

CHAPTER 12:03:03

CONSERVATION DISTRICT ~~REVOLVING~~ SPECIAL REVENUE FUND

Section

- 12:03:03:01 Definitions.
- 12:03:03:02 Application for loan.
- 12:03:03:03 Criteria for commission review of loan application.
- 12:03:03:04 Disposition by commission.
- 12:03:03:05 Approval procedure for loan application.
- 12:03:03:06 Revolving fund loan repayments.
- 12:03:03:07 Default.
- 12:03:03:08 Statement of usage.
- 12:03:03:09 Request for extension or modification of terms of loan.
- 12:03:03:10 Criteria for commission review of loan extension or modification request.
- 12:03:03:11 Disposition of loan extension or modification request -- Limitations on approval.
- 12:03:03:12 Approval procedure for loan extension or modification request.

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;~~

(54) "Division," the Division of Resource Conservation and Forestry of the Department of Agriculture and Natural Resources;

(65) "Loan application," an application for a loan from the conservation district special revenue revolving fund; and

(76) "Revolving loan fund," the conservation district ~~revolving~~ special revenue 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; SL 2021, ch 1, §§ 8, 19, effective April 19, 2021.

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

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

12:03:03:02. Application for loan. A district may apply for a loan from the special revenue revolving fund by submitting an application to the commission. The commission shall review applications twice per year. The commission shall conduct the first review for applications received from January first through June thirtieth. The commission shall conduct the second review for applications received from July first through December thirty-first. Applications must be received by the division before 5:00 p.m. Central Time on the stated date.
The commission may consider applications for emergency funding at any meeting.

~~The~~ An application ~~shall for a loan must~~ be on ~~forms a form~~ provided by the commission and ~~shall contain the following must:~~

- (1) ~~The State the~~ name of the district;
- (2) ~~The State the~~ name and office mailing address of the ~~district's district~~ employee authorized to act on behalf of the board of supervisors ~~or managers~~;
- (3) ~~The total~~ State the amount of funds and the term of the loan being requested.

(4) ~~A statement describing~~ Include a description of when and how the ~~requested funds~~ loan 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;~~

Indicate whether the district has pursued other loans and if any loans received will be used in conjunction with the revolving loan fund for the same purpose;

(6) ~~The~~ Include the district's current financial statement ~~of the district;~~

(7) ~~The projected~~ Be accompanied by the past year's financial statements and the projected financial statements of the district over the term of the loan;

(8) ~~A certified copy of~~ Include the minutes of the district meeting at which the loan application was authorized;

(9) ~~If~~ Include the source and policy limits of any liability insurance 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~~ board of supervisors' chair or designated signatory ~~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. Insurance deductible required for the purchase of equipment-minimal amount. If the loan is for the purpose of purchasing equipment, the insurance deductible may not exceed \$5,000 except with prior commission approval. The commission may grant prior approval for an insurance deductible exceeding \$5,000 when it is not possible or practical to insure the equipment for a lesser amount.

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.

Law Implemented: SDCL 38-8-53.

12:03:03:03. 12:03:03:04. 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~~ Whether the proposed use of the funds is for a purpose provided in SDCL 38-8-53;
- (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~~ moneys in the ~~revolving special revenue~~ fund;
- (43) The requested ~~total terms and conditions~~ amount of funds and the term of the loan;
- (54) The financial status of the district, as determined ~~by an investigation performed following a review~~ by the commission or its agent; and
- (65) 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.~~ **12:03:03:05.** **Disposition by commission.** Within ~~120~~ 90 days ~~after its receipt~~ ~~after the end of an application review period~~, 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~~ After consideration, 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~~ acts by the district; or
- (4) ~~Disapprove~~ Deny the loan application.

If the loan application is ~~disapproved~~ denied, the commission shall ~~transmit written reasons for the disapproval to~~ notify the district of the grounds for the denial.

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.~~ **12:03:03:06.** **Approval procedure for loan application.** Upon ~~the~~ approval of a loan application by the commission and the signature of the commission's chair or designated signatory, the commission shall ~~mail~~ provide the district with a promissory note containing the terms and conditions of the loan, ~~to the district~~. If the purpose of the loan is to ~~be used to~~ purchase equipment, a security agreement and Uniform Commercial Code (UCC) financing statement ~~shall also be mailed~~ must also be provided.

The ~~chairman chair~~ of the ~~board of managers or the~~ board of supervisors or the designated signatory 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, and UCC financing statement, and ~~a certified copy of the minutes of the district meeting~~ to the division, ~~which shall then disburse for the disbursal of~~ 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.~~ 12:03:03:07. **Revolving fund loan repayments.** A district shall repay a loan from the revolving fund in equal annual installments ~~in an even amount of principal~~ set by the commission, ~~which amount provided each installment~~ may not be less than \$250, plus interest at the rate of three percent (~~3%~~) per annum on the unpaid principal 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 at any time~~. All loans must be repaid in full within five years, unless a loan extension is approved by the commission. An approved loan is due for payment nine months after the application deadline.

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. 12:03:03:08.~~ **Default.** A loan from the revolving fund is in default if the district fails to make an annual payment ~~by~~ within 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. Upon default in the payments of principal and accrued interest on the loan or in the breach of any covenant or condition, the commission, ~~at its option~~, may ~~do more of the following: A loan in default is immediately due in full.~~

- (1) Declare immediately due and payable:
 - (a) The outstanding principal amount;
 - (b) The accrued interest; and
 - (c) All costs associated with the collection of the outstanding balance.
- (2) For the account of the borrower, incur and pay reasonable expenses for repair or maintenance of the equipment and other expenses necessary to cure the default; or
- (3) Take possession of the equipment and sell, lease, or otherwise dispose of the equipment entity.

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. 12:03:03:09.~~ **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~~ and proof of insurance coverage to the commission ~~at the time of~~ together with the annual financial ~~statement~~ statements as required by § 12:03:03:02 (7). ~~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.~~ **12:03:03:10.** **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~~ must contain the ~~pertinent~~ information required by § subdivisions 12:03:03:02 (3) and (5) to (12), inclusive 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.~~ **12:03:03:11.** **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~~ consider:

- (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; and
- (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. 12:03:03:12. 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 approve or deny~~ 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. 12:03:03:13. 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 provide~~ 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 chair or designated signatory~~ 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 at which the document was signed 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.~~