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**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 050 – DEFERRED COMPENSATION**

1 **459-050-0077**

2 **Loan Program**

3 (1) Definitions. For purposes of this rule:

4 (a) "Cure period" is that time from when a default occurs until the end of the quarter
5 following the quarter in which the default occurred.

6 (b) "Loan balance" means the outstanding principal and accrued interest due on the
7 loan.

8 (c) "Participant Loan" means a loan that only affects the deferred compensation
9 account of a participant.

10 (d) "Promissory note" means the agreement of loan terms between the Program and a
11 participant.

12 (e) "Third Party Administrator (TPA)" means the entity providing record keeping
13 and administrative services to the Program.

14 (2) Eligibility for loan. Participants who are currently employed by a Plan Sponsor
15 that has agreed to participate in a Participant Loan program are eligible for a Participant
16 Loan. Retired participants, participants separated from employment, designated
17 beneficiaries, and alternate payees are not eligible.

18 (3) Application for loan: A participant must apply for a loan and meet the
19 requirements set forth in this rule.

20 (a) Once a loan is approved, a participant must execute a promissory note in the form
21 prescribed by the Program.

1 (b) If a participant is deceased prior to the disbursement of the proceeds of a loan,
2 the participant's loan application shall be void as of the date of death.

3 (4) Loan Types:

4 (a) General purpose loan -- a loan not taken for the purpose of acquiring a principal
5 residence. General purpose loans must be repaid over a non-renewable repayment period
6 of up to five years.

7 (b) Residential loan -- a loan made for the purpose of acquiring a principal residence,
8 which is, or within a reasonable time shall be, the principal residence of the participant.
9 Residential loans must be repaid over a non-renewable repayment period of up to 15
10 years. A refinancing does not qualify as a residential loan. However, a loan from the
11 Program that will be used to repay a loan from a third party will qualify as a residential
12 loan if the loan would qualify as a residential loan without regard to the loan from the
13 third party.

14 (5) Interest Rate: The rate of interest for a loan shall be fixed at one percent (1%)
15 above the prime interest rate as published by the Wall Street Journal on the last business
16 day of the month prior to the month in which the loan is requested.

17 (6) Loan Fees: A loan fee of \$50.00 shall be assessed when the loan is approved. The
18 fee shall be deducted from a participant's deferred compensation account on a pro-rata
19 basis from existing investments.

20 (7) Loan Limitations:

21 (a) The maximum loan amount is the lesser of:

22 (A) \$50,000; or

1 (B) One-half of the value of the participant's deferred compensation account on the
2 date the loan is made.

3 (b) The minimum loan amount is \$1000.

4 (c) A participant may only have one outstanding loan.

5 (d) A participant who has received a loan may not apply for another loan until 12
6 months from the date the previous loan was paid in full.

7 (8) Source of Loan: The loan amount will be deducted from a participant's deferred
8 compensation account.

9 (a) Loan amounts will be deducted pro-rata from existing investments in a
10 participant's deferred compensation account.

11 (b) A participant may not transfer a loan to or from another retirement or deferred
12 compensation plan.

13 (9) Repayment Terms: The loan amount will be amortized over the repayment period
14 of the loan with interest compounded daily to calculate a level payment for the duration
15 of the loan.

16 (a) Loan payments must be made by payroll deduction. To receive a loan from the
17 Program a participant must enter into a payroll deduction agreement. For the purposes
18 of this rule, a promissory note or other document that includes the payroll
19 deduction amount and is signed by a participant as a requirement to obtain a loan
20 may be a payroll deduction agreement. Except as provided in this rule, a participant
21 may not submit a loan payment directly to the Program or the Third Party Administrator.

22 (b) A participant is responsible for loan repayment even if the employer fails to
23 deduct or submit payments as directed under the payroll deduction agreement. To avoid

1 defaulting on a loan by reason of the employer's failure to deduct or submit a payment a
2 participant may submit a loan payment by sending a money order or certified check to the
3 Third Party Administrator.

4 (c) A participant may repay the loan balance in a single payment at any time before
5 the date the final loan payment is due.

6 (d) Partial payment of a scheduled payment and partial prepayment or advance
7 payment of future payments shall not be permitted.

8 (e) Loan payments will be allocated in a participant's deferred compensation account
9 in the same manner as the participant's current contribution allocation. If, for any reason,
10 the allocation is not known, the payment will be allocated to the Short-Term Fixed
11 Income Option.

12 (f) Any overpayment will be refunded to the participant.

13 (10) Leave of Absence. Terms of outstanding loans are not subject to revision except
14 as provided in this section.

15 (a) Loan payments may be suspended up to one year during an authorized leave of
16 absence if a participant's pay from the employer does not at least equal the payment
17 amount.

18 (A) Interest on a loan continues to accrue during a leave of absence.

19 (B) A participant must immediately resume payments by payroll deduction upon
20 return to work.

21 (C) The loan balance will be re-amortized upon the participant's return to work to be
22 repaid within the remaining loan repayment period.

1 (D) Loan payments may be revised to extend the remaining loan repayment period to
2 the maximum period allowed in the event the loan originally had a term shorter than the
3 maximum period allowed under section (4) of this rule.

4 (E) If a participant is on a leave of absence that exceeds one year, the loan shall be in
5 default unless repayment begins one year from the participant's last date worked or the
6 date the final payment is due under the promissory note, whichever is earlier.

7 (b) Military Leave. Loan payments for participants on military leave may be
8 suspended for the period of military service.

9 (A) A leave of absence for military service longer than one year will not cause a loan
10 to be in default.

11 (B) Loan payments by payroll deduction must resume upon the participant's return to
12 work.

13 (C) The original repayment period of a loan will be extended for the period of
14 military service or to the maximum repayment period allowed for that type of loan,
15 whichever is greater.

16 (D) Interest on a loan continues to accrue during a leave of absence for military
17 service. If the interest rate on the loan is greater than 6%, then under the provisions of the
18 Servicemembers Civil Relief Act of 2003, the rate shall be reduced to 6% during the
19 period of military service.

20 (E) The loan balance will be re-amortized upon the participant's return to work to be
21 repaid within the remaining loan repayment period as determined under paragraph (C) of
22 this subsection.

1 (c) A participant on an authorized leave of absence or military leave may submit
2 loan payments by sending a money order or certified check to the Third Party
3 Administrator.

4 (11) Tax Reporting.

5 (a) The loan balance of a general purpose loan will be reported as a taxable
6 distribution to the participant on the earlier of the last day of the loan repayment period,
7 as adjusted under paragraphs (10)(a)(D) or (10)(b)(C) of this rule, if applicable, or if the
8 loan is in default, the last day of the cure period.

9 (b) The loan balance of a residential loan will be reported as a taxable distribution to
10 the participant on the earlier of the last day of the loan repayment period, as adjusted
11 under paragraphs (10)(a)(D) or (10)(b)(C) of this rule, if applicable, or if the loan is in
12 default, the last day of the cure period.

13 (c) If a participant dies prior to the loan balance being repaid, and the participant's
14 beneficiary does not repay the loan balance in a single payment within 90 days of the
15 participant's death, the loan balance will be reported as a taxable distribution to the estate
16 of the participant.

17 (d) If a participant is eligible to receive a distribution under the Program, [T]the
18 reporting of a loan balance as a taxable distribution under this section will cancel the loan
19 at the time the taxable distribution is reported. A canceled loan is a distribution and is
20 no longer outstanding in a participant's account.

21 (e) If a participant is not eligible to receive a distribution under the Program, a
22 loan balance reported as a taxable distribution under this section will be a deemed
23 distribution for tax reporting purposes. A loan deemed distributed may not be

1 canceled until the loan balance is repaid or the participant becomes eligible to
2 receive a distribution. The loan balance will remain outstanding in the participant's
3 account and will continue to accrue interest until repaid or canceled.

4 (12) Default.

5 (a) A loan is in default if a payment is not paid as scheduled or under any of the
6 provisions set forth in this rule, the promissory note, or any related loan agreement.

7 (b) A loan is in default if the participant separates from employment with the plan
8 sponsor that administers the loan payment payroll deductions.

9 (c) If a participant with a loan in default resumes loan payments by payroll deduction
10 before the end of the cure period, the default will be cured. The participant must pay

11 any missed payments and accrued interest before the end of the loan repayment
12 period. *[and the participant's loan balance will be re-amortized as if the participant had*
13 *been on a leave of absence under the provisions of paragraph (10)(a)(C) of this rule.]*

14 (d) Except as provided in subsection (c) of this section, if the participant does not
15 cure a default by repaying the loan balance before the end of the cure period, the loan
16 balance will be reported as a taxable distribution to the participant as provided in section
17 (11) of this rule*[and the loan will be canceled].*

18 (13) The effective date of this rule is May 1, 2007.

19 Stat. Auth.: ORS 243.470

20 Stats. Implemented: ORS 243.401 - 243.507