

CHAPTER 12A

NATURAL DISASTER; STATE ASSISTANCE

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12A.01 STATE RESPONSE TO NATURAL DISASTER.

This chapter provides a framework and procedures for state agencies to assist communities to recover from a natural disaster for areas of Minnesota that are included in a presidential declaration of major disaster.

History: 2008 c 247 s 1

12A.02 DEFINITIONS.

Subdivision 1. **Application.** The definitions in this section apply to this chapter.

Subd. 2. **Appropriation.** "Appropriation" means an appropriation provided in law specifically to implement this chapter, including but not limited to a statutory appropriation to provide the required cost-share for federal disaster assistance under section 12.221.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of the agency named in the section, unless otherwise specified.

Subd. 4. **Disaster.** "Disaster" means a presidential declaration of major disaster and the event or events cited in the declaration.

Subd. 5. **Disaster area.** "Disaster area" means the area of Minnesota included in a presidential declaration of major disaster whether included in the original declaration or added later by federal government action.

Subd. 6. **Local government.** "Local government" has the meaning given in section 12.03, subdivision 5d.

Subd. 7. **Nonfederal share.** "Nonfederal share" means that portion of total FEMA Public Assistance Program costs that is no more than 25 percent and is not eligible for FEMA reimbursement.

History: 2008 c 247 s 2; 2014 c 312 art 7 s 5-7

12A.03 STATE ASSISTANCE.

Subdivision 1. **Appropriations in law.** Appropriations for programs and projects under this chapter must be made in law. Appropriations from the bond proceeds fund must be spent to acquire and to better

publicly owned land and buildings and other public improvements of a capital nature. All appropriations must be used to assist communities within the disaster area to recover.

Subd. 2. **State assistance for disaster costs not eligible for federal assistance.** State assistance under this chapter may be made available for relief in a disaster area for costs that are not eligible for assistance through the FEMA Public Assistance Program or the FEMA Individual Assistance Program, and may not duplicate or replace assistance available from other federal government agencies, including the Small Business Administration, private insurance, or flood insurance.

Subd. 3. **Nonduplication of federal assistance.** State assistance may not duplicate or supplement eligible FEMA Public Assistance Program assistance. For eligible Public Assistance Program costs, any state cost-share money made available for that assistance must be disbursed by the Department of Public Safety to a state agency, local government, or other applicant. State assistance distributed by a state agency, other than the Department of Public Safety, to a local government or other applicant for disaster costs that are eligible for FEMA Public Assistance Program assistance constitutes an advance of funds. Such advances must be repaid to the applicable state agency when the applicant has received the FEMA Public Assistance Program assistance, and whatever state cost-share money may be made available for that assistance, from the Department of Public Safety.

Subd. 4. **Reporting.** A commissioner who provides non-FEMA Public Assistance Program grants or other assistance under this chapter to local government units or eligible entities must report to the appropriate finance chairs in the house of representatives and the senate on the criteria and requirements used by local government units or their agencies in the grants, loans, or assistance programs.

Subd. 5. **Transfers.** Unused general fund money appropriated for a project or program in this chapter may be transferred, for assistance in the disaster area, to another program or project funded in this chapter. Appropriation transfers must be used to cover unmet needs in a program or project under this chapter. The commissioner of management and budget must approve all transfers under this section and must report each transfer to the chairs of the senate Finance Committee and house of representatives Ways and Means Committee.

History: 2008 c 247 s 3; 2009 c 101 art 2 s 109; 2014 c 312 art 7 s 8

12A.04 AGRICULTURE.

The commissioner of agriculture may use state appropriations for disaster assistance. The commissioner, in consultation with the chairs of the house of representatives and senate committees with responsibility for agriculture finance, must develop eligibility criteria to distribute disaster assistance to affected agricultural producers according to need. Assistance may be provided for, but is not limited to, the following: livestock investment grants, organic certification assistance, forage production loss offsets for livestock producers, no-interest disaster recovery loans, other costs related to the disaster, and mental health counseling support to farm families and business operators through farm business management programs. To be eligible for disaster assistance under this section, a producer must operate an agricultural operation in the disaster area.

History: 2008 c 247 s 4; 2012 c 187 art 1 s 2

12A.05 BOARD OF WATER AND SOIL RESOURCES.

Subdivision 1. **Reinvest in Minnesota (RIM) conservation easements.** The Board of Water and Soil Resources (board) may use appropriations to acquire easements from landowners on marginal or damaged

lands in the disaster area to provide flood attenuation, to restore and protect soil and water resources, and to support related fish and wildlife habitat as provided in section 103F.515.

The board may use appropriations, as provided in law, to implement the program.

Subd. 2. **Erosion and sediment control, water quality and watershed protection projects.** The board may establish a disaster recovery program and use appropriations to install, repair, or rehabilitate erosion and sediment control and water quality and watershed protection projects in the disaster area.

The board may use appropriations, as provided in law, to implement the disaster recovery program and to address critical conservation problems resulting from the disaster that are funded in whole or in part with state sources, to the extent that combined federal and state funding does not exceed 100 percent.

Subd. 3. **Waivers and extensions authorized.** The board may waive the provisions of Minnesota Rules, chapter 8400, in the disaster area on land damaged by the disaster. All existing grant agreements in the disaster area may be extended for up to two years.

History: 2008 c 247 s 5; 2010 c 382 s 2; 2011 c 67 s 1; 2012 c 187 art 1 s 3

12A.06 EDUCATION.

Subdivision 1. **Disaster enrollment impact aid.** As used in this section, "commissioner" means the commissioner of education. The commissioner may pay disaster enrollment impact aid to a school district in an amount set in law times the number of adjusted pupil units lost as a result of the disaster. An eligible district must provide to the commissioner documentation of the number of pupils in average daily membership lost by grade level as a result of the disaster.

Subd. 2. **Disaster relief facilities grant.** The commissioner may make grants to an eligible district for the costs of facilities cleanup, repair, and replacement that are related to the disaster and are not covered by the district's insurance settlement or through federal agency payments. Before a grant is awarded, the eligible school district must provide the commissioner with information as requested.

Subd. 3. **Disaster relief operating grant.** The commissioner may make grants to an eligible district for additional school operating costs related to the disaster that are not covered by the district's insurance settlement or through Federal Emergency Management Agency payments. Before a grant is awarded, the eligible school district must provide the commissioner with information as requested.

Subd. 4. **Pupil transportation aid.** The commissioner may make grants to eligible districts for the increased costs associated with transporting students as a result of the disaster.

History: 2008 c 247 s 6; 2011 c 67 s 2; 2012 c 187 art 1 s 4

12A.07 EMPLOYMENT AND ECONOMIC DEVELOPMENT.

Subdivision 1. **Minnesota investment fund.** As used in this section, "commissioner" means the commissioner of employment and economic development. The commissioner may use state appropriations for grants to local units of government for locally administered grants or loan programs as provided in this section for assistance to eligible organizations directly and adversely affected by the disaster. Funds may be used only to address physical damage to buildings and such personal property as machinery, equipment,

fixtures, and furniture. A loan may not duplicate or replace equivalent assistance available from insurance, other organizations, or government agencies.

Subd. 2. **Assistance.** Criteria and requirements must be locally established with the approval of the commissioner. Local plans must specify the type of assistance to be provided to eligible organizations. Within the limits of the available grant amounts, assistance may be provided as loans with or without interest and as forgivable loans. The criteria must, at a minimum, specify that an organization receiving a forgivable loan must remain in the local community a minimum of five years after the date of the loan, after which the amount of loan forgiveness must follow a schedule provided by the commissioner for an additional five years. Loans made under this section must not be used to refinance debt that existed on the date of the disaster. Repayment of loan amounts is made to the local community consistent with subdivision 6. All assistance awards under this section must meet the requirements of section 116J.8731, subdivision 8.

Subd. 3. **Eligible organizations.** Assistance through a local grant agreement may be provided to businesses, cooperatives, utilities, and nonprofit organizations including, but not limited to, those that provide residential, health care, child care, social, or other services on behalf of the Department of Human Services to residents of the disaster area.

Subd. 4. **Use of national emergency grant.** The expenditure of any national emergency grant from the United States Department of Labor for a disaster is approved and the amount of the grant is appropriated to the commissioner for the purposes for which it was received.

To ensure the efficient use of disaster money, the commissioner must encourage contractors working on projects funded under this chapter to hire employees who are available through a grant under this subdivision, to the extent practicable.

Subd. 5. **Waivers authorized.** For the purposes of subdivisions 1 to 4, sections 116J.8731, subdivisions 3, 4, 5, and 7; 116J.993; 116J.994; and 116J.995 are waived. Businesses that receive grants or loans under this subdivision must set goals for jobs retained and wages paid within the disaster area.

Subd. 6. **Repayments.** Any repayments of loans to the local government unit under this section shall be forwarded to the commissioner and deposited in the disaster contingency account in section 116J.8731, subdivision 8.

History: 2008 c 247 s 7; 2011 c 67 s 3,4; 2012 c 187 art 1 s 5; 1Sp2012 c 1 art 1 s 17,18

12A.08 HEALTH.

Subdivision 1. **Commissioner responsibilities.** As used in this section, "commissioner" means the commissioner of health. In disaster-affected communities, the commissioner may provide for necessary assessment and evaluation of the following: access to health care; mental health concerns and needs; infectious disease concerns; indoor environments of public and nonprofit buildings and facilities including nursing homes and mass care facilities; food safety, lodging and shelter; public swimming pools; community and other drinking water systems; and private drinking water supply wells.

Subd. 2. **Public health.** The commissioner may take necessary steps to remediate the effects of a disaster to ensure public health is maintained.

Subd. 3. **Implementation.** To implement the requirements of this section, the commissioner may cooperate with private health care providers and facilities and community health boards or boards of health

as defined in section 145A.02, provide grants to assist community health boards or boards of health, use volunteer services of individuals qualified to provide public health services, and enter into cooperative or mutual aid agreements to provide public health services.

History: 2008 c 247 s 8; 2012 c 187 art 1 s 6

12A.09 HOUSING FINANCE.

Subdivision 1. **Economic development and housing challenge.** The economic development and housing challenge program under section 462A.33 may provide for housing assistance in the disaster area as provided in this section.

Subd. 2. **Assistance.** Within the limits of state appropriations, assistance is provided to homeowners and rental property owners as forgivable loans up to a maximum set in law. Loans may be used for capital improvements to housing damaged by the disaster, including rehabilitation, replacement on the owner's site, or replacement on a different site within the disaster area. Loans are forgiven for owner-occupied housing if the home remains the borrower's primary residence for a period of time determined by the housing finance agency to encourage continued residence in the community after the date of the loan. Loans are forgiven for rental properties if the rents remain affordable to the local work force for at least ten years after the date of the loan. The housing finance agency may set income limits in excess of the limits established in section 462A.33, subdivision 5. Eligible applicants for assistance under this subdivision must apply for and accept assistance from federal programs.

Subd. 3. **Capacity building grants.** Grants may be made under section 462A.21, subdivision 3b, to local units of government, including regional consortia, in the disaster area and nonprofit organizations working in the disaster area to assess housing and related needs, develop and implement community or regional plans to meet those needs, and provide capacity to implement recovery plans.

Subd. 4. **Waivers authorized.** For assistance under subdivision 2, the requirements of section 462A.33, subdivision 3, and Minnesota Rules, parts 4900.3632 and 4900.3634, subpart 4, are waived.

Subd. 5. **Repayments.** Any repayments of loans made under this section must be deposited in the Housing Finance Agency's disaster relief contingency fund established in section 462A.21, subdivision 29.

History: 2008 c 247 s 9; 2011 c 67 s 5; 2012 c 187 art 1 s 7; 1Sp2012 c 1 art 1 s 19

12A.10 HUMAN SERVICES.

Subdivision 1. **Costs eligible for payment.** As used in this section, "commissioner" means the commissioner of human services. Notwithstanding the limitations of section 12A.01 and the requirement in section 12A.03 that all appropriations must be used to assist with recovery, the commissioner may pay parties under contract, provider agreement, or other arrangement with the commissioner as of the date of a natural disaster, or the date when action was taken in anticipation of a possible natural disaster or other event that threatens the health and safety of individuals served by a program that receives funding from medical assistance for the costs of evacuation, transportation, medical, remedial, or personal care services provided to vulnerable residents. Costs eligible for payment under this section are those necessary to ensure the health and safety of medical assistance recipients during and up to 60 days following the disaster. Only costs that are not already paid for by another source are eligible. The commissioner may make payments for documented incremental costs incurred by a party, may determine an estimate of the costs at the sole

discretion of the commissioner, or may use a combination of these two methods. If after receiving payment from the commissioner for a documented cost, the provider is able to acquire payment from another source for that cost, the provider shall reimburse the commissioner in the amount paid.

Subd. 2. **Payment in residential program.** In a residential program, the commissioner shall make payment under this section based on an allocation of costs as determined under subdivision 1 between medical assistance recipients and all other residents. The allocation must not be done in a nursing facility. In a nursing facility the commissioner shall pay all of the costs determined under subdivision 1.

Subd. 3. **Source of payment.** The commissioner shall pay costs under this section using money appropriated for medical assistance and shall seek federal cost sharing to the extent permitted under the Medicaid state plan or under waivers granted by the federal Centers for Medicare and Medicaid Services.

Subd. 4. **Nursing home bed layaway.** In consultation with the commissioner of human services, the commissioner of health may waive timelines specified in section 144A.071, subdivision 4b, at any time when a partial or complete evacuation occurs in response to a natural disaster, a possible natural disaster, or another event that threatens the health and safety of residents of a nursing home. For a nursing home placing beds in or removing them from layaway under this subdivision, property payment rates must not be adjusted.

History: 2008 c 247 s 10; 2009 c 93 art 2 s 14; 2011 c 22 art 1 s 1; 2011 c 67 s 6; 2012 c 187 art 1 s 8,75

12A.11 MINNESOTA HISTORICAL SOCIETY.

The Minnesota Historical Society may use state appropriations for the costs of cleanup, renovation, repair, and replacement of historic structures or other historic resources damaged by the disaster.

History: 2008 c 247 s 11

12A.12 NATURAL RESOURCES.

Subdivision 1. **Facility and natural resource damage.** As used in this section, "commissioner" means the commissioner of natural resources. The commissioner may use state appropriations to rehabilitate and replace state facilities damaged by the disaster and to restore natural resources in the disaster area.

Subd. 2. **Flood hazard mitigation grants.** The commissioner may use state appropriations for the state's share of flood hazard mitigation grants for capital improvements to prevent or alleviate flood damage under section 103F.161 in the disaster area. The commissioner shall determine project priorities, as appropriate, based on need.

To the extent that the cost of a project funded under this subdivision in a given municipality exceeds two percent of the median household income in the municipality, multiplied by the number of households in the municipality, the commissioner may also use the appropriation for the local share of the project.

Subd. 3. **Debris removal; public waters.** The commissioner may use appropriations for expenditures in the disaster area, including removing flood debris from public waters and installing and repairing flood warning gauges.

Subd. 3a. **Dam renovation and removal.** The commissioner may use appropriations to provide cost share for renovating or removing publicly owned dams in the disaster area under sections 103G.511 and 103G.515.

Subd. 4. **Waivers authorized.** The maximum grant award under section 103F.161, subdivision 2, is waived for grants for the disaster area.

History: 2008 c 247 s 12; 2011 c 67 s 7-9; 2012 c 187 art 1 s 9

12A.13 POLLUTION CONTROL AGENCY.

Notwithstanding sections 115C.08, subdivision 4, and 115C.09, subdivision 3i, the commissioner may use an appropriation, as provided in law, from the petroleum tank release cleanup fund to make grants to safely rehabilitate buildings if a portion of the rehabilitation cost is attributable to petroleum contamination resulting from the disaster or to buy out property substantially damaged by a petroleum tank release resulting from the disaster.

History: 2008 c 247 s 13

12A.14 PUBLIC FACILITIES AUTHORITY.

Subdivision 1. **Public infrastructure.** The Public Facilities Authority may make grants to local units of government to assist with the cost of rehabilitation and replacement of publicly owned infrastructure, including storm sewers, wastewater systems, municipal utility services, and drinking water systems. The grants must be used for costs related to the disaster for damage that occurred on or after the date of the disaster. A general fund appropriation may be used for grants to assess underground wastewater and storm water collection systems for damages related to the disaster or for feasibility studies to address the possibility of extending municipal service to residential areas with septic systems damaged as a result of the disaster.

Subd. 2. **Waivers authorized.** For the purposes of this section, criteria, limitations, and repayment requirements in sections 446A.07, 446A.072, and 446A.081 are waived.

History: 2008 c 247 s 14

12A.15 PUBLIC SAFETY.

Subdivision 1. **State cost-share for federal assistance.** State appropriations may be used to pay 100 percent of the nonfederal share for state agencies and local governments under section 12.221. An appropriation from the bond proceeds fund may be used as cost-share for federal disaster assistance for publicly owned capital improvement projects.

Subd. 2. **Grants for debris removal.** Within the limits of general fund appropriations in law, the commissioner may make grants to counties for costs related to the burial and removal of debris resulting from the disaster from residences and farms. The commissioner may require documentation of costs. Grants are available for debris removal and burial costs not covered by private insurance or federal reimbursement.

Subd. 2a. **Long-term recovery assistance.** The commissioner may use appropriations to provide technical assistance to local jurisdictions or to make grants to counties, regional consortia, and nonprofit organizations working in the disaster area to provide assistance in coordinating long-term recovery activities related to the disaster.

Subd. 3. **Waiver of contract approval procedures.** State and federal disaster assistance distributed by the commissioner of public safety is not subject to the contract approval procedures of chapter 16A, 16B,

or 16C, or any other law. The commissioner of public safety may adopt internal procedures to administer and monitor these aids and grants.

History: 2008 c 247 s 15; 2009 c 93 art 2 s 15; 2011 c 67 s 10; 2014 c 312 art 7 s 9

12A.16 TRANSPORTATION.

Subdivision 1. **Transportation infrastructure operation and maintenance.** The commissioner may use appropriations from the trunk highway fund for transportation infrastructure operation and maintenance related to a disaster.

Subd. 1a. **Emergency relief account in trunk highway fund.** The commissioner may use appropriations from the emergency relief account in the trunk highway fund for infrastructure repair, maintenance, and operation related to a disaster.

Subd. 2. **State highway and bridge reconstruction and repair.** The commissioner is responsible to reconstruct and repair trunk highways and trunk highway bridges located in the disaster area and damaged by the disaster.

Subd. 3. **Local road and bridge reconstruction and replacement.** The commissioner may make grants to local governments for the capital costs of repairing, reconstructing, or replacing local roads and bridges, including necessary demolition and design costs, damaged or destroyed by the disaster. Grants may also be used for reasonable costs to mitigate damage from future disasters when to do so is part of a project to repair, reconstruct, or replace infrastructure damaged in the disaster. Before the commissioner releases grant money, a grantee must submit final plans to the commissioner for each project under this subdivision. The commissioner must determine project priorities, review project plans in light of those priorities, and, if necessary, require changes to the project plans to ensure the most prudent use of limited state resources.

Subd. 4. **Local guidelines.** The commissioner, in consultation with the commissioner of public safety, must develop guidelines for local governments to use to respond to natural disasters in order to maximize the use of federal disaster assistance. The guidelines must address the use of local employees and equipment and contracted employees and equipment in the disaster response and the relative eligibility for federal reimbursement and clarify agency roles and responsibilities for damage estimates used for developing emergency state appropriations.

Subd. 5. **Waivers authorized.** The requirements of section 174.50, subdivisions 5 to 7, are waived for grants under subdivision 3.

[See Note.]

History: 2008 c 247 s 16; 2011 c 67 s 11; 2014 c 227 art 2 s 1; 2014 c 295 s 14

NOTE: Subdivision 5 was also amended by Laws 2014, chapter 227, article 2, section 1, to read as follows:

"Subd. 5. **Waivers authorized.** The requirements of section 174.50, subdivisions 5, 6, and 7, are waived for grants under subdivision 3."