

§ 113-211. Shellfish Growers Loan Program.

- (a) Definitions. – For purposes of this section, the following definitions apply:
- (1) Applicable federal rate. – The minimum interest rate that the Internal Revenue Service sets and adjusts monthly for private loans.
 - (1a) Department. – The Department of Commerce.
 - (2) Governmental crop insurance. – Insurance coverage through the United States Department of Agriculture Noninsured Crop Disaster Assistance Program.
 - (3) Repealed by Session Laws 2023-134, s. 11.13(a), effective October 3, 2023.
 - (4) Qualifying business. – A business entity or resident subject to taxation under Part 2 of Article 4 of Subchapter I of Chapter 105 of the General Statutes that will use the loan proceeds for the establishment or expansion of shellfish aquaculture businesses, including equipment and supplies for intensive shellfish aquaculture operations, water column leasing, and bottom culture leasing.
 - (5) Qualifying lender. – A nonprofit corporation or community development financial institution chosen by the Rural Center that engages in lending to small businesses.
 - (6) Rural Center. – Rural Economic Development Center, Inc., a nonprofit corporation.
- (b) Program. – There is established the Shellfish Growers Loan Program to be administered by the Rural Center. The program shall provide a revolving source of low-interest working capital and equipment loans to emerging and existing small shellfish growers in this State. Funds credited to the program are available in perpetuity and must be used only to provide loans to eligible businesses or for administrative expenses as allowed in this section.
- (c) Loans. – The following shall apply to the program and loans made under the program:
- (1) A loan provided under the program shall have a fixed interest rate that is equal to the applicable federal rate plus two and one-quarter percent (2.25%) and shall be amortized over the term of the loan. For the purposes of each loan, the qualifying lender shall use the applicable federal interest rate that aligns with the term of the loan and shall match the applicable federal rate for the month in which the qualifying business receives the loan.
 - (2) A working capital loan shall have a term of at least 12 months and shall not exceed 72 months.
 - (3) An equipment loan shall have a term of at least 12 months and shall not exceed 72 months.
 - (4) A loan provided under the program may not exceed more than fifty thousand dollars (\$50,000) per qualifying business.
 - (5) There shall be no penalty for prepayment of the loan by a qualifying business.
 - (6) The qualifying lender may retain an amount equal to the interest collected under subdivision (1) of this subsection.
 - (7) Loans are made pursuant to an agreement with a qualifying business that includes at least the following:
 - a. A provision requiring a qualifying business to certify in writing that it will use the loan proceeds for the establishment or expansion of shellfish aquaculture businesses, including equipment and supplies for intensive shellfish aquaculture operations, water column leasing, and bottom culture leasing.
 - b. A provision establishing the method for determining compliance with the program.

- c. A provision requiring the loan is secured through a Uniform Commercial Code financing statement.
- d. A provision requiring recapture of loan funds if a business fails to comply with the requirements of the program. The qualifying lender shall recapture loan funds only if the lender determines there is a reasonable expectation that the recovery of funds will exceed the cost of recovery.
- e. A provision requiring proof that the qualifying business has submitted a completed application for governmental crop insurance to protect from disasters.
- f. A provision allowing for losses from disasters in excess of governmental crop insurance coverage on loans made to the qualifying business to be covered by the program funds up to the remaining unpaid principal loaned to the qualifying business but not repaid at the time of the loss.

(d) Information. – The qualifying lender shall make available on their website and in the loan application for qualifying businesses information regarding governmental crop insurance for shellfish aquaculture growers through the United States Department of Agriculture.

(e) Reporting. – On September 1, 2022, and annually thereafter, the Department shall report to the chairs of the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources; the chairs of the Joint Legislative Economic Development and Global Engagement Oversight Committee; the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources; the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources; and the Fiscal Research Division. The Department shall consult with the Rural Center and may consult the North Carolina Coastal Federation in compiling information for the report. Qualifying lenders shall supply information to the Rural Center to compile information for the report. The duty to report pursuant to this section shall continue for the duration of the program until the funds appropriated for the program are depleted. Each report shall contain, at a minimum, all of the following:

- (1) The number, average size, and location of qualifying businesses that received loans under the prior fiscal year of the report.
- (2) The average loan amount.
- (3) The total amount loaned to date.
- (4) The total amount of loans repaid to date.
- (5) The total amount of loans defaulted on to date.
- (6) The total amount of loans defaulted that have been recaptured.

(f) Administrative Expenses. – The Rural Center may use up to seven and one-half percent (7.5%) of the principal amount of each loan provided under this program, not to exceed a maximum of thirty-seven thousand five hundred dollars (\$37,500) in each fiscal year, for its expenses and for reimbursement to qualifying lenders of program-related expenses incurred by the qualifying lenders. (2021-180, s. 11.4(b); 2022-6, s. 5.3; 2023-134, s. 11.13(a).)