

## **STATEMENT OF PRINCIPAL REASONS FOR ADOPTION OF RULES**

In conformance with the Governor's initiative to streamline agency rules, amendments to Chapter 5 of the State Loan and Investment Board's rules are proposed to remove definitions and provisions which already appear in statute or are defined in Chapter 1 of the State Loan and Investment Board's rules, Practice and Procedure Before the Board, in order to reduce rule length. Other amendments are for consistency and formatting.

## **Chapter 5**

### **Small Water Development Project Loans**

#### **Section 1. Authority.**

(a) These Rules and Regulations of the State Loan and Investment Board are adopted pursuant to Wyoming Statutes (W.S.) 11-34-302(b) and 11-34-103(a).

**Section 2. Definitions.** In addition to the definitions in Chapter 1, as used in this Chapter:

(a) “Acquired lands” means land to which the Board has acquired legal or equitable title.

(b) “Legal entity” means corporations, limited partnerships, general partnerships, limited liability companies, trusts, and other organizations and business entities recognized by the State of Wyoming.

(c) “Single agricultural enterprise” means an agricultural operation managed as one business.

(d) “Small water development project” means a project for development and use of water upon agricultural lands in Wyoming for agricultural purposes, to be financed in whole or in part by a loan made under this Chapter. Water development projects may include projects to convert dry land into irrigated land as well as projects which will lead to more efficient use of water and/or increased crop or forage production.

#### **Section 3. Eligible Applicants.**

(a) Individuals, to be eligible applicants, must be able to demonstrate compliance with W.S. 11-34-301(b).

(b) Legal entities, to be eligible applicants, must be able to demonstrate a majority of the ownership is by individuals who are eligible applicants under subsection (a).

#### **Section 4. Application Procedure.**

(a) Each prospective borrower shall submit a written loan application to the Office. The application shall include a proposed water development plan complete with design and cost estimates, the legal description of and evidence of water rights on the land to be developed, current financial statements including balance sheets, income and expense records and projections, and any other information the Board may require. A fee as established by the Board shall accompany all applications, and shall be returned if the application is withdrawn prior to a field appraisal being made.

(b) Timing. Loan applications must be received by the Director at least ninety (90)

calendar days prior to any regularly scheduled meeting of the Board. Applicants must cure any defects in their application no later than forty-five (45) calendar days before any regularly scheduled meeting of the Board.

(c) The staff at the Office will review each application as to:

(i) The sufficiency of the water supply and the engineering and economic feasibility of the project. Advice from the Wyoming State Engineer, other State or Federal Agencies and/or individuals will be used as deemed appropriate;

(ii) All credit factors including, but not limited to, repayment ability, financial strength and stability, and adequacy of security offered. Credit standards shall be the same for small water project loans as for Farm Loans except for level of lending as specified under Section 5(a) of this Chapter.

(d) The Director will review each application and make a recommendation to the Board for consideration at a regularly scheduled meeting.

(e) Applications, financial statements, appraisals, and all other information pertaining to an application which has not been submitted to the Board shall be held as confidential information. Upon consideration by the Board, the application and all information with respect thereto in the Office's files are public records available for inspection and reproduction as provided by law.

#### **Section 5. Loan Terms.**

(a) Single loans or a combination of loans made to a single agricultural enterprise shall not exceed an outstanding principal balance of one hundred fifty thousand dollars (\$150,000.00), regardless of the identity of the applicants.

(b) Interest rates shall be pursuant to Chapter 14 of the rules as established by the Board.

(c) The term of the loan shall not exceed forty (40) years and may be for a shorter term as determined by financial strength, repayment ability, security, and other factors.

(d) Loans shall be repaid in equal installments. However, upon application of the borrower, the Board may provide for interest only during any period in which the governor has declared that a drought or other emergency exists in the state. Once the emergency is declared to be over, repayment is to be according to the original note. The loan maturity date will remain the same.

(e) Loan fees shall be pursuant to Chapter 14 of the rules established by the Board.

#### **Section 6. Security.**

(a) Security for loans may include, but is not limited to, first and/or second mortgage on agricultural real estate, the pledge and assignment of designated special property assessments within a district, and/or first lien on irrigation equipment and fixtures.

(b) Appraisals of offered security will be done by the Office.

(c) Every loan will be evidenced by a promissory note for the principal sum of the loan signed by the borrower(s). Notes executed by legal entities will also be signed and guaranteed by the individuals owning the majority of that entity or by any other individual deemed necessary by the Board.

(d) The borrower will provide title insurance for the amount of the loan, when necessary, for the benefit of the Board as mortgagee.

(e) Every mortgage shall provide a legal right of access to the Board and its agents for the purposes of inspection, maintenance, inventory, retrieval of personal property and fixtures, and foreclosure proceedings. Such right shall be assignable to the purchaser at any foreclosure sale.

(f) All loan documents including, but not limited to, notes, mortgage deeds, and security instruments shall be executed in the form and manner acceptable to the Wyoming Attorney General.

#### **Section 7. Disbursement of Loan Proceeds.**

(a) After a loan has been approved, the borrower will be instructed to obtain short term financing and complete the irrigation development project. The short term lender will be instructed to comply with any construction contracts, maintain all vouchers and receipts, and disburse his proceeds in a proper manner. When the project is completed, an inspection will be done by the Office to insure that the project meets expectations. The loan closing will then be scheduled. State funds will be forwarded to the title insurance office with instructions to close the loan and pay off the short term lender.

#### **Section 8. Assumptions.**

(a) When a borrower conveys legal or equitable title to property securing a loan, the purchaser may assume the repayment obligation to the Board if qualified under W.S. 11-34-301 and Sections 3 and 4 of this Chapter. If the loan is not assumed by the purchaser, the loan shall be paid off in full at the time of the conveyance.

#### **Section 9. Partial Releases and Reamortizations.**

(a) A borrower may request a partial release of land from the mortgage. Such requests shall be directed to the Office, and may be approved by the Board if the borrower demonstrates a prompt payment history, a sound financial statement, and the release of land would be in the best interest of the Board. Small Water Development Project Loans cannot be

reamortized.

### **Section 10. Defaults.**

(a) If an annual payment is not received within thirty (30) calendar days of when due, the Office shall immediately notify the borrower of the default. The borrower shall have ninety (90) calendar days from the notice of the default to submit a repayment plan to the Office. Repayment plans shall include the following:

(i) The amounts and dates of payments that the borrower can make against the loan; and

(ii) Current financial and cash flow statements.

(b) If the borrower does not submit a repayment plan to the Office within ninety (90) calendar days from the notice of the default, the Office shall immediately initiate foreclosure on the defaulted loan.

(c) The Director shall review all repayment plans and make recommendations to the Board regarding their acceptance or rejection.

(d) If the Board accepts a repayment plan, the Office shall allow the borrower to make payments in accordance with the accepted plan. If the borrower then fails to make the payments called for in the accepted plan, the Office shall immediately initiate foreclosure on the defaulted loan.

(e) If the Board rejects a repayment plan, the Office shall immediately initiate foreclosure on the defaulted loan.

### **Section 11. Leasing of Acquired Lands.**

(a) Leasing procedure. The Board shall receive applications to lease acquired land for a period of twenty (20) calendar days after public notice is given of its intent to lease any property. Persons desiring to lease acquired lands shall submit to the Office a completed application in a sealed envelope, as provided by the Office. Applications offering cash rental shall be accompanied by a cashiers check or money order in the amount of the offer.

(b) Board's decision. The Board shall consider all aspects of the offers received and award the lease to the applicant whose offer would be most advantageous to the Board. The Board may reject any or all applications. Monies tendered by unsuccessful applicants for their rental offer shall be returned.

(c) Term. The term of the lease shall be set by the Board on a case-by-case basis, except that the term of a lease of land which is subject to a right of redemption shall not exceed the expiration of the redemption periods created by W.S. 1-18-103 and W.S. 1-18-104. If the redemption period will expire at an inopportune time during the growing season, the Board may

extend the lease term until a more convenient time in the growing season.

(d) Transfers. No lease granted under this section may be assigned or subleased without the approval of the Board.

(e) Reservation prohibited. A lease of acquired lands shall not contain a reservation of public hunting and fishing privileges.

## **Section 12. Sale of Acquired Lands.**

(a) Decision to sell. The Board shall sell acquired lands upon determination that the sale of the property would be the best means of restoring loan funds.

(b) Advertisement. All sales of acquired lands shall be advertised at least once per week, for four consecutive weeks, in both a newspaper in the county in which the property is located and a newspaper of statewide circulation.

(c) Auctions. All sales shall be by public auction, conducted by the Director or his representative. The minimum bid shall be as set by the Board. The Board reserves the right to reject any and all bids. The successful bidder must tender at least thirty percent (30%) of the purchase price, in the form of a cashier's check, or personal check with a letter of check guarantee, at the auction. Within ten (10) calendar days of the auction, the purchaser shall either pay the balance of the purchase price or, if eligible, enter into a sales contract pursuant to subsection (e) of this section.

(d) Title Insurance. The Office will order an open title insurance commitment. The purchaser of the property shall pay the cost of the commitment and title insurance.

(e) Sales Contracts.

(i) Amortized Sales Contracts, as described in this section, may be offered at the Board's discretion.

(ii) Eligibility. Any individual or legal entity that was the mortgagor when the land was acquired by the Board shall not be eligible to enter into a sales contract for the purchase of that acquired land.

(iii) Terms. Eligible purchasers may pay the balance of the purchase price pursuant to a sales contract with the following terms:

(A) The length of the contract shall not exceed thirty years (30) years;  
and

(B) The contract interest rate shall be pursuant to Chapter 14 of the rules as established by the Board.

(f) Assignments of Sales Contracts.

(i) Sales contracts may be assigned with approval by the Board. The original purchaser of acquired land under a sales contract shall remain obligated to the Board for performance under the contract regardless of any assignments of the purchaser's rights under the contract.

(ii) Subject to approval by the Board as described under paragraph (i) of this subsection, upon receipt of written notice of the name, address, and tax identification number of an assignee of the purchaser's contract rights, the Office shall note this information for purposes of mailing payment notices and reporting interest paid on the contract to the United States Internal Revenue Service.

**Section 13. Sale of Acquired Personal Property.**

(a) The Board hereby delegates to the Director the authority to sell, by public auction, sealed bid, or negotiated sale, any personal property acquired through foreclosure, repossession, or surrender. The Director shall report all sales of personal property to the Board at its next regular meeting.

**~~RULES AND REGULATIONS~~**  
**~~STATE LOAN AND INVESTMENT BOARD~~**

**Chapter 5**  
**Small Water Development Project Loans**

**Section 1. Authority.**

(a) These Rules and Regulations of the State Loan and Investment Board are adopted pursuant to Wyoming Statutes (W.S.) 11-34-302(b) and 11-34-103(a). ~~This Chapter only pertains to small water development loans.~~

**Section 2. Definitions.**

In addition to the definitions in Chapter 1, As used in this Chapter:

(a) “Acquired lands” means land to which the Board has acquired legal or equitable title.

~~(b) “Board” means the State Loan and Investment Board.~~

~~(c) “Borrower” means an applicant for a loan for a small water development project; borrowers may include individuals who are qualified Wyoming electors, legal entities if a majority of the entity is owned by qualified Wyoming electors, court approved water districts, agencies of state and local government, and associations.~~

~~(d) “Director” means the Director of the Office of State Lands and Investments.~~

~~(e)~~(b) “Legal entity” means corporations, limited partnerships, general partnerships, limited liability companies, trusts, and other organizations and business entities recognized by the State of Wyoming.

~~(f) “Office” means the Office of State Lands and Investments.~~

~~(g)~~(c) “Single agricultural enterprise” means an agricultural operation managed as one business.

~~(h)~~(d) “Small water development project” means a project for development and use of water upon agricultural lands in Wyoming for agricultural purposes, to be financed in whole or in part by a loan made under this Chapter ~~in an amount not to exceed one hundred fifty thousand dollars (\$150,000.00)~~. Water development projects may include projects to convert dry land into irrigated land as well as projects which will lead to more efficient use of water and/or increased crop or forage production.

**~~Section 3. Purpose.~~**

~~(a) The Board may make loans pursuant to W.S. 11-34-302(a) to court approved water districts, to agencies of State and local government, persons, corporations, associations, and other legal entities in this State, all hereinafter referred to as the borrower, to finance the construction of water development projects.~~

### **Section 43. Eligible Applicants.**

(a) Individuals, to be eligible applicants, must be able to demonstrate compliance with W.S. 11-34-301(b).~~that they are qualified Wyoming electors as determined by Election Code Statutes of Title 22.~~

(b) Legal entities, to be eligible applicants, must be able to demonstrate ~~that a~~ majority of the ownership is by individuals who are eligible applicants under ~~meet the qualifications listed in subsection (a) of this section.~~

### **Section 54. Application Procedure.**

(a) Each prospective borrower shall submit a written loan application to the Office. The application shall include a proposed water development plan complete with design and cost estimates, the legal description of and evidence of water rights on the land to be developed, current financial statements including balance sheets, income and expense records and projections, and any other information the Board may require. A fee as established by the Board shall accompany all applications, and shall be returned if the application is withdrawn prior to a field appraisal being made.

(b) Timing. Loan applications must be received by the Director at least ninety (90) calendar days prior to any regularly scheduled meeting of the Board. Applicants must cure any defects in their application no later than forty-five (45) calendar days before any regularly scheduled meeting of the Board.

~~(b)~~(c) The staff at the Office will review each application as to:

(i) The sufficiency of the water supply and the engineering and economic feasibility of the project. Advice from the Wyoming State Engineer, other State or Federal Agencies and/or individuals will be used as deemed appropriate;

(ii) All credit factors including, but not limited to, repayment ability, financial strength and stability, and adequacy of security offered. Credit standards shall be the same for small water project loans as for Farm Loans except for level of lending as specified under Section ~~7-5~~(a) of this ~~C~~chapter.

~~(e)~~(d) The Director will ~~then~~ review each application and make a recommendation to the Board for consideration at a regularly scheduled meeting.

~~(d)~~(e) Applications, financial statements, appraisals, and all other information pertaining to an application which has not been submitted to the Board shall be held as confidential

information. Upon consideration by the Board, the application and all information with respect thereto in the ~~Board's~~Office's files are public records available for inspection and reproduction as provided by law.

### **Section 65. Loan Terms.**

(a) Single loans or a combination of loans made to a single agricultural enterprise shall not exceed an outstanding principal balance of one hundred fifty thousand dollars (\$150,000.00), regardless of the identity of the applicants.

(b) Interest rates shall be pursuant to Chapter 14 of the rules as established by the Board.

(c) The term of the loan shall not exceed forty (40) years and may be for a shorter term as determined by financial strength, repayment ability, security, and other factors.

(d) Loans shall be repaid in equal, ~~annual~~ installments. However, upon application of the borrower, the Board may provide for interest only during any period in which the governor has declared that a drought or other emergency exists in the state. Once the emergency is declared to be over, repayment is to be according to the original note. The loan maturity date will remain the same.

(e) Loan fees shall be pursuant to Chapter 14 of the rules established by the Board.

### **Section 76. Security.**

~~(a) — The Board shall require such security as it deems advisable.~~

~~(a) —~~ (i) Security for loans may include, but is not limited to, first and/or second mortgage on agricultural real estate, the pledge and assignment of designated special property assessments within a district, and/or first lien on irrigation equipment and fixtures.

(b) Appraisals of offered security will be done by ~~staff appraisers from~~ the Office.

(c) Every loan will be evidenced by a promissory note for the principal sum of the loan signed by the borrower(s). Notes executed by legal entities will also be signed and guaranteed by the individuals owning the majority of that entity or by any other individual deemed necessary by the Board.

(d) The borrower will provide title insurance for the amount of the loan, when necessary, for the benefit of the Board as mortgagee.

(e) Every mortgage shall provide a legal right of access to the Board and its agents for the purposes of inspection, maintenance, inventory, retrieval of personal property and fixtures, and foreclosure proceedings. Such right shall be assignable to the purchaser at any foreclosure sale.

(f) All loan documents including, but not limited to, notes, mortgage deeds, and security instruments shall be executed in the form and manner acceptable to the Wyoming Attorney General.

### **Section 87. Disbursement of Loan Proceeds.**

(a) After a loan has been approved, the borrower will be instructed to obtain short term financing and complete the irrigation development project. The short term lender will be instructed to comply with any construction contracts, maintain all vouchers and receipts, and disburse his proceeds in a proper manner. When the project is completed, an inspection will be done by ~~a staff appraiser~~ the Office to insure that the project meets expectations. The loan closing will then be scheduled. State funds will be forwarded to the title insurance office with instructions to close the loan and pay off the short term lender.

### **Section 98. Assumptions.**

(a) When a borrower conveys legal or equitable title to property securing a loan, the purchaser may assume the repayment obligation to the Board if qualified under W.S. 11-34-301 and Sections ~~34~~ and ~~45~~ of this Chapter. If the loan is not assumed by the purchaser, the loan shall be paid off in full at the time of the conveyance.

### **Section 109. Partial Releases and Reamortizations.**

(a) A borrower may request a partial release of land from the mortgage. Such requests shall be directed to the Office, and may be approved by the Board if the borrower demonstrates a prompt payment history, a sound financial statement, and the release of land would be in the best interest of the Board. Small Water Development Project Loans cannot be reamortized.

### **Section 110. Defaults.**

(a) If an annual payment ~~which is not received within thirty (30) calendar days of when due December 1st, is not received by December 31st of each year,~~ the Office shall immediately notify the borrower of the default. The borrower shall have ninety (90) calendar days from the notice of the default ~~until the following May 1st~~ to submit a repayment plan to the Office. Repayment plans shall include the following:

- (i) The amounts and dates of payments that the borrower can make against the loan; and
- (ii) Current financial and cash flow statements.

(b) If the borrower does not submit a repayment plan to the Office ~~Board~~ within ninety (90) calendar days from the notice of the default ~~by May 1st,~~ the Office ~~Board~~ shall immediately initiate foreclosure on the defaulted loan.

(c) The Director shall review all repayment plans and make recommendations to the Board regarding their acceptance or rejection ~~no later than the following August Board meeting.~~

(d) If the Board accepts a repayment plan, the ~~Office Board~~ shall allow the borrower to make payments in accordance with the accepted plan. If the borrower then fails to make the payments called for in the accepted plan, the ~~Office Board~~ shall immediately initiate foreclosure on the defaulted loan.

(e) If the Board rejects a repayment plan, the ~~Office Board~~ shall immediately initiate foreclosure on the defaulted loan.

### **Section 121. Leasing of Acquired Lands.**

(a) Leasing procedure. The Board shall receive applications to lease acquired land for a period of twenty (20) calendar days after public notice is given of its intent to lease any property. Persons desiring to lease acquired lands shall submit to the Office a completed application in a sealed envelope, as provided by the Office. Applications offering cash rental shall be accompanied by a cashier's check or money order in the amount of the offer.

(b) Board's decision. The Board shall consider all aspects of the offers received and award the lease to the applicant whose offer would be most advantageous to the Board. The Board may reject any or all applications. Monies tendered by unsuccessful applicants for their rental offer shall be returned.

(c) Term. The term of the lease shall be set by the Board on a case-by-case basis, except that the term of a lease of land which is subject to a right of redemption shall not exceed the expiration of the redemption periods created by W.S. 1-18-103 and W.S. 1-18-104. If the redemption period will expire at an inopportune time during the growing season, the Board may extend the lease term until a more convenient time in the growing season.

(d) Transfers. No lease granted under this section may be assigned or subleased without the approval of the Board.

(e) Reservation prohibited. A lease of acquired lands shall not contain a reservation of public hunting and fishing privileges.

### **Section 132. Sale of Acquired Lands.**

(a) Decision to sell. The Board shall sell acquired lands upon determination that the sale of the property would be the best means of restoring loan funds.

(b) Advertisement. All sales of acquired lands shall be advertised at least once per week, for four consecutive weeks, in both a newspaper in the county in which the property is located and a newspaper of statewide circulation.

(c) Auctions. All sales shall be by public auction, conducted by the Director or his representative. The minimum bid shall be as set by the Board. The Board reserves the right to reject any and all bids. The successful bidder must tender at least thirty percent (30%) of the purchase price, in the form of a cashier's check, or personal check with a letter of check guarantee, at the auction. Within ten (10) calendar days of the auction, the purchaser shall either pay the balance of the purchase price or, if eligible, enter into a sales contract pursuant to subsection (e) of this section.

(d) Title Insurance. The Office will order an open title insurance commitment. The purchaser of the property shall pay the cost of the commitment and title insurance.

(e) Sales Contracts.

(i) Amortized Sales Contracts, as described in this section, may be offered at the Board's discretion.

(ii) Eligibility. Any individual or legal entity that was the mortgagor when the land was acquired by the Board shall not be eligible to enter into a sales contract for the purchase of that acquired land.

(iii) Terms. Eligible purchasers may pay the balance of the purchase price pursuant to a sales contract with the following terms:

(A) The length of the contract shall not exceed thirty years (30) years;  
and

(B) The contract interest rate shall be pursuant to Chapter 14 of the rules as established by the Board.

(f) Assignments of Sales Contracts.

(i) Sales contracts may be assigned with approval by the Board. The original purchaser of acquired land under a sales contract shall remain obligated to the Board for performance under the contract regardless of any assignments of the purchaser's rights under the contract.

(ii) Subject to approval by the Board as described under paragraph (i) of this subsection, upon receipt of written notice of the name, address, and tax identification number of an assignee of the purchaser's contract rights, the Office shall note this information for purposes of mailing payment notices and reporting interest paid on the contract to the United States Internal Revenue Service.

### **Section 143. Sale of Acquired Personal Property.**

(a) The Board hereby delegates to the Director the authority to sell, by public auction, sealed bid, or negotiated sale, any personal property acquired through foreclosure, repossession,

or surrender. The Director shall report all sales of personal property to the Board at its next regular meeting.