evidenced by written documentation from one financial institution which is satisfactory to the authority and the department.

(5) "Current gross annual sales" means the average of the most recent two years of total company sales transactions as substantiated by the firm's two most recent federal or state tax returns or other such financial statements acceptable to the authority and the department.

(6) "Department" means the department of development.

(7) "Economic development loan" means the term as defined in s. 234.01 (4m), Stats.

(8) "Economic development project" means the term as defined in s. 234.01 (4n), Stats.

(9) "Expand employment" means the creation of new job positions as measured in terms of full-time equivalent positions.

(10) "Expansion of the business" means capital investment to increase the output or service delivery capacity of the business.

(11) "Financial institution" means the term as defined in s. 234.01 (5k), Stats.

(12) "Job" means work done by agreement for pay at or above the applicable minimum wage.

(13) "Maintain employment" means the preservation of job positions associated with the project which would otherwise be lost, as measured in terms of full-time equivalent positions.

(14) "Primary risk" means assuming a subordinated position on any loan.

(15) "Refinance existing debt" means the repayment of the firm's existing financial liabilities with the proceeds of an economic development loan.

DOD 9.04 REQUIRED CERTIFICATION. An economic development loan may not be made unless the department certifies that:

(1) The economic development project will maintain or expand employment in this state;

(2) Conventional financing is unavailable for the economic development project on reasonably equivalent terms and conditions;

(3) The economic development project is or will be located in this state;

(4) The business receiving the benefits of the loan proceeds, together with all of its affiliates and subsidiaries and its parent company, has current gross annual sales of \$35,000,000 or less;

(5) The authority will not assume primary risk on the economic development loan; and

(6) The economic development loan will not be used to refinance existing debt, unless it is in conjunction with an expansion of the business or job creation.

DOD 9.05 CERTIFICATION PROCESS. (1) The applicant shall submit an application for financing to the authority.

(2) The department shall consult with the authority to ensure that the economic development loan application form includes questions that will provide the department with the information necessary to perform its certification function as required under s. 234.65 (3m), Stats., and reporting function as required under s. 234.65 (5), Stats.

(3) The department shall review for certification the economic development loan applications submitted to it by the authority.

(4) The department shall notify the authority, in writing, as soon as it has completed its review of the applications for certification, regarding its decision on certification.

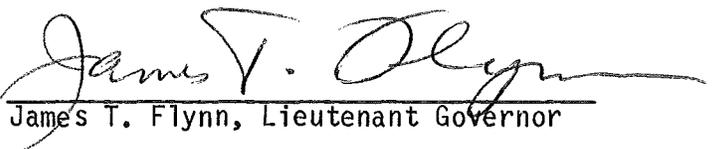
The rules contained in this order shall take effect upon publication as provided in s. 227.026 (1) (intro.), Stats.

Dated at Madison, Wisconsin

8/17/84

STATE OF WISCONSIN  
DEPARTMENT OF DEVELOPMENT

By

  
James T. Flynn, Lieutenant Governor

# State of Wisconsin

## Department of Development

123 West Washington Avenue  
Post Office Box 7970  
Madison, Wisconsin 53707  
608-266-1018

Anthony S. Earl  
Governor  
James T. Flynn  
Lieutenant Governor

August 17, 1984

**RECEIVED**

AUG 17 1984

Revisor of Statutes  
Bureau

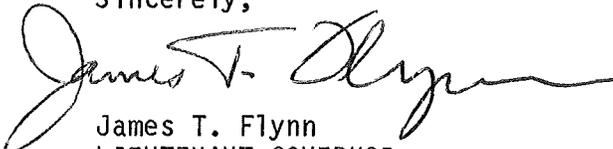
Mr. Orlan L. Prestegard  
Revisor of Statutes  
Room 411, West  
State Capitol  
Madison, WI 53402

Dear Mr. Prestegard:

Enclosed you will find a copy of the Department of Development's certified order creating rules relating to the certification of economic development loans to be financed by the Wisconsin Housing and Economic Development Authority.

If you have any questions, please call Roger Nacker, the Director of the Office of Business Information and Financial Assistance at 266-1386.

Sincerely,



James T. Flynn  
LIEUTENANT GOVERNOR

JTF:ya  
7-145

Enclosure