

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 467

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1
2 RELATING TO WATER; AMENDING SECTION 42-1756, IDAHO CODE, TO REVISE PROVI-
3 SIONS REGARDING LOANS FROM THE REVOLVING ACCOUNT AND TO MAKE TECHNICAL
4 CORRECTIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE
5 DATE.

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 42-1756, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 42-1756. LOANS FROM ACCOUNT -- APPLICATION -- INVESTIGATION -- AP-
10 PROVAL -- REPAYMENT -- STATEMENT -- FILING -- DEFAULT. (1) Any irrigation
11 district, canal or irrigation company, water users' association, municipal
12 corporation, municipality, private corporation, aquifer protection dis-
13 trict, or, in special cases approved by the board, an individual may file
14 an application with the board for a loan from the revolving account for the
15 purpose of financing project costs. Such application shall be filed in such
16 manner, and shall be in such form and be accompanied by such information as
17 may be prescribed by the board; provided, however, that any such application
18 filed with the board under the provisions of this act, shall:

19 (a) Describe the nature and purpose(s) of the proposed project.

20 (b) Set forth or be accompanied by a plan for development of the pro-
21 posed project, together with such engineering and economic feasibil-
22 ity data and estimated costs of construction as may be required by the
23 board.

24 (c) State whether money other than that for which application is made
25 to the board will be used for project costs, and whether such money is
26 available or has been sought for this purpose.

27 (d) Show that the applicant holds or can acquire title to all lands or
28 has the necessary easements and rights-of-way for the project and re-
29 lated lands, and has or can acquire all water rights necessary for the
30 construction, operation and maintenance of the proposed project, or
31 that there exists sufficient water available for appropriation by proof
32 of a permit issued by the director of the department of water resources.

33 (2) Upon receipt of an application, the board shall evaluate and, if
34 it deems it to be necessary, investigate all aspects of the proposed project
35 and the proposed construction thereof. As a part of such investigation, the
36 board shall determine whether the plan for development of the project is sat-
37 isfactory. If the board determines that the plan is unsatisfactory, it shall
38 return the application to the applicant and may make such recommendations to
39 the applicant as are considered necessary to make the plan satisfactory.

40 (3) The board may approve a loan for project costs if after investiga-
41 tion (if ~~this is~~ deemed necessary) and evaluation it finds that:

42 (a) The plan does not conflict with any extant Idaho state water plan;

1 (b) The proposed project is feasible from an engineering standpoint
2 and economically justified, with studies showing a favorable benefit to
3 cost ratio;

4 (c) The plan for development of the proposed project is satisfactory;

5 (d) The applicant is qualified and responsible;

6 (e) There is reasonable assurance that the borrower can repay the loan;
7 and

8 (f) ~~That~~ The money in the revolving account is available for the loan.

9 (4) If the board approves a loan, the board and the applicant or appli-
10 cants shall enter into an agreement for repayment to the revolving account of
11 money loaned therefrom, together with interest thereon at reasonable rates
12 as determined by the board. The agreement shall further provide that repay-
13 ment of the loan, together with interest thereon, shall commence no later
14 than one (1) full year after construction of the project is completed, and
15 that repayment shall be completed within the time period specified by the
16 board; provided that repayment to reserve accounts or guarantee funds shall
17 be made as provided by order of the board. The repayment period shall not ex-
18 ceed sixty (60) years, except that the board may extend the time for making
19 repayment in the event of emergency or hardship. Such agreement shall also
20 provide for such assurances of, and security for, repayment of the loan as
21 are considered necessary by the board.

22 (5) ~~The state shall have a lien upon a project constructed with money~~
23 ~~from the revolving account for the amount of the loan, together with the in-~~
24 ~~terest thereon. This lien shall attach to all project facilities, equip-~~
25 ~~ment, easements, real property and property of any kind or nature associated~~
26 ~~with the project and all water rights associated in any way with the project.~~
27 The board shall have security for a loan from the revolving account that is
28 appropriate to the loan and the borrower. As security for the loan, the board
29 may hold a lien against real property, including water rights, from the bor-
30 rower and may file a statement of the loan, its amount, terms, and a descrip-
31 tion of the project security with the county recorder of each county in which
32 the project or any part thereof is located. The county recorder shall record
33 the lien in a book kept for the recording of liens and it shall be indexed as
34 other liens are required by law to be indexed. The lien shall be valid until
35 paid in full or otherwise discharged. The lien shall be foreclosed in accor-
36 dance with applicable state law governing foreclosure of mortgages and liens
37 as set forth in chapter 1 of, title 6, Idaho Code, chapter 13 of, title 45,
38 Idaho Code, and related provisions of the statutes of this state.

39 (6) If an applicant fails to comply with the repayment contract, its
40 interest in the project may be conveyed to a successor upon approval by
41 the board, which may contract with the qualified successor in interest of
42 the original obligor for repayment of the loan, together with the interest
43 thereon, and for succession to its rights and obligations in any contract
44 with the board.

45 (7) The state shall have a lien on any or all projects ~~which~~ the board
46 improves or renovates with money from the revolving account, and such lien
47 shall be valid and continue in effect until such funds, together with in-
48 terest thereon, have been paid in full and the lien discharged. The board
49 shall file a statement of the lien, and the lien shall be foreclosed upon all
50 project property and rights as provided in subsection (5) of this section.

1 SECTION 2. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after
3 July 1, 2022.