

loan contract or at such other time as the commission may provide;

(b) May provide for reasonable extension of the time for making any repayment in emergency or hardship circumstances, if approved by the commission;

(c) Shall provide for such evidence of debt assurance of and security for repayment by the applicant as are considered necessary or proper by the commission; and

(d) Shall set forth a schedule of payments and the period of loan, which may not exceed the usable life of the constructed project, or 30 years from the date of the first payment due under the financial plan, whichever is less, and shall also set forth the manner of determining when loan payments are delinquent. The payment schedule shall include repayment of interest, which accrues during any period of delay in repayment authorized by paragraph (a) of this subsection, and the payment schedule may require payments of varying amounts for collection of such accrued interest.

(3) Provisions satisfactory to the commission for field engineering and inspection, the commission to be the final judge of completion of the contract.

(4) That the liability of the state under the contract is contingent upon the availability of moneys in the Water Development Fund for use in the construction, operation and maintenance of the water development project.

(5) Such further provisions as the commission considers necessary to ensure expenditure of the funds for the purposes set forth in the approved application.

(6) That the commission may institute an appropriate action or suit to prevent use of the facilities of a water development project financed by the Water Development Fund by any person who is delinquent in the repayment of any moneys due the Water Development Administration and Bond Sinking Fund.

(7) That a loan for a water development project is assignable or transferable to a third party only with the prior approval of the commission. The commission may approve a loan assignment or transfer only if the commission finds that the assignee or transferee qualifies as a water developer as defined in ORS 541.700 (7) and the assignment or transfer does not have serious adverse effect upon the family farm unit structure in this state. [1977 c.246 §6; 1981 c.166 §3; 1985 c.673 §116; 1999 c.212 §3; 2009 c.907 §7; 2013 c.784 §35]

**541.735 Payment of funds by State Treasurer pursuant to loan contract.** If the Water Resources Commission approves a loan for a water development project or fed-

eral water development project, the State Treasurer shall pay moneys for such project from the Water Development Fund in accordance with the terms of the loan contract, as prescribed by the commission. [1977 c.246 §7; 1985 c.673 §117]

**541.740 Liens and other loan security; foreclosure; rules.** (1)(a) When a loan is made to a water developer other than a water developer described in ORS 541.700 (7)(a), (b), (c) or (d) for the construction of a water development project under ORS 541.700 to 541.855, the State of Oregon has a lien for the amount of the unpaid balance of the loan. The lien created by this subsection attaches to the real property held in fee simple of the water developer or to the user charges, including interest, owed to or received by the water developer. The lien created by this subsection does not attach to a leasehold. At the discretion of the Water Resources Commission, the lien may attach to all real property, whether owned by the water developer or other persons, which is served by the water development project or which is served by a water source enhanced or restored by the water development project.

(b) Except for tax liens, the lien created by this section is prior and superior to all other liens or encumbrances upon the affected real property or user charges, without regard to the date on which the other liens or encumbrances attached to the real property or user charges. However, the commission may elect to accept a second or parity lien position against the real property or user charges encumbered by this section, if the commission determines the lien position would provide adequate security for the water development loan, as set forth in rules adopted by the commission.

(c) The existence or foreclosure of the lien created by this subsection shall not cause the acceleration of payment of user charges or other payments on affected real property. Such payments shall continue to be made as they become due.

(2) When a loan is made under ORS 541.700 to 541.855 to a water developer described in ORS 541.700 (7)(a), (b), (c) or (d), the loan shall be secured by a mortgage or security agreement in the full amount of the loan. The mortgage or security agreement shall be a first lien, or a parity or second lien if the commission determines it would provide adequate security, upon such real property of the water developer as the commission shall require for adequate security.

(3) When a lien created by subsection (1) of this section is foreclosed, a person whose real property is subject to the lien solely because that real property is irrigated or