



colorado capital access borrower notice & waiver

This notice is provided to borrowers who may receive a loan from a lender under Colorado Housing and Finance Authority's ("CHFA") Colorado Capital Access Program.

The purpose of this program is to assist lenders to make loans to borrowers that might otherwise not qualify for a business loan. The program utilizes a special loss reserve account (the "CCA Account") to assist the lender in covering losses from a portfolio of loans that a lender makes under the program. The borrower pays a premium charge to the CCA Account, which is matched by a payment from CHFA.

It is important to emphasize that the loan is a private transaction between the lender and the borrower. While the program may allow a lender to take more risk than normal, the lender is still bearing the risk of the loan. CHFA is not a party to the loan and plays no role at all in the lender's decision regarding whether or not to make the loan, or in setting the interest rate, fees, duration, or any other terms or conditions of the loan. The lender's rights and remedies are delineated in the loan contract and in applicable law. CHFA plays no role in any decision by the lender with respect to enforcing the lender's rights under the loan contract.

While the program is intended to help the lender provide the borrower access to financing, it is likely to be more expensive for the borrower than would be the case with a conventional loan, because the borrower is required to make a payment to the CCA Account.

The borrower acknowledges receipt of this Borrower Notice and Waiver and hereby represents and warrants that it has no, and has not been promised or told by anyone that it has any, legal, beneficial, or equitable interest in the aforementioned non-refundable premium charges or any other funds credited to the CCA Account, and hereby waives any right, claim, or interest to any and all such funds paid or credited to the CCA Account from time to time.

Is this business greater than 50 percent minority-owned?

Yes No

Is this business greater than 50 percent woman-owned?

Yes No

authorization/certification

As a political subdivision of the State of Colorado working to create opportunities for a better Colorado, Colorado Housing and Finance Authority (CHFA) reserves the right to publicize financing under its Business Finance Division. If provided a loan or other financing through one of CHFA's Commercial programs, the borrower or sponsor authorizes the use of the development, owner, sponsor, and/or business name in the marketing of this program.

borrower certifications to chfa & lender

1. Borrower is one of the following entities: corporation, sole-proprietor, partnership, nonprofit, limited liability company, or other entity operating in the State of Colorado. (Permissible borrowers include state-designated charitable, or other nonprofit or eleemosynary institutions, government-owned corporations, and consumer and marketing cooperatives provided the loan is for a "Business Purpose" as defined below). Borrower is not a religious institution or organization.
2. Borrower shall (a) use the Loan proceeds for a Business Purpose and not for any "Ineligible Uses" (defined below); (b) have no more than 750 employees; and (c) be and remain legally allowed to operate in the State of Colorado.
3. The Loan proceeds will be used for a "Business Purpose." A Business Purpose includes, but is not limited to start up costs, working capital, business procurement, franchise fees, equipment, inventory, as well as the purchase, construction, renovation, or tenant improvements of an eligible place of business that is not for passive real estate investment purposes. The definition of Business Purpose excludes activities that relate to acquiring or holding passive investments such as commercial real estate ownership, the purchase of securities, and "lobbying activities" as defined in Section 3(7) of the Lobbying Disclosure Act of 1995, P.L. 104-65, as amended.
4. The Loan proceeds will not be used for any of the following "Ineligible Uses":
 - To make payment of delinquent federal or state income taxes unless the borrower has a payment plan in place with the relevant taxing authority;
 - Repayment of taxes held in trust or escrow, e.g., payroll or sales taxes;
 - Reimbursement of funds owed to any owner, including any equity injection or injection of capital for the business' continuance; or
 - Purchase of any portion of the ownership interest of any owner of the business.
5. The Borrower is not:
 - An executive officer, director, or principal shareholder of the Lender ;
 - A member of the immediate family of an executive officer, director, or principal shareholder of the Lender;
 - A related interest of such executive officer, director, principal shareholder, or member of the immediate family;
 - A business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade, such as wildcatting for oil and dealing in commodities futures, unless those activities are incidental to the regular activities of the business and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business;

- A business that earns more than half of its annual net revenue from lending activities, unless the business is a non-bank or non-bank holding company Community Development Financial Institution;
- A business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants;
- A business engaged in activities that are prohibited by federal, state, and/or other applicable law in the jurisdiction where the business is located or conducted;
- A business engaged in gambling enterprises, unless the business earns less than 33 percent of its annual net revenue from lottery sales; or
- A business in which a principal of the borrowing entity has been convicted of a sex offense against a minor [as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)].

6. The Borrower shall cooperate with the Lender, CHFA, OEDIT, CEDC, and any of their representatives, and provide information to the Lender and CHFA, as is necessary for CHFA to provide reports and any other information required from time to time under the SSBCI Program, including any rules, guidelines, and regulations that may be promulgated or amended from time to time.

signature(s)

Print Name of Borrower

Signature of Borrower Representative

Name of Borrower Representative (if different from Borrower)

Date