Division of Agriculture

Board of Agriculture and Conservation (BAC)

Agricultural Revolving Loan Fund (ARLF)

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Contents

[Chapter 09. Board of Agriculture and Conservation. 5](#_Toc196894353)

[Sec. 03.09.010. Board of Agriculture and Conservation established. 5](#_Toc196894354)

[Sec. 03.09.020. Director of agriculture and staff. 5](#_Toc196894355)

[Sec. 03.09.040. Regulations. 6](#_Toc196894356)

[Chapter 10. Alaska Agricultural Loan Act. 7](#_Toc196894357)

[Sec. 03.10.010. Declaration of policy. 7](#_Toc196894358)

[Sec. 03.10.033. Restructuring of agricultural debt. 9](#_Toc196894359)

[Sec. 03.10.035. Use or disposal of mortgaged farm land. 10](#_Toc196894360)

[Sec. 03.10.040. Agricultural revolving loan fund. 10](#_Toc196894361)

[Chapter 39 Agricultural Revolving Loan Fund 12](#_Toc196894362)

[Article 1 Powers and Duties 12](#_Toc196894363)

[11 AAC 39.010. Types and terms of loans available. 12](#_Toc196894364)

[11 AAC 39.011. Duties of the board. 12](#_Toc196894365)

[11 AAC 39.012. Loans made by the commissioner. 12](#_Toc196894366)

[11 AAC 39.020. Use of funds 12](#_Toc196894367)

[11 AAC 39.021. Board officers. 12](#_Toc196894368)

[11 AAC 39.030. Application requirements for a loan. 12](#_Toc196894369)

[11 AAC 39.031. Meetings of the board. 12](#_Toc196894370)

[11 AAC 39.032. Emergency loans. 13](#_Toc196894371)

[11 AAC 39.040. Loan limitations, terms, rates, and eligibility. 14](#_Toc196894372)

[11 AAC 39.041. Board conflict of interests. 14](#_Toc196894373)

[11 AAC 39.050. The agricultural revolving loan fund board. 14](#_Toc196894374)

[11 AAC 39.051. Employee conflict of interests. 14](#_Toc196894375)

[11 AAC 39.060. Approval by board and commissioner. 14](#_Toc196894376)

[11 AAC 39.061. Public and confidential records. 14](#_Toc196894377)

[11 AAC 39.071. Interest rates on loans. 15](#_Toc196894378)

[11 AAC 39.100. Definitions. 15](#_Toc196894379)

[Article 2 Loan Requirements 15](#_Toc196894380)

[11 AAC 39.101. Applications for loans. 15](#_Toc196894381)

[11 AAC 39.111. Nonqualifying loan purposes. 16](#_Toc196894382)

[11 AAC 39.131. Short-term loans. 17](#_Toc196894383)

[11 AAC 39.141. Farm development loans. 17](#_Toc196894384)

[11 AAC 39.151. Irrigation loans. 17](#_Toc196894385)

[11 AAC 39.161. Chattel loans. 18](#_Toc196894386)

[11 AAC 39.171. Product processing loans. 18](#_Toc196894387)

[11 AAC 39.181. Land clearing loans. 18](#_Toc196894388)

[11 AAC 39.191. Overall maximum loan limit. 18](#_Toc196894389)

[11 AAC 39.201. Application of loan limits. 18](#_Toc196894390)

[11 AAC 39.211. Loans to delinquent borrowers. 18](#_Toc196894391)

[11 AAC 39.221. Additional conditions for new farm development projects. 18](#_Toc196894392)

[11 AAC 39.231. Other conditions of loans. 18](#_Toc196894393)

[11 AAC 39.241. Terms of loans. 19](#_Toc196894394)

[11 AAC 39.251. Residency. 19](#_Toc196894395)

[11 AAC 39.255. Moratorium on loans, Delta Area, 1990 cropping season. 19](#_Toc196894396)

[Article 3 Loan Approval Procedure 19](#_Toc196894397)

[11 AAC 39.301. Board approval of loans. 19](#_Toc196894398)

[11 AAC 39.311. Other loan actions by board. 19](#_Toc196894399)

[11 AAC 39.320. Emergency loans. 19](#_Toc196894400)

[11 AAC 39.321. Commissioner approval of loans. 19](#_Toc196894401)

[11 AAC 39.331. Joint approval. 19](#_Toc196894402)

[11 AAC 39.341. Reconsideration of loan or change in loan terms. 19](#_Toc196894403)

[11 AAC 39.351 - 19](#_Toc196894404)

[Article 4 Loan Administration 19](#_Toc196894405)

[11 AAC 39.401. Notice of loan-related actions. 19](#_Toc196894406)

[11 AAC 39.411. Loan closing procedures. 19](#_Toc196894407)

[11 AAC 39.421. Disbursement of loan money. 20](#_Toc196894408)

[11 AAC 39.431. Controlled accounts. 20](#_Toc196894409)

[11 AAC 39.441. Supervision of loans. 20](#_Toc196894410)

[11 AAC 39.451. Bankruptcy proceedings. 21](#_Toc196894411)

[11 AAC 39.461. Default. 21](#_Toc196894412)

[11 AAC 39.471. Penalty. 21](#_Toc196894413)

[11 AAC 39.481. False statements. 21](#_Toc196894414)

[11 AAC 39.491. Failure to comply with loan terms. 21](#_Toc196894415)

[11 AAC 39.500. Agricultural disaster. 21](#_Toc196894416)

[11 AAC 39.501. Payment moratorium. 22](#_Toc196894417)

[11 AAC 39.511. Interest credit for borrowers who maintain good financial standing. 22](#_Toc196894418)

[Article 5 Restructuring Delinquent Loans 22](#_Toc196894419)

[11 AAC 39.600. Restructuring loans. 22](#_Toc196894420)

[11 AAC 39.610. Interest rate. 23](#_Toc196894421)

[11 AAC 39.620. Term of loan. 23](#_Toc196894422)

[11 AAC 39.630. Straight amortization. 23](#_Toc196894423)

[11 AAC 39.640. Application for restructuring. 24](#_Toc196894424)

[11 AAC 39.650. Incomplete application. 24](#_Toc196894425)

[11 AAC 39.660. Board consideration. 24](#_Toc196894426)

[11 AAC 39.670. Mandatory provisions. 25](#_Toc196894427)

[11 AAC 39.680. Cessation of agricultural activity. 25](#_Toc196894428)

[Article 6 Disposal of Property 25](#_Toc196894429)

[11 AAC 39.700. Property subject to disposal. 25](#_Toc196894430)

[11 AAC 39.705. Revocable use permit. 25](#_Toc196894431)

[11 AAC 39.710. Minimum price. 26](#_Toc196894432)

[11 AAC 39.720. Method of disposal. 27](#_Toc196894433)

[11 AAC 39.730. Public notice. 28](#_Toc196894434)

[11 AAC 39.740. Financing of fund property. 28](#_Toc196894435)

[11 AAC 39.750. Board review of disposition. 30](#_Toc196894436)

[11 AAC 39.760. Notification of acceptance or rejection of sealed bid or offer. 30](#_Toc196894437)

[11 AAC 39.770. Cropland. 31](#_Toc196894438)

[11 AAC 39.780. Preference right. 31](#_Toc196894439)

[11 AAC 39.790. Definitions. 31](#_Toc196894440)

[Article 7 Appeals Requests for Reconsiderations and Hearings 31](#_Toc196894441)

[11 AAC 39.800. Appeals and requests for reconsideration. 31](#_Toc196894442)

[11 AAC 39.810. Appeal of a director's decision. 32](#_Toc196894443)

[11 AAC 39.820. Request for reconsideration of a board's decision. 32](#_Toc196894444)

[11 AAC 39.830. Filing an appeal or request for reconsideration. 33](#_Toc196894445)

[11 AAC 39.840. Timely filing; issuance of decision. 34](#_Toc196894446)

[11 AAC 39.850. Hearings. 34](#_Toc196894447)

[11 AAC 39.860. Decision on appeal or request for reconsideration. 35](#_Toc196894448)

[Article 8 General Provisions 35](#_Toc196894449)

[11 AAC 39.900. Modification of an agreement. 35](#_Toc196894450)

[11 AAC 39.910. Residency. 35](#_Toc196894451)

[11 AAC 39.911. Definitions. 36](#_Toc196894452)

[11 AAC 39.920. Penalty. 36](#_Toc196894453)

[11 AAC 39.930. False statements. 36](#_Toc196894454)

[11 AAC 39.940. Good financial standing requirement. 36](#_Toc196894455)

[11 AAC 39.990. Definitions 36](#_Toc196894456)

# Chapter 09. Board of Agriculture and Conservation.

Sec. 03.09.010. Board of Agriculture and Conservation established. (a) There is established in the department the Board of Agriculture and Conservation composed of members as set out in [AS 03.10.050](https://www.akleg.gov/basis/statutes.asp#03.10.050)(b).  
  
 (b) Members of the board serve staggered three-year terms and until a successor is appointed. A member may be removed from office by the governor if the governor first provides a written statement of the reasons for removal to the member and makes the statement available to the public. If a vacancy occurs, the governor shall immediately appoint a member for the unexpired portion of the term.  
  
 (c) Members of the board receive no compensation, but are entitled to per diem and travel expenses authorized for boards and commissions under [AS 39.20.180](https://www.akleg.gov/basis/statutes.asp#39.20.180).  
  
 (d) While serving on the board, a board member, or an immediate family member of the board member who shares the same household and financial resources with that board member, may not obtain a lease, permit, installment contract, or loan or purchase land under [AS 03.10](https://www.akleg.gov/basis/statutes.asp#03.10) or under [AS 38.05](https://www.akleg.gov/basis/statutes.asp#38.05), or have an existing lease, permit, installment contract, or loan under [AS 03.10](https://www.akleg.gov/basis/statutes.asp#03.10) or under [AS 38.05](https://www.akleg.gov/basis/statutes.asp#38.05) modified or restructured. Notwithstanding [AS 39.52.150](https://www.akleg.gov/basis/statutes.asp#39.52.150)(a), an immediate family member who does not share the same household and financial resources with the board member may obtain a lease, permit, installment contract, or loan or purchase land under [AS 03.10](https://www.akleg.gov/basis/statutes.asp#03.10) or under [AS 38.05](https://www.akleg.gov/basis/statutes.asp#38.05) or have an existing lease, permit, installment contract, or loan under [AS 03.10](https://www.akleg.gov/basis/statutes.asp#03.10) or under [AS 38.05](https://www.akleg.gov/basis/statutes.asp#38.05) modified or restructured. Notwithstanding [AS 39.52.150](https://www.akleg.gov/basis/statutes.asp#39.52.150)(a), a person may be appointed to the board even though, at the time of appointment, that person, or an immediate family member, has a lease, permit, installment contract, or loan under [AS 03.10](https://www.akleg.gov/basis/statutes.asp#03.10) or [AS 38.05](https://www.akleg.gov/basis/statutes.asp#38.05). However, that person may not take or withhold any official action that affects the lease, permit, installment contract, or loan of that person or an immediate family member who shares the same household and financial resources with that person. If a person with a lease, permit, installment contract, or loan under [AS 03.10](https://www.akleg.gov/basis/statutes.asp#03.10) or [AS 38.05](https://www.akleg.gov/basis/statutes.asp#38.05) is appointed to the board, failure by that person to abide by all the terms and conditions of the lease, permit, installment contract, or loan may be the basis for removal under (b) of this section. For purposes of this subsection, “immediate family member” and “official action” have the meanings given in [AS 39.52.960](https://www.akleg.gov/basis/statutes.asp#39.52.960).  
  
 (e) The board shall elect a member to serve as chair and a member to serve as vice-chair for one-year terms. A member may be reelected to serve additional terms as chair or vice-chair.

Sec. 03.09.020. Director of agriculture and staff. (a) The director of the division of the department with responsibility for agriculture shall serve as the director of the Board of Agriculture and Conservation. The director may employ staff and, as directed by the board, is responsible for the daily operations of the agricultural revolving loan fund ([AS 03.10.040](https://www.akleg.gov/basis/statutes.asp#03.10.040)).  
  
 (b) The director of agriculture shall be appointed to the partially exempt service by the commissioner from a list of two or more candidates submitted by the board. The commissioner may reject all candidates, in which case the board shall submit a new list. The director may be removed by the commissioner at any time, and the office shall remain vacant until a new director is appointed under this subsection.  
  
Sec. 03.09.030. Quorum.Four members of the Board of Agriculture and Conservation constitute a quorum for the transaction of business or the exercise of a power or function at a meeting of the board.

Sec. 03.09.040. Regulations. (a) The Board of Agriculture and Conservation may adopt regulations under [AS 44.62](https://www.akleg.gov/basis/statutes.asp#44.62) (Administrative Procedure Act) to carry out its duties.  
  
 (b) The board may, by regulation, classify loan and marketing information and make some classes of loan or marketing information confidential.  
  
Sec. 03.09.050. Agricultural land.The Board of Agriculture and Conservation may recommend to the commissioner that land in the land disposal bank established under [AS 38.04.020](https://www.akleg.gov/basis/statutes.asp#38.04.020) be classified as suitable for agriculture. The board may identify state land for agricultural disposal and request the commissioner to provide for the survey and disposal of the land.

# Chapter 10. Alaska Agricultural Loan Act.

Sec. 03.10.010. Declaration of policy.It is the policy of this chapter to promote the more rapid development of agriculture as an industry throughout the state by means of long-term low-interest loans.  
  
Sec. 03.10.020. Powers of the board. (a) [See delayed amendment note.] The Board of Agriculture and Conservation ([AS 03.09.010](https://www.akleg.gov/basis/statutes.asp#03.09.010)) may

(1) make a loan to

(A) an individual resident farmer, homesteader, or a partnership or corporation composed of farmers and homesteaders for

(i) clearing land for agricultural purposes;

(ii) development of farms;

(iii) storage and processing of farm produce; or

(iv) the purchase of livestock or machinery;

(B) an individual state resident, or a partnership or corporation for  
                (i) storage and processing plants for agricultural products;  
                (ii) the commercial production or processing of horticultural products in the state;  
                (iii) the commercial production or processing of animal feed in the state; or  
                (iv) the raising or care of animals in the state for the purpose of marketing their fur;

(2) designate agents and delegate its powers to them as necessary;  
(3) adopt regulations necessary to carry out its functions, including regulations to establish reasonable fees for services provided and charges for collecting the fees;  
(4) establish amortization plans for repayment of loans, which may include delayed payments of principal and interest for not to exceed five years;  
(5) enter into agreements with private lending institutions, other state agencies, or agencies of the federal government to carry out the purposes of this chapter;  
(6) collect the fees and collection charges established under this subsection.

 (b) In this section, “horticultural products” means vegetables, fruit plants, grass seed, sod, tree seedlings, ornamental plants, foliage, or flowering plants, grown in a greenhouse or nursery.  
  
Sec. 03.10.030. Limitations on loans. (a) A farm development, chattel, or irrigation loan made under this chapter

(1) may not exceed a term of 30 years, except that a chattel loan may not exceed a term of seven years;

(2) may not, when added to the outstanding balance of other loans made under this chapter, exceed a total outstanding balance of $3,000,000, adjusted annually for inflation on July 1 of each year based on the percentage increase in the Consumer Price Index for all urban consumers for urban Alaska during the previous calendar year, as determined by the United States Department of Labor, Bureau of Labor Statistics;

 (3) shall be secured by a real estate or chattel mortgage of any priority, except that the portion of a loan that exceeds $500,000, when added to prior indebtedness that is secured by the same property, must be secured by a first mortgage;

(4) shall bear interest at a fixed rate comparable to that charged by other agricultural lending institutions in the state for loans similar to those referred to in this subsection.

(b) [Repealed, § 72 ch 113 SLA 1982.]

 (c) [See delayed amendment note.] A short-term loan, to be amortized within one year, not to exceed $350,000 to any one borrower may be made for operating purposes, except that a loan made under this subsection may not exceed $200,000 unless the loan is made to a borrower in a farm disaster area declared under [AS 03.10.058](https://www.akleg.gov/basis/statutes.asp#03.10.058). The loan shall bear interest at a fixed rate comparable to that charged by other agricultural lending institutions in the state for loans similar to those referred to in this subsection. An applicant for a short-term loan may be required to purchase insurance through the Federal Crop Insurance Act (7 U.S.C. 1501 — 1520) as a condition of the loan. The term of a loan made under this subsection may be extended for up to three years by the Board of Agriculture and Conservation, in the discretion of the board, upon application by the borrower.  
  
 (d) [Repealed, § 72 ch 113 SLA 1982.]

 (e) An installment payment is delinquent unless it is received by the Board of Agriculture and Conservation or the director of the board on or before the 30th day after the date specified for payment in the loan agreement. If an installment payment is delinquent, the director of the board may assess a delinquency penalty.  
  
 (f) A farm product processing loan may not exceed $500,000. A mortgage that secures a farm product processing loan may be of any priority if the total indebtedness on the real estate, including the secured farm product processing loan, does not exceed $500,000. A farm product processing loan that, if made, would raise the existing indebtedness on the real estate securing the loan above $500,000, or a farm product processing loan on real estate that has a prior indebtedness of $500,000 or more, may be made only if all prior mortgagees agree to subordinate their mortgages to that of the state for the amount of the farm product processing loan that exceeds the $500,000 indebtedness limit on the real estate. A farm product processing loan may not exceed a term of 30 years or bear interest at a rate that is less than a fixed rate comparable to that charged by other agricultural lending institutions in the state for similar loans, and shall be secured by a real estate or chattel mortgage or both.  
  
 (g) [See delayed amendment note.] A loan for clearing land may not

(1) exceed $250,000;

(2) bear interest at a rate that is less than a fixed rate comparable to that charged by other agricultural lending institutions in the state for similar loans;

(3) have a term in excess of 20 years; or

(4) be made for clearing land other than land that has been classified by the United States Department of Agriculture, Natural Resources Conservation Service, under the Land Capability Classification System as having agricultural potential for the production of annual crops or hay, or for pasture.

(h) The Board of Agriculture and Conservation shall adopt regulations to establish other terms for loans made under this chapter, consistent with the provisions of this section, and may establish interest rates for loans under (a)(4) of this section that

(1) encourage agricultural development;

(2) do not subsidize nonviable agricultural enterprises; and

(3) do not discriminate against viable existing agricultural enterprises.  
  
 (i) A person is not eligible for a loan under this chapter if the person has a past due child support obligation established by court order or by the child support services agency under [AS 25.27.160](https://www.akleg.gov/basis/statutes.asp#25.27.160) — 25.27.220 at the time of application.

Sec. 03.10.033. Restructuring of agricultural debt.

 (a) To increase the return to the state, the Board of Agriculture and Conservation may restructure loans (1) in existence on January 1, 1987, made by the former Agricultural Revolving Loan Fund Board or by the former Alaska Agricultural Action Council based upon guidelines approved by the Board of Agriculture and Conservation; (2) of a borrower in an area that has been declared a farm disaster area under [AS 03.10.058](https://www.akleg.gov/basis/statutes.asp#03.10.058); or (3) of a borrower who has experienced an agricultural disaster based upon regulations adopted by the Board of Agriculture and Conservation. Notwithstanding any other provision of law that relates to loan terms, the restructuring may only include reduction of interest to a fixed rate not less than five percent a year, an extension of the term of the loan, and an improvement to the security interest of the state. It may not reduce the amount of principal and interest owed before the loan is restructured.  
  
 (b) The maximum term of a loan modified under (a) of this section is 30 years from the date of restructuring.  
  
 (c) Notwithstanding any other provision of this section, the Board of Agriculture and Conservation may approve an application for restructuring under this section only upon

(1) the applicant's written release of the state, including the University of Alaska, from all potential liability for actions and omissions occurring before the date of restructuring that relate in any way to a state farm project, land sale, land sale relinquishment, farm loan, or loan application or loan modification application, whether granted or denied by the state; and

(2) assignment by the applicant to the board of the proceeds from the federal government under 7 U.S.C. 1442 (Conservation Reserve Program) and P.L. 88-26 (Feed Grain Act of 1963), as amended.

(d) If the board receives proceeds under (c)(2) of this section that exceed the amount owed and credited to the loan during the year, the board shall refund the extra proceeds to the applicant.

Sec. 03.10.035. Use or disposal of mortgaged farm land. (a) A borrower may not use farm land for a nonfarm use or sell, lease, or otherwise dispose of farm land if that land is encumbered by a mortgage given to secure the payment of a loan under this chapter unless the borrower either

(1) pays the outstanding balance of the loan in a lump sum or under other terms agreed to by the Board of Agriculture and Conservation that accelerate payment of the loan; or

(2) pays the outstanding principal balance for the remaining term of the loan at the prevailing rate of interest that is charged by commercial banks in the state during the calendar quarter in which the board receives notice of the change of use, sale, lease, or other disposal of the farm land.

 (b) In this section, “nonfarm use” means a use of land other than for the production of domesticated plants and animals useful to humans, including forage and sod crops, grain and feed crops, fruits, vegetables, and livestock.

Sec. 03.10.040. Agricultural revolving loan fund. (a) There is an agricultural revolving loan fund which may not exceed $75,000,000 to carry out the purpose of this chapter.  
  
 (b) Money in the fund may be used by the legislature to make appropriations for costs of administering this chapter and for operations of the Board of Agriculture and Conservation.  
  
Sec. 03.10.050. Administration of fund; Board of Agriculture and Conservation. (a) The Board of Agriculture and Conservation shall administer the agricultural revolving loan fund. A loan may not be made without the approval of a majority of the board, except that emergency loans based upon regulations adopted by the board and not to exceed $50,000 may be made upon the approval, by majority vote, of a committee composed of the chair of the board, another board member, and the director of the board.

 (b) The board is composed of seven members appointed by the governor and confirmed by the legislature in joint session. Members shall have the following qualifications:

(1) one member shall have general business or financial experience;

(2) one member shall be a member of a statewide agriculture promotion organization;

(3) one member shall be a member of a soil and water conservation district established under [AS 41.10.130](https://www.akleg.gov/basis/statutes.asp#41.10.130)(a) who is also engaged in commercial production agriculture;

(4) four members shall be engaged in commercial production agriculture; each shall represent a different agriculture enterprise from the others, such as livestock production, dairy, vegetable production, grain production, horticultural production, and greenhouse and hydroponic production.

 (c) A meeting of the board to act on applications for loans is exempt from the public meeting requirements of [AS 44.62.310](https://www.akleg.gov/basis/statutes.asp#44.62.310).  
  
 (d) [Repealed, § 30 ch 81 SLA 2000.]

 (e) To encourage the prompt payment of loans, the board may establish a program of credits for persons who have a loan from the agricultural revolving loan fund and maintain good financial standing. The credits may be applied against no more than two percentage points a year of the interest due on agricultural revolving loan fund loans.

(f) A credit may not be granted under (e) of this section to reduce interest due on a loan if the borrower has an agricultural loan in default, has a loan that has been rewritten, restructured, rolled over, or otherwise had its term extended or interest rate reduced, or has had a land payment or land clearing loan restructured.  
  
 (g) The board may dispose of property acquired by the agricultural revolving loan fund through foreclosure, default, or other action arising out of agricultural loans or the sale of agricultural land. Disposals shall be conducted under regulations approved by the commissioner. The regulations must ensure that the property is disposed of so as to maximize the return to the state and must require that the parcels of land that are composed primarily of cropland soils be restricted to agricultural uses and disposed of only to persons who are residents of the state.  
  
Sec. 03.10.052. Limitation on board members. [Repealed, § 30 ch 81 SLA 2000.]Sec. 03.10.054. Sale or transfer of mortgages and notes. [Repealed, § 14 ch 122 SLA 1980.]Sec. 03.10.058. Farm disaster area.The governor may declare a farm disaster in an area of the state if a natural disaster causes a crop failure.  
  
Sec. 03.10.060. Short title.This chapter may be cited as the Alaska Agricultural Loan Act.

# [Chapter 39](https://www.akleg.gov/basis/aac.asp#11.39) Agricultural Revolving Loan Fund

## [Article 1](https://www.akleg.gov/basis/aac.asp" \l "11.39%20article1) Powers and Duties

[11 AAC 39.010. Types and terms of loans available.](https://www.akleg.gov/basis/aac.asp" \l "11.39.010) Repealed 12/1/84.

[11 AAC 39.011. Duties of the board.](https://www.akleg.gov/basis/aac.asp" \l "11.39.011)

(a) In exercising its duties, the board will encourage and promote the development of agriculture as an industry throughout the state. The duties of the board include

(1) administration of the fund;

(2) submission of the proposed fund budget to the commissioner;

(3) management and disposal of fund assets;

(4) approval of loans, installment contracts, land purchase agreements, easements, leases, permits, and other contracts related to loans or assets of the fund; and

(5) referral of requests for legal action related to the fund to the attorney general.

(b) At the direction of the board, the director shall conduct the following activities relating to the fund:

(1) provide administrative support for the fund and the board;

(2) process loan applications and other loan requests;

(3) receive, disburse, and audit money in the fund;

(4) execute and service all agreements and contracts;

(5) receive, manage, and dispose of assets;

(6) provide independent financial and management analyses; (7) provide information and services to the public.

[11 AAC 39.012. Loans made by the commissioner.](https://www.akleg.gov/basis/aac.asp" \l "11.39.012) Repealed.

[11 AAC 39.020. Use of funds.](https://www.akleg.gov/basis/aac.asp" \l "11.39.020) Repealed 12/1/84.

[11 AAC 39.021. Board officers.](https://www.akleg.gov/basis/aac.asp" \l "11.39.021) Repealed.

[11 AAC 39.030. Application requirements for a loan.](https://www.akleg.gov/basis/aac.asp" \l "11.39.030) Repealed 12/1/84.

[11 AAC 39.031. Meetings of the board.](https://www.akleg.gov/basis/aac.asp" \l "11.39.031)

(a) The board will hold at least eight meetings a year. Additional meetings may be called by the chair or by any three concurring members. Meetings may be held by teleconference.

(b) A meeting of the board is open to the public, except that a meeting, or portion of a meeting, in which the board considers an application for an installment contract, loan, or a change in terms of a contract or loan, or considers a subject listed in [AS 44.62.310](https://www.akleg.gov/basis/statutes.asp#44.62.310)(c), will be held in executive session. The public portion of any meeting will be recorded and a summary will be incorporated into the minutes of that meeting. Written minutes of the public portion of a meeting will be made available to the public.

(c) Public notice will be given by the board as provided in (d) and (e) of this section for all public meetings of the board.

(d) Notice of a public meeting of the board, other than an emergency public meeting as provided in (e) of this section, will be published in a newspaper of general circulation in the state at least seven days before the date of the meeting. The notice will provide the date, time, place of meeting, purpose of the meeting, and the location of any teleconferencing facilities that will be used. Notice of meetings will also be posted on the Alaska Online Public Notice System and at the board's principal office.

(e) Notice of an emergency public meeting will be published by the board as provided for under (d) of this section if the board determines that sufficient time is available. Otherwise, notice of an emergency public meeting will be posted by the board on the Alaska Online Public Notice System and at the board's principal office and will include the date, time, and place of the meeting; general topics to be discussed or considered; and location of any teleconferencing facilities that will be used.

(f) Except as provided in [11 AAC 39.032](https://www.akleg.gov/basis/aac.asp#11.39.032), a loan, permit, installment contract, modification of an existing agreement, or other action that requires board approval will not be granted without the approval of a majority of a quorum of the board at a meeting called under this section. After deliberation in a properly convened executive session under [AS 44.62.310](https://www.akleg.gov/basis/statutes.asp#44.62.310), the board will make its decision and record its action in a public meeting. The chair of the board will certify by signature all action taken by the board.

(g) The board will specify the terms and conditions that apply to a decision issued under this chapter and state the reasons that support the decision. Within five working days after the board issues a decision, the director shall provide a copy of the decision to the applicant and any other known party to the action, and include the procedures that are available for requests for reconsideration and appeal under [11 AAC 39.830](https://www.akleg.gov/basis/aac.asp#11.39.830).

(h) Unless approved by the board, the person who requested the action under this chapter may not attend an executive session of the board to deliberate the matter.

[11 AAC 39.032. Emergency loans.](https://www.akleg.gov/basis/aac.asp#11.39.032)

(a) Unless the board previously disapproved the loan application, an applicant may request emergency approval under this chapter of a loan for not more than $50,000. A staff report shall be prepared on the loan application.

(b) An emergency loan committee shall review the emergency loan application and staff report. The board shall appoint persons to the emergency loan committee. The emergency loan committee must include the board chair, at least one other board member, and the director. If the emergency loan committee determines, by majority vote of members present, an emergency exists that requires loan consideration before a meeting of the entire board can be held, the emergency loan committee shall act on the application. The emergency loan committee may only approve, deny, or table an emergency loan application by majority vote of members present.

(c) The emergency loan committee may hold a meeting telephonically or by video conference.

(d) Unless an application requirement is mandated by [AS 03.10](https://www.akleg.gov/basis/statutes.asp#03.10), the emergency loan committee may waive an application requirement under this chapter for good cause.

(e) The emergency loan committee shall provide to the board a written report on actions taken on emergency loan applications for presentation at the board's next public meeting. The applicant may request the board to review the decision of the committee.

[11 AAC 39.040. Loan limitations, terms, rates, and eligibility.](https://www.akleg.gov/basis/aac.asp#11.39.040) Repealed 12/1/84.

[11 AAC 39.041. Board conflict of interests.](https://www.akleg.gov/basis/aac.asp" \l "11.39.041) Repealed.

[11 AAC 39.050. The agricultural revolving loan fund board.](https://www.akleg.gov/basis/aac.asp" \l "11.39.050) Repealed 12/1/84.

[11 AAC 39.051. Employee conflict of interests.](https://www.akleg.gov/basis/aac.asp" \l "11.39.051) Repealed.

[11 AAC 39.060. Approval by board and commissioner.](https://www.akleg.gov/basis/aac.asp" \l "11.39.060) Repealed 12/1/84.

[11 AAC 39.061. Public and confidential records.](https://www.akleg.gov/basis/aac.asp#11.39.061)

(a) All records relating to the fund are public information, except for those that are confidential under (b) of this section.

(b) "Confidential record" includes

(1) loan and installment contract applications and supporting documentation;

(2) credit reports from consumer reporting agencies and other credit information obtained from creditors;

(3) employment and deposit account verifications;

(4) loan and installment contract status information, including payment history of borrowers; correspondence concerning status of loans and contracts; payments received; delinquent notices; and payments less than 90 days in arrears; however, after 90 days have elapsed without payment, the name of a delinquent person ceases to be confidential;

(5) loan resumes;

(6) executive session loan board reports;

(7) financial and management analysis of loan and installment contract applications;

(8) appraisals submitted by an applicant;

(9) construction contracts and construction and material bids and quotes submitted by an applicant;

(10) purchaser and supplier contracts, invoices, bills, and receipts for loan disbursements submitted by an applicant;

(11) market surveys and analyses, and marketing strategy information until released to the public; and

(12) any information required to be kept confidential by state or federal statute or federal regulation.

(c) Requests to inspect and copy public records will be processed in accordance with [AS 40.25.100](https://www.akleg.gov/basis/statutes.asp#40.25.100) - 40.25.220 and [2 AAC 96](https://www.akleg.gov/basis/aac.asp#2.96).

(d) In addition to other penalties provided by law, an employee who discloses information made confidential under (b) of this section is subject to dismissal.

[11 AAC 39.071. Interest rates on loans.](https://www.akleg.gov/basis/aac.asp#11.39.071)

(a) At least annually, the board will review and establish interest rates for new loans that are comparable to the rates charged by other agricultural lending institutions in the state for similar types of loans.

(b) The interest rate that will be charged on a new loan is the rate that is in effect on the date that the new loan is approved by the board or the emergency loan committee.

(c) The interest rate on a loan will not be adjusted if the loan is modified or assumed, except for the interest rate on an assumed restructured loan as provided under [11 AAC 39.610](https://www.akleg.gov/basis/aac.asp#11.39.610).

[11 AAC 39.100. Definitions.](https://www.akleg.gov/basis/aac.asp#11.39.100) Repealed 12/1/84.

## [Article 2](https://www.akleg.gov/basis/aac.asp#11.39%20article2) Loan Requirements

[11 AAC 39.101. Applications for loans.](https://www.akleg.gov/basis/aac.asp" \l "11.39.101)

(a) Each applicant for a new loan must submit an application on a form approved by the board and include with the application

(1) a nonrefundable fee of $50;

(2) federal and state income tax returns for the three years preceding the date of the application;

(3) financial statements, including assets and liabilities, that support the application;

(4) the amount of loan requested, a description detailing the proposed use of the proceeds of the loan, and the plan of repayment of the loan;

(5) a list of collateral intended to secure the loan, with the following for each listed:

(A) date of acquisition;

(B) cost;

(C) location;

(D) market value on the date of the application;

(E) amount of existing liens; and

(F) if a moving vehicle,

(i) the vehicle's make, model, and year; and

(ii) the vehicle's engine hours or odometer reading;

(6) an annual income and expense statement of the applicant for the year of the application;

(7) a five-year agricultural plan including projected borrowing needs;

(8) a statement of the applicant whether the applicant is or was in the past the subject of a bankruptcy action and, if so, the date of the bankruptcy action; and

(9) a resume of agricultural experience, business history, and education of the applicant and relevant managerial personnel.

(b) Each applicant for a modification of an existing loan must submit an application on a form approved by the board and include with the application

(1) a nonrefundable fee of $50;

(2) authorization for the division to receive credit reports; and

(3) proof of non-delinquency on any agricultural or other loan.

(c) Upon request of the division or the board, an applicant for a new or modified loan must obtain and provide any additional information and records reasonably necessary to support or clarify the application or the financial background of the applicant or guarantor, including

(1) tax returns;

(2) detailed financial and other statements;

(3) projected income and expense statements;

(4) property appraisals;

(5) title reports;

(6) surveys;

(7) marketing studies;

(8) financial statements prepared by a certified public accountant; and

(9) copies of orders and decisions in any bankruptcy actions.

(d) Unless an application requirement is waived under [11 AAC 39.032](https://www.akleg.gov/basis/aac.asp#11.39.032)(d), a complete loan application will be presented to the board at a meeting under [11 AAC 39.031](https://www.akleg.gov/basis/aac.asp#11.39.031) if

(1) the application complies with [AS 03.10](https://www.akleg.gov/basis/statutes.asp#03.10) and this chapter; and

(2) except in the case of emergency, the application is received by the division at least 30 calendar days before the date of the meeting.

(e) A corporation applying for a loan shall submit a current certificate of good standing in the state and a corporate resolution authorizing the corporation to borrow from the fund. A partnership, joint venture, or other business entity applying for a loan must submit proof of the authority to borrow from the fund.

[11 AAC 39.111. Nonqualifying loan purposes.](https://www.akleg.gov/basis/aac.asp#11.39.111)

Loans will not be made for the following purposes:

(1) boats;

(2) airplanes;

(3) automobiles and trucks, except specialized vehicles not readily convertible to personal or non-agricultural use;

(4) silviculture projects, except for horticultural purposes;

(5) boarding stables and arenas;

(6) riding academies and schools;

(7) establishments that only resell rather than produce, process, or add value to agricultural products;

(8) residential improvements.

[11 AAC 39.131. Short-term loans.](https://www.akleg.gov/basis/aac.asp#11.39.131)

(a) The amount of a short-term loan may not exceed 75 percent of the value of collateral accepted to secure the loan, minus the value of any lien on the collateral.

(b) The amount of a short-term loan may not exceed 100 percent of the actual agricultural operating costs.

[11 AAC 39.141. Farm development loans.](https://www.akleg.gov/basis/aac.asp#11.39.141)

(a) The amount of a farm development loan may not exceed 75 percent of the value of collateral accepted to secure the loan, minus the value of any lien on the collateral.

(b) The amount of a farm development loan may not exceed 100 percent of the actual agricultural development costs.

(c) A farm development loan may only be used for an agricultural purpose, including to purchase real property and permanent non-residential improvements, to construct permanent nonresidential improvements, and to develop a site.

(d) If real property is used as collateral for a farm development loan used to purchase real property, an applicant must submit either a tax assessment of the real property prepared by a governmental body for the year in which the application is submitted, or an appraisal of the real property used as collateral for the loan. An appraisal required under this subsection may not be more than two years old as of the date of the application. The board will only accept an appraisal performed by an appraiser approved by the department.

[11 AAC 39.151. Irrigation loans.](https://www.akleg.gov/basis/aac.asp#11.39.151)

(a) The amount of an irrigation loan may not exceed 75 percent of the value of the collateral accepted to secure the loan, minus the value of any lien on the collateral.

(b) The amount of an irrigation loan may not exceed 100 percent of the actual agricultural irrigation costs.

[11 AAC 39.161. Chattel loans.](https://www.akleg.gov/basis/aac.asp" \l "11.39.161)

(a) The amount of a chattel loan may not exceed 75 percent of the value of the collateral accepted to secure the loan, minus the value of any lien on the collateral.

(b) The amount of a chattel loan may not exceed 100 percent of the actual agricultural chattel costs.

[11 AAC 39.171. Product processing loans.](https://www.akleg.gov/basis/aac.asp#11.39.171)

(a) The amount of a product processing loan may not exceed 75 percent of the value of collateral accepted to secure the loan, minus the value of any lien on the collateral.

(b) The amount of the loan may not exceed 100 percent of the actual agricultural product processing costs.

[11 AAC 39.181. Land clearing loans.](https://www.akleg.gov/basis/aac.asp#11.39.181)

(a) The amount of a land clearing loan may not exceed 75 percent of the value of collateral accepted to secure the loan, minus the value of any lien on the collateral.

(b) The amount of the loan may not exceed 100 percent of the actual agricultural land clearing costs.

[11 AAC 39.191. Overall maximum loan limit.](https://www.akleg.gov/basis/aac.asp#11.39.191)  Repealed.

[11 AAC 39.201. Application of loan limits.](https://www.akleg.gov/basis/aac.asp" \l "11.39.201) Repealed.

[11 AAC 39.211. Loans to delinquent borrowers.](https://www.akleg.gov/basis/aac.asp" \l "11.39.211) Repealed.

[11 AAC 39.221. Additional conditions for new farm development projects.](https://www.akleg.gov/basis/aac.asp" \l "11.39.221) Repealed.

[11 AAC 39.231. Other conditions of loans.](https://www.akleg.gov/basis/aac.asp#11.39.231)

(a) The board may require a borrower to provide life insurance up to the maximum amount due under all fund agreements that are payable to the fund.

(b) The board will require a borrower to provide property insurance on all buildings used as collateral and all other collateral stored in buildings, unless otherwise waived by the board for reasonable cause. The property insurance must be for the amount of the replacement of the collateral, and the fund must be named the loss payee.

(c) In addition to the requirements of (a) and (b) of this section, the board may require other types of insurance needed to protect and secure a loan.

(d) The borrower shall provide title insurance insuring the fund in the amount of the loan secured by real property.

(e) The board may require a personal guarantee to the fund to adequately secure the loan.

(f) The borrower shall pay all costs for processing and closing a loan under [AS 03.10](https://www.akleg.gov/basis/statutes.asp#03.10) or this chapter.

[11 AAC 39.241. Terms of loans.](https://www.akleg.gov/basis/aac.asp#11.39.241)

Terms of all loans will be fixed in relation to the needs of the applicant, collateral and guarantees offered, financial information, and repayment ability. A loan term may not exceed the limits stated in [AS 03.10.030](https://www.akleg.gov/basis/statutes.asp#03.10.030).

[11 AAC 39.251. Residency.](https://www.akleg.gov/basis/aac.asp" \l "11.39.251) Repealed.

[11 AAC 39.255. Moratorium on loans, Delta Area, 1990 cropping season.](https://www.akleg.gov/basis/aac.asp" \l "11.39.255) [11 AAC 39.261 -](https://www.akleg.gov/basis/aac.asp" \l "11.39.261) [11 AAC 39.291.](https://www.akleg.gov/basis/aac.asp#11.39.291) Reserved.

## [Article 3](https://www.akleg.gov/basis/aac.asp" \l "11.39%20article3) Loan Approval Procedure

[11 AAC 39.301. Board approval of loans.](https://www.akleg.gov/basis/aac.asp" \l "11.39.301) Repealed.

[11 AAC 39.311. Other loan actions by board.](https://www.akleg.gov/basis/aac.asp" \l "11.39.311) Repealed.

[11 AAC 39.320. Emergency loans.](https://www.akleg.gov/basis/aac.asp" \l "11.39.320) Repealed.

[11 AAC 39.321. Commissioner approval of loans.](https://www.akleg.gov/basis/aac.asp" \l "11.39.321) Repealed.

[11 AAC 39.331. Joint approval.](https://www.akleg.gov/basis/aac.asp" \l "11.39.331) Repealed.

[11 AAC 39.341. Reconsideration of loan or change in loan terms.](https://www.akleg.gov/basis/aac.asp" \l "11.39.341) Repealed.

[11 AAC 39.351 -](https://www.akleg.gov/basis/aac.asp" \l "11.39.351) [11 AAC 39.391.](https://www.akleg.gov/basis/aac.asp#11.39.391) Reserved.

## [Article 4](https://www.akleg.gov/basis/aac.asp" \l "11.39%20article4) Loan Administration

[11 AAC 39.401. Notice of loan-related actions.](https://www.akleg.gov/basis/aac.asp" \l "11.39.401) Repealed.

[11 AAC 39.411. Loan closing procedures.](https://www.akleg.gov/basis/aac.asp#11.39.411)

(a) At the closing of a loan or modification, the applicant shall

(1) meet all conditions imposed by the board to be met by closing of the loan or modification;

(2) provide all information requested by the department; and

(3) execute promissory notes, real estate mortgages, deeds of trust, chattel mortgages, security agreements, financing statements, assignments, affidavits, insurance pay orders, and other instruments that the board may require relating to the loan or modification.

(b) If a loan agreement or modification is not closed within 90 days following the written notice to the applicant of the decision, the decision expires. The board may extend the time for closing under this subsection not to exceed an additional 90 days for reasonable cause shown.

[11 AAC 39.421. Disbursement of loan money.](https://www.akleg.gov/basis/aac.asp#11.39.421)

(a) Loan money will not be disbursed to a borrower until

(1) the director is satisfied that the borrower has complied with all conditions imposed by the board for loan money to be disbursed;

(2) the director is satisfied that the borrower has provided all information requested by the board or staff;

(3) all instruments have been executed and the borrower has complied with all provisions in those instruments required for closing; and

(4) the loan has been closed.

(b) After board approval, the director may cease disbursement of loan money if the director determines that the collateral is in jeopardy.

(c) All expenses incurred by the director in processing and closing a loan will be deducted from the loan proceeds except for those expenses paid in advance by the borrower.

(d) Except as otherwise authorized by the board, the director shall disburse money under a loan agreement based on an invoice or other document that justifies payment.

(e) Loan money must be disbursed within one year after the date of closing or the money is no longer available to the borrower.

[11 AAC 39.431. Controlled accounts.](https://www.akleg.gov/basis/aac.asp#11.39.431) Repealed.

[11 AAC 39.441. Supervision of loans.](https://www.akleg.gov/basis/aac.asp#11.39.441)

As long as there is an outstanding loan balance, the borrower shall

(1) submit to the department, on request, any additional information and records reasonably necessary to support or clarify the ability of the borrower to make loan payments and protect the collateral, including

(A) tax returns;

(B) projected income and expense statements;

(C) property appraisals;

(D) title reports;

(E) surveys;

(F) marketing studies;

(G) financial statements prepared by a certified public accountant; and

(H) copies of orders and decisions of the court

(i) affecting the collateral; or

(ii) concerning bankruptcy of the borrower.

(2) submit to the division, on request, proof that insurance is being maintained in the amounts required and in the type required by the terms of the loan; and

(3) agree to allow the director or staff or its agents access to the borrower's books, records, and premises at all reasonable times.

[11 AAC 39.451. Bankruptcy proceedings.](https://www.akleg.gov/basis/aac.asp#11.39.451)

If a borrower files for voluntary bankruptcy or becomes the subject of an involuntary bankruptcy action, the borrower shall, within 48 hours, notify the board in writing by certified mail.

[11 AAC 39.461. Default.](https://www.akleg.gov/basis/aac.asp" \l "11.39.461)

If a borrower is delinquent on a loan, or is otherwise in default by reason of a failure to comply with the terms of the loan, the department will give written notice of the default to the borrower within 30 days after the delinquency or other matter giving rise to the delinquency. If, within 30 days after the written notice, the default is not cured, or arrangements are not made with the department for curing the default, the department will, after discussion with the board, exercise its rights and remedies under the loan documents, except that a loan foreclosure must be authorized by the board.

[11 AAC 39.471. Penalty.](https://www.akleg.gov/basis/aac.asp#11.39.471) Repealed.

[11 AAC 39.481. False statements.](https://www.akleg.gov/basis/aac.asp" \l "11.39.481) Repealed.

[11 AAC 39.491. Failure to comply with loan terms.](https://www.akleg.gov/basis/aac.asp" \l "11.39.491) Repealed.

[11 AAC 39.500. Agricultural disaster.](https://www.akleg.gov/basis/aac.asp#11.39.500)

(a) The board may determine that a borrower has experienced an agricultural disaster or declare that an agricultural disaster has adversely affected an area or agricultural industry in the state.

(b) When the board determines that a borrower has experienced an agricultural disaster, or declares that an agricultural disaster has affected an area or agricultural industry in the state, the board will issue a written decision that

(1) describes the circumstances giving rise to and the nature of the agricultural disaster;

(2) identifies the area, if any, in the state affected by the agricultural disaster;

(3) identifies the agricultural industry, if any, affected by the agricultural disaster;

(4) describes any pertinent loss of or damage to property or agricultural production;

(5) describes the adverse financial effect of the agricultural disaster on the borrower, the area, or the industry;

(6) identifies the type of loan eligible due to the disaster for restructure or payment moratorium under this chapter; and

(7) specifies the date by which an application for restructuring under As 03.10.033 or payment moratorium under [11 AAC 39.501](https://www.akleg.gov/basis/aac.asp#11.39.501) must be received by the board.

[11 AAC 39.501. Payment moratorium.](https://www.akleg.gov/basis/aac.asp#11.39.501)

(a) The board may declare a moratorium on loan payments due from a borrower who is actively engaged in agriculture and has experienced an agricultural disaster under this chapter or a farm disaster under [AS 03.10.058](https://www.akleg.gov/basis/statutes.asp#03.10.058). The board will issue written findings and conclusions that support the declaration of the payment moratorium.

(b) The board may extend the term of the loan issued under [AS 03.10](https://www.akleg.gov/basis/statutes.asp#03.10) for the period of time that the payment moratorium is in effect, but not beyond the term limits prescribed under [AS 03.10](https://www.akleg.gov/basis/statutes.asp#03.10).

(c) The board may not declare a payment moratorium under this section that exceeds one year for a specific agricultural disaster or farm disaster.

(d) A payment moratorium granted under this section automatically terminates if a loan is restructured under [AS 03.10.033](https://www.akleg.gov/basis/statutes.asp#03.10.033).

[11 AAC 39.511. Interest credit for borrowers who maintain good financial standing.](https://www.akleg.gov/basis/aac.asp#11.39.511)

(a) At least annually the board will establish an interest credit rate to encourage the prompt payment of loans under [AS 03.10.050](https://www.akleg.gov/basis/statutes.asp#03.10.050). Unless precluded by [AS 03.10.050](https://www.akleg.gov/basis/statutes.asp#03.10.050)(f), the board may approve interest credit on a loan granted under this chapter.

(b) Each calendar year, the board will approve existing borrowers for interest credit who are in good financial standing and eligible under [AS 03.10.050](https://www.akleg.gov/basis/statutes.asp#03.10.050) for interest credits. The board may approve a new borrower for interest credits when the board approves the loan.

(c) A borrower who no longer is in good financial standing or becomes ineligible for interest credit under [AS 03.10.050](https://www.akleg.gov/basis/statutes.asp#03.10.050) will not be granted any further interest credits for the remainder of the calendar year.

(d) A credit will be applied each time a full loan payment is received if received within 30 days after the payment is due. A credit will only apply to the amount of interest due on a loan and will not reduce the amount of a payment.

(e) A credit will not be transferred between loans or calendar years, or refunded to a borrower except for an overpayment of the total outstanding balance of the loan. (f) A borrower who assumes a loan under [AS 03.10.050](https://www.akleg.gov/basis/statutes.asp#03.10.050) may be granted a credit under this section if the borrower who assumes the loan is otherwise qualified.

## [Article 5](https://www.akleg.gov/basis/aac.asp#11.39%20article5) Restructuring Delinquent Loans

[11 AAC 39.600. Restructuring loans.](https://www.akleg.gov/basis/aac.asp" \l "11.39.600)

(a) The board may restructure a loan made by the former Agricultural Revolving Loan Fund Board, the former Alaska Agricultural Action Council, or the commissioner before January 1, 1987, if the borrower is actively engaged in agriculture, shows good cause why the borrower did not apply for restructuring before December 1, 1988, and meets the criteria for restructuring under [AS 03.10.033](https://www.akleg.gov/basis/statutes.asp#03.10.033) and [11 AAC 39.660](https://www.akleg.gov/basis/aac.asp#11.39.660)(b).

(b) The board may restructure a loan made by the board, the commissioner under former [AS 03.10.050](https://www.akleg.gov/basis/statutes.asp#03.10.050), the former Agricultural Revolving Loan Fund Board, or the former Alaska Agricultural Action Council after January 1, 1987, if the borrower meets the criteria for restructuring under [AS 03.10.033](https://www.akleg.gov/basis/statutes.asp#03.10.033) and [11 AAC 39.660](https://www.akleg.gov/basis/aac.asp#11.39.660)(b), and is actively engaged in agriculture and

(1) the borrower's agricultural operation is located in an area declared a farm disaster area under [AS 03.10.058](https://www.akleg.gov/basis/statutes.asp#03.10.058); or

(2) has experienced an agricultural disaster.

(c) Consistent with [AS 03.10.033](https://www.akleg.gov/basis/statutes.asp#03.10.033), the board may reduce the interest rate and extend the term when restructuring a loan. The board will not reduce or forgive principal or interest accruing before the date of restructuring.

(d) The board may approve the assumption of a restructured loan if the borrower to assume the loan applies under [11 AAC 39.101](https://www.akleg.gov/basis/aac.asp#11.39.101) and meets the qualifications of [AS 03.10](https://www.akleg.gov/basis/statutes.asp#03.10) and this chapter.

(e) The board may waive a penalty under [11 AAC 39.920](https://www.akleg.gov/basis/aac.asp#11.39.920) that was incurred as a result of a farm disaster declared under [AS 03.10.058](https://www.akleg.gov/basis/statutes.asp#03.10.058) or an agricultural disaster determined under [11 AAC 39.500](https://www.akleg.gov/basis/aac.asp#11.39.500).

[11 AAC 39.610. Interest rate.](https://www.akleg.gov/basis/aac.asp#11.39.610)

(a) Interest accrues on a restructured loan from the date of restructuring at a rate no less than five percent per annum. The board may restructure a loan without reducing the interest rate if the board, based on financial information, determines that the borrower can repay the loan without a reduction in the interest rate.

(b) When the board approves assumption of a restructured loan under [11 AAC 39.600](https://www.akleg.gov/basis/aac.asp#11.39.600), the board will apply an interest rate to the assumed loan that is comparable to the interest rate charged on a similar new loan made by the board that is in effect on the date that the assumption is approved.

[11 AAC 39.620. Term of loan.](https://www.akleg.gov/basis/aac.asp#11.39.620)

The board may approve a term of no more than 30 years on a restructured loan based on the financial information and collateral offered by the borrower and the borrower's ability to repay within the term.

[11 AAC 39.630. Straight amortization.](https://www.akleg.gov/basis/aac.asp#11.39.630)

The board will use straight amortization on a restructured loan, unless the board determines on its own motion or based upon a request of the borrower that there is good cause for use of another amortization method. If the borrower wishes to request the use of another method, a borrower shall apply to the board to request that another method be used and provide reasons for the need to use another method.

[11 AAC 39.640. Application for restructuring.](https://www.akleg.gov/basis/aac.asp#11.39.640)

(a) An applicant for restructuring must submit an application on a form approved by the board. The applicant shall include on the application the following from each person who is included on the application to be liable on the restructured loan:

(1) income tax returns for three consecutive years preceding the date of the application;

(2) a financial statement detailing all farm and non-farm income, expenses, assets, and liabilities as of the date of the application;

(3) projected farm and non-farm income and expenses for the year after the date of application;

(4) a statement of anticipated events that may significantly affect farm or non-farm income, expenses, assets, or liabilities in the future.

(b) The board may require the applicant to provide additional information and records needed to support or clarify the application, tax returns, financial and other statements, or projected income and expenses.

(c) The board may waive submission of the application, information, and records, in whole or in part, if the borrower's records on file with the board contain all or substantially all of that information, or for good cause shown.

[11 AAC 39.650. Incomplete application.](https://www.akleg.gov/basis/aac.asp#11.39.650)

If an application is incomplete, and submission is not waived, the board will send the applicant a letter requesting the information not submitted. If the applicant does not submit the requested information within 30 days after the date of the request letter, and extraordinary circumstances justifying failure to submit the requested information are not present, the application will be denied.

[11 AAC 39.660. Board consideration.](https://www.akleg.gov/basis/aac.asp#11.39.660)

(a) Complete applications will be considered by the board.

(b) The board may approve an application if

(1) the borrower cannot repay the loan according to its existing terms from agricultural and non-agricultural income and liquidation of assets;

(2) the board determines, based on the financial information, that the borrower can repay the loan if restructured; and

(3) restructuring the loan is expected to increase the return to the state.

(c) As a condition of approval of an application, the board may require a borrower to

(1) provide additional collateral;

(2) obtain and maintain life, casualty, liability, title, or other insurance;

(3) procure a co-borrower;

(4) agree to other terms and conditions that the board considers necessary to secure the loan.

(d) The board may deny an application if the borrower

(1) has not complied with all terms, except payment terms, of any agreement with the department; (2) has not complied with the conditions of a permit required by the state or federal government for the borrower's agricultural operations; or

(3) submits an application that contains false or misleading information or omits material information.

[11 AAC 39.670. Mandatory provisions.](https://www.akleg.gov/basis/aac.asp#11.39.670) Repealed.

[11 AAC 39.680. Cessation of agricultural activity.](https://www.akleg.gov/basis/aac.asp" \l "11.39.680)

If, after an application for restructuring is approved, the borrower substantially ceases agricultural activity, the board may increase the interest rate on the outstanding balance of the restructured loan to the commercial interest rate for non-agricultural loans. The board shall establish the commercial interest rate required by this section after consideration of

(1) representative sample of interest rates charged for similar loans by financial institutions in this state;

(2) the type of loan being restructured; and

(3) the length of time for repayment for the restructured loan.

## [Article 6](https://www.akleg.gov/basis/aac.asp#11.39%20article6) Disposal of Property

[11 AAC 39.700. Property subject to disposal.](https://www.akleg.gov/basis/aac.asp" \l "11.39.700)

(a) Property subject to disposal under [11 AAC 39.700](https://www.akleg.gov/basis/aac.asp#11.39.700) - [11 AAC 39.770](https://www.akleg.gov/basis/aac.asp#11.39.770) includes real and personal property acquired by the fund through voluntary relinquishment, repossession, foreclosure, or other action arising out of agricultural loans or the sale of agricultural land under [AS 03.10](https://www.akleg.gov/basis/statutes.asp#03.10).

(b) In addition to the public notice required under [11 AAC 39.730](https://www.akleg.gov/basis/aac.asp#11.39.730), before disposal of the property under this section, the board will hold a public hearing before any fund asset is disposed of if disposal of the asset could have a significant effect on the agricultural industry. The board must address comments received in response to the public notice and hearing under this subsection in a decisional document before disposal of the facility.

[11 AAC 39.705. Revocable use permit.](https://www.akleg.gov/basis/aac.asp#11.39.705)

(a) The board may, after providing public notice on the Alaska Online Public Notice System and posting notice at the division office, approve a revocable use permit that does not exceed one year that allows a person

(1) awarded the rights to purchase real property early entry onto that property before closing on the transaction to purchase;

(2) to store agricultural products, equipment, supplies, or keep livestock on, or in property of the fund; or

(3) to use property of the fund, if the board determines in writing that it is in the best interest of the state.

(b) Except for a revocable use permit for early entry approved under (a)(1) of this section, the board will only approve a revocable use permit to a person who is a resident under [AS 01.10.055](https://www.akleg.gov/basis/statutes.asp#01.10.055) at the time that the permit is executed.

(c) A revocable use permit for the production of crops must be noticed under [11 AAC 39.730](https://www.akleg.gov/basis/aac.asp#11.39.730) and offered competitively.

(d) The board may charge a reasonable payment for a revocable use permit approved under this section based on the amount and value of property used, duration of the permit, type of use authorized, and other material terms of the permit.

(e) The board may require a person who obtains a revocable use permit under this section to be responsible for costs associated with the property.

(f) The term of a revocable use permit issued under this section, including any extensions, may not exceed one year.

[11 AAC 39.710. Minimum price.](https://www.akleg.gov/basis/aac.asp#11.39.710)

(a) The board shall establish a minimum price for real property of the fund before disposal. Factors that must be considered in establishing a minimum price include

(1) the assessed, appraised, or market value;

(2) the length of time that the fund has owned the property;

(3) the length of time that the property has been on the market; and

(4) the management costs of the property to the state.

(b) If the board uses an appraisal under (a) of this section to establish a minimum price,

(1) the board will only accept an appraisal completed by an appraiser selected from the list of appraisers approved by the department; and

(2) the appraisal must be less than two years old as of the date advertised in the public notice under [11 AAC 39.730](https://www.akleg.gov/basis/aac.asp#11.39.730) for the disposal.

(c) The board shall establish a minimum price for personal property before disposal. Factors that may be considered in establishing a minimum price include the appraised, surveyed, replacement, or market value of the personal property, and the cost of managing the property to the state.

[11 AAC 39.720. Method of disposal.](https://www.akleg.gov/basis/aac.asp#11.39.720)

(a) Except for a revocable use permit approved under [11 AAC 39.705](https://www.akleg.gov/basis/aac.asp#11.39.705)(a), disposal of real property must be noticed to the public under [11 AAC 39.730](https://www.akleg.gov/basis/aac.asp#11.39.730).

(b) Following public notice under [11 AAC 39.730](https://www.akleg.gov/basis/aac.asp#11.39.730), real property must be disposed of using one or more of the following methods:

(1) competitive sealed bid;

(2) public auction;

(3) competitive proposals;

(4) competitive lease;

(5) competitive lease with option to purchase;

(6) other manner determined in writing by the board to be in the best interest of the state.

(c) Before disposal, the board will establish the terms and conditions for the disposal of property of the fund, including whether financing by installment contract will be available, minimum down payment, interest rate, minimum acceptable bid, and bid deposit.

(d) The board may dispose of property of the fund for cash or under an installment contract.

(e) The board will not grant cash discounts on the disposal of property of the fund.

(f) The board may require a bid deposit to be submitted with a bid. The successful bidder's deposit is non-refundable and will be applied to the purchase price. The bid deposit will be returned to any unsuccessful bidder.

(g) The balance of the purchase price for property of the fund is due within 90 days after the date that the offer has been accepted by the board.

(h) The board may consider a written request to extend the date of the balance due for reasonable cause shown.

(i) If the successful bidder fails to meet the terms and conditions of the sale, the board will cancel the award and the successful bidder will forfeit the bid deposit.

(j) Personal property that has a value greater than $1,000 and is not perishable must be noticed to the public under [11 AAC 39.730](https://www.akleg.gov/basis/aac.asp#11.39.730) and disposed of competitively.

(k) Personal property that has a value of less than $1,000 or that is perishable does not require notice under [11 AAC 39.730](https://www.akleg.gov/basis/aac.asp#11.39.730), but notice must be posted on the Alaska Online Public Notice System and posted at the division offices before disposal. The board may dispose of the property under this subsection in any manner determined reasonable by the board and consistent with [AS 03.10](https://www.akleg.gov/basis/statutes.asp#03.10).

[11 AAC 39.730. Public notice.](https://www.akleg.gov/basis/aac.asp#11.39.730)

(a) Notice to the public of a disposal, if required under [11 AAC 39.720](https://www.akleg.gov/basis/aac.asp#11.39.720), shall be posted at the division offices, published in a newspaper or other periodical of general circulation in the area where the property is located, and posted on the Alaska Online Public Notice System. In addition, the division may provide notice of the disposal by other electronic media.

(b) The notice must include

(1) the general description and location of the property;

(2) the minimum acceptable price;

(3) the method and material terms of the disposal;

(4) a statement that the property is sold or leased "AS IS, WHERE IS, with no implied or expressed warranty of condition whatsoever";

(5) whether financing from the fund is available;

(6) the deadline and address for submission of comments, bids, or offers; and

(7) the place, date, and time of auction.

[11 AAC 39.740. Financing of fund property.](https://www.akleg.gov/basis/aac.asp#11.39.740)

(a) The maximum term of an installment contract may not exceed 30 years, the minimum interest rate may not be less than the effective rate provided under [AS 03](https://www.akleg.gov/basis/statutes.asp#03). 0.030(a)(4), and the minimum down payment may not be less than five percent of the purchase price.

(b) Each applicant must submit an application on a form approved by the board and include with the application

(1) a nonrefundable application fee of $50;

(2) federal and state income tax returns for the three years preceding the date of the application;

(3) financial statements, including assets and liabilities, that support the application;

(4) the amount of the installment contract requested and the plan of scheduled payments;

(5) a statement of the applicant whether the applicant is or was in the past the subject of a bankruptcy action and, if so, the date of the bankruptcy action; and

(6) a resume of experience, business history, and education of the applicant and relevant managerial personnel.

(c) Upon request, an applicant must obtain and provide any additional information and records reasonably necessary to support or clarify the application or the financial background of the applicant or any guarantor, including

(1) tax returns;

(2) detailed financial and other statements;

(3) projected income and expense statements;

(4) collateral offered;

(5) five-year agricultural plan;

(6) property appraisals;

(7) title reports;

(8) surveys;

(9) marketing studies;

(10) financial statements prepared by a certified public accountant; and

(11) copies of orders and decisions in any bankruptcy actions.

(d) A completed application for installment contract financing will be presented to the board at a meeting under [11 AAC 39.031](https://www.akleg.gov/basis/aac.asp#11.39.031) if

(1) the application complies with [AS 03.10](https://www.akleg.gov/basis/statutes.asp#03.10) and this chapter; and

(2) except in the case of emergency, is received by the division at least 30 calendar days before the date of the meeting.

(e) A corporation applying for financing by installment contract must submit a current certificate of good standing in the state and a corporate resolution authorizing the corporation to enter into such an agreement with the fund.

(f) A partnership, joint venture, or other business entity applying for installment contract financing must submit proof of the authority to enter into such a contract with the fund.

(g) To secure financing, the board may require an applicant to provide life insurance payable to the fund up to the amount financed.

(h) The board will require an applicant to provide property insurance on all buildings used as collateral and all other collateral stored in buildings, unless otherwise waived by the board for reasonable cause. The property insurance must be for the amount of the replacement of the collateral, and the fund must be named the loss payee. In addition to the requirements of this subsection, the board may require other types of insurance needed to protect and secure the installment contract.

(i) The applicant shall provide title insurance insuring the fund in the amount financed.

(j) The applicant shall pay all costs for processing and closing financing by installment contract.

(k) Within five working days after the board issues a decision on an application for financing by installment contract, the department will provide the applicant with a copy of the decision. The board will specify the terms and conditions that apply to the installment contract, and the reasons that support the action in the decision.

(l) At the closing the applicant shall

(1) meet all conditions imposed by the board to be met by the closing;

(2) provide all information requested by the department; and

(3) execute promissory notes, real estate mortgages, deeds of trust, security agreements, financing statements, assignments, affidavits, insurance pay orders, and other instruments that the board may require relating to the installment contract.

(m) If an installment contract is not closed within 90 days following the written notice to the applicant of the approval of financing by installment contract, the approval expires. The board may extend the time for closing under this subsection for reasonable cause shown.

(n) Upon request, a person who obtains an installment contract must

(1) submit to the department, any additional information and records reasonably necessary to support or clarify the ability of the borrower to make payments and protect the collateral, including

(A) tax returns;

(B) projected income and expense statements;

(C) property appraisals;

(D) title reports;

(E) surveys;

(F) marketing studies;

(G) financial statements prepared by a certified public accountant; and

(H) copies of orders and decisions of the court

(i) affecting the collateral; or

(ii) concerning bankruptcy of the borrower.

(2) provide proof to the division that insurance is being maintained in the amount and type required by the terms of the installment contract;

(3) agree to allow the director or staff or its agents access to the borrower's books, records, and premises at all reasonable times.

[11 AAC 39.750. Board review of disposition.](https://www.akleg.gov/basis/aac.asp#11.39.750) Repealed.

[11 AAC 39.760. Notification of acceptance or rejection of sealed bid or offer.](https://www.akleg.gov/basis/aac.asp#11.39.760)

A person who submits a sealed bid or offer for property being disposed of under [11 AAC 39.720](https://www.akleg.gov/basis/aac.asp#11.39.720)(a) shall be notified of acceptance or rejection of the bid or offer within 15 days after its acceptance or rejection.

[11 AAC 39.770. Cropland.](https://www.akleg.gov/basis/aac.asp#11.39.770)

(a) Except for a revocable use permit approved under [11 AAC 39.705](https://www.akleg.gov/basis/aac.asp#11.39.705)(a)(1), if a disposal of property being offered under [11 AAC 39.700](https://www.akleg.gov/basis/aac.asp#11.39.700) - [11 AAC 39.770](https://www.akleg.gov/basis/aac.asp#11.39.770) is cropland

(1) the parcel will be restricted to agricultural use and made subject to the conditions, limitations, and covenants established for state land in [AS 38.05.321](https://www.akleg.gov/basis/statutes.asp#38.05.321)(a) and (d) - (j);

(2) the parcel will be disposed of subject to [11 AAC 67.177](https://www.akleg.gov/basis/aac.asp#11.67.177) - [11 AAC 67.180](https://www.akleg.gov/basis/aac.asp#11.67.180);

(3) the parcel will be disposed of only to an individual who is a resident of the state under [AS 01.10.055](https://www.akleg.gov/basis/statutes.asp#01.10.055) at the time

(A) the lease, permit, or agreement is executed; and

(B) if the parcel is to be purchased, title is conveyed; and

(4) the parcel will be disposed of to a corporation, partnership, or other association only if the majority ownership is held by persons who are residents of the state under [AS 01.10.055](https://www.akleg.gov/basis/statutes.asp#01.10.055) at the time

(A) the lease, permit, or agreement is executed; and

(B) if the parcel is to be purchased, title is conveyed.

(b) In this section and [AS 03.10.050](https://www.akleg.gov/basis/statutes.asp#03.10.050), "cropland" means a parcel of land

(1) more than 50 percent of which occurs in blocks of twenty acres or more that

(A) after being cleared is capable of producing crops;

(B) is arable and at least 97 percent free of surface stones greater than three inches in diameter;

(C) has slopes less than 12 percent;

(D) has mineral soil depths measuring at least 10 inches;

(E) is capable of draining satisfactorily following conversion to farm land; and

(F) is not subject to frequent flooding.

[11 AAC 39.780. Preference right.](https://www.akleg.gov/basis/aac.asp#11.39.780)

The board may not grant a person a preference right to purchase, lease, or otherwise use an asset of the fund that was disposed of under [AS 03.10](https://www.akleg.gov/basis/statutes.asp#03.10) and this chapter.

[11 AAC 39.790. Definitions.](https://www.akleg.gov/basis/aac.asp#11.39.790) Repealed.

## [Article 7](https://www.akleg.gov/basis/aac.asp#11.39%20article7) Appeals Requests for Reconsiderations and Hearings

[11 AAC 39.800. Appeals and requests for reconsideration.](https://www.akleg.gov/basis/aac.asp" \l "11.39.800)

(a) This chapter sets out the administrative review procedures available to a person adversely affected by a decision of the director or the board related to the fund or an asset of the fund.

(b) A person adversely affected by a decision made by the director may appeal to the board under [11 AAC 39.810](https://www.akleg.gov/basis/aac.asp#11.39.810).

(c) On its own motion, the board may reconsider a prior board decision within 30 days after the decision was issued or at the next public meeting, whichever is later.

(d) A person adversely affected by a decision made by the board, that is a final administrative decision, may either

(1) seek reconsideration under [11 AAC 39.820](https://www.akleg.gov/basis/aac.asp#11.39.820); or

(2) appeal to superior court under the Alaska Rules of Appellate Procedure.

[11 AAC 39.810. Appeal of a director's decision.](https://www.akleg.gov/basis/aac.asp#11.39.810)

(a) A person adversely affected by a decision made by the director may appeal the decision to the board. A person may request expedited consideration of an appeal if the person files an affidavit that justifies expedited consideration and indicates the date by which a decision is needed.

(b) The board must receive the appeal within 30 calendar days after the date that the director's written decision was issued. The appeal must meet the requirements of [11 AAC 39.830](https://www.akleg.gov/basis/aac.asp#11.39.830).

(c) The board must decide the appeal or set a date for oral hearing within 30 days after the date that the appeal was timely received as determined under [11 AAC 39.840](https://www.akleg.gov/basis/aac.asp#11.39.840), or at the next public meeting, whichever is later. If the board fails to take action under this subsection, the appeal is automatically denied.

(d) The board may affirm the decision, issue a new or modified decision, or remand the matter to the director for further proceedings. The board's decision, other than a remand decision, is a final administrative decision for purposes of appeal to superior court.

[11 AAC 39.820. Request for reconsideration of a board's decision.](https://www.akleg.gov/basis/aac.asp#11.39.820)

(a) A person adversely affected by a decision made by the board may request the board to reconsider the decision if the person has new or additional information relevant to the decision. A person may request expedited consideration of its request for reconsideration if the person files an affidavit that justifies expedited consideration and indicates the date by which a decision is needed.

(b) The board must receive the request for reconsideration within 30 calendar days after the date that the board's written decision was issued. The request must meet the requirements of [11 AAC 39.830](https://www.akleg.gov/basis/aac.asp#11.39.830).

(c) The board may order or deny reconsideration within 30 calendar days after the request for reconsideration was timely received as determined under [11 AAC 39.840](https://www.akleg.gov/basis/aac.asp#11.39.840), or at the next public meeting, whichever is later. If the board does not take any action on a request for reconsideration, the request is denied. Denial of a request for reconsideration is a final administrative decision of the board for purposes of appeal to superior court.

(d) On reconsideration of the decision, the board will affirm the decision, issue a new or modified decision, or remand the matter to the director for further proceedings. The board's decision, other than a remand decision, is a final administrative decision for purposes of appeal to superior court.

[11 AAC 39.830. Filing an appeal or request for reconsideration.](https://www.akleg.gov/basis/aac.asp#11.39.830)

(a) An appeal or request for reconsideration under this chapter must

(1) be in writing;

(2) be filed by personal service, mail, fax, or electronic mail;

(3) be signed by the appellant or the appellant's attorney, unless filed by electronic mail; an appeal or a request for reconsideration filed by electronic mail must state

(A) the name of the person appealing or requesting reconsideration; and

(B) a single point of contact to which any notice or decision concerning the appeal or request for reconsideration is to be sent;

(4) be correctly addressed;

(5) be timely filed in accordance with [11 AAC 39.840](https://www.akleg.gov/basis/aac.asp#11.39.840);

(6) specify the case reference number used by the board or director, if any;

(7) specify the decision being appealed or for which reconsideration is being requested;

(8) specify the legal basis upon which the decision is challenged, describe the factual issues, and provide any supporting documentation;

(9) specify any material facts disputed by the appellant;

(10) specify the remedy requested by the appellant;

(11) state the address to which any notice or decision concerning the appeal or request for reconsideration is to be mailed; an appellant may also provide a telephone number where the appellant can be reached during the day or an electronic mail address;

(12) identify any other affected agreement, contract, lease, permit, or application by case reference number, if any; and

(13) include a request for an in-person oral hearing, if an in-person oral hearing is desired, and specify any special accommodations needed for the hearing.

(b) At the time an appeal or request for reconsideration is filed and up until the deadline set out in [11 AAC 39.840](https://www.akleg.gov/basis/aac.asp#11.39.840), the appellant may submit additional written material in support of the appeal or request for reconsideration, including evidence or legal argument.

(c) The proper and timely filing of an appeal or request for reconsideration under this chapter shall stay the decision being appealed or reconsidered until a final administrative decision is issued, unless the board determines in writing that it is contrary to the best interest of the state to stay the decision.

(d) An appellant may request expedited consideration of the appeal or request for reconsideration. A request for expedited consideration must describe the reasons that support expedited treatment, the date by which a decision is needed, and be received in sufficient time for the board to take timely action.

[11 AAC 39.840. Timely filing; issuance of decision.](https://www.akleg.gov/basis/aac.asp#11.39.840)

(a) To be timely filed, an appeal or request for reconsideration must be received by the board within 30 calendar days after the written decision was issued. If the 30th day falls on a day when the division is officially closed, the appeal or request for reconsideration must be filed by the next working day.

(b) Unless an extension of time is granted by the board under (c) of this section, an appeal or request for reconsideration will not be accepted if it is not timely filed.

(c) A person may request an extension of time to file an appeal of a director's decision or a request for reconsideration. The board may approve an extension of time to file an appeal of a director's decision or a request for reconsideration for good cause.

[11 AAC 39.850. Hearings.](https://www.akleg.gov/basis/aac.asp#11.39.850)

(a) The board will hold an oral hearing on an appeal of a director's decision or a request for reconsideration if material questions of fact must be resolved.

(b) Notice of the hearing in accordance with [11 AAC 39.031](https://www.akleg.gov/basis/aac.asp#11.39.031) will be given to persons known by the board to be affected by the appeal or request for reconsideration.

(c) The board will issue an order establishing the procedures to be followed in a particular case for the appeal of a director's decision or request for reconsideration, and ensure that due process is provided.

(d) In a hearing held under this section

(1) formal rules of evidence do not apply;

(2) testimony must be given under oath; and

(3) the hearing must be recorded, and will be transcribed at the request and expense of the person requesting the transcript.

(e) The appellant has the burden to prove by a preponderance of the evidence that the appellant is entitled to the remedy requested.

[11 AAC 39.860. Decision on appeal or request for reconsideration.](https://www.akleg.gov/basis/aac.asp#11.39.860)

(a) The board will issue a written decision on an appeal of a director's decision or a request for reconsideration based on the record.

(b) The board will mail, deliver, or transmit to the appellant or the appellant's representative a copy of the decision.

(c) The board's decision on an appeal of a director's decision or a request for reconsideration is a final administrative decision that may be appealed to the superior court under the Alaska Rules of Appellate Procedure.

## [Article 8](https://www.akleg.gov/basis/aac.asp#11.39%20article8) General Provisions

[11 AAC 39.900. Modification of an agreement.](https://www.akleg.gov/basis/aac.asp" \l "11.39.900)

(a) Only the board may approve a modification of a loan, installment contract, land purchase agreement, easement, lease, permit, contract, or other agreement under [AS 03.10](https://www.akleg.gov/basis/statutes.asp#03.10) and this chapter. A person must submit a written application to the division for a modification, describe the reasons that a modification is needed, and include documentation that supports the application for a modification.

(b) An application for a modification shall be submitted to the board at a meeting under [11 AAC 39.031](https://www.akleg.gov/basis/aac.asp#11.39.031) if the application complies with [AS 03.10](https://www.akleg.gov/basis/statutes.asp#03.10) and this chapter and is received by the division at least 30 days before the date of the next scheduled meeting.

(c) For a borrower in good financial standing that would qualify for an interest credit under [11 AAC 39.511](https://www.akleg.gov/basis/aac.asp#11.39.511), regardless of whether the board has approved an interest credit, the board will not approve a modification of a loan that includes

(1) an interest rate reduction;

(2) forgiveness of principal;

(3) a term extension; or

(4) a reduction in the value of the collateral securing the loan below the requisite loan-to-value ratio on the outstanding principal and interest.

[11 AAC 39.910. Residency.](https://www.akleg.gov/basis/aac.asp#11.39.910)

(a) Except for a permit for early entry issued under [11 AAC 39.705](https://www.akleg.gov/basis/aac.asp#11.39.705)(a)(1), the board may approve a loan, or dispose of cropland to an individual only if that individual is a resident of the state under [AS 01.10.055](https://www.akleg.gov/basis/statutes.asp#01.10.055) at the time

(1) the lease, permit, or agreement is executed; and

(2) if the cropland is to be purchased, title is conveyed.

(b) Except for a permit for early entry issued under [11 AAC 39.705](https://www.akleg.gov/basis/aac.asp#11.39.705)(a)(1), the board may make a loan, or dispose of cropland to a corporation, partnership or other association only if the majority ownership is held by persons who are residents of the state under [AS 01.10.055](https://www.akleg.gov/basis/statutes.asp#01.10.055) at the time

(1) the lease, permit, or agreement is executed; and

(2) if the cropland is to be purchased, title is conveyed.

[11 AAC 39.911. Definitions.](https://www.akleg.gov/basis/aac.asp#11.39.911) Repealed.

[11 AAC 39.920. Penalty.](https://www.akleg.gov/basis/aac.asp#11.39.920)

Except in case of a moratorium of loan payments under [11 AAC 39.501](https://www.akleg.gov/basis/aac.asp#11.39.501), when a person is delinquent on a loan, permit, lease, installment contract, or other agreement issued under [AS 03.10](https://www.akleg.gov/basis/statutes.asp#03.10) and this chapter, a seven-percent penalty will be assessed against the amount delinquent unless the board determines in writing that there is reasonable cause for waiving the penalty.

[11 AAC 39.930. False statements.](https://www.akleg.gov/basis/aac.asp#11.39.930)

An applicant who submits a false statement to the board on or in support of an application is subject to [AS 11.56.200](https://www.akleg.gov/basis/statutes.asp#11.56.200) - [AS 11.56.210](https://www.akleg.gov/basis/statutes.asp#11.56.210). If the board finds that an applicant has made a false statement under this section, the board may use the false statement as grounds to deny future applications made under this chapter, if the board determines that the false statement was material to consideration of the application.

[11 AAC 39.940. Good financial standing requirement.](https://www.akleg.gov/basis/aac.asp#11.39.940)

The board will not approve a loan, contract, lease, permit, agreement or any modification, close a transaction, or disburse money to a person who is not in good financial standing, except for a person who has a loan in moratorium under [11 AAC 39.501](https://www.akleg.gov/basis/aac.asp#11.39.501), or when the board determines in writing that there is reasonable cause to act otherwise.

[11 AAC 39.990. Definitions.](https://www.akleg.gov/basis/aac.asp#11.39.990)

In this chapter,

(1) "agriculture" means the science, art, and business of producing crops, insects, fish, livestock, or related byproducts;

(2) "agricultural" means used in agriculture;

(3) "agricultural disaster" means

(A) crop failure due to disease, pests, severe weather conditions, or other natural phenomenon; (B) disease or destruction of insects, fish, or livestock;

(C) significant damage or destruction to real or personal property that is required for the development, operation, or production of an active agricultural industry, agricultural product, or agricultural process;

(D) closure of a substantial portion of the market sources or processing facilities that are vital to an agricultural industry within an area in the state; or

(E) destruction or closure of a transportation facility, route, or link that is vital to an agricultural industry within an area of the state;

(4) "Alaska Online Public Notice System" means the system established by [AS 44.62.175](https://www.akleg.gov/basis/statutes.asp#44.62.175);

(5) "appellant" means a person who files an appeal of a director's decision or a request for reconsideration of the board's decision;

(6) "applicant" means person, individual, partnership, corporation, association, cooperative, joint venture, or other entity applying for a loan;

(7) "board" means the Board of Agriculture and Conservation;

(8) "borrower" means each person liable for an agreement or any part of an agreement;

(9) "chair" means the chairperson of the Board of Agriculture and Conservation;

(10) "chattel" means livestock, vehicles, and movable equipment, machinery, and other personal property;

(11) "commercial" means enterprises operated for profit rather than personal or recreational use or as hobbies;

(12) "commissioner" means the commissioner of the Department of Natural Resources or the commissioner's designee;

(13) "crops" means small grains, seeds, forages, fruits, vegetables, tubers, fungi and cultivated plants;

(14) "department" means the Department of Natural Resources;

(15) "director" means the director of the Board of Agriculture and Conservation and the division of agriculture in the Department of Natural Resources;

(16) "division" means the division of agriculture within the Department of Natural Resources;

(17) "emergency" means a situation that demands immediate attention to protect against a loss of income or property of the borrower, or the potential destruction of collateral of the fund;

(18) "employee" means an employee of the division;

(19) "farm" means a tract or tracts of land, improvements, and other appurtenances that are used in the production of crops, livestock, or livestock products;

(20) "farming" means the business of producing crops, or livestock and livestock products, through the use and management of land, water, labor, capital, and basic raw materials, including seed, feed, fertilizer, and fuel;

(21) "fund" means the Agricultural Revolving Loan Fund established by [AS 03.10.040](https://www.akleg.gov/basis/statutes.asp#03.10.040);

(22) "good financial standing" means the status of a person who is in compliance with the terms of all agreements under [AS 03.10](https://www.akleg.gov/basis/statutes.asp#03.10) and this chapter and has no payments owed under any agreement that are more than 30 days past the payment due date;

(23) "livestock" means domestic animals raised for agricultural purposes;

(24) "member" means a member of the Board of Agricultural and Conservation;

(25) "remand" means to return the decision to the director for additional action.