

EXECUTIVE COUNCIL [361]

Notice of Intended Action

The Executive Council hereby proposes to adopt Iowa Administrative Code 361—chapter 2, “Contingent Fund – Disaster Fund”, and rescind chapter 7, “Contingent Fund – Disaster Fund”.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in 29C.20.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 29C.20.

Purpose and Summary

The purpose of this proposed rulemaking is to enumerate policies, responsibilities, and procedures adopted by the Executive Council of the State of Iowa in order to provide guidance for administering the state Disaster Contingency Fund.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Executive Council for a waiver of the discretionary provisions, if any, pursuant to 17A.9A, Iowa Code.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Executive Council no later than 4:30 p.m. on January 3, 2024. Comments should be directed to:

Nate Ristow
Governor's Office, Iowa State Capitol
1007 East Grand Avenue
Des Moines, Iowa 50319 Phone:
515.314.2998
Email: nate.ristow@governor.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 2, 2024
11:45 a.m.

Room G9, Iowa State
Capitol 1007 East
Grand Avenue
Des Moines, Iowa

January 3, 2024
11:45 a.m.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Nate Ristow, nate.ristow@governor.iowa.gov, and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action proposed:

Item 1. Adopt the following **new** 361—Chapter 2:

CHAPTER 2

CONTINGENT FUND—DISASTER AID

361—2.1(29C) Purpose. The purpose of these rules is to enumerate policies, responsibilities, and procedures adopted by the executive council of the state of Iowa in order to provide guidance for administering the state disaster contingency fund as described in Iowa Code section 29C.20.

361—2.2(29C) Definitions. The definitions set forth in Iowa Code chapter 29C are incorporated herein by reference.

361—2.3(29C) Policy. It is the policy of the state of Iowa to maintain an organization and procedures for providing supplemental assistance by the state to governmental subdivisions in the achievement of improved disaster readiness and to recover from the effects of a disaster.

361—2.4(29C) Program responsibilities and procedures.

2.4(1) Governor. The governor may proclaim a state of disaster emergency in accordance with Iowa Code section 29C.6.

2.4(2) Government subdivisions. Governmental subdivisions will:

- a.* Make every effort to avert and recover from the disaster with their own resources.
- b.* Maintain detailed accounts of disaster expenses.
- c.* Submit to the department a request for a loan. The initial request constitutes a letter on official agency letterhead briefly describing the effect of the disaster or action on the governmental subdivision and the immediate financial inability to meet the continuing obligations of local government.
- d.* Include in the initial letter request Form SDA-1, Form SDA-2, Form SDA-3, and Form SDA-3A as well as the State of Iowa Contingent Fund Loan Contact and Information Sheet.
- e.* Initiate action to implement annual emergency levy as authorized by Iowa Code sections 24.6 and 384.8, in order to expedite repayment of loan.

2.4(3) Director. The director will:

- a.* Prepare and maintain current rules for issuance by the executive council, providing for the administration of the contingent fund—disaster aid.
- b.* Coordinate, as necessary, actions by other departments and agencies necessary to the administration of the contingent fund—disaster aid.
- c.* Report each fiscal year to the governor and the executive council on activities in connection with administration of the contingent fund—disaster aid including, but not limited to, a description of each disaster of a magnitude sufficient to warrant recommendations concerning applications for loans to the executive council. Such description is to include the kind and scope of the disaster, the disposition of government subdivision applications for loans, and the total of loan approvals for the fiscal year.

d. The director, upon receipt of an initial request for assistance supported by all appropriate forms and documentation, will advise the secretary of the executive council of such request and will furnish copies of all accompanying documents.

e. The director will submit a recommendation to the executive council as to eligibility and entitlement of the requesting governmental subdivision on Form SDA-4 and Form SDA-4A.

2.4(4) *Executive council.* The executive council will:

a. Decide if the contingent fund—disaster aid is justified by the application and showing, and, if so, the amount of the loan(s) to be made.

b. Develop and publish the form and procedures for applying for the contingent fund—disaster aid and issue rules describing the administration of the contingent fund – disaster aid.

c. Designate and instruct appropriate state departments and agencies to assist the director, the department, in the administration of the contingent fund—disaster aid by loan or use of personnel equipment and facilities.

d. Consider the information furnished by the governmental subdivisions requesting loans, the report and recommendation of the director and decide which of the governmental subdivisions are eligible, and if so, the amount and terms reflecting approved eligibility.

The aggregate total of the loans cannot exceed \$1 million during a fiscal year.

2.4(5) *Department of management.* The department of management will execute loans in the amounts, and as scheduled, to government subdivisions as approved by the executive council and maintain appropriate accounts.

2.4(6) State auditor actions. The auditor will audit the accounts of government subdivisions to ensure that loans have been applied in accordance with determined eligibility and will make an audit report to the executive council.

361—2.5(29C) Eligibility for contingent fund—disaster aid loans.

2.5(1) To be eligible for contingent fund—disaster aid loans, a governmental subdivision demonstrates an immediate financial inability to meet the continuing obligations of local government through a showing of obligations and expenditures necessitated by an actual or potential disaster proclaimed a state of disaster emergency by the governor.

2.5(2) The loan, if made, may only be up to a limit of 75 percent of the showing of obligations and expenditures. The loan, without interest, may be repaid by the maximum annual emergency levy as authorized by Iowa Code sections 24.6 and 384.8. The loan shall be repaid within 20 years.

361—2.6(29C) Forms and documents.

2.6(1) SDA forms.

- a.* Form SDA-1 “Certified True Copy of Resolution of Governing Body.”
- b.* Form SDA-2 “Certificate by Authorized Requesting Official to Accompany Application for State Disaster Aid.”
- c.* Form SDA-3 “Application for Financial State Disaster Aid.”
- d.* Form SDA-3A “Resolution.”
- e.* Form SDA-4 “Report and Recommendation of the Director, Iowa Department of Homeland Security and Emergency Management on Application for State Disaster Aid.”
- f.* Form SDA-4A “Review of Application for State Disaster Aid.”

2.6(2) “Request from Applicant” as described in 2.4(2)“c.”

2.6(3) “State of Iowa Contingent Fund Loan Contact and Information Sheet.”

These rules are intended to implement Iowa Code section 29C.20.

Item 2. Rescind and reserve **361—Chapter 7**.