**94-178 KIM WALLACE ADAPTIVE EQUIPMENT LOAN PROGRAM FUND BOARD**

**Chapter 501: KIM WALLACE ADAPTIVE EQUIPMENT LOAN PROGRAM RULE**

**Summary**: This rule establishes the procedures and standards applicable to the Kim Wallace Adaptive Equipment Loan Program, a statewide program for making loans from a revolving fund to qualified borrowers to improve their independence or to assist them in becoming more productive members of the community. The Kim Wallace Adaptive Equipment Loan Program Fund Board may make loan funds available to qualified borrowers for approved purposes in accordance with this rule.

**SECTION 1. Definitions**

 The following terms, some of which are defined in the Act, shall have the following meaning in this rule:

 A. "Act" means the Kim Wallace Adaptive Equipment Loan Program Act enacted by P. L. 1987, Chap. 817, 10 M.R.S.A. §371 *et seq*., as amended.

 B. "Adaptive equipment" means any device, implement, or thing and associated acquisition costs which assists one or more persons with disabilities to improve their independence or to become a more productive member of the community. Adaptive equipment includes assistive technology as defined in the *Assistive Technology Act of 1998*, 29 U.S. Code Section 3001 *et seq*., as amended.

 C. "Applicant" means any individual, organization, or entity that submits an application for a loan.

 D. "Board" means the Kim Wallace Adaptive Equipment Loan Program Fund Board.

 E. "Business" means an applicant other than an individual including, but not limited to for-profit and not-for-profit businesses.

 F. "Construction loan" means a loan to an eligible applicant the proceeds of which will be used for the access or adaptation related enlargement, rehabilitation, remodeling or modification of an existing structure or building.

 G. "Disability" means (i) any physiological disorder or condition or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory; genitourinary; hemic and lymphatic; skin; and endocrine; or (ii) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities; or (iii) any physical or mental impairment including but not limited to, such diseases and conditions as traumatic brain injury, orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illnesses, and drug addiction and alcoholism; or (iv) any physical or mental impairment which substantially limits one or more major life activities.

 H. "Financial services provider" means an entity with which the board establishes a contract primarily to administer, underwrite, service, and document loans.

 I. "Fund" means the Kim Wallace Adaptive Equipment Loan Program Fund (established by Section 372 of the Act).

 J. "Fund administrator" means the state agency with which the Kim Wallace Adaptive Equipment Loan Program Fund is deposited pursuant to Section 372 of the Act.

 K. "Individual" means an applicant who is a person with a disability who will benefit from the adaptive equipment or a person in a relationship, other than within the context of a business or employment relationship, with a person with a disability who will benefit from the adaptive equipment purchased.

 L. "Loan" means a loan from the Kim Wallace Adaptive Equipment Loan Program Fund.

 M. "Loan commitment" means a letter from the board or its designee to an applicant agreeing to make a loan subject to terms, conditions and requirements stated therein.

 N. "New construction loan" means a loan to an eligible applicant the proceeds of which will be used to provide funding for the costs directly related to building or erecting access or adaptation related features in a newly constructed structure or building, including modular homes.

 O. "Program" means the Kim Wallace Adaptive Equipment Loan Program.

 P. "Qualified borrower" means an individual or entity which meets the eligibility requirements set forth in this rule.

 Q. “State” means the State of Maine.

 R. "Support services provider" means any organization, entity, or individual with which the board establishes a contract to provide services to the program, including but not limited to marketing, generating loan applications, providing credit counseling, providing legal services, and/or providing other administrative services.

**SECTION 2. Administration**

 A. The board shall have the powers and duties provided in Sections 374 through 377 of the Act, and may delegate loan approval and denial authority to a financial services provider as set forth herein.

 B. The board may enter into contracts with one or more responsible entities to perform the administrative functions necessary for the efficient conduct of the program. The contract(s) may provide for compensation for services rendered and reasonable expenses.

 C. A minimum of 75% of all loans made shall be made to individuals, for acquisition of adaptive equipment for personal, family or household use.

**SECTION 3. Loan Fund Administration**

 A. The fund administrator shall maintain and invest the fund as provided in Section 372 of the Act, and shall report periodically to the board regarding fund activity and the balance of the fund.

 B. The fund shall grow from interest on investments, appropriations, interest on loan payments, grants, endowments and gifts. The fund shall be used to make direct loans and cover costs and expenses associated with maintaining, servicing and administering the fund.

 C. The fund may be used to compensate members of the board for expenses incurred as provided by 5 M.R.S.A chapter 379.

 D. The fund administrator shall make disbursements from the fund for permitted purposes to the financial services provider upon request of the financial services provider and as mutually agreed between the board, the fund administrator and the financial services provider.

**SECTION 4. Eligibility**

A. The applicant must demonstrate that the loan will assist one or more persons with disabilities to improve their independence or quality of life or become more productive members of the community.

B. Loan proceeds must be used for the purchase of adaptive equipment that will assist one or more persons with disabilities to improve their independence or quality of life or become more productive members of the community.

 C. The amount of the loan sought shall not, when added to the principal balance of any other outstanding or approved loans to or for the benefit of the same applicant, exceed the maximum permitted aggregate, per borrower loan amounts set forth in Section 6(A), and shall not result in any one individual or entity becoming liable to the board as borrower or as guarantor for amount in excess of $100,000 in the aggregate.

D. An applicant who has previously been denied for a program loan may not reapply unless the new application is a significant change from the denied application.

E. An applicant must demonstrate creditworthiness and repayment ability.

**SECTION 5. Application Procedure and Contents**

A. Applications are to be submitted as directed by the board and must include such information as necessary and required by the board.

 B. The following shall be considered in approving or denying an application for a loan:

 1) Whether an applicant is eligible for a loan.

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

 3) Whether the applicant has the ability to repay the loan.

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

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

 C. A financial services provider to whom the board has delegated loan approval and denial authority shall approve or deny loan applications according to the Act and this rule and underwriting guidelines approved and reviewed at least annually by the board.

 D. Such financial services provider shall, on behalf of the board, issue a loan commitment if the loan application is approved or notify the applicant of its findings regarding a denied loan application with notice of the appeal process.

**SECTION 6. Loan Terms, Conditions and Administration**

 A. Loans shall be in an amount which is reasonable to acquire the adaptive equipment as shown by materials submitted with the application. In no event shall any single or cumulative loan(s) for the same project exceed $100,000, nor shall any single or cumulative loan(s) to or for the benefit of the same borrower exceed $100,000. For the purposes of this subsection (A), the term "borrower" shall include an applicant.

 B. Loans shall bear an annual interest rate approved and reviewed by the board. The interest rate shall not exceed the maximum rate as allowed by State of Maine Law. Interest shall be fixed as of the date of issuance of the loan commitment. The board shall approve interest rates to be applied by the financial services provider within the parameters established in this subsection (B) and corresponding underwriting guidelines, at least annually.

 C. The term of each loan shall be based on the applicant's circumstances and the useful life of the collateral. The term of a construction or new construction loan shall not exceed 30 years from the date of the first disbursement. The term of any other type of loan shall not exceed 20 years.

 D. The board or its financial services provider may require collateral. Guarantees will generally be required of any individual or entity that holds (i) 20% or more of the ownership interests in any non-individual entity that is an applicant or borrower or (ii) 5% or more of the ownership interests in any non-individual entity which is an applicant or borrower and receives substantial income from the entity. Guarantees may also be required of other individuals or entities, including, without limitation, owners of more than 20% of the ownership interests in any entity which in turn owns 20% or more of any applicant or borrower. In no event however, shall any one individual or entity, as borrower or as guarantor or as any combination thereof, become liable to the board for an amount in excess of $250,000 in the aggregate. Except as specifically approved by the financial services provider, collateral shall be located within the State, or, if mobile, shall be registered within the State if the State registers such mobile collateral.

 E. The financial services provider will prepare the loan documentation. Execution of all loan documentation in form and content satisfactory to the board shall be a condition precedent to the payment of loan proceeds to the applicant. The borrower shall agree to terms and conditions in the loan documentation substantially standard to the industry or as may be reasonably required by the financial services provider and authorized by the board.

 F. The following terms and conditions shall apply to construction and new construction loans, in addition to terms and conditions typical of such loans:

 1) The board or its designee has the right to inspect all construction during reasonable hours.

 2) Disbursements may be made in multiple installments, which may consist of one or more two-party checks.

 3) After the first disbursement, the borrower shall be required to provide lien waivers from appropriate contractors evidencing receipt of payments for work performed prior to any further disbursement.

 4) Interest only shall be due on the loan proceeds disbursed until such time as the loan is fully disbursed. The financial services provider may set a time after which it may require commencement of payment of principal and interest on the loan proceeds disbursed, if the construction is not completed within a reasonable time.

 G. A borrower’s rights under the loan commitment are non-assignable.

 H. A loan is in default when any payment is 30 days past due or upon the occurrence of any event of default as defined in the loan documents. When a loan is in default, the financial services provider shall provide the borrower with legally sufficient notice of default and opportunity to cure the default. If the borrower fails to cure the default within the allotted time, the financial services provider shall take all appropriate action provided under law and the loan documents.

 I. The board may charge reasonable administration, loan servicing, and documentation fees to borrowers.

**SECTION 7. Loans for Transportation Assistance Program**

 A. **Purpose**

 The board, or its designee, may award loans for the purpose of assisting persons with disabilities to purchase used vehicles necessary to obtain or retain employment or employment training, subject to the terms and conditions of this Section 7.

 B. **Eligibility**

 In order to be eligible for a loan under this Section 7, an applicant must be eligible under other provisions of this rule (other than Section 4(B)), and must demonstrate that:

 1) He or she is receiving vocational services from a State or community-based organization, which organization provides employment services to persons with disabilities; and

 2) The organization has certified that the applicant has entered into an individualized plan towards employment developed with such organization to obtain or retain employment or employment training, which plan identifies transportation as a need of the applicant; and

 3) The operator of the vehicle has a valid driver’s license and the required insurance; and

 4) Adequate collateral is being provided for the loan; and

 5) He or she is employed, or is actively pursuing completion of an employment training program or is considered “ready for employment” or the equivalent, as determined by the organization, and is reasonably likely to repay the loan.

 C. **Limitations**

Loans under this Section 7 shall not, when added to other loans under the program to the same borrower, exceed the aggregate maximum stated in Section 4(C). In addition, the maximum aggregate amount of all loans issued under this Section 7 shall not at any time exceed 7% of the value of program gross notes receivable.

 D. **Loan Limit**

The amount of a loan under this Section 7 shall not exceed the amount necessary to purchase the vehicle minus $250. The amount necessary to purchase the vehicle may include sales tax and, in the case of a purchase from or through a car dealer, the dealer’s associated fees.

 E. **Application Process**

Loan applications under this Section 7 shall be processed in accordance with this rule and as directed by the board. If authorized by the board, the financial services provider may approve an application subject to the borrower obtaining employment with a stated minimum level of wages, and/or subject to borrower identifying a vehicle to be purchased with a value which equals or exceeds the amount of the loan, according to the most recent NADA Official Used Car Guide (New England Edition).

**SECTION 8. Waiver of Rule**

 The board may waive any requirement of this rule, except to the extent that the requirement is mandated by the Act, in cases where the deviation from the rule is insubstantial and is not contrary to the purposes of the program.

**SECTION 9. Confidentiality**

 Any and all program materials, applications and supporting information and materials obtained by the board or any service provider to aid in its provision of assistance shall be confidential to the extent required or permitted under 1 M.R.S.A. §405.

**SECTION 10. Appeal**

 In the event that an application is denied by the financial services provider, the applicant may appeal to the board. Notice of appeal should be directed to the financial services provider in writing, stating why the decision should be modified or reversed. Notice of appeal must be submitted within 30 calendar days of the date of the denial letter. The appeal shall be heard at the next regularly scheduled meeting of the board. The applicant may be present to support the appeal. The appeal shall be based on the application record on the date of denial. The decision of the board will be final.

**STATUTORY AUTHORITY**: 10 M.R.S. §371

**AGENCY HISTORY NOTES:**

EFFECTIVE DATE:

 November 18, 1989

AMENDED:

 May 21, 1990 - various amendments including the addition of Sections 1 (R), 1 (S) and 7‑A, and the amendment of Section 7(D)

 August 31, 1991 - various amendments including the addition of Sections 1(T), 1(U), 1(V), 1(W), 2(D), 5(A)(6)(a-d), 8(F), 8(G), 8(H)(1-6) and the amendment of 4(A), 7-A(C), 8(A), 8(B), 8(C)

 May 3, 1995 - amendment of Section 7-A(A), (B)(4), (C) and (D)

 December 17, 1997 - various amendments to 1(V), 1(W), 3(C), 5(A)(5) and (6), 7(D), 7‑A(A), 8(A), 14, the deletion of 1(H), 2(D), 5(A), 5(a), and the addition of 7(F)

 March 1, 1998 - amendment to 8(A)

 July 23, 2001 - amendment to provisions 4(C), 7-A(A), 8(A), and 8(D)

 October 27, 2003 - Amendment 7

 March 13, 2006 - Amendment 8, various amendments to 7(C)(2), 7-A, and 11

 July 8, 2012 Amendment 9, various formatting or technical amendments; substantive amendments to 1(D); 8(B), (D) and (E); and 11, including the addition of 11(D) where previously reserved.

**SECRETARY OF STATE HISTORY NOTES:**

EFFECTIVE DATE:

 September 12, 1989 (EMERGENCY), filing 89-359

EFFECTIVE DATE OF PERMANENT RULE:

 November 18, 1989, filing 89-480

AMENDED:

 May 21, 1990 – Amendment 1, filing 90-188

 August 31, 1991 – Amendment 2, filing 91-339

 May 3, 1995 – Amendment 3, filing 95-191

EFFECTIVE DATE (ELECTRONIC CONVERSION):

 May 4, 1996

NON-SUBSTANTIVE CORRECTIONS:

 October 2, 1996 - minor spelling, filing C-96-20

AMENDED:

 December 17, 1997 – Amendment 4, filing 97-418

NON-SUBSTANTIVE CORRECTIONS:

 January 30, 1998 - minor spacing

AMENDED:

 March 1, 1998 – Amendment 5 - Section 8(A), filing 98-108

 July 23, 2001 – Amendment 6, Section 4(C), 7-A(A), 8(A), 8(D), filing 2001-268

 October 27, 2003 – Amendment 7, filing 2003-368 - new Section 11 added, numbering adjusted

NON-SUBSTANTIVE CORRECTIONS:

 February 18, 2004 - punctuation, full Board name, filing C-04-7

 March 15, 2004 - restored the word "sought" in Section 4(C)

AMENDED:

 March 13, 2006 - Amendment 8, various amendments to 7(C)(2), 7-A, and 11, filing 2006-106

 July 8, 2012 – Amendment 9, filing 2012-192

REPEAL AND REPLACE:

 June 12, 2018 – filing 2018-103