

Approved: August 6, 2021

BYLAWS

CLIMBER Act Small Business Recovery Loan Program Oversight Board

State of Colorado
Established in
Colorado Revised Statute § 24-36-204

ARTICLE I. NAME

The name of this Board shall be the CLIMBER Act Small Business Recovery Loan Program Oversight Board.

ARTICLE II. AUTHORIZATION

This Board is authorized and organized pursuant to Colorado Revised Statute § 24-36-204.

ARTICLE III. PURPOSE

- A. To help establish and oversee the terms and conditions of a contract or contracts through which the State Treasurer may provide first loss capital to a loan program or the Colorado credit reserve, in accordance with the CLIMBER Act, Part 2 of article 36, title 24 of Colorado Revised Statutes.
- B. With respect to a contract or contracts for the provision of state money for a loan program established under Colorado Revised Statute § 24-36-205, the Board's activities include:
 - 1. Consulting with the State Treasurer on the selection of a loan program manager;
 - 2. In consultation with lending industry leaders and representatives of small businesses, determining specific terms applicable to a loan program as required in Colorado Revised Statute § 24-36-205, which terms must be designed in good faith to procure the participation of lending institutions and be consistent with regulatory requirements and underwriting

criteria, including the duration of the geographic restriction of money in a loan program;

3. Providing guidance and input throughout the implementation of a loan program;
 4. Establishing and publishing targets for the percentage of loans supported by a loan program that are made to businesses owned by women, minorities, and veterans and to businesses located in rural counties, as required by Colorado Revised Statute § 24-36-205(8)(d). In establishing the targets required by Colorado Revised Statute § 24-36-205(8)(d), the Board shall consult with the Minority Business Office within the office of the Governor, and part of the Office of Economic Development and International Trade (“OEDIT”), and the Division of Business Funding and Incentives within OEDIT;
 5. Regularly reviewing progress in achieving the targets established by the Board pursuant to Colorado Revised Statute § 24-36-205(8)(d) and making adjustments to a loan program to help achieve the targets if needed; and
 6. Providing such additional oversight and creating policies and procedures as may be necessary to ensure that the program complies with the requirements of the CLIMBER Act and fulfills its purpose of supporting the state’s recovery from the COVID-19 pandemic by assisting Colorado small businesses in recovering from the crisis caused by COVID-19.
- B. The Board shall consult with small businesses in establishing the criteria for eligible borrowers pursuant to Colorado Revised Statute § 24-36-203(4).
- C. The Board shall adopt a conflict of interest policy for its members in order to prevent those who serve on the board from profiting or otherwise benefiting from eligible loans.
- D. A member of the Board may assist in raising money or investments for a loan program without compensation.
- E. The Board shall submit a written report on the implementation of the loan program to the joint budget committee.

1. The Board shall submit its first report on or before November 30, 2020 and shall submit the report each six months thereafter for a period of two years. After the report submitted November 30, 2022, the Board shall submit the report annually, on or before November 30 of each year. The Board shall also submit the report once each year in fiscal years 2020-21 and 2021-22 to the business affairs and labor committee of the house of representatives, or any successor committee, and the business, labor, and technology committee of the senate, or any successor committee. Notwithstanding the requirement in Colorado Revised Statute § 24-1-136(11)(a)(I), the requirement to submit the report required by Colorado Revised Statute § 24-1-136(12) continues until this section is repealed.
 2. The report must include, at a minimum, the information required by Colorado Revised Statute § 24-1-136(12)(b)(I)–(XII).
- F. The Board shall make a presentation to a joint meeting of the Business Affairs and Labor Committee of the House of Representatives and the Business, Labor, and Technology Committee of the Senate, or any successor committees, at least once each fiscal year or more often if requested by the chairs of the committees.

ARTICLE IV. MEMBERSHIP

The Board shall consist of:

- A. The State Treasurer or the State Treasurer’s designee; and
- B. The director of the minority business office created in Colorado Revised Statute § 24-49.5-102, on behalf of OEDIT, or the director’s designee;
- C. One member appointed by the Speaker of the House of Representatives;
- D. One member appointed by the President of the Senate; and
- E. One member appointed by the Governor.
- F. The appointed members must have substantial private sector experience in commercial banking or capital market activities and must have obtained executive level positions in these industries.

ARTICLE V. TERMS OF MEMBERSHIP

- A. Each appointed member of the Board serves at the pleasure of the official who appointed the member.

- B. The term of appointment is three years. An appointed member may serve multiple terms.
- C. In the event of a vacancy in an appointed position on the Board, a new member shall be appointed for the unexpired portion of the term in the same manner as provided in Colorado Revised Statute § 24-36-204(2)(a)(III)–(V)
- D. Each member of the Board serves without compensation but is entitled to reimbursement for actual, reasonable, and necessary expenses incurred in the performance of his or her duties as a member of the Board.

ARTICLE VI. OFFICERS

A. Chairperson.

The Treasurer or the Treasurer’s designee shall serve as the chairperson of the Board. As chairperson, the Treasurer or the Treasurer’s designee shall convene the Board from time to time as the Board deems necessary.

The chairperson is the presiding officer of the Board. The presiding officer shall perform the following duties

1. Call the meeting to order.
2. Announce the sequence of the agenda, including omissions and additions to the printed agenda.
3. Recognize Board members, staff, and visitors who are entitled to the floor.
4. Protect the body from obviously frivolous or dilatory dialogue and debate in order to maintain decorum within the meeting.
5. Ensure that at every Board meeting there is an opportunity for public comment.
6. Expedite business.
7. Respond to inquiries of members relating to parliamentary procedure, factual information, or business of the body.
8. Decide all questions of order subject to appeal consistent with Robert Rules of Order.
9. Authenticate by his or her signature, when necessary, all acts, orders, and proceedings of the Board.

10. Declare the meeting adjourned.
11. Perform other duties as assigned by the Board.

ARTICLE VII MEETINGS

A. Meetings.

1. Manner and Place. A meeting consists of any kind of gathering at which two or more Board members are convened to discuss public business or at which any formal action may be taken, whether in person, by telephone, electronically, or by other means of communication.
2. Notice. Full and timely public notice, including specific agenda information where possible, shall be posted before each regular meeting by Department of the Treasury staff. In accordance with § 24-6-402(2)(c), C.R.S., the notice must be posted no less than 24-hours before the meeting at the Department of the Treasury website. Notice of any regular meeting conducted electronically or telephonically must include the virtual location and call-in telephone numbers, if applicable.
3. Meeting Agendas. The Chairperson shall be responsible for maintaining oversight of the proposed agenda.
 - a. The proposed agenda and any related materials shall be prepared by Department of the Treasury staff.
 - b. A standard agenda format shall be followed for all regular meetings.
 - c. Board members may submit items for inclusion on the agenda up to 48-hours before a regular meeting. In emergencies with less than 48-hours of lead time, a Board member must notify the Chairperson about the requested agenda item as soon as practicable before the meeting.
 - d. The agenda shall be provided to all Board members before the regular meeting date.
 - e. The agenda shall be subject to revision by the Board at the meeting.
 - f. Every regular meeting should provide time for citizens to address the Board and the timeframe should be made public through public notice.

- g. During every meeting, Department of the Treasury and OEDIT staff shall have the opportunity to provide comments to Board members that may impact the Board's decisions.

B. Conduct of Meetings.

- 1. Agenda. The Board shall strive to complete all items listed on a meeting agenda by being concise in nature, while giving careful consideration to each item and avoiding dilatory dialogue and debate.
- 2. Voting.
 - a. In compliance with § 24-6-402(2)(a) and (3)(a), C.R.S., the adoption of any proposed policy, position, resolution, rule, regulation, or formal action (except the review, approval, and amendment of the minutes of a recorded executive session) shall occur in the portion of a Board meeting that is open to the public at all times.
 - b. Board members shall be entitled to one (1) vote on all matters that come before the Board.
 - c. All formal actions shall be accomplished by a motion, a second, and voting, which shall be taken by Yeas and Nays.
 - d. A motion shall fail unless approved by a majority vote of a quorum of the Board.

C. Open Meetings Law

In compliance with the provisions of Article 6 (Colorado Sunshine Law), Part 4 (Open Meetings Law), sections 24-6-401 and 402, C.R.S., all meetings of two or more members of the Board at which any public business is discussed or at which any formal action may be taken are declared to be public meetings open to the public at all times, except for any executive session portion of an otherwise public meeting authorized by § 24-6-402(3)(a), C.R.S.

D. Record of Meeting.

- 1. The official record of each Board meeting is a written document of the minutes of that meeting, available for review by the public at the Department of the Treasury except for the minutes of any executive session portion of the meeting. Meeting minutes shall contain: (1) a list of names of any members present at the meeting;

(2) a brief description of any discussion had about agenda items; (3) a description of any motion made during the meeting, whether the motion was seconded, and whether the motion passed or failed; (4) a description of any public testimony offered at the meeting; and (5) if an executive session occurred, the topic of the discussion at the executive session.

2. In compliance with C.R.S. 24-6-402(2)(d.5)(I)(A) and (E), any Board discussions that occur in an executive session portion of an otherwise public meeting shall be electronically recorded and the recording must be retained by the Department of the Treasury for at least ninety days after the date of the executive session.
3. Minutes of previous meetings shall be reviewed and considered for approval at the following Board meeting, or via electronic approval when appropriate.

E. Electronic Meetings.

Board members may attend Board meetings by telephone or electronic methods such as web-based conference technology. Board members may vote by telephone or electronic methods, provided that the member attends the relevant portion of the meeting, in its entirety before voting. Board members may not vote on matters of public business over email.

ARTICLE IX. STAFF SUPPORT

- A. Limited to appropriation and funding availability, the Department of the Treasury shall provide the staff necessary to perform the administrative duties of the Board. Duties include: providing timely notice of meetings to members and the public; recording and maintaining a file of the minutes of the Board; receipt, preparation, and transmittal of incoming and outgoing correspondence of the Board and maintenance of a file of such correspondence; and performing other such duties as may be requested by Board.
- B. Pursuant to the CLIMBER Act, OEDIT staff as designated by OEDIT, including but not limited to OEDIT's Director of Business Funding and Incentives, shall provide assistance to the Board, consistent with §§ 24-36-204(2)(a)(II) and 24-36-209, C.R.S.

ARTICLE X. QUORUM and MAJORITY VOTE

- A. No official business of the Board can be conducted without a quorum of eligible voting members participating whether in person, telephonically, or

electronically.

- B. A quorum at regular meetings shall be at least three (3) members of the Board present in person, telephonically, or electronically.
- C. If a quorum is present at a meeting properly called and noticed, a majority vote of a quorum on an act shall be sufficient to make the act the act of the Board.
- D. An affirmative vote of at least two-thirds of the entire membership of the Board (i.e., four (4) members of the Board) is required to hold an executive session, as required by § 24-6-402(3)(a), C.R.S.

ARTICLE XI. BEST PRACTICES FOR STATE BOARDS AND COMMISSIONS

Annually, the Board shall be provided training by Department of the Treasury staff or their designee on the best practices for state boards and commissions as outlined in § 24-3.7-102, C.R.S.

ARTICLE XII. AMENDMENTS

These bylaws may be amended, repealed, or suspended at any meeting of the Board by a two-thirds vote of the entire membership of the Board, provided that written notice of such amendment, repeal, or suspension shall have been sent to each member at least one week before the meeting at which amendment of the bylaws is an agenda item.

ARTICLE XIII. BOARD REPRESENTATION

The Board shall act as a body in all matters and only the chairperson and the Treasurer's staff shall communicate with third parties on behalf of the Board.