WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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Nov 21 10 21 AM '97

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: ~~West Virginia Division of Rehabilitation Services~~ Technology Related Assistance Revolving Fund for Individuals with Disabilities TITLE NUMBER: 193

RULE TYPE: Legislative ; CITE AUTHORITY W. Va. Code 29-24-5(a)(3)

AMENDMENT TO AN EXISTING RULE: YES___ NO XX

IF YES, SERIES NUMBER OF RULE BEING AMENDED: N/QA

TITLE OF RULE BEING AMENDED: N/A

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 1

TITLE OF RULE BEING PROPOSED: West Virginia Technology-Related Assistance Revolving Loan Fund For Individuals With Disabilities

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON December 24, 1997 AT 4:45 p.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

James S. Jeffers, Director
W. Va. Division of Rehabilitation Services
P.O. Box 50890, State Capitol
Charleston, West Virginia 25305-0890

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Robert M. Nunley

Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

$5.40

DEPARTMENT OF EDUCATION AND THE ARTS
Office of the Secretary

State Capitol Bldg. 1, R-151
Charleston, West Virginia 25305
Telephone: (304) 558-2440
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Cecil H. Underwood
Governor

David R. Ice
Acting Cabinet Secretary

October 29, 1997

The Honorable Ken Hechler
Secretary of State
State Capitol Building 1
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Secretary Hechler,

Please find enclosed the following rule of the Division of Rehabilitation Services which I have approved for public comment:

Title 193, Series 1: WV Technology-Related Assistance Revolving Loan Fund-Emergency Rules

A copy of the rule is attached.

Sincerely,

David R. Ice
David R. Ice
Acting Cabinet Secretary

DRI: bec

Attachment

SUMMARY OF TITLE 193

LEGISLATIVE RULES

WEST VIRGINIA TECHNOLOGY-RELATED ASSISTANCE REVOLVING LOAN FUND FOR INDIVIDUALS WITH DISABILITIES

The West Virginia Legislature enacted W. Va. Code § 29-24-1, et seq., effective April 10, 1997, to create the Technology-Related Assistance Revolving Loan Fund For Individuals With Disabilities. Many West Virginians with disabilities would be enabled by technology-related devices or technology-related services to either maintain or improve their ability to function more independently in society and in the workplace. The purpose of the revolving loan fund is to provide relatively low-cost funding to qualifying borrowers, who are individuals with disabilities, to enable them to acquire technology-related assistance in order to improve their independence, quality of life or productive involvement in the community.

The purpose of these rules is to satisfy the legislative mandate found at W. Va. Code § 29-24-5(a)(3) that the revolving loan fund board of directors propose rules for legislative promulgation for the transaction of its business and to carry out the pirposes of W. Va. Code § 29-24-1, et seq. The rules address guidelines, procedures, reporting requirements and accountability measures, an appeals process, and the operation of the fund including, but not limited to, eligibility of receipt of funds, as well as other matters consistent with and necessary to accomplish the purpose of this fund.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: West Virginia Technology-Related Assistance Revolving Loan Fund For Individuals With Disabilities

Type of Rule: XX **Legislative** ____ **Interpretive** ____ **Procedural**

Agency West Virginia Division of Rehabilitation Services

Address P.O.Box 50890

State Capitol

Charleston, West Virginia 25305-0890

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1. Effect of Proposed Rule

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	$	$	$ 100,000	$ 100,000	$ 100,000
PERSONAL SERVICES			10,000	10,000	10,000
CURRENT EXPENSE			Same	Same	Same
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

The Legislature appropriated $100,000 as a one-time funding of the Revolving Loan Fund. The Legislature also authorized the use of a maximum of ten (10) per cent of the Revolving Loan Fund for administrative costs, inoluding personal services and current expenses.

3. Objectives of these rules:

To enable the Revolving Loan Fund totransact business and to carry out the purposes of the loan fund, which are to provide relatively low-cost funding to qualifying borrowers, who are individuals with disabilities, to enable them to acquire technology-related assistance in order to improve their independence, quality of life or productive involvement in the community.

Rule Title: West Virginia Technology-Related Assistance Revolving Loan Fund For Individuals With Disabilities

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.
May reduce cost to state government of providing assistance to certain citizens with disabilities as they will be able to utilize these funds to improve their independence in society and the workplace.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.
The Proposed Rule will enable West Virginia citizens with disabilities to have a relatively low-cost source of funding for acquisition of technology-related services in order to improve their independence, quality of life or productive involvement in community.

C. Economic Impact on Citizens/Public at Large.
May reduce cost to the public at large of providing assistance to citizens with disabilities as these citizens will be able to utilize these funds to improve their independence in society and the workplace.

Date: November 21, 1997

Signature of Agency Head or Authorized Reprensentative

Robert M. Runley

FILED

Nov 21 10 21 AM '97

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

TITLE 193
LEGISLATIVE RULES
WEST VIRGINIA TECHNOLOGY-RELATED ASSISTANCE REVOLVING LOAN FUND FOR INDIVIDUALS WITH DISABILITIES

SERIES 1

193-1-1. General.

1.1. Scope. These rules are being filed pursuant to West Virginia Code, subsection (a), section five, article two, chapter twenty-nine-a and apply to the procedures and standards applicable to the West Virginia Technology-Related Assistance Revolving Loan Fund For Individuals With Disabilities, a statewide program for making loans from a revolving fund to qualified borrowers to improve the independence of or to otherwise assist disabled West Virginia residents in becoming more productive members of the community. The West Virginia Technology - Related Assistance Revolving Loan Fund For Individuals With Disabilities board may make loan funds available to qualified borrowers for approved purposes in accordance with these rules.

1.2. Authority. West Virginia Code 29-24-5(a)(3) and 29A-3-1, et seq..

1.3. Filing Date.

1.4. Effective Date.

193-1-2. Description of Program.

2.1. General Purpose. The Legislature of West Virginia has created and established the West Virginia Technology-Related Assistance Revolving Loan Fund For

Individuals With Disabilities from which the board shall make available loans ranging from a minimum of $500.00 to a maximum of $5,000.00 for the purchase of technology-related devices or directly related services that will assist the borrowers with disabilities to overcome barriers of daily living.

2.2. Definitions. The following terms have the following meanings when used in these regulations:

(a) "Board" means the technology-related assistance revolving loan fund for individuals with disabilities board.

(b) "Individual with disability" means any individual, of any age who, for the purposes of state or federal law, is considered to have a disability or handicap, injuries and chronic health conditions, whether congenital or acquired; and who is or would be enabled by technology-related devices or technology-related services to maintain or improve his or her ability to function in society and the workplace.

(c) "Qualifying borrower" means any individual with disabilities and their family members, guardians, authorized representatives or nonprofit entity who demonstrates that such a loan will improve their independence or become more productive members of the community. The individual must demonstrate credit worthiness and repayment abilities to the satisfaction of the board. No more than twenty-percent of all loan funds are to be provided to nonprofit entities in a single year.

(d) "Technology-related assistance" means either the provision of technology-related devices or technology-related services to improve the independence, quality of life or productive involvement in the community of individuals with disabilities.

(e) "Technology-related device" means any item, piece of equipment or product system, whether acquired commercially off-the-shelf, modified or customized, that is used to increase, maintain or improve functional capabilities of individuals with disabilities.

(f) "Technology-related service" means any service that directly assists an individual with a disability in the selection, acquisition or use of a technology-related device, including:

(1) The evaluation of the needs of an individual with a disability, including a functional evaluation in the individual's customary environment;

(2) Purchasing, leasing or otherwise providing for the acquisition of technology-related devices by individuals with disabilities;

(3) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing technology-related devices;

(4) Coordinating and using other therapies, interventions or services with technology-related devices, such as those associated with existing education and rehabilitation plans and programs; and

(5) Training or technical assistance for individuals or the family of an individual with disabilities.

(g) "Revolving loan fund" means the technology-related assistance revolving loan fund for individuals with disabilities established in W. Va. Code § 29-24-1, et seq.

(h) "Consumer" means individuals with disabilities and, when appropriate, their family members, guardians, advocates or authorized representatives.

2.3. Administration. The Board shall have the powers, duties and responsibilities set forth in W. Va. Code 29-24-5. In addition, the Board shall have the authority to accept donations of both money and equipment which shall be used in its sole discretion to further the purposes of the Revolving Loan Fund.

2.4. Terms of Program Loans. Program loans shall be subject to the following requirements:

(a) Amount of Loan. Loans may be made for amounts ranging from a minimum of $500.00 to a maximum of $5,000.00.

(b) Term of Loan. Loans may be made for any length of time up to a maximum of 60 months. The length of the term of any loans shall be determined by the Board in its sole discretion and shall be based on the applicant's circumstances and the useful life of the device to be purchased.

(c) Interest Rate. The interest rate to be charged on loans shall be determined by the Board in its sole discretion, but in no event shall the interest rate be less than 4% or more than 21% per year. The interest rate shall be fixed on the date of loan approval by the Board. In determining the interest rate, the Board shall consider an applicant's financial need.

(d) Basis For Determining Loan Amount. The amount of any loans shall be determined by the Board in its sole discretion within the range of a minimum of $500.00

and a maximum of $5,000.00. The Board may authorize loans in an amount up to 90% of the cost of an eligible item or items.

(e) Collateral. The Board may require such collateral as may be available, including, in appropriate cases, a security agreement in personal property, or personal guarantees. Except as specifically approved by the Board, in its sole discretion, collateral shall be located within the State of West Virginia.

(f). No Refinancing. A program loan may not be made to refinance any existing indebtedness of an eligible borrower.

(g) Permitted Fees and Charges. The Board shall charge a reasonable fee calculated to cover its costs for processing the loan applications. All funds generated by such fee charges shall be directly placed into the Technology-Related Assistance Revolving Loan Fund For Individuals With Disabilities to off-set the costs of application processing.

(h) Loan Fund Administration. The Treasurer of the State of West Virginia shall maintain and invest the revolving loan fund and shall report to the Board at its meetings regarding the balance and performance of the fund.

2.5. Eligibility.

(a). The applicant must be an individual or his or her legal representative who demonstrates to the Board that the loan will assist one or more persons with disabilities to improve their independence, productivity or full participation in the community.

(b). Loan proceeds must be used for the purchase of technology-related devices or services which will:

1. Assist one or more individuals with disabilities to improve their independence through the purchase; and

2. Assist one or more individuals with disabilities to become more independent members of the community and improve such individuals quality of life within the community.

(c). An applicant who has previously been rejected for a loan under the Technology-Related Assistance Revolving Loan Fund For Individuals With Disabilities may not reapply unless the new application represents a significant change from the rejected application. This determination shall be made by the Board in its sole discretion.

(d). Any person or representative of a person who defaults on a loan shall not be eligible for a new loan.

(e). No more than 20% of all available loan funds are to be provided to nonprofit entities in a single year.

2.6. Application Procedure and Contents.

(a). Application forms may be obtained from the Board and are to be submitted upon completion to the Board. The Board shall assist or otherwise provide for assistance to any applicant who requires such assistance in completing the loan application documents. The information to be submitted shall include the following:

1. Certification from the applicant that the applicant meets all eligibility requirements.

2. Satisfactory evidence of net income and net worth.

3. A statement including the cost, description and intended use of the technology-related device or service that the applicant proposes to purchase.

4. A statement of contributing sources of financing for the device or service may be required in the sole discretion of the Board.

5. The Board, in its sole discretion, may require an applicant to furnish proof of disability of the applicant or the intended user. Such proof may include a statement from a physician indicating how the applicant's disability affects one or more major life activities. The Board may also, in its sole discretion, require an assistive technology evaluation prior to consideration of the loan application.

6. Whether and when an application is complete shall be determined in the sole discretion of the Application Committee, whose decision shall be final. When the Application Committee determines that a loan application is complete and ready for review, it shall then request a credit report from the appropriate credit bureau. The absence of a credit history shall not be considered a negative factor in the Application Committee's evaluation of an application nor shall such absence be grounds, in and of itself, for the Board to deny an application for a loan.

7. The Board shall refer all applications received, together with any supporting documentation, to its Application Committee. The Application Committee shall consist of four members of the Board who are appointed by the chairperson. At least one of the members of the Application Committee shall be an individual with a disability or have a family member who has a disability. The Application Committee shall consider the following in recommending approval or rejection of an application for a loan:

(a). Whether an applicant is eligible for a loan..

(b). Whether the loan proceeds will be put to an eligible use.

(c). Whether the proposed loan is an efficient use of loan funds.

(d). Whether any other financing sources may be used to supplement the loan.

(e). Whether there are sufficient assets to provide adequate collateral for the loan.

(f). Whether the application is complete and the applicant has supplied all information necessary for financial review and analysis of the application.

(g). The applicant's ability to repay the loan.

(h). The adequacy of security provided for the loan.

In considering the above factors, the Board shall have the sole discretion to determine the appropriate weight to give to each factor in each case.

8. Recommendation to the Board. After the application is complete and the applicant has had an opportunity to support the application with any further information requested by the Application Committee or which the applicant determines will further support the loan request, the Application Committee shall prepare an analysis of each application. The analysis shall be presented to the Board within fifteen business days of the Board's receipt of the credit check. The analysis shall contain the following:

(a). Loan summary.

(b). A statement of the strengths and weaknesses of the proposed loan.

(c). Such other information as the Board may require.

Together with the analysis, the Application Committee shall recommend approval or denial of the loan application, then forward that recommendation as follows:

(1). If the Application Committee recommends approval of the loan, the Application Committee shall forward to the Board the complete loan application. The Application Committee shall include a certification that it has reviewed the loan and considered each of the criteria in these rules, and shall include the basis for its recommendation.

(2). If the Application Committee recommends denial of the loan, the complete loan application and statement of its basis for the recommendation shall be forwarded directly to the Board for a final determination.

(3). The Board shall notify the applicant within three business days of its findings regarding the application and provide a statement of the basis of its findings.

9. Board Action. A quorum of at least four active Board members shall be necessary for Board action. No Board member may participate in a vote on an application where that member has a direct or indirect pecuniary interest in the outcome of the vote. The Application Committee shall be responsible for insuring that the action of the Board is carried out by:

(a). Issuing a loan commitment, including terms and conditions of the loan; or

(b). Issuing a letter of rejection, which shall include an explanation for the rejection and a notification of the right to appeal as provided in this rule.

10. No loan commitment shall become effective until the applicant and any co-applicants or guarantors have signed it and agreed to its terms.

11. The Treasurer's Office shall prepare the loan documentation. Execution of all loan documentation in form and content satisfactory to the Board shall be a condition precedent to the payment of loan proceeds to the applicant. Loan closings shall take place at a location to be determined by the Board.

12. Waiver of Rule. The Board may waive any requirement of this rule, except to the extent that the requirement is mandated by West Virginia Code, in cases where the deviation from the rule is insubstantial, is not contrary to the purposes of the program, or where necessary to effect the intent of the program.

13. A loan is in default when any payment is 30 days past due or upon the occurrence of any event of default as defined in the loan documents. When a loan is in default, the Board shall notify the borrower that the borrower has 30 days in which to cure the default. If the borrower fails to cure the default within 30 days, the Board shall take all appropriate action provided under law and the loan documents. In determining the appropriate action, the Board shall consider:

(a). The impact of enforcement and collection on the borrower; and

(b). The likelihood that the loan will be repaid if a waiver or extension is granted.

14. If the Board determines that the loan should be enforced and collected, the borrower may be given final notice of the default or defaults and acceleration of the loan and shall be given an additional grace period of 30 days in which to pay the amount outstanding, and shall be notified that if the borrower fails to make payment in full, the Board may proceed to enforce its rights under the loan documents.

15. The Board may apply payments or other monies received on loans which are in default first to expenses of collection and preservation of collateral, second to accrued interest, and third to outstanding principal.

16. Requests for Reconsideration. In the event that the application is rejected by the Board, the applicant may make a request for reconsideration of the application to the Board. Requests should be directed to the chairperson of the Board, or his/her designee, stating why the decision should be modified or reversed. A request for reconsideration must be submitted in writing within 20 calendar days of the date of the rejection letter. The reconsideration shall be heard at a meeting of the Board. The reconsideration shall be based on the record before the Board on the date of rejection. The decision of the Board shall be final.

17. Default. In the event that a borrower defaults on a loan, the Board shall have sole discretion as to whether to repossess the assistive device financed. The Board shall also have the discretion to utilize or otherwise dispose of any repossessed assistive devices.