

CHAPTER 12:03:02
GENERAL ADMINISTRATIVE PROCEDURES (REPEALED. 21 SDR 90,
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CHAPTER 12:03:03
CONSERVATION DISTRICT REVOLVING FUND

Sec.

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12:03:03:01. Definitions Terms used in this chapter mean:

- (1) "Board of managers," the board of managers of a watershed district established pursuant to SDCL 46A-14-3;
- (2) "Board of supervisors," the board of supervisors of a conservation district established pursuant to SDCL 38-8;
- (3) "Commission," the State Conservation Commission;
- (4) "District," a conservation district or watershed district;
- (5) "Division," the Division of Resource Conservation and Forestry of the Department of Agriculture;
- (6) "Loan application," an application for a loan from the conservation district revolving fund;
- (7) "Revolving fund," the conservation district revolving fund established pursuant to SDCL 38-8-53 and 38-8-53.1.

Source: 11 SDR 59, effective October 29, 1984; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

General Authority: SDCL 38-8-53, 38-8-53.1.

Law Implemented: SDCL 38-8-53, 38-8-53.1.

Editor's Note: The Legislative Research Council substituted "Division of Resource Conservation and Forestry" for "Division of Conservation" in this section to conform to the change in the name made in SL 1995, ch 317, § 19.

12:03:03:02. Application for loan A district may apply for a loan from the revolving fund by submitting an application to the commission. The application shall be on forms provided by the commission and shall contain the following:

- (1) The name of the district;
- (2) The name and address of the district's employee authorized to act on behalf of the board of supervisors or managers;
- (3) The total amount of funds and the term of the loan being requested;
- (4) A statement describing when and how the requested funds will be used;
- (5) A proposed repayment schedule, including the payment of interest at the rate of three percent per annum on the unpaid balance of the loan;
- (6) The current financial statement of the district;
- (7) The projected financial statement of the district over the term of the loan;
- (8) A certified copy of the minutes of the district meeting at which the loan application was authorized;
- (9) If the loan is for the purpose of purchasing equipment, the source and policy limits of liability and property damage insurance which will be carried on the equipment;
- (10) A statement that the district will maintain financial records as required by the commission and will make those records available to the commission or its agent for inspection upon request;
- (11) The date of the application; and
- (12) The signature of the chairman of the board of managers or board of supervisors.

Source: 11 SDR 59, effective October 29, 1984; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 21 SDR 90, effective November 14, 1994.

General Authority: SDCL 38-8-53, 38-8-53.1.

Law Implemented: SDCL 38-8-53, 38-8-53.1.

12:03:03:03. Criteria for commission review of loan application The commission shall review a loan application from a district and shall base its approval upon the following criteria:

- (1) The lawfulness of the proposed use of the funds;
- (2) The consistency of the proposed use of the funds with SDCL chapters 38-8 and 46A-14 and with promotion of sound conservation practices;
- (3) The availability of funds in the revolving fund;

- (4) The requested terms and conditions of the loan;
- (5) The financial status of the district as determined by an investigation performed by the commission or its agent;
- (6) The adequacy of the proposed security, if any, for the loan.

Source: 11 SDR 59, effective October 29, 1984; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

General Authority: SDCL 38-8-53, 38-8-53.1.

Law Implemented: SDCL 38-8-53, 38-8-53.1.

12:03:03:04. Disposition by commission Within 120 days after its receipt, the commission shall consider a loan application at an official meeting. The application must be received at least 14 days before the meeting at which it will be considered unless the commission declares an emergency. The commission shall take one of the following actions at the meeting:

- (1) Approve the loan application as submitted;
- (2) Approve the loan application as modified by either the district or the commission;
- (3) Conditionally approve the loan application subject to the receipt of specified information or the performance of certain actions by the district; or
- (4) Disapprove the loan application.

If the loan application is disapproved, the commission shall transmit written reasons for the disapproval to the district.

Source: 11 SDR 59, effective October 29, 1984; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 21 SDR 90, effective November 14, 1994.

General Authority: SDCL 38-8-53, 38-8-53.1.

Law Implemented: SDCL 38-8-53, 38-8-53.1.

12:03:03:05. Approval procedure for loan application Upon the approval of a loan application, the commission shall mail a promissory note containing the terms and conditions of the loan to the district. If the loan is to be used to purchase equipment, a security agreement and Uniform Commercial Code (UCC) financing statement shall also be mailed. The chairman of the board of managers or the board of supervisors shall sign the promissory note and the security agreement and UCC financing statement, if applicable, in the name of the district at a district meeting. The district shall submit the promissory note, security agreement, UCC financing statement, and a certified copy of the minutes of the district meeting to the division, which shall then disburse the funds.

Source: 11 SDR 59, effective October 29, 1984; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

General Authority: SDCL 38-8-53, 38-8-53.1.

Law Implemented: SDCL 38-8-53, 38-8-53.1.

12:03:03:06. Revolving fund loan repayments A district shall repay a loan from the revolving fund in annual installments in an even amount of principal set by the commission, which amount may not be less than \$250, plus interest at the rate of three percent (3%) per annum on the unpaid balance of the loan. Additional amounts may be repaid at any time. A district may repay a loan in full after first contacting the division for a statement of the amount due. All loans must be repaid in full within five years unless a loan extension is approved by the commission.

Source: 11 SDR 59, effective October 29, 1984; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 21 SDR 90, effective November 14, 1994.

General Authority: SDCL 38-8-53, 38-8-53.1.

Law Implemented: SDCL 38-8-53, 38-8-53.1.

12:03:03:07. Default A loan from the revolving fund is in default if the district fails to make an annual payment by 90 days after the due date, unless the commission has approved a request for a loan extension or modification pursuant to § 12:03:03:11. A loan in default is immediately due in full.

Source: 11 SDR 59, effective October 29, 1984; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 21 SDR 90, effective November 14, 1994.

General Authority: SDCL 38-8-53, 38-8-53.1.

Law Implemented: SDCL 38-8-53, 38-8-53.1.

12:03:03:08. Statement of usage Each district receiving a loan from the revolving fund shall submit a statement of usage describing the current status of the loan and, if the loan was used to purchase equipment, the use and operation of that equipment during the year. A conservation district shall submit its statement of usage to the commission at the time of the annual financial statement. A watershed district shall submit its statement at the time of each payment.

Source: 11 SDR 59, effective October 29, 1984; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 21 SDR 90, effective November 14, 1994.

General Authority: SDCL 38-8-53, 38-8-53.1.

Law Implemented: SDCL 38-8-53, 38-8-53.1.

12:03:03:09. Request for extension or modification of terms of loan A district may file a written request for an extension or modification of the terms of a loan from the revolving fund with the commission. The request shall contain the pertinent information required by § 12:03:03:02 and a statement of the reason for the request.

Source: 11 SDR 59, effective October 29, 1984; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 21 SDR 90, effective November 14, 1994.

General Authority: SDCL 38-8-53, 38-8-53.1.

Law Implemented: SDCL 38-8-53, 38-8-53.1.

12:03:03:10. Criteria for commission review of loan extension or modification request The commission shall review a request for an extension or modification of the terms of a loan and shall base its approval upon the following criteria:

- (1) The reason for the request;
- (2) The status of the current loan;
- (3) The financial history of the current loan;
- (4) The security for the current loan and for the request, if any;
- (5) The availability of funds in the revolving fund.

Source: 11 SDR 59, effective October 29, 1984; 12 SDR 128, 12 SDR 154, effective July 1, 1986.

General Authority: SDCL 38-8-53, 38-8-53.1.

Law Implemented: SDCL 38-8-53, 38-8-53.1.

12:03:03:11. Disposition of loan extension or modification request - Limitations on approval Within 120 days after the submission of a request for an extension or modification of the terms of a loan, the commission shall dispose of the request in accordance with § 12:03:03:04. The commission may not approve a request for an extension of a loan beyond three years or modify the amount of annual payments to less than \$250.

Source: 11 SDR 59, effective October 29, 1984; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 21 SDR 90, effective November 14, 1994.

General Authority: SDCL 38-8-53, 38-8-53.1.

Law Implemented: SDCL 38-8-53, 38-8-53.1.

12:03:03:12. Approval procedure for loan extension or modification request Upon the approval of a request for an extension or modification of the terms of a loan, the commission shall mail a modification agreement form containing the revised terms and conditions of the loan to the district. The chairman of the board of supervisors or the board of managers shall sign the agreement form in the name of the district at a district meeting. The district shall submit the agreement form and a certified copy of the minutes of the district meeting to the division.

Source: 11 SDR 59, effective October 29, 1984; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 21 SDR 90, effective November 14, 1994.

General Authority: SDCL 38-8-53, 38-8-53.1.

Law Implemented: SDCL 38-8-53, 38-8-53.1.