

## **TITLE 6: ECONOMIC DEVELOPMENT**

### **PART 3: RENTAL ASSISTANCE GRANT PROGRAM**

#### **PART 3 CHAPTER 1: RENTAL ASSISTANCE GRANT PROGRAM RULES AND REGULATIONS**

***RULE MAKING AUTHORITY:*** In Section 3 of the “Rental Assistance Grant Program Act” (House Bill 1810, 2020 Reg. Session) (the “Rental Assistance Act”), the Mississippi Legislature designated the Mississippi Development Authority (“MDA”) to administer the “Rental Assistance Grant Program” (the “Program”), specifically authorizing MDA to “develop procedures, guidelines and application forms to govern the administration of the grant program.”

*Source: House Bill 1810, 2020 Regular Legislative Session.*

***EMERGENCY RULE MAKING AUTHORITY:*** COVID-19 is a global pandemic that has reached the State of Mississippi, causing a major impact on the public health, safety, and welfare on the citizens of the state, placing them in imminent peril, including with regard to their economic security and wellbeing. Funding for the program is provided from the State of Mississippi’s allocation of \$1.25 billion from the “Coronavirus Relief Fund” (Title VI, Sec. 601) of the “Coronavirus Aid, Relief, and Economic Security Act” (H.R. 748), signed into law by President Donald J. Trump on March 27, 2020. Mississippi’s allocation is for the federal fiscal year of 2020 and must be expended within a limited time period. Therefore, the Rental Assistance Act set a grant application deadline of November 15, 2020, and that all final grant payments be made on or before December 14, 2020, at which time all unobligated funds are to be transferred to the Unemployment Compensation Fund. In accordance with Miss. Code Ann. §§ 25-43-3.108 and 25-43-1.104 (Rev. 2006) of the “Mississippi Administrative Procedures Act” and the rules enacted by the Mississippi Secretary of State’s Office, MDA hereby gives notice of the immediate adoption of these Program Rules due to “an imminent peril to the public health, safety or welfare” and pursuant to the authority found in State of Emergency COVID-19” Proclamation issued by Governor Tate Reeves on March 14, 2020. These Rules and Regulations shall become effective immediately upon filing with the Secretary of State's Office.

*Source: House Bill 1810, 2020 Regular Legislative Session; Miss. Code Ann. §§ 25-43-3.108 and 25-43-1.104 (Rev. 2006).*

#### ***RULE 1.1 PROGRAM OBJECTIVE AND PURPOSES.***

The Program is designed to provide grants to Eligible Rental Businesses pursuant to applications submitted pursuant to the Rental Assistance Act and these Rules to reimburse them for lost rental income resulting from the COVID-19 public health emergency and the attendant eviction moratoria imposed by the federal and/or state governments. The Program shall comply with applicable federal and state laws, rules, and regulations.

*Source: House Bill 1810, 2020 Regular Legislative Session.*

***RULE 1.2 DEFINITIONS.***

- A. “Applicant” means an Eligible Rental Business or a representative of an Eligible Rental Business that completes and submits an Application for the Program.
- B. “Application” means the online Program Application Form which must be completed by an Eligible Rental Business to qualify for the Program.
- C. “Business Disruption” means those disruptions of regular rental business operations which occurred on or after March 1, 2020, resulting from the COVID-19 public health emergency and federal and state eviction moratoria, including, but not limited to, the following:
  - 1. A Tenant who has lost his/her job or who has had a reduction in the number of hours which he/she can work or who has had a reduction in income due to COVID-19 and is unable to pay rent under the terms of a Rental Agreement;
  - 2. A Tenant who has become infected by COVID-19 and is unable to pay rent under the terms of a Rental Agreement;
  - 3. A Tenant who is unable to or fails to pay rent and cannot be evicted from the property which is subject of a Rental Agreement due to a federal or state eviction moratoria issued due to COVID-19; or
  - 4. A Tenant who has voluntarily abandoned the property which is subject of a Rental Agreement and which cannot be rented out to a new Tenant due to the COVID-19 public health emergency.
- D. “COVID-19” means the Coronavirus Disease 2019 and the resulting global pandemic.
- E. “Duplication of Benefits” (“DOB”) means benefits under this Program reimbursed from any other source.
- F. “Eligible Commercial Business” means an Eligible Rental Business which owns, leases or subleases property that is zoned or used solely for business purposes, including, but not limited to, shopping centers, strip malls, hotels, retail stores, warehouses, restaurants, industrial spaces, farms, and office buildings.
- G. “Eligible Rental Business” means a for-profit corporation, not-for-profit corporation, limited liability company, partnership, and sole proprietorship (including duly formed professional iterations of such entities) which meets the following eligibility criteria:
  - 1. On or before March 1, 2020 the Eligible Rental Business is the owner, lessor, or sublessor of a dwelling unit, commercial building, or a building of which it is a part which is located within the State of Mississippi;

2. Filed Mississippi taxes for tax year 2018 or 2019, or, for an Eligible Rental Business formed on or after January 1, 2020, intends to file Mississippi taxes for tax year 2020, unless exempt under Section 27-7-29, Section 27-13-63 or other applicable provision of law;
  3. Has a Rental Agreement with a Tenant for a minimum term of thirty (30) days for the dwelling unit, commercial building, or a building of which it is a part which is located within the State of Mississippi;
  4. Has suffered a Business Disruption related to the Rental Agreement;
  5. Has incurred Lost Rental Income from March 1, 2020 through December 30, 2020, due to the Business Disruption related to the Rental Agreement;
  6. Has not instituted Eviction proceedings or evicted the Tenant who has entered into the Rental Agreement, or has dismissed and halted any Eviction actions prior to the date of the Application; and
  7. Is not under a bankruptcy order and does not have a pending bankruptcy filing at the time the Application is submitted. An Applicant that files for bankruptcy while the Application is pending shall notify MDA and withdraw its Application under the Program.
  8. Rental Agreements between affiliated entities do not qualify for the Program. For purposes of this rule, an affiliated entity shall mean any Eligible Commercial Business or Eligible Rental Business which directly or indirectly controls, is controlled by or is under joint control with the Tenant.
- H. “Eviction” means that the Eligible Rental Business has not obtained a judgment from a court or otherwise forcibly removed the Tenant from the property which is the subject of the Rental Agreement.
- I. “Lost Rental Income” means all payments that were due under a Rental Agreement to an Eligible Rental Business between March 1, 2020, and December 30, 2020, that were not paid due to a Business Disruption and have not been paid by other federal or state funds.
- J. “MDA” means the Mississippi Development Authority.
- K. “Program” means the “Rental Assistance Grant Program,” which was established by the Rental Assistance Act.
- L. “Rent” means all payments to be made to the Eligible Rental Business under the Rental Agreement.
- M. “Rental Agreement” means all duly executed written agreements embodying the terms and conditions concerning the use and occupancy of a dwelling unit, a commercial building, or a building of which it is a part and which have a term

involving the period of March 1, 2020, through December 30, 2020. For purposes of the Program, a Rental Agreement must have a minimum term of thirty (30) days.

- N. “Rental Assistance Act” means to the “Rental Assistance Grant Program Act” (House Bill 1810, 2020 Reg. Session).
- O. “Rules” means these rules as authorized by the Rental Assistance Act.
- P. “Tenant” means a person or business entitled under a Rental Agreement to occupy a dwelling unit, a commercial building, or a building of which it is a part to the exclusion of others.

*Source: House Bill 1810, 2020 Regular Legislative Session.*

***RULE 1.3 APPLICATIONS.***

- A. All Applicants must provide the following information in the Application:
  - 1. Business name as legally formed (if applicable).
  - 2. DBA or tradename (if applicable).
  - 3. Type of business entity (that is, a for-profit corporation, a not-for-profit corporation, a limited liability company, a partnership, or a sole proprietorship).
  - 4. Type of rental business engaged in by the Applicant (residential or commercial).
  - 5. Taxpayer Identification Number (EIN or SSN, as applicable, consistent with the taxpayer identification number used to file taxes).
  - 6. Business address.
  - 7. Business phone number.
  - 8. Email address.
  - 9. Name of primary contact.
  - 10. A Mississippi tax return filed for the Eligible Rental Business for 2018 and/or 2019. Those entities that do not file tax returns in the name of the Eligible Business (e.g. single member LLCs, sole proprietorships and certain partnerships) will submit the Schedule C or Schedule E to the appropriate individual tax return. If the Eligible Rental Business formed on or after January 1, 2020, a return will not be required. Also, MDA, in its discretion, may approve Applicants who did not submit a tax return if the Mississippi Department of Revenue has confirmed that the Applicant filed a tax return in 2018 or 2019 and MDA determines it has enough information to approve the Application. The failure to include the tax identification number consistent with the appropriate tax filing may result in delay or denial of the Application.

11. The address of the dwelling unit, commercial building, or the building of which it is a part in the State of Mississippi which is the subject of the Rental Agreement for which the Application is being made.
  12. The name of the Tenant who entered into the Rental Agreement for which the Application is being made.
  13. The dates for the term of the Rental Agreement.
  14. The amount due from the Tenant on a monthly basis under the Rental Agreement.
  15. Designation and/or description of the nature of the Business Disruption (that is, the basis for the Tenant's failure to pay the rent under the Rental Agreement).
  16. The total amount of Lost Rental Income.
- B. In addition to providing answers to these questions, the Applicant must certify, under penalty of perjury, to the following required declarations:
1. The Eligible Rental Business understands and agrees to all provisions of the Program, including, but not limited to, the Rental Assistance Act and the Rules.
  2. The Eligible Rental Business owns or leases the dwelling unit, commercial building, or the building of which it is a part in the State of Mississippi and which is the subject of the Rental Agreement for which Application is being made.
  3. The Eligible Rental Business has a Rental Agreement with the Tenant for which Application is being made.
  4. The Eligible Rental Business has not engaged in any Eviction actions against the Tenant or has dismissed or halted any such proceedings commenced prior to the submission of the Application.
  5. The failure of the Tenant to pay Rent or any portion thereof from March 1, 2020, until December 30, 2020, was due to a Business Disruption and not due to any other reason.
  6. The Eligible Rental Business understands and agrees that by accepting a Program grant it shall consider any rental payments due under the Rental Agreement for which it sought a grant as having been paid in full through December 30, 2020 and that it will not take any Eviction actions of any kind against the Tenant who is the party to the Rental Agreement for nonpayment of rent that accrued between March 1, 2020, and December 30, 2020.
  7. The Eligible Rental Business has not received and has not applied to receive funding for the Lost Rental Income from any other source, be it from a federal,

state, or private source.

8. The Eligible Rental Business has not submitted any false, fraudulent, or materially misleading information in the Application or in support of the Application, any of which will result in immediate disqualification and civil and criminal penalties under state and federal law.
  9. The Eligible Rental Business must attest that all the documents submitted in support of the Application are true and correct and are not false, fraudulent, or materially misleading.
  10. The Eligible Rental Business understands and agrees that it may be subject to review, monitoring, and audit by any federal or state agency with the authority to make such review, including, but not limited to, MDA, the Mississippi State Auditor, the Mississippi Attorney General's Office, the U.S. Department of Treasury, the Office of Inspector General of the U.S. Department of Treasury, and the U.S. Attorney's Office.
  11. The Eligible Rental Business understands and agrees that if it is found to be fully or partially noncompliant with the laws, rules, regulations, and grant requirements of the Program, it will be required to return all or a portion of the grant monies received by it and may result in additional civil and criminal penalties imposed against it.
- C. Failure to agree to any of the required certifications and declarations will cause the Application to be disqualified.
- D. All Applications must be filed on or before November 15, 2020 at 11:59 p.m.

*Source: House Bill 1810, 2020 Regular Legislative Session.*

***RULE 1.4 ELECTRONIC CERTIFICATION.***

The Applicant will be asked to acknowledge the following prior to submission of the Application:

By entering your name above, you are signing this grant application electronically and declaring under penalty of perjury that it is your signature; that you are authorized to electronically sign the grant application for any entity making the application; and that all information contained in your application and any document provided in support of your application is true and accurate to the best of your knowledge. You furthermore agree your electronic signature is the legal equivalent of your physical signature and serves the same function as signing and dating a document which certifies under oath that all information contained in any document is true and correct.

Any person knowingly submitting information in a document electronically filed with the Mississippi Development Authority that is false or affixing an electronic signature to any

document electronically filed with MDA on behalf of another person or entity without the authority to do so shall be guilty of criminal offenses under federal and state law and, upon conviction, shall be punished by imprisonment and/or fines under the laws and regulations of the United States of America and the State of Mississippi. By entering your name above, you are acknowledging your understanding of the foregoing sentence. You are also confirming that you understand that the use of grants shall be subject to audit by MDA, the Mississippi State Auditor, the Mississippi Attorney General's Office, the U.S. Department of Treasury, the Office of Inspector General of the U.S. Department of Treasury, and the U.S. Attorney's Office, and that a business found to be fully or partially noncompliant with grant requirements shall return to the State of Mississippi all or a portion of the grant monies received.

*Source: House Bill 1810, 2020 Regular Legislative Session.*

***RULE 1.5 APPLICATION REVIEW PROCESS.***

- A. All Applications must be received on or before November 15, 2020. MDA will not consider any Applications submitted after November 15, 2020, regardless of the reason for the failure to meet the application deadline.
- B. At any point during the process, MDA may contact the Eligible Rental Business for further information or supplemental documentation.
- C. MDA reserves the right to independently verify any information or documentation submitted, including reviewing the records of the Eligible Rental Business.
- D. An Applicant which has been determined to not meet the eligibility requirements of the Program will be notified of the disqualification.
- E. The amount requested for each grant will be calculated in accordance with all applicable laws, rules, and regulations. A final grant award amount will be determined and notice will be provided to the Eligible Business.
- F. Applications will be processed and reviewed until December 14, 2020, or until all Program funds are exhausted.

*Source: House Bill 1810, 2020 Regular Legislative Session.*

***RULE 1.6 VERIFIED DOCUMENTATION.***

- A. The Applicant is required to submit a copy of the Rental Agreement between the Eligible Rental Business and the Tenant for which Application is being made and copies of 2018 and/or 2019 tax returns.
- B. If the Applicant has a rent roll for the period of March 1, 2020, through December 30, 2020, which pertain to the Rental Agreement for which Application is being made, such should be submitted with the Application.

- C. The Applicant must certify under penalty of perjury that all the documents are true and correct and are not false, fraudulent, or materially misleading.
- D. MDA may approve an Application if it is missing required documentation if that element of eligibility may be confirmed from a third-party reliable source, such as another state or federal agency.

*Source: House Bill 1810, 2020 Regular Legislative Session.*

***RULE 1.7 GRANT AWARD LIMITATIONS AND CAPS.***

The total amount of funding provided for the Program is Twenty Million Dollars (\$20,000,000.00), out of which a maximum amount of Five Million Dollars (\$5,000,000.00) is available to Eligible Commercial Business. Pursuant to the Rental Assistance Act, MDA is required to issue all grants by December 14, 2020, or until all Program funds are exhausted. The maximum amount of a grant to an Eligible Rental Business is Thirty Thousand Dollars (\$30,000.00).

*Source: House Bill 1810, 2020 Regular Legislative Session.*

***RULE 1.8 REPAYMENT OF FUNDS.***

By submitting an Application, each Eligible Rental Business will acknowledge and agree under penalty of perjury that the submission of any false, fraudulent, or materially misleading information in the Application or in support of the Application will result in immediate disqualification and penalties under state and federal law. If such information is discovered following an award of grant funds, the Eligible Rental Business and anyone acting in concert with it will be prosecuted to the fullest extent of the law and shall repay all grant funds received.

*Source: House Bill 1810, 2020 Regular Legislative Session.*

***RULE 1.9 DISBURSEMENT OF FUNDS.***

All grant funds will be disbursed by written check in the name of the Eligible Business and mailed to the physical address provided in the Application.

*Source: House Bill 1810, 2020 Regular Legislative Session.*

***RULE 1.10 APPEALS PROCESS.***

- A. An Applicant may appeal any award or disqualification notice received from MDA by giving written notice within ten (10) calendar days of the date of the MDA notice of award decision. The appeal must be received by MDA at the address below by the 10th day. If an appeal is not made within the ten (10) calendar day timeframe, the Applicant will have waived its right to appeal the decision and the original decision shall be deemed final.
- B. Appeals must be written and state with specificity the basis for the Applicant's



disagreement with the decision. Appeals are determined solely on the written record. The appeal must address the grounds provided for the award or the MDA's disqualification notice. Furthermore, the appeal must provide copies of all documents, records, papers or other information to support the appeal. In addition, all appeals must be dated and contain the Applicant's name, application identification number and the name of the authorized Applicant's representative.

C. To be accepted, the written appeal must be delivered by one of two methods:

By United States Mail to the following address:  
Mississippi Development Authority  
Rental Assistance Grant Program: Appeals  
P.O. Box 849  
Jackson, Mississippi 39205

Or by courier mail or hand delivery to the following:  
Mississippi Development Authority  
Rental Assistance Grant Program: Appeals  
501 North West Street  
Jackson, Mississippi 39201

- D. MDA will review the appeal and all supporting material to determine if the appeal can be resolved based upon the Applicant's submission and Program requirements. If so, a final written determination of the appeal will be issued by MDA.
- E. If the appeal cannot be resolved after the initial review, MDA will forward the appeal for review by an Independent Hearing Officer ("IHO"), to be designated by the Attorney General of Mississippi. MDA will provide the IHO the Applicant's file, the appeal and all supporting material provided by the Applicant on appeal, all program requirements and policies, an MDA explanation of the case, and MDA's recommendation (if any). The IHO will review all the written materials and issue a written decision to MDA. MDA will review and make a final written determination which will be issued by MDA to the Applicant within ten (10) days of the receipt of the IHO's decision.
- F. All appeal determinations made by MDA are final with no further administrative review and are not subject to judicial review.
- G. An Applicant can withdraw the appeal at any time by providing written notice to MDA. Such written notice must be delivered to MDA at the addresses set forth above.
- H. Program requirements established by MDA as dictated by federal and state law may not be waived or abrogated.

*Source: House Bill 1810, 2020 Regular Legislative Session.*

#### ***RULE 1.11 FRAUD REFERRALS***

In cases in which fraud is suspected or where false or materially misleading information or

documentation has been provided by an Eligible Rental Business, a written referral will be made to the Mississippi State Auditor's Office, the Mississippi Attorney General's Office, the Office of the United States Attorney, or other appropriate federal or state agencies. MDA will cooperate fully in such investigations and provide all information and documentation which it has received or gathered on the Eligible Rental Business.

*Source: House Bill 1810, 2020 Regular Legislative Session.*

***RULE 1.12 WAIVER.***

The Rules may be amended by MDA at any time and are further subject to amendment pursuant to any change in the federal law providing for the grant funds and the regulations and guidance implemented related thereto. MDA, in its sole discretion, may temporarily waive any requirement of the Rules to the extent that the result of such waiver promotes the public purpose of the Rental Assistance Act and is not prohibited by state or federal law.

*Source: House Bill 1810, 2020 Regular Legislative Session.*

***RULE 1.13 AVAILABILITY OF FUNDS.***

This program is contingent upon the availability of funds as appropriated by the Legislature and provided by the Federal government.

*Source: House Bill 1810, 2020 Regular Legislative Session.*

Adopted: October 16, 2020.