

10 Minute Supervisor Trainings



July 2024

CHANGES TO THE EQUIPMENT LOAN PROGRAM

During the legislative session of 2023, changes were made to the equipment revolving loan fund program. As a result of those changes, new regulations were created. Those regulations have now gone into effect, which means that the changes to the program now have to be followed.

This loan program is designed for use with equipment and infrastructure. For the purposes of this program, equipment is defined as heavy or specialized equipment purchased through the Equipment Revolving Loan Program for the purpose of conserving soil resources, the prevention and control of soil erosion, and the conservation and protection of water resources related to those purposes. Infrastructure is defined as the plant and assets required for maintaining a district office. While the processes are similar for equipment and infrastructure, this training is geared specifically to equipment.

Equipment can be purchased by a district, two districts applying together, or a district applying jointly with a person. If a district is applying jointly with a person, the district will purchase the equipment and will execute a lease with the person. All purchases must adhere to the purchasing requirements of KRS Chapter 45A (<https://apps.legislature.ky.gov/law/statutes/chapter.aspx?id=37250>).

Districts should fill the application forms completely and include their most recent annual financial report, all bids received, and documentation demonstrating how the model procurement code is being followed. This could be a letter from the board detailing how the bids were solicited, how the winning bid was chosen, etc. Each application form includes a checklist so the district can be sure that they are submitting everything needed with their application.

If the district is applying jointly with a person, that person must live in their district. There is a checklist on the application that the person will complete. The district will submit all the information from the person along with the district's application. The district can choose to charge the person for running their credit report.

A loan can be requested for up to two-thirds the cost of the equipment. The district will need to consider how the remaining one-third will be paid, how long the loan term will be, what fees will be charged, and where the equipment will be stored.

Once the commission has considered and approved the equipment loan application at their meeting, the Division of Conservation will prepare the loan contract. Once the contract has been signed and notarized, the payment will be made to the district. If the district is applying jointly with a person, a copy of the lease must be submitted to the Division of Conservation.

At the beginning of the loan, the district will submit a \$5 payment to the Division of Conservation for lien filing. The district will also submit proof that the equipment is covered by insurance, as required by the loan contract. This includes, at a minimum, the equipment being covered against all risk of physical loss or damage, including flood and rising waters. The insurance must be for full replacement value of the equipment, and the Division of Conservation must be listed as a loss payee. It must also include liability coverage with a combined single limit of at least \$500,000 per occurrence.

During the life of the loan, the equipment has to be operated within the county (unless it's been previously approved by the district board), advertised at least annually, made available for rent/hire by the public, operated a minimum of 20 days within a 6-month period, and used no more than 65% of the time on land owned by district supervisors or employees or land owned by the person applying jointly with the district.

Every month, the district must submit their payment (amortization plus interest), along with a completed monthly report form, to the Division of Conservation by the 10th of the month. This payment is the district's responsibility, even if the person they have leased the equipment to doesn't complete their lease payment.

If the person who applied jointly with the district does not fulfill their obligations according to the contract, the district must repossess that equipment. After repossession, the district can lease it to someone else who lives in the district, become the primary applicant, or sell the equipment. The person can appeal this repossession with the Soil and Water Conservation Commission.

If a district does not fulfill their obligations according to the contract, the district must sell the equipment. Direct aid will be withheld until the outstanding loan balance is paid.

Once the loan has been completely paid off, the equipment becomes the property of the primary applicant. The district will submit a \$5 payment to the Division of Conservation to release the lien. The district must maintain all records dealing with the loan for 5 years afterwards. A copy of all the records dealing with the loan must be submitted to the Division of Conservation.

For more information:

Division of Conservation Equipment Loan Page: <https://eec.ky.gov/Natural-Resources/Conservation/Pages/Equipment-Revolving-Loan-Program.aspx>

Kentucky Model Procurement Code:

<https://apps.legislature.ky.gov/law/statutes/chapter.aspx?id=37250>

Conservation Statutes (including equipment loan program):

<https://apps.legislature.ky.gov/law/statutes/chapter.aspx?id=38498>

Equipment Loan Regulations: <https://apps.legislature.ky.gov/law/kar/titles/416/001/>