

CHAPTER 222**(SB 150)**

AN ACT relating to fiscal matters, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. 2022 RS HB 5/GA, Section 4, 2022 Ky. Acts ch. 2, sec. 4, is amended to read as follows:

- (1) The West Kentucky State Aid Funding for Emergencies (SAFE) fund is established and shall be:
 - (a) Administered by the Department of Military Affairs, Division of Emergency Management, in accordance with this section;
 - (b) A separate fund to provide financial assistance for those impacted by the December 2021 storms and tornadoes that occurred in the west Kentucky region; and
 - (c) Used to provide financial support to the west Kentucky region to recover from the devastation caused by the storms and tornadoes.
- (2) The Department of Military Affairs or the Division of Emergency Management shall not publicly advertise or solicit contributions from the general public that could potentially impact fundraising efforts of not-for-profit disaster relief agencies.
- (3) The fund may receive state appropriations, gifts, grants, federal funds, and any other funds both public and private.
- (4) Moneys in the fund as of June 30, 2022, and June 30, 2023, shall not lapse and shall carry forward until June 30, 2024.
- (5) Any interest earnings of the fund shall become a part of the fund and shall not lapse.
- (6) (a) Eligibility to receive financial support from the fund shall be limited to a:
 1. City, county, urban-county government, consolidated local government, unified local government, or charter county government;
 2. Nonprofit or public utility service provider;
 3. State agency;~~or~~
 4. School district; *or*
 5. ***Qualified lender as defined in Section 2 of this Act;***

that has disaster-related needs as a result of the devastation experienced from the December 2021 storms and tornadoes.
- (b) An eligible recipient may receive moneys for expenses to provide disaster and recovery relief if the recipient:
 1. Is located in the areas named in a Presidential Declaration of Emergency relating to the storms and tornadoes that occurred in December 2021; and
 2. Has disaster-related needs in response to the storms and tornadoes that occurred in December 2021.
- (c) Eligible expenses shall be those used to support disaster and recovery relief, including but not limited to:
 1. Replacement or renovation of public buildings damaged by the storms and tornadoes, ***but only to the extent of damage directly caused by the storms;***
 2. Reimbursement for services, personnel, and equipment provided during the response and recovery to communities impacted by the storms and tornadoes;

3. Funding to cities, counties, and publicly owned utilities for the costs of replacement or repair of publicly owned buildings and their contents due to the damage from the storms and tornadoes, **but only to the extent of damage directly caused by the storms**;
4. Assistance to cities and counties for expenses related to planning efforts for rebuilding and recovering from the damage, **but only to the extent of damage directly caused by the storms**;
5. ~~Assistance to utilities serving Graves, Caldwell, Muhlenberg, and Hopkins Counties for resilient response and future risk reduction through the burying of utility wires that will enhance power reliability, reduce power loss, and lessen risk to human life; and~~
6. ~~Assistance to support disaster recovery and relief needs of local school districts, including but not limited to:

 - a. Financial support for school districts that will experience a default in bond payments; and
 - b. Financial support to assist school districts with building **and tangible property replacement** needs; **and**~~
 6. **Contracted employees to administer and report on the funds.**
- (7) Each recipient of moneys from the fund, including any agency of Kentucky state government, shall:
 - (a) Timely apply for federal emergency disaster grant assistance, other financial disaster assistance, and insurance proceeds; and
 - (b) Adhere to the terms of the fund regarding reimbursement to the Commonwealth if funds from other sources are subsequently received after the receipt of financial assistance from the state.
- (8) (a) Moneys in the fund may be used for the advancement of moneys to cities, ~~and~~ counties, **and nonprofit or public utility service providers** experiencing strained fiscal liquidity while awaiting reimbursement from federal emergency management assistance or insurance claims **and shall not be used for capital improvements**.
 - (b) Reimbursement of the advancement under paragraph (a) of this subsection shall:
 1. Be determined by the Department for Local Government's state-local finance officer; and
 2. Include a quarterly accounting of the advancement released and the outstanding balance through June 30, 2024.
- (9) (a) If a recipient of moneys from the fund subsequently receives moneys from any other source, the recipient shall reimburse the Commonwealth for the amount of the moneys received from the fund.
 - (b) **Before July 1, 2024**, all moneys reimbursed to the Commonwealth under paragraph (a) of this subsection shall be deposited in the **West Kentucky State Aid Funding for Emergencies (SAFE) fund** ~~general fund~~ within thirty (30) days, **and shall be continuously appropriated**.
 - (c) **After June 30, 2024**, all moneys reimbursed to the Commonwealth under paragraph (a) of this subsection shall be deposited into the **general fund** within thirty (30) days.
- (10) The Division of Emergency Management shall promulgate administrative regulations to carry out this section.
- (11) The following reports shall be submitted to the **Senate Standing Committee on Appropriations and Revenue and the House Standing Committee on Appropriations and Revenue or the** Interim Joint Committee on Appropriations and Revenue by the tenth day of each month, beginning ~~May~~ ~~February~~ 10, 2022, and ending July 10, 2024:
 - (a) A report from the Office of State Budget Director that includes:
 1. The name of each recipient of moneys from the fund;
 2. The dollar amount of moneys received; ~~and~~
 3. A description of how the moneys were used; and
 4. **A list of all requests:**
 - a. **Submitted, including the amount requested;**
 - b. **Denied, including a description of the reason for the denial; and**

- c. *Where the amount awarded was greater than or less than the amount requested, including a description of the reason for the increase or decrease; and*
- (b) A report from the Department of Education that includes:
 - 1. The name of each school district receiving moneys from the fund;
 - 2. The dollar amount of moneys received; ~~and~~
 - 3. A description of how the moneys were used; *and*
 - 4. *A list of all requests:*
 - a. *Submitted, including the amount requested;*
 - b. *Denied, including a description of the reason for the denial; and*
 - c. *Where the amount awarded was greater than or less than the amount requested, including a description of the reason for the increase or decrease.*
- (12) *A report shall be submitted to the Senate Standing Committee on Appropriations and Revenue and the House Standing Committee on Appropriations and Revenue or the Interim Joint Committee on Appropriations and Revenue by the tenth day following the end of each calendar quarter by the Cabinet for Economic Development, beginning July 10, 2024, and ending when no further applications for a loss payment may be submitted under subsection (7) of Section 5 of this Act, including:*
 - (a) *The name of each qualified lender receiving a loss payment;*
 - (b) *The dollar amount of the payment received;*
 - (c) *A description of the loan terms; and*
 - (d) *An explanation regarding why the loss payment was needed.*

➔SECTION 2. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 5 of this Act:

- (1) *"Approved costs" may include, as approved by the qualified lender:*
 - (a) *Obligations incurred for labor and materials in connection with the acquisition, construction, equipping, rehabilitation, and installation of an eligible company;*
 - (b) *The cost of contract bonds and any insurance that may be required or necessary during the course of acquisition, construction, equipping, rehabilitation, and installation of an eligible company which is not paid by a vendor, supplier, deliveryman, contractor, or otherwise provided;*
 - (c) *All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, including the performance of all the duties required by or consequent upon the acquisition, construction, equipping, rehabilitation, and installation of an eligible company;*
 - (d) *All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, rehabilitation, or installation of an eligible company;*
 - (e) *All costs required for the installation of utilities, including water, sewer, sewer treatment, gas, electricity, communications, railroads, and any off-site construction of the facilities to be paid by the eligible company;*
 - (f) *All costs required for the operating of the eligible company, including inventory, furniture, equipment, labor, and other incidental costs for startup or enhancement of the eligible company, if the location has been completed;*
 - (g) *Ongoing and future operating expenses; and*
 - (h) *Any other necessary and reasonable costs;*
- (2) *"Commercial loan" means an agreement between an eligible company and one (1) or more qualified lenders for approved costs;*

- (3) *"Cooperative lender" means a not-for-profit consortium of qualified lenders;*
- (4) *"Eligible company" means:*
- (a) *Any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other entity that experienced direct or indirect loss from the December 2021 storms and tornadoes that occurred in the west Kentucky region and have or had an existing or proposed business located in the counties which were declared disaster relief areas by any state or federal agency; or*
 - (b) *The successor of the entity under paragraph (a) of this subsection in interest or business activity;*
- (5) *"Final approval" means the approval of the commercial loan after underwriting by the qualified lender, in accordance with internal underwriting standards, and subject to the qualified lender's terms and conditions;*
- (6) *"Inducement" means payments from the western Kentucky risk assistance fund created in Section 5 of this Act; and*
- (7) *"Qualified lender" means a cooperative lender or a depository institution as defined in 12 U.S.C. sec. 1813(c), which has a physical presence in the Commonwealth and is currently in good standing as reported by the Department of Financial Institutions.*

➔SECTION 3. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *A qualified lender of a commercial loan to an eligible company shall not be eligible to apply for inducements until final approval has been made by the qualified lender and funding has been completed in accordance with the commercial loan.*
- (2) *Commercial loan proceeds shall be spent by the eligible company on approved costs within three (3) years of final approval, unless an extension is required by the qualified lender or necessitated by circumstances beyond the control of the eligible company or the qualified lender.*
- (3) *The eligible company shall submit all documentation, including documentation evidencing expenditures, as required by the qualified lender.*
- (4) *Qualified lenders may provide applications to an eligible company and then decide, regardless of further processing or underwriting results, to not provide final approval so long as the decision is not prohibited by state or federal law. If the qualified lender decides not to proceed, the qualified lender shall provide the application to a cooperative lender for further review and assignment to one (1) or more other qualified lenders.*
- (5) *A qualified lender that is unable to fund the entire amount requested in an application shall submit all or any portion of the requested amount to a cooperative lender for further review and assignment of the unfunded portion to one (1) or more qualified lenders.*

➔SECTION 4. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *The eligible company shall:*
 - (a) *Apply for all other available assistance that is not a commercial loan, including disaster relief assistance and insurance proceeds;*
 - (b) *Notify the qualified lenders immediately upon application of other assistance; and*
 - (c) *Provide an update on the status of that assistance when requested by the qualified lenders.*
- (2) *The eligible company may assign any other available assistance to the qualified lender.*
- (3) *The qualified lender shall use the other available assistance to first pay any fees or other amounts outstanding to reduce the principal balance of the commercial loan.*

➔SECTION 5. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *There is hereby established in the State Treasury a trust and agency account to be known as the western Kentucky risk assistance fund.*

- (b) The fund shall be maintained by the Cabinet for Economic Development.*
 - (c) Amounts deposited in the fund shall be used as required under subsection (2) of this section.*
 - (d) Notwithstanding KRS 45.229, moneys not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.*
 - (e) Any interest earnings of the fund shall become a part of the fund and shall not lapse.*
 - (f) Moneys deposited in the fund are hereby appropriated for the purposes set forth in this section.*
- (2) The fund shall be used to pay a qualified lender on the unpaid principal balance of a commercial loan in an amount up to the lesser of the first twenty-five percent (25%) of the loss suffered on the unpaid principal balance on a commercial loan or one million dollars (\$1,000,000), as evidenced by the loss being determined by the following method:*
 - (a) The amount of loan loss reserve the lending institution establishes based on the current expected credit losses methodology for estimating allowances for credit losses, as reflected in an official, filed call report which reflects the changes in the allowance for credit loss relating to the loan originated under this section; or*
 - (b) The amount of the estimated loss as documented by an updated appraisal of the underlying collateral, or a change in economic value of the loan based on expected cash flows.*
- (3) The western Kentucky risk assistance fund shall be used to provide inducement on the first two hundred million dollars (\$200,000,000) of commercial loans made and applications submitted under subsection (4) of this section.*
- (4) The cabinet shall accept applications for inducements on a form created by the cabinet, which shall include the following:*
 - (a) The name of the qualified lender;*
 - (b) The qualified lender's status of good standing by the Department of Financial Institutions;*
 - (c) The Kentucky address of the physical location of the qualified lender;*
 - (d) The name, e-mail address, and phone number of an employee of the qualified lender who can be contacted regarding questions about the application; and*
 - (e) The amount of the commercial loan.*
- (5) (a) The cabinet shall accept applications for access to the western Kentucky risk assistance fund only for a commercial loan that originated before December 31, 2027.*
 - (b) Applications from qualified lenders shall be approved in the order in which the applications are received, with each qualified lender being limited to a maximum of applications totaling ten million dollars (\$10,000,000) in commercial loans.*
- (6) Once a loss has been suffered by a qualified lender, the cabinet shall accept requests for loss payments from the western Kentucky risk assistance fund on a form created by the cabinet that provides the following:*
 - (a) The name of the qualified lender;*
 - (b) The qualified lender's status of good standing by the Department of Financial Institutions;*
 - (c) The Kentucky address of the physical location of the qualified lender;*
 - (d) The name, e-mail address, and phone number of an employee of the qualified lender, who can be contacted regarding questions about the application;*
 - (e) The amount of the commercial loan.*
 - (f) The requested loss payment amount calculated in accordance with subsection (2) of this section; and*
 - (g) Documentation of the suffered loss.*
- (7) (a) An application for a loss payment may only be submitted for losses suffered within five (5) years from the origination of the loan.*

- (b) *Once the loss application has been submitted to the cabinet, a decision to approve or deny the application shall be made within thirty (30) days of submission.*
- (c) *Within sixty (60) days of submission:*
1. *If approved, the amount due shall be issued to the qualified lender; or*
 2. *If denied, an explanation shall be sent to the qualified lender for the denial.*
- (8) *Should the qualified lender, at any time after the receipt of a loss payment from the western Kentucky risk assistance fund, collect more than seventy-five percent (75%) of the previously considered uncollectable balance, any portion over seventy-five percent (75%) shall be repaid to the cabinet for deposit into western Kentucky risk assistance fund, however, no more than one million dollars (\$1,000,000) shall be recovered.*
- (9) *Inducements shall be paid as long as moneys are available in the fund from the initial funding or subsequent loss collection by qualified lenders on commercial loans originating before December 31, 2027.*

➔Section 6. There is hereby appropriated Restricted Fund moneys in the amount of \$25,000,000 in fiscal year 2021-2022 from the West Kentucky State Aid Funding for Emergencies (SAFE) Fund to the Western Kentucky Risk Assistance Fund created in Section 5 of this Act.

➔Section 7. Notwithstanding KRS Chapter 45A or 424, any public agency as defined in KRS 61.870(1) that is located within the areas named in a Presidential Declaration of Emergency relating to the storms and tornadoes that occurred in December 2021 may use their general funds, donations, aid, and grant funds received from other governmental units, and insurance proceeds for the design, construction, reconstruction, and repair or renovation of public buildings damaged by the storm and tornadoes without complying with the public procurement procedures required by state law if the public agency makes any decision related to the selection of vendors within an open meeting and any contract entered into is made part of the public record and is subject to disclosure in compliance with the provisions of KRS 61.870 to 61.884

➔Section 8. There is hereby appropriated Restricted Fund moneys from the West Kentucky State Aid Funding for Emergencies (SAFE) Fund in the amount of \$120,890,000 in fiscal year 2021-2022 to the Department of Military Affairs budget unit, to be used by the Division of Emergency Management in providing financial assistance for those impacted by the December 2021 storms and tornadoes that occurred in the west Kentucky region, according to the criteria established in Section 4 of House Bill 5/GA, as enacted in the 2022 Regular Session of the General Assembly, 2022 Ky. Acts ch. 2, sec. 4, as amended in Section 1 of this Act. Recipients shall be those that:

- (1) Are eligible under the SAFE Fund;
- (2) Have applied or requested state assistance from the SAFE Fund; and
- (3) Have submitted a request from a local official that includes a description and cost estimate of immediate needs.

➔Section 9. There is hereby appropriated General Fund moneys in the amount of \$100,000 in fiscal year 2022-2023 to the Department for Local Government to be distributed to the Paducah City Commission for use on the Rockport Bridge over the Green River at Railroad Milepost 117.86.

➔Section 10. There is hereby appropriated Restricted Funds in the amount of \$110,000 in fiscal year 2021-2022 from the West Kentucky State Aid Funding for Emergencies (SAFE) Fund to Murray State University for housing, facilities, and staffing costs for storm related purposes.

➔Section 11. Whereas support and relief efforts are imperative for the Commonwealth to recover from the considerable damage caused by the deadly storms and tornadoes, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 15, 2022.