

(1) SHALL BE A SMALL BUSINESS THAT MEETS THE ELIGIBILITY REQUIREMENTS SET OUT IN THE CAPITAL ACCESS PROGRAM PARTICIPATION AGREEMENT BETWEEN THE BORROWER'S LENDER AND THE DEPARTMENT; AND

(2) SHALL AGREE WITH THE LENDER TO CONTRIBUTE MONEY TO THE LOAN RESERVE ACCOUNT THAT THE LENDER ESTABLISHES.

(F) CONTRIBUTIONS.

(1) THE DEPARTMENT MAY USE THE FUND TO CONTRIBUTE UP TO \$1,000,000 PER FISCAL YEAR TO LOAN RESERVE ACCOUNTS ESTABLISHED UNDER SUBSECTION (D) OF THIS SECTION.

(2) THE CONTRIBUTIONS BY THE DEPARTMENT ARE EXEMPT FROM THE REQUIREMENTS OF TITLE 6, SUBTITLE 2, AND TITLES 11 THROUGH 17, OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(G) LIABILITY OF STATE.

(1) ENROLLING A LOAN IN THE CAPITAL ACCESS PROGRAM DOES NOT PLEDGE THE FAITH, CREDIT, OR TAXING POWER OF THE STATE, THE DEPARTMENT, THE NEIGHBORHOOD BUSINESS DEVELOPMENT PROGRAM, OR THE FUND.

(2) THE STATE, THE DEPARTMENT, THE NEIGHBORHOOD BUSINESS DEVELOPMENT PROGRAM, AND THE FUND ARE NOT LIABLE FOR LOSSES OF A LENDER ON AN ENROLLED LOAN, EXCEPT TO THE EXTENT OF THE LOAN RESERVE ACCOUNT THAT THE LENDER ESTABLISHES UNDER THE CAPITAL ACCESS PROGRAM.

(H) LOCATION OF PROJECT.

A PROJECT FINANCED BY A LOAN ENROLLED IN THE CAPITAL ACCESS PROGRAM SHALL BE IN A PRIORITY FUNDING AREA AS REQUIRED BY TITLE 5, SUBTITLE 7B OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(I) DEFAULT.

A LENDER SHALL TREAT A DEFAULT ON A LOAN ENROLLED IN THE CAPITAL ACCESS PROGRAM IN THE SAME WAY THAT THE LENDER TREATS DEFAULTS ON OTHER LOANS.

(J) WITHDRAWAL FROM RESERVE ACCOUNT.

THE DEPARTMENT MAY REQUIRE THAT, BEFORE A LENDER WITHDRAWS MONEY FROM A RESERVE ACCOUNT TO COVER LOSSES ON A DEFAULTED ENROLLED LOAN, THE LENDER AGREE THAT, IF THE RESERVE ACCOUNT FULLY COVERS THE LOSSES, THE LENDER WILL ASSIGN TO THE DEPARTMENT OR SUBROGATE THE DEPARTMENT TO THE RIGHT, TITLE, AND INTEREST OF THE LENDER IN AND TO:

- (1) THE LOAN;
- (2) COLLATERAL AND SECURITY FOR THE LOAN; AND
- (3) EVERY OTHER RIGHT OF RECOVERY IN CONNECTION WITH THE LOAN.