

**261—80.11 (83GA,SF2389) Default.**

**80.11(1) *Events of default.*** The department may, for cause, determine that a recipient is in default under the terms of the loan agreement. The reasons for which the department may determine that the recipient is in default of the contract include, but are not limited to, any of the following:

- a.* Any material representation or warranty made by the recipient in connection with the application that was incorrect in any material respect when made.
- b.* A material change in the business ownership or structure occurs without prior written disclosure and the permission of the department.
- c.* A relocation or abandonment of the business during the term.
- d.* Expenditure of funds for purposes not described in the application or authorized in the agreement.
- e.* Failure of the recipient to make timely payments under the terms of the agreement, note or other obligation.
- f.* Failure of the recipient to perform or comply with the terms and conditions of the contract.
- g.* Failure of the recipient to comply with any applicable state rules or regulations.
- h.* Failure of the recipient to file the required annual report.

**80.11(2) *Closures.*** If a recipient closes any of its facilities within the state prior to receiving the incentives and assistance, the department may reduce or eliminate all or a portion of the loan assistance. If a business closes any of its facilities within the state after executing a contract to receive the loan assistance, the department may consider this an event of default and the business may be subject to repayment of all or a portion of the loan assistance that it has received.

**80.11(3) *Department actions upon default.***

- a.* The department will take prompt, appropriate, and aggressive debt collection action to recover any funds misspent by recipients.
- b.* If the department determines that the recipient is in default, the department may seek recovery of all program funds plus interest, assess penalties, negotiate alternative repayment schedules, suspend or discontinue collection efforts, and take other appropriate action as the department deems necessary.
- c.* The department shall attempt to collect the amount owed. Negotiated settlements, write-offs or discontinuance of collection efforts is subject to final review and approval by the director.
- d.* If the department refers defaulted contracts to outside counsel for collection, then the terms of the agreement between the department and the outside counsel regarding scope of counsel's authorization to accept settlements shall apply.