

Louisiana Administrative Code
Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES AND UCC
Part XV. Other Regulated Entities
Chapter 1. Business and Industrial
Development Corporations

§101. Declaration of Policy

It is the declared policy of the Office of Financial Institutions to provide for the licensing and regulation of Louisiana corporations as business and industrial development corporations authorized by Act 506 of the 1991 Louisiana Legislature, which will aid in the increasing of job opportunities in this state; promote establishment of growth and expansion of business firms in this state; provide a vehicle to offer financing assistance and management assistance to business firms through the small business administration and to more effectively regulate and supervise Louisiana corporations licensed as business and industrial developments corporations to give greater permanence of existence and better assurance of uninterrupted service to business firms in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2386 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18:24 (January 1992).

§103. Definitions

This Chapter contains definitions which supplement the definitions provided for in the Louisiana Business and Industrial Development Act, R.S. 51:2386 et seq.

Applicant-a Louisiana corporation organized under an incorporating statute which applies to the commissioner for a license.

Application-consist of the necessary forms prescribed by the commissioner, submitted in a completed form to the commissioner with all supporting documents requesting that a license be granted.

Business and Industrial Development Corporation (BIDCO)-a Louisiana corporation organized to help meet the financing assistance and management assistance needs of business firms in the state of Louisiana.

Business Plan-a narrative providing a general description of the proposed business and industrial development corporation which should include at a minimum a description of the BIDCO's organizational structure; its location; the types of lending and financing it intends to offer and to whom; whether it intends to provide management assistance and if so, to what extent and to whom; and whether the BIDCO will operate as a profit or nonprofit corporation.

Commissioner-the commissioner of the Office of Financial Institutions of the Department of Economic Development.

Incorporating Statute-the Louisiana Business Corporation Law, LSA R.S. 12:1 et seq. or any other provision of law under which a licensee is incorporated.

Institution Affiliated Party-a director, officer, employee, agent, controlling person, and other person participating in the affairs of the BIDCO.

Person-a natural person or legal entity qualified to seek a license as a business and industrial development corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2386 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18:24 (January 1992).

§105. General Provisions

A. Application and Contents. The application shall be in such form and contain such information as the commissioner may from time-to-time prescribe. The commissioner may refuse to accept an application for filing until the applicants have submitted all required information. The application will contain a public section and a confidential section. The public portion of the application shall consist of the comments and information submitted by interested parties in favor of or in opposition to such application, the justification for preliminary approval, statement of purpose, description of the business, management and convenience and needs of the community. After the application is completed to the satisfaction of the commissioner, the application may be accepted for filing and for preliminary approval, if so requested.

B. Books and Records

1. A licensee shall make and keep its records in conformity with generally accepted accounting principles.

2. A licensee shall make and keep all of its records at its main office as identified in its application for a license, unless otherwise provided by the Louisiana Business and Industrial Development Corporation Act or at some other location authorized by prior written approval of the commissioner.

3. All books and records of a BIDCO shall be retained for the periods of time set in the regulation promulgated in Volume 9, Number 10 of the *Louisiana Register*, published October 20, 1983, which is incorporated herein by reference.

C. Commencement of Business. For purposes of this regulation, an applicant shall be deemed to commence business at the time when, the commissioner having issued such applicant a license, the applicant opens for the purpose of transacting business as a BIDCO pursuant to the Louisiana Business and Industrial Development Corporation Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2386 et seq.
HISTORICAL NOTE: Promulgated by the Department of Economic Development,
Office of Financial Institutions, LR 18:24 (January 1992).

§107. Reports

A. The Board of Directors for each BIDCO licensed by the commissioner shall annually make a report of examination of the financial condition of the BIDCO and its subsidiaries. They may make said examination by employing an independent certified public accountant, their respective accounting firms, or by the use of an in-house auditor and clerical staff. All such audits of a BIDCO must meet the minimum standards promulgated by the commissioner of Financial Institutions. To meet the minimum auditing standards, the board of directors shall employ the methods of auditing described in the regulation promulgated by the Office of Financial Institutions in Volume 16, Number 1 of the *Louisiana Register* dated January 20, 1990, which is incorporated herein by reference. This report of examination shall be submitted to the commissioner no later than April 30 of the calendar year following the period for which the report was prepared.

B. Election of Directors. Not more than 30 days after the election of any person as the director of a licensee, such licensee and such director shall file with the commissioner a report containing the following information:

1. name, address and occupation of the new director;
2. title of any office which the director previously held with the licensee and title of any office (other than the office of director) which the director currently holds with the licensee;
3. date of election of the director;
4. manner of election of the director (that is, whether by the board or by the shareholders);
5. in case a director is not an incumbent director or executive officer of the licensee, the licensee shall provide:
 - a. a personal financial statement and confidential résumé on a form prescribed by the commissioner, containing the information called for therein, as of a date within 90 days before the filing of the report and signed by the newly elected director;
 - b. not more than 10 days after the appointment of any person as the chief executive officer of a licensee and not more than 30 days after the appointment of any person as any other executive officer of a licensee, such licensee and such executive officer shall file with the commissioner a report containing the following information:
 - i. name and address of the executive officer;

- ii. title of the office to which the executive officer was appointed;
- iii. a summary of the duties of the office to which the executive officer was appointed;
- iv. date of appointment of the executive officer;
- v. title of any office which the executive officer previously held with the licensee and title of any office (other than the office to which the executive officer was appointed) which the executive officer currently holds with the licensee;
- vi. in case the executive officer was not, immediately before the appointment, an executive officer of the licensee, licensee shall provide a personal financial statement and confidential résumé on the form prescribed by the commissioner, containing the information called for therein, dated as of a date within 90 days before the filing of the report, and signed by the newly appointed executive officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2386 et seq.
 HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18:25 (January 1992).

§109. Licensing Procedures, Instructions and Guidelines

- A. The application shall contain the following specific information:
 - 1. name of applicant;
 - 2. date of application;
 - 3. address of applicant;
 - 4. Louisiana corporate certification number and certified copies of the articles of incorporation and initial report filed with the Louisiana Secretary of State;
 - 5. a federal tax identification number;
 - 6. phone number, address and zip code;
 - 7. a copy of any bylaws executed by the board of directors;
 - 8. the designation of a correspondent, agent or person responsible for responding to questions relating to the application;
 - 9. a resolution of the board of directors of the applicant corporation authorizing, empowering and directing an officer of the applicant corporation to apply for a license as a BIDCO, and to sign said application;
 - 10. financial statements for all incorporators and initial directors;
 - 11. the justification for preliminary approval, if so requested in the application;
 - 12. description of the BIDCO's business plan, in a narrative form, which shall include, at a minimum, the following:
 - a. a description of the BIDCO's statement of purpose and organization;
 - b. types of lending and financing it intends to offer and to whom;
 - c. whether it intends to provide management assistance, and if so, to what extent and to whom;
 - d. will the BIDCO be a profit or nonprofit corporation;

e. proforma financial statements for the three consecutive years following the filing of the application, showing future earnings prospects; f. a proposed net worth structure as required by R.S. 51:2392(B)(2);

13. a list of all of the directors, officers and controlling persons;

14. biographical information concerning the proposed directors, officers and controlling persons, including personal information, résumé of each person's education, their employment record and prior associations or position with other BIDCO's and in what capacity in or out of Louisiana;

15. other pertinent information required by the commissioner.

B. Denial of License. The commissioner in his sole discretion may deny an application for a license as a Business and Industrial Development Corporation for the following non-exclusive reasons:

1. the applicant is not qualified as a BIDCO concern under R.S. 12:1 et seq.;

2. the applicant is in the process of having its charter revoked or is in litigation or in some other process affecting its further solvency or its status as a chartered organization;

3. the board of management of the applicant does not possess, in the judgment of the commissioner, sufficient competence to manage properly and prudently any funds which may be provided to it by a state-funded assistance program;

4. the applicant has not demonstrated that it is fully conversant with the legislative intent of Act 506 of the 1991 regular session, "The Louisiana Business and Industrial Development Corporation Act" and with these regulations developed pursuant to it, and that it is not fully committed to carry out the letter and spirit of said law and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2386 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18:25 (January 1992).

§111. Small Business Administration

A. If an applicant desires to participate in a program of the Small Business Administration, (SBA) and it is indicated that it will have this as a significant portion of its business plan, it will be necessary to obtain SBA's approval before it can be licensed as a BIDCO.

B. When a BIDCO contemplates having at least one-half of its investments in qualified Small Business Administration loans, that shall constitute a significant portion of its business plan for purposes of this regulation. C. If said approval cannot be obtained prior to the approval of the application for a license as a BIDCO, the commissioner in his sole discretion, may determine that the SBA approval is imminent, and may issue a license prior to final SBA approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2386 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18:26 (January 1992).