

Wyoming Administrative Rules

Lands and Investments, Office of

Loan and Investment Board

Chapter 7: Farm Loans

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Chapter 7 Farm Loans

Section 1. Authority.

- (a) This Chapter is adopted pursuant to Wyoming Statute (W.S.) 11-34-101 et seq.

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

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

(b) “Agricultural products” means typical crops produced from the cultivation and management of the soil.

(c) “Beginning Agricultural Producer” means an individual or entity that has never owned and/or operated more than 160 acres of cultivated irrigated land, or 320 acres of cultivated dry crop land, or 640 acres of grazing land unless such land was acquired within the last two (2) years; has adequate working capital; substantially participates in the operation; and meets all eligibility requirements provided for in this Chapter.

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

(e) “Livestock” means horses, cattle, buffalo, sheep, swine and yaks.

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

Section 3. General Policy.

(a) Farm loans shall be made in such a manner and to such parties as shall, in the judgment of the Board, inure to the greatest benefit of the state and represent a wise investment of state funds.

(b) The Beginning Agriculture Producer loan program is intended to help beginning farmers or ranchers get into a production agriculture business. It is not intended to benefit investors or developers.

(c) All loans are to be fully amortized in equal installments over the term of the loan.

Section 4. Eligible Applicants.

(a) Individuals, to be eligible applicants, must be able to demonstrate compliance

with W.S. 11-34-110(b).

(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 subsection (a).

(c) If the applicant for a Beginning Agricultural Producer loan is a legal entity, all owners must be eligible Beginning Agricultural Producers.

Section 5. Eligible Purposes.

(a) Loans may be made only for the following purposes:

(i) To purchase lands used principally for raising agricultural products, livestock, or dairying;

(ii) To purchase livestock, fertilizers, and equipment calculated to maintain or increase the earning capacity of the borrower's agricultural operation;

(iii) To purchase, construct, or install improvements calculated to maintain or increase the earning capacity of the borrower's agricultural operation; or

(iv) To liquidate debts of the borrower incurred in the furtherance of the borrower's agricultural operation;

(v) To enhance or restore livestock numbers in the state pursuant to W.S. 11-34-113-(j).

Section 6. Application Procedure.

(a) Applications.

(i) Each prospective borrower shall submit a written loan application, on the form furnished by the Office.

(ii) Incomplete applications shall not be submitted to the Board for consideration.

(iii) Any false or misleading statements made by the applicant in an application shall be grounds for summary rejection of the application.

(iv) A fee as established by W.S. 11-34-121 shall be deposited with the Board before the application is considered. The unused portion of the fee shall be returned to the applicant if the loan is not granted.

(v) 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.

(vi) 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) Consideration.

(i) The Office shall conduct a preliminary review of all applications received. If the Office identifies problems with the application which would result in a negative recommendation to the Board, the Office shall notify the applicant of the problem and the applicant shall have the opportunity to withdraw the application from further consideration.

(ii) All applications, not withdrawn under paragraph (i) of this subsection, shall be presented to the Board for its consideration.

(iii) The Board shall take the following into account, when considering applications:

(A) The applicant's net worth;

(B) The applicant's ability to repay the loan based on viable, continuous income from any source;

(C) The applicant's credit history; and

(D) The applicant's need.

(iv) The Board shall take action on applications only once. The Board shall not reconsider an application that is substantially the same as an application previously acted upon. Applicants may submit a substantially different application, provided that it complies with all the requirements for filing a new application.

Section 7. Loan Terms.

(a) Amount. Single loans or a combination of loans made to a single agricultural enterprise shall be made pursuant to W.S. 11-34-115.

(i) Loans made to enhance or restore livestock numbers in the state may not exceed three hundred thousand dollars (\$300,000) to any one (1) borrower and shall be aggregated with all other loans for purposes of determining compliance with loan percentages.

(b) Interest rate. The interest rate for loans under this Chapter shall be pursuant to

Chapter 14 of the rules as established by the Board.

(c) Length. The term of each loan shall be set by the Board with due regard given to repayment ability and the security offered, but in no event shall the term exceed thirty (30) years.

(d) Repayment. Loans shall be payable in equal installments.

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

Section 8. Security.

(a) Every loan shall be evidenced by a promissory note for the principal sum of the loan.

(b) Farm loans and Beginning Agricultural Producer loans shall be secured by a first mortgage upon farm or ranch land within Wyoming of sufficient value to secure the loan. Proof of merchantable title must be provided by the borrower in the form of title insurance naming the Board as beneficiary. Farm loans may not exceed 60% of appraised value and Beginning Agricultural Producer loans may not exceed 70% of appraised value.

(c) An appraisal shall be prepared for the Board. Appraisals shall reflect the current agricultural market value of the land to be mortgaged.

(d) The Board shall take a Uniform Commercial Code (UCC) security agreement on all irrigation equipment located on the lands being offered for security.

(e) The Board shall take security interests in secure leaseholds, reservoir company stock, and grazing association stock whenever necessary to protect the value of the lands being offered for security as an agricultural operation.

Section 9. Disbursement.

(a) The proceeds of a farm loan shall not be disbursed to the borrower until such time as the borrower can show a mature obligation, the satisfaction or partial satisfaction of which will result from the application of the loan proceeds. The borrower shall use the proceeds of any farm loan exclusively for the purpose or purposes set out in the application, and shall furnish evidence satisfactory to the Board to that effect.

(b) The Office shall inspect and verify any reports and records required by the Board and submitted by the borrower before proceeds shall be released for payment.

(c) Loan proceeds shall be disbursed at a closing when all loan documents shall be executed by the borrower. Documents executed on behalf of a legal entity shall be executed by persons authorized by that entity to borrow money and mortgage property. Officers or majority owners of legal entities shall also be personally liable for repayment of the loan.

Section 10. Assumptions.

(a) When a borrower conveys legal or equitable title to property securing a farm loan, the purchaser may assume the repayment obligation to the Board if qualified under W.S. 11-34-110 and Section 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.

(b) Beginning Agricultural Producer loans may not be assumed.

(c) Loans made for the purpose of enhancing or restoring livestock numbers in the state under W.S. 11-34-113(j) may not be assumed.

Section 11. Partial Releases.

(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.

(b) For Beginning Agricultural Producer loans, no partial releases will be granted during the first ten (10) years of the loan term unless all of the sale proceeds or the appraised value of the land to be released is applied to the loan balance.

Section 12. Reamortizations.

(a) A borrower requesting reamortization must provide current financial information and other documentation as requested by the Office and must show that reamortization will significantly improve the financial viability of his agricultural operation. Fees for reamortization shall be pursuant to Chapter 14 of the rules as established by the Board.

Section 13. 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 Director 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 14. 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 15. 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 a 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 in 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 (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 16. 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.