

TITLE 43
IRRIGATION DISTRICTS

CHAPTER 21
DEBT READJUSTMENT PLANS FOR IRRIGATION DISTRICTS, DRAINAGE DISTRICTS, AND
HIGHWAY DISTRICTS

43-2101. BANKRUPT DISTRICTS -- FINANCIAL STATEMENT -- CONTENTS. Whenever any irrigation district, drainage district or highway district, organized under the laws of the state of Idaho, shall have made default in the payment of either principal or interest on any of its outstanding bonds, and if the board of directors of such district believes that it is impossible for the district to pay its outstanding bonds, warrants and other indebtedness either in full or within the time or in the manner in which such indebtedness becomes due or payable, it shall be the duty of the board to cause to be prepared by a certified public accountant a statement of the financial condition of the district, showing, among other things:

- (a) The amount of bonds, warrants and other indebtedness outstanding.
- (b) The amount of such indebtedness that is in default.
- (c) The total of the receipts and disbursements of the district for each of the three (3) preceding years.
- (d) The amount for each of such years of the uncollected or delinquent taxes (not including interest or penalty) levied by the district.
- (e) Such other information and data as the board may deem necessary or desirable to show the financial condition of the district and the amount which the district may be able to pay annually under the economic and other conditions then prevailing.

[43-2101, added 1933, ch. 174, sec. 1, p. 316.]

43-2102. CERTIFIED COPIES OF FINANCIAL STATEMENT -- FILING. Three (3) copies, duly certified, of the report so prepared shall be filed with the secretary of the district, one (1) of which shall be available for examination at the office of the secretary by all creditors of the district, and copies thereof shall be furnished to creditors at the actual cost of making such copies.

[43-2102, added 1933, ch. 174, sec. 2, p. 316.]

43-2103. REHABILITATING OR REFINANCING PLANS. The board of directors shall thereupon formulate a plan for rehabilitating the financial condition of the district and for refinancing or retiring the indebtedness of the district, which plan may include:

- (a) The scaling down of any one or more of the various kinds or classes of indebtedness outstanding, whether evidenced by bonds, warrants or otherwise.
- (b) Extending the time for the payment thereof.
- (c) Reducing the interest thereon.
- (d) Whether the same shall be paid in cash or by refunding bonds, or otherwise, and the manner of effecting the exchange or retirement of the outstanding obligations or any of them for the consideration to be paid under such plan.
- (e) The time within which the plan must be approved by a majority in amount of the creditors of the district directly affected by such plan.

[43-2103, added 1933, ch. 174, sec. 3, p. 316.]

43-2104. APPROVAL OF REHABILITATION PLAN BY CREDITORS. The plan so approved by the board of directors shall thereupon be submitted to the known creditors of the district directly affected thereby, in such manner as to the board may seem appropriate and practical under the circumstances. The approval of such plan by creditors shall be in writing filed with the secretary of the board, and such approval shall be irrevocable if approved by a majority in amount of each class of creditors directly affected thereby, within the time specified in such plan.

[43-2104, added 1933, ch. 174, sec. 4, p. 316.]

43-2105. MAJORITY OF CREDITORS CONSENTING -- NONCONSENTING CREDITORS -- CONSTRUCTIVE CONSENT PROCEEDINGS. If the written consent of all creditors directly affected by the proposed plan is not obtained within the time specified in the plan for the approval thereof by the creditors, but if a majority in amount of each class of creditors has approved such plan, the board of directors shall then proceed without delay to obtain the constructive consent of all holders of bonds, coupons and warrants and of other creditors of the district that will be directly affected by such plan, but who have not theretofore filed their consent in writing as hereinbefore provided. For the purpose of obtaining such constructive consent the district shall commence a proceeding in rem in the district court of the county in which the office of the district is situated, by filing a petition in writing which shall be duly verified by the oath of the president or secretary of the district, and shall set forth, among other things:

(a) The nature and amount of the indebtedness of the district and of each kind or class thereof.

(b) A brief statement of the financial condition of the district. One (1) of the certified copies filed with the secretary of the district, of the report of the certified public accountant, showing the financial condition of the district, shall be filed with the clerk of the court as an exhibit to said petition for the information of the court and the creditors of the district.

(c) A brief statement of the plan approved by the board for rehabilitating the financial condition of the district and for readjusting the indebtedness then outstanding. A full, true and correct copy of such plan, certified by the secretary of the district, shall be filed as an exhibit to said petition for the information of the court and the creditors of the district.

(d) A statement showing approximately by what percentage, in amount, said plan has been approved in writing by the holders of the indebtedness of the district and of each class and kind of such indebtedness.

(e) A statement of the steps that have been taken by the district to obtain the consent of all creditors of the district to the plan so approved and submitted by the board.

(f) A prayer that all proceedings had and taken under this act by the district may be examined, approved and confirmed by the court, and that the district may be authorized to publish a notice under this act to all creditors of the district that have not approved in writing said plan of settlement, and for such other relief as the court may be authorized to grant under this act.

[43-2105, added 1933, ch. 174, sec. 5, p. 316.]

43-2106. NATURE OF PROCEEDINGS. Said proceeding shall be in the nature of a proceeding in rem in which the district shall be plaintiff, and all holders of bonds, coupons and warrants, and other creditors of the district, without naming them, shall be defendants, except holders of securities and creditors not directly affected by said plan of settlement and those who have filed their written consent or approval thereof with the secretary of the district.

[43-2106, added 1933, ch. 174, sec. 6, p. 316.]

43-2107. PUBLICATION OF NOTICE -- CONTENTS. The petition may be presented to the district court or the judge thereof, at chambers, and if it satisfactorily appears from said petition that the proceedings had and taken by the district have been substantially in accordance with the requirements of this act, the court or judge shall direct said district to publish a notice for at least four (4) consecutive weeks in three (3) newspapers published within the state of Idaho and by the court deemed most likely to give notice to the creditors of said district, one (1) of which shall be published in the county in which the office of the board of directors is situated, if there be a newspaper published in such county. The notice shall be directed to the holders (without naming them) of the bonds, coupons and warrants and other creditors (without naming them) of the district directly affected by such plan, and it shall set forth in substance:

(a) A description, sufficient for identification, of the bonds, coupons, warrants and other claims that it is proposed to scale down or to pay or refund or otherwise settle or adjust pursuant to such plan.

(b) The substance of the plan of settlement and when and how it is proposed to make payment to the various classes of creditors embraced in such plan.

(c) A statement showing the approximate amount of each class of indebtedness sought to be readjusted or settled that has by the holders thereof assented to and approved such plan of settlement.

(d) And it shall notify all holders of the bonds and warrants and other creditors of the district that will be directly affected by such plan, that have not theretofore filed their written approval of said plan with the secretary of the board, to file in said cause, within ninety (90) days from the first publication of said notice, their written dissent from or objection to said proposed plan of settlement, and that the dissent or objection so filed must be verified under oath, and describe the securities sufficiently for identification held by the creditor filing such objection, and give the address at which he may be reached by mail.

The notice shall further state that if such dissent or objection be not filed with the clerk of said court within ninety (90) days from the date of the first publication of said notice, the owners and holders of such bonds, coupons and warrants, or other creditors of the district, who have failed to file such dissent or objection, will be deemed, adjudged and decreed to have assented to said plan of settlement. The notice so published shall be deemed and held to be notice to all creditors of the proceedings taken by the district and the court under this act.

[43-2107, added 1933, ch. 174, sec. 7, p. 316.]

43-2108. PROOF OF PUBLICATION -- DEFAULT OF NONDISSENTING CREDITORS -- NOTICE OF HEARING TO DISSENTING CREDITORS. Proof of publication of said

notices by affidavit of the publishers shall be filed with the clerk, and upon the expiration of ninety (90) days from the date of the first publication of said notice the default of all creditors which have not filed their dissent as above provided, and which have not filed their written assent or approval of said plan with the secretary, shall be entered as in other cases, and thereupon the court or the judge thereof, at chambers, shall fix a time for hearing said cause, and notice of such hearing shall be given to the dissenting creditors by mailing such notice to the address given by them, respectively, in their objections filed as aforesaid, or such notice may be given to their attorneys of record, at least twenty (20) days before the hearing.

[43-2108, added 1933, ch. 174, sec. 8, p. 316.]

43-2109. HEARING -- PROCEDURE -- CREDITORS -- PROOF OF OWNERSHIP OF BONDS. At the hearing of the cause the court shall examine and consider all proceedings had and taken by the district, the financial condition of the district as shown by the report of the certified public accountant, and the proposed plan of settlement, and the objections, if any, filed thereto by creditors of the district. All creditors who have filed objections shall make proof of their ownership of the bonds or other securities held by them and described in their written objections theretofore filed, and for that purpose the court may require them to exhibit the securities so held.

[43-2109, added 1933, ch. 174, sec. 9, p. 316.]

43-2110. APPROVAL OF PLAN BY COURT -- RIGHTS OF DISSENTING CREDITORS. If, in the opinion of the court, the proceedings had and taken by the district are substantially in accordance with the provisions of this act, and the proposed plan of settlement is just and fair to the district and the creditors thereof, the court shall make and enter its decree confirming such proceedings, and adjudging and decreeing that all indebtedness of the district which it is sought to settle and adjust by said proposed plan shall be bound by said plan and settled accordingly, and the owners and holders thereof shall be deemed to have approved and assented to such plan of settlement as effectually and to the same extent as if they had approved such plan in writing filed with the secretary of the board as provided in this act. Provided, however, that any bonds, coupons, warrants or other evidences of indebtedness embraced in such plan of settlement, held by creditors who have filed their dissent or objections with the clerk of the court as hereinbefore provided, and who have sustained their ownership thereof by satisfactory proof, shall not be bound or affected by such plan of settlement, and the owners thereof may retain such securities and enforce the payment thereof according to any remedy available to them under the laws of the state of Idaho.

[43-2110, added 1933, ch. 174, sec. 10, p. 316.]

43-2111. HARMLESS ERROR -- APPEALS. The court in all proceedings under this act shall disregard any error, irregularity or omission which does not substantially affect the rights of the parties. The district, and all parties filing objections to or who dissent from such plan, may appeal to the Supreme Court from any adverse decision within thirty (30) days after the entry of the decree of the district court.

[43-2111, added 1933, ch. 174, sec. 11, p. 316.]

43-2112. METHOD OF RAISING FUNDS OR ISSUING FUNDS OR OTHER SECURITIES. Any funds, bonds or other securities which the district, under the plan of settlement, proposes to pay or deliver in satisfaction of any outstanding indebtedness, however evidenced, shall be raised, authorized and issued in the manner provided by the laws of the state of Idaho relating thereto, and this act shall not be construed as vesting in the board of directors of the district the power to provide money or authorize or issue bonds or securities in any other manner.

[43-2112, added 1933, ch. 174, sec. 12, p. 316.]