

State of Utah
Administrative Rule Analysis
 Revised December 2019

NOTICE OF EMERGENCY (120-DAY) RULE		
	Title No. - Rule No. - Section No.	
Utah Admin. Code Ref (R no.):	R357-30	Filing No. 52646

Agency Information

1. Department:	Governor	
Agency:	Economic Development	
Building:	World Trade Center	
Street address:	60 E. South Temple	
City, state, zip:	Salt Lake City, UT 84111	
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City, state, zip:	Salt Lake City, UT 84111	
Contact person(s):		
Name:	Phone:	Email:
Dane Ishihara	801-538-8664	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R357-30 Utah Leads Together Small Business Bridge Loan Program
3. Effective Date (mm/dd/yyyy):
4/2/2020
4. Purpose of the new rule or reason for the change:
The purpose of this rule filing is to create the Utah Leads Together Small Business Bridge Loan Program to support small businesses and the retention of jobs throughout the State during the state of emergency due to novel coronavirus disease 2019 (COVID-19).
5. Summary of the new rule or change:
This rule will codify the Utah Leads Together Small Business Bridge Loan Program by establishing the purpose, authority, eligible business entity criteria, minimum application requirements, and the approval process. The program will provide immediate assistance to small businesses in the State that have been impacted by the COVID-19 pandemic.
6. Regular rulemaking would:
<input checked="" type="checkbox"/> cause an imminent peril to the public health, safety, or welfare;
<input type="checkbox"/> cause an imminent budget reduction because of budget restraints or federal requirements; or
<input type="checkbox"/> place the agency in violation of federal or state law.
Specific reason and justification:
The Governor's Office of Economic Development is responsible for economic development in the State and is tasked with, among other things, administering grant and loan programs to enhance the economic health and vitality of the State and its business community. This rule will govern the new Utah Leads Together Small Business Bridge Loan Program that will provide immediate assistance to small businesses in the State that have been impacted by the COVID-19 pandemic. This is necessary to get short-term working capital to small businesses prior to federal stimulus funds becoming available.

Fiscal Information

7. Aggregate anticipated cost or savings to:

A) State budget:
There is no aggregate anticipated cost or savings to the state budget. This rule establishes the requirements for participation in the Utah Leads Together Small Business Loan Program.

B) Local governments:
There is no aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this rule.

C) Small businesses ("small business" means a business employing 1-49 persons):
Economic development funds will be awarded to small businesses in the State. The Utah Leads Together Small Business Bridge Loan Program is designed to serve Utah's successful small businesses that have been impacted by the COVID-19 pandemic.

D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):
There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed amendment does not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.

8. Compliance costs for affected persons:
There are no compliance costs for affected persons because participation in the program is optional.

9. A) Comments by the department head on the fiscal impact this rule may have on businesses:
This new program will help many Utah small businesses struggling with impacts from the COVID-19 pandemic and in need of assistance during this emergency in our country and our state. We hope that this loan program will help keep Utah workers employed and businesses open for business, at least in some fashion, as we face today's difficult challenges and uncertain health and economic conditions.

B) Name and title of department head commenting on the fiscal impacts:
Val Hale, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):
Section 63N-1-402

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 304, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying the effective date and publication in the *Utah State Bulletin*.

Agency head or designee, and title:	Val Hale, Executive Director	Date (mm/dd/yyyy):	3/30/2020
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R357. Governor, Economic Development.

R357-30. Utah Leads Together Small Business Bridge Loan Program.

R357-30-101. Title.

This rule is known as the "Utah Leads Together Small Business Bridge Loan Program Rule."

R357-30-102. Purpose.

Under Title 63N, Governor's Office of Economic Development, the Utah Leads Together Small Business Bridge Loan Program is created to support small businesses and the retention of jobs throughout the State.

R357-30-103. Authority.

This rule is adopted by the office under the authority of Section 63N-1-402.

R357-30-104. Loan.

As funds are available and at the discretion of the Executive Director of the Governor's Office of Economic Development loans may be awarded. The following are the general terms of a Utah Leads Together Small Business Bridge Loan:

- (1) amounts from \$5,000 to \$20,000;
- (2) amount shall not exceed three months of operating expenses;
- (3) zero percent interest;
- (4) up to a 60 month term;
- (5) deferral of payments for the first 12 months;
- (6) no collateral requirements;
- (7) eligible use of loan funds include:
 - (a) working capital to support payroll expenses;
 - (b) rent;
 - (c) mortgage payments;
 - (d) utility expenses; and
 - (e) similar expenses that occur in the ordinary course of business operations.
- (8) A minimum of 25% of funding will be awarded to businesses located in counties of the 3rd, 4th, 5th or 6th class as classified under Section 17-50-501.
- (9) Receiving other forms of emergency funding will not disqualify an applicant from receiving loan funds through this program, but companies must disclose all sources of emergency funding applied for, received, and anticipated to be received.
- (10) The Executive Director may approve exemptions to the criteria of this Section.

R357-30-105. Business Eligibility.

- (1) To qualify for a Utah Leads Together Small Business Bridge Loan a business shall:
 - (a) be headquartered in the State;
 - (b) have fewer than 50 employees;
 - (c) have been established and registered with Utah's Division of Corporations and Commercial Code to do business in Utah prior to January 1, 2020;
 - (d) be in good standing;
 - (e) have employees who have had payroll taxes withheld; and
 - (f) demonstrate financial distress which may include but are not limited to:
 - (i) notices from tenants closing operations or not paying rent due to loss of income;
 - (ii) inability to pay rent or make loan payments due to decreased sales or suspended operations;
 - (iii) increased costs associated to COVID-19 prevention measures;
 - (iv) notice of disrupted supply network leading to a shortage of critical inventory or materials; or
 - (v) other circumstances subject to review on a case-by-case basis.

R357-30-106. Application Requirements.

- (1) At a minimum the following documents and information are required as part of the application:
 - (a) financial statements, when available, for the previous year and most recent month or quarter including:
 - (i) profit and loss for previous year; and
 - (ii) balance sheet;
 - (b) copy of business 2018 or 2019 state of Utah tax returns;
 - (c) copy of business lease agreement or mortgage statement for business location;
 - (d) copy of current business license;
 - (e) copy of a Utah driver's license or government issued ID;
 - (f) signed and current W-9;
 - (g) six month proforma of estimated loss of revenue or other documented loss evidence; and
 - (h) contact information including but not limited to:
 - (i) principal name;
 - (ii) phone number;
 - (iii) email address;
 - (iv) mailing address; and
 - (v) business address.

R357-30-107. Approval Process.

- (1) The office will determine eligibility of applicants submitting to participate in the program. Preference for funding may be given to businesses that:
 - (a) have experienced severe economic impact due to the COVID-19 pandemic;
 - (b) can demonstrate a multiplier impact on other industries;
 - (c) play a key role within a strategic state supply chain;
 - (d) pay above county average wages;

- (e) employ full-time employees;
- (f) demonstrate solvency prior to the current economic crisis; or
- (g) submit a complete application.
- (2) After reviewing an application, the office shall;
- (a) deny the application;
- (b) request additional information or documentation; or
- (c) approve the application and enter into a written agreement with the applicant.
- (3) Applying is not a guarantee of approval to receive a loan.
- (4) Notification of approval is not a guarantee that the office will issue a loan.
- (5) An approved applicant must agree to all program and contract terms and conditions including, repayment of the loan in full.

KEY: Bridge Loan, Utah Leads Together, Small Business
Date of Enactment or Last Substantive Amendment: April, 3 2020
Authorizing, and Implemented or Interpreted Law: 63N-1-402