

**CHAPTER 75-04-03**  
**DEVELOPMENTAL DISABILITIES LOAN PROGRAM**

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**75-04-03-01. Definitions.**

In this chapter, unless the context or subject matter requires otherwise:

1. "Applicant" means an entity which has requested a loan of moneys from the revolving loan funds maintained in the Bank of North Dakota pursuant to North Dakota Century Code chapter 6-09.6.
2. "Common ownership" exists where an individual or organization possesses significant ownership or equity in both the previous successful applicant and the new applicant.
3. "Control" exists where an individual or an organization has the power, directly or indirectly, significantly to influence or direct the actions or policies of another individual or organization.
4. "Department" means the North Dakota department of human services.
5. "Day service facility" means a nonresidential building in which a variety of activities are designed to maximize the developmental potential of persons served.
6. "Facility" means a building constructed, reconstructed, or acquired to serve eligible developmentally disabled, chronically mentally ill, and physically disabled persons.

**History:** Effective April 1, 1982; amended effective May 1, 1984.

**General Authority:** NDCC 6-09.6-02, 50-06-16

**Law Implemented:** NDCC 6-09.6

**75-04-03-02. State and federal requirements.**

Facilities proposed for acquisition, construction, or reconstruction financing shall comply with the requirements of chapter 33-03-13 or 33-03-14, and this chapter; provided however, that a facility may not be disqualified from the receipt of financing for a failure to comply with chapter 33-03-13 or 33-03-14 if that facility complies with specific standards in this chapter as exceptions to the application of chapter 33-03-13 or 33-03-14.

**History:** Effective April 1, 1982; amended effective May 1, 1984.

**General Authority:** NDCC 6-09.6-02, 50-06-16

**Law Implemented:** NDCC 6-09.6

**75-04-03-03. Applicant eligibility.**

Application for participation in the developmental disabilities facility loan program will be considered by the department upon a showing that the applicant:

1. Proposes the acquisition, construction, or reconstruction of a facility located in a community identified by the department as a designated area of program development;
2. Is in compliance with the application and submission requirements of the Bank of North Dakota;
3. Is in compliance with the certificate of need requirements of the department of health;
4. Proposes a site approved by local zoning authorities;
5. Proposes a facility for acquisition supported by an appraisal prepared by a certified appraiser;
6. Is a nonprofit entity pursuant to the laws of this state and the United States;
7. Has a governing board whose members live in the geographical area in which the facility or facilities are located;
8. Has a governing board whose members consist of at least one-third consumers or representative of consumers; and
9. Possesses effective control of land, upon which construction is proposed, and buildings to be reconstructed.

**History:** Effective April 1, 1982; amended effective May 1, 1984.

**General Authority:** NDCC 6-09.6-02, 50-06-16

**Law Implemented:** NDCC 6-09.6

**75-04-03-04. Location of residential facility.**

Facilities shall be located in residential neighborhoods reasonably accessible to shops, commercial facilities, and other community services. Facilities shall be located not less than six hundred feet [182.88 meters] from existing facilities or institutions licensed by the department, schools for the disabled, workshops, a residential complex for the disabled, nursing homes, or other institutional facilities.

**History:** Effective April 1, 1982.

**General Authority:** NDCC 6-09.6-02, 50-06-16

**Law Implemented:** NDCC 6-09.6

**75-04-03-05. Hazardous areas.**

Repealed effective May 1, 1984.

**75-04-03-06. Fire protection.**

Repealed effective May 1, 1984.

**75-04-03-07. Water supply.**

Repealed effective May 1, 1984.

**75-04-03-08. Sewage disposal.**

Repealed effective May 1, 1984.

**75-04-03-09. Residential physical plant.**

1. Facilities must be limited in size to three hundred fifty square feet [32.52 square meters] per resident, inclusive of space for two employees of the applicant. Facilities of more than eight resident beds must be limited to one hundred seventy-five square feet [16.26 square meters] per additional resident bed.
2. Facilities must be designed to provide sufficient laundry space to include, in addition to a washer and a dryer, storage for laundry supplies, accommodation for ironing, and counterspace for folding clothing and linens.
3. Facilities must be equipped with emergency lighting capable of sustained battery operation.
4. Facilities must be in compliance with the applicable requirements of chapter 33-03-13 or 33-03-14.
5. Facilities must be of modest design minimizing the length of hallways, the number of exterior corners, and complexity of construction.
6. Facility design must include provisions for its conversion to an alternate use at a reasonable cost.
7. Facility design and use must accommodate both sexes with space allocated in a manner which provides for the appropriate separation of bedrooms and bathrooms to assure the privacy of both sexes.

**History:** Effective April 1, 1982; amended effective May 1, 1984.

**General Authority:** NDCC 6-09.6-02, 50-06-16

**Law Implemented:** NDCC 6-09.6

**75-04-03-10. Day service facilities.**

Day service facilities may be constructed, reconstructed, or acquired pursuant to North Dakota Century Code chapter 6-09.5 and the applicable provisions of North Dakota Administrative Code chapter 33-03-14.

**History:** Effective April 1, 1982; amended effective May 1, 1984.

**General Authority:** NDCC 6-09.6-02, 50-06-16

**Law Implemented:** NDCC 6-09.6

**75-04-03-11. Variance.**

Upon written application, and good cause shown, the department may grant a variance from the provisions of this chapter upon such conditions as the department may prescribe, except no variance may permit or authorize a danger to health or safety, or impede the normalization process.

**History:** Effective April 1, 1982.

**General Authority:** NDCC 6-09.6-02, 50-06-16

**Law Implemented:** NDCC 6-09.6

**75-04-03-12. Financing.**

1. The department will establish for each project the level of state financial participation.
2. The applicant shall, upon final settlement of project cost, submit to the department a cost report certifying that all loan proceeds have been disbursed for project costs pursuant to the requirements of North Dakota Century Code chapter 6-09.6.
3. The applicant shall promptly report to the department the filing of any lien, or other encumbrance, any work stoppage, or any circumstance likely to cause extraordinary delay of project completion.
4. Architects' fees are subject to the limits established by the department.
5. Architects' fees for the reuse of designs for duplicate buildings must be limited to no more than fifty percent of the original design fee.

**History:** Effective May 1, 1984.

**General Authority:** NDCC 6-09.6-02, 50-06-16

**Law Implemented:** NDCC 6-09.6

**75-04-03-14. Tax exemption.**

The applicant shall show that it has made application to exempt its property from taxation insofar as exemptions may be available under North Dakota Century Code section 57-02-08.

**History:** Effective May 1, 1984.

**General Authority:** NDCC 6-09.6-02, 50-06-16

**Law Implemented:** NDCC 6-09.6

**75-04-03-15. Facilities for the chronically mentally ill.**

Facilities for the chronically mentally ill must comply with chapter 33-03-14; provided, however, that:

1. Sections 33-03-14-03 and 33-03-14-07, and subsection 1 of section 33-03-14-06 may not be applied;
2. Such facilities must be designed so as to be accessible to nonambulatory visitors and employees, with at least one bathroom accessible to and usable by such visitors and employees; and
3. Such facilities must comply with chapter 20 of the Life Safety Code 1981 edition.

**History:** Effective May 1, 1984.

**General Authority:** NDCC 6-09.6-02, 50-06-16

**Law Implemented:** NDCC 6-09.6

**75-04-03-16. Facilities for the physically handicapped.**

Facilities for the physically handicapped must comply with chapter 33-03-13.

**History:** Effective May 1, 1984.

**General Authority:** NDCC 6-09.6-02, 50-06-16

**Law Implemented:** NDCC 6-09.6

**75-04-03-17. Transfer and assignment.**

No applicant may transfer or assign any interest in property which secures, in whole or in part, any loan made pursuant to North Dakota Century Code chapter 6-09.6, without the written consent of the

department. No applicant, which has constructed a facility which secures, in whole or in part, any such loan, may transfer or assign any right to operate that facility, with or without consideration, without the written consent of the department. The department may condition the granting of any consent, requested under this section, upon the use of any consideration received to repay outstanding interest or principal due on any such loan which may have been made to the applicant.

**History:** Effective May 1, 1984.

**General Authority:** NDCC 6-09.6-02, 50-06-16

**Law Implemented:** NDCC 6-09.6

#### **75-04-03-18. Reapplications.**

Any applicant who has made prior application, and who has received a loan pursuant to such prior application, or who is related to a prior successful applicant by common ownership or control, shall report the prior loan as a part of the application. No loan will be granted to an applicant so situated unless the identity of the applicant is the same on the original application and any reapplication. The department may condition its approval of any reapplication upon the applicant's consent to changes in the terms and conditions upon which any previous loan was made.

**History:** Effective May 1, 1984.

**General Authority:** NDCC 6-09.6-02, 50-06-16

**Law Implemented:** NDCC 6-09.6