

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #4

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OFFICE, WEST VIRGINIA
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NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

CITE AUTHORITY: 19-1-11

AMENDMENT TO AN EXISTING RULE: YES NO

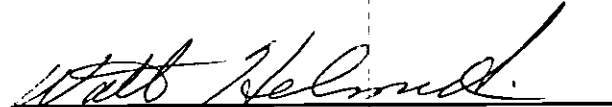
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 33

TITLE OF RULE BEING PROPOSED: Rural Rehabilitation Loan Program

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


Authorized Signature

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Title 61

Legislative Rule

West Virginia Department of Agriculture

Rural Rehabilitation Loan Program

Series 33

§61-33-1. General.

1.1. **Scope.** -- The Rural Rehabilitation Loan Program is a program administered by the West Virginia Department of Agriculture. This legislative rule defines the Rural Rehabilitation Loan Program, establishes requirements for the Rural Rehabilitation Loan Committee, the minimum financial requirements for receiving a loan, requirements for loan usage, sufficient collateral, an application process, refinancing, delinquencies, collection proceedings, requirements for advertising the program and sets forth applicable interest rates.

1.2. **Authority.** -- WV Code §19-1-11.

1.3. **Filing Date.** --

1.4. **Effective Date.** --

§61-33-2. Definitions.

2.1. "Agricultural or related purpose" means to use for starting, purchasing, or expanding a farm operation; to assist farmers who have suffered financial setbacks from natural disasters, or who need additional resources with which to redirect or maintain profitable farming operations; or for any other agricultural purpose determined important by the Commissioner.

2.2. "Application" means a request form for a loan submitted to the West Virginia Department of Agriculture Rural Rehab Loan Committee.

2.3. "At large member" means a member who has some standing authority with an organization, but no official responsibility.

2.4. "Collateral" means security that is pledged for a loan.

2.5. "Collection proceedings" means proceedings to demand payment of a loan.

2.6. "Commissioner" means the Commissioner of the West Virginia Department of Agriculture.

2.7. "Delinquencies" means a failure to pay back a loan; neglecting to pay back a loan in a timely manner.

2.8. "Department employee" means a person who is currently employed by the West Virginia Department of Agriculture.

2.9. "Immediate family" means a spouse, parent, grandparent, children, grandchildren, siblings, similarly related in-laws, and adopted, half and step members of families.

2.10. "LIBOR" means an average interest rate estimated by leading banks in London that average leading bank would be charged if borrowing from other banks.

2.11. "Loan" means the lending of money secured by collateral, that may be in the form of a traditional loan with an interest rate attached to the terms of the loan, a guarantee of a loan, or a portion of a loan to assist with agriculture or related purposes.

2.12. "Rural Rehabilitation Loan Committee" is a committee appointed by the Commissioner of Agriculture.

2.13. "Rural Rehabilitation Loan Program" or "Program" is a loan program, administered by the West Virginia Department of Agriculture, to promote investment in the agriculture industry in the state.

2.14. "Wall Street Journal prime rate" means a measure of the U. S. prime rate and is the base rate on corporate loans posted by at least 70% of the 10 largest U.S. banks.

§61-33-3. Rural Rehabilitation Loan Committee.

3.1. The West Virginia Department of Agriculture Commissioner shall establish a loan committee consisting of the following five (5) members:

3.1.a. One employee of the West Virginia Department of Agriculture; and

3.1.b. Four public members as follows:

3.1.b.1. One member with agricultural experience;

3.1.b.2. One member with business loan experience; and

3.1.b.3. Two at large members.

3.2. The Rural Rehabilitation Loan Committee shall meet to consider loan applications, applicable interest rates, delinquencies, refinancing, collection proceedings, collateral requirements and other aspects of the Program.

3.3. Each public member of the Rural Rehabilitation Loan Committee may receive compensation for attending official meetings or engaging in official duties not to exceed the amount paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law. A member of the Rural Rehabilitation Loan Committee may not receive compensation for travel days that are not on the same day as the official meeting or official duties.

3.4. The West Virginia Department of Agriculture may reimburse members for actual and necessary expenses incurred for each day or portion of a day engaged in the discharge of their official duties in a manner consistent with guidelines of the West Virginia Department of Agriculture Travel Policy.

§61-33-4. Financial requirements for applicants.

4.1. An applicant wanting to participate in the Program must have an acceptable credit history.

4.2. An applicant shall provide proof that he or she has been unable to obtain credit elsewhere at a reasonable rate.

4.3. An applicant may not be delinquent on a federal or state debt or have received forgiveness from any government-sponsored loan program.

4.4. A department employee, loan committee member, or their immediate family members are not eligible for the loan program.

§61-33-5. Loans for agricultural or related purposes.

5.1. An applicant shall use a loan to purchase or expand farming operations.

5.2. An applicant shall demonstrate adequate training, education or agricultural experience.

5.3. Funds shall be used to promote, build, and sustain family farms in support of a thriving agricultural economy.

§61-33-6. Sufficient collateral required.

6.1. An applicant shall have sufficient collateral to secure a loan.

6.2. If the applicant applies for a loan, he or she shall demonstrate significant financial contributions of his or her own.

§61-33-7. Application.

7.1. The application shall include the applicants name, address and social security number.

7.2. The application shall also include any additional information requested by the Commissioner in order to thoroughly evaluate the loan applicant's credit worthiness, current debt load, ability to repay the loan, proper collateral and other financial history.

§61-33-8. Applicable interest rates.

8.1. The Commissioner shall set an interest rate using Wall Street Journal Prime Rate or LIBOR as a guide for the appropriate interest rate at the time it votes to recommend the loan for the Commissioner's approval.

8.2. The interest rate is fixed throughout the life of the loan at the interest rate established in this section.

§61-33-9. Delinquencies and collection proceedings.

9.1. A loan is delinquent when the borrower misses two (2) consecutive monthly payments, or one quarterly, semi-annual, or annual payment.

9.2. The Commissioner shall send borrowers of delinquent loans delinquency notices and give him or her thirty (30) calendar days to resolve the delinquency by paying the past-due balances.

9.2.a. The Commissioner may take further remedial action as approved by the Loan Committee, including formal collection procedures and possible foreclosure against any loan holder who is delinquent after initial attempts to resolve delinquency.

§61-33-10. Refinancing.

10.1. The loan holder may not refinance until 5 years into the loan term.

10.2. The loan holder shall submit a new application in order to be eligible for refinancing.

10.3. Any refinancing may not extend a loan term past 20 years.

§61-33-11. Advertisement.

11.1. The West Virginia Department of Agriculture shall advertise the Rural Rehabilitation Loan Program to the public in both of the following manners:

11.1.a. On the West Virginia Department of Agriculture website; and

11.1.b. In the West Virginia Department of Agriculture's Market Bulletin.

§61-33-12. Competitive Bidding.

12.1. The West Virginia Department of Agriculture shall seek, by use of competitive bids, the servicing of any loans provided through its program.

§61-33-13. Annual report.

13.1. The Commissioner shall file an annual report to the Joint Committee on Government and Finance regarding the loan program, including information about the loans awarded, loans repaid, loans outstanding, interest rates, delinquency and collections, and other pertinent data.