

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Kentucky Fire Commission

(Amendment)

739 KAR 2:070. Volunteer fire department loan fund.

RELATES TO: KRS 95A.262(4), (5), (13), (14)

STATUTORY AUTHORITY: KRS 95A.240

NECESSITY, FUNCTION, AND CONFORMITY: KRS 95A.262 authorizes the Kentucky Fire Commission ~~on Fire Protection Personnel Standards and Education~~ to make low interest loans for the purchase of major equipment and construction of facilities to properly trained volunteer fire departments which do not have other sources of funds at rates which are favorable given their financial resources. This administrative regulation is necessary to establish the criteria for qualifying for the loan and the mandatory procedures to be followed in obtaining and repaying the loan.

Section 1. Definitions.

(1) "Accessory equipment" means ladders, hoses, self-contained breathing apparatus, portable pump and hard suction hoses, nozzles, power extrication tools and protective equipment necessary to carry out the ordinary functions of supporting fire fighting activities.

(2) "Apparatus equipment" means NFPA-complaint pumpers, rescue pumpers, tankers, aerial equipment, rescue equipment, specialty fire apparatus equipment, and other large equipment used for firefighting operations. ~~fighting fires and emergencies. This equipment is more specifically categorized as follows:~~

~~{(a)} ["Pumper" means any pumper which can pump 500, 750, 1,000, 1,250 or 1,500 gallons per minute at 150 pounds per square inch net pumping pressure.]~~

~~{(b)} ["Tanker" means a mobile water supply fire apparatus with a water capacity of 1,000 gallons or more and a minimum flow rate to pump connection of 500 gallons per minute except when a booster pump is provided.]~~

~~{(c)} ["Rescue pumper" means an apparatus capable of pumping a minimum of 250 gallons per minute at 150 PSI net pumping pressure, carrying a minimum of 500 gallons of water.]~~

(3) "Approved" means approved by the commission or its authorized designee for a particular purpose.

(4) "Commission" means commission as defined by KRS 95A.210.

(5) "Committee" means the loan committee of the Kentucky Fire Commission ~~on Fire Protection Personnel Standards and Education~~.

(6) "Communications equipment" means equipment or system, or both, necessary for the transmission and reception of signals, by voice, required to support the operations of the volunteer fire department.

(7) "Eligible" means a volunteer fire department that has met the training requirements and is in good standing for receipt of state aid pursuant to 739 KAR 2:050 and the loan request requirements of this administrative regulation.

(8) "Emergency" means fire department equipment, apparatus or facilities have been damaged, destroyed or rendered inoperable and established firefighting capacity is reduced to a level affecting public safety.

(9) "Facilities" means any structure or portion of a structure intended for storage or protection of firefighting equipment including rooms or spaces designed and used for firefighting training.

(10) "Local government" as defined by KRS 95A.210~~{(3)}~~.

(11) "NFPA" means the National Fire Protection Association.

(12) "Protective equipment" means clothing or equipment used by firefighters which affords protection from injury to the wearer or user including, but not limited to, fire coats, boots, helmets and turnout pants meeting current NFPA standards.

(13) "Specialty fire apparatus equipment" means command, chief, first response, and other specialty equipment used for firefighting equipment.

~~(14) [(13)]~~ "UL" means Underwriters Laboratories.

~~(15) [(14)]~~ "Volunteer fire department" means a fire department recognized by the Kentucky Fire Commission ~~[on Fire Protection Personnel Standards and Education]~~ as having a membership of more than fifty (50) percent of its members being full-time volunteer firefighters.

~~(16) [(15)]~~ "Volunteer fire department loan fund" means the fund established pursuant to KRS 95A.262(14).

Section 2. Eligibility.

(1) A volunteer fire department may apply to the commission to receive low interest loans for the purchase of major equipment and facility construction pursuant to the requirements of this administrative regulation.

(2) Eligibility to participate in the loan fund shall be limited to those volunteer fire departments meeting the training requirements of KRS 95A.262(2) and continue in good standing to receive state aid~~[, and which the commission finds are unable to obtain loans from conventional financial institutions at the rate of three (3) percent].~~

(3) A loan shall be considered from only one (1) fire department when more than one (1) department resides at the same physical location.

Section 3. Loan Purposes and Prohibitions.

(1) Purposes. The commission shall consider a loan for the following purposes:

- (a) The acquisition of apparatus equipment;
- (b) The acquisition of communication equipment;
- (c) The acquisition of accessory equipment or protective equipment;
- (d) The construction of new facilities;
- (e) The modernization of existing facilities; and
- (f) The repair or rehabilitation of apparatus equipment where it has been determined that existing apparatus equipment no longer meets the standards of the NFPA and where the repair or rehabilitation, or both, of the equipment will bring it in compliance with NFPA standards.

(2) Prohibitions. A loan granted under this administrative regulation shall not be used for the following:

- (a) Operating expenses;
- (b) For payment of fees for the designing or planning of facilities or preparation of application; or
- (c) For investment or reinvestment.

Section 4. General Loan Requirements.

(1) Loan period. A loan period shall not exceed fifteen (15)~~twelve (12)]~~ years. The period of time for repayment of the loan shall depend upon the amount of the loan and shall be set forth in the loan agreement.~~[Except in the case of approved emergency loans, the minimum amount of a loan shall be \$5,000.]~~

(2) Title of property. Any apparatus equipment or facilities financed by a loan from the fund shall be titled in the name of the volunteer fire department or in the name of the political subdivision with the commission as lien holder for the property. In the event the commission is supplying secondary funding, the commission shall become holder of a secondary encumbrance.

~~[(3)] [Fire department matching funds. A prerequisite to obtaining a loan for facilities, vehicles, or rehabilitation of facilities, vehicles, or equipment, the volunteer fire department shall verify the availability of unobligated funds in the amount of twenty-five (25) percent of the total cost of the facility, vehicle, or equipment or rehabilitation of the facility, vehicle, or equipment.]~~

~~(3) [(4)]~~ Financial responsibility. A copy of the last twelve (12) monthly bank statements must accompany the loan application.

~~(4) [(5)]~~ Repayment of loans.

(a) Interest on the principal amount of the loan shall accrue at the rate of three (3) percent per annum and shall be due and payable on the unpaid balance annually.

(b) The principal of the loan shall be repaid proportionally over the period of the loan. The principal may be reduced at anytime through advanced payment.

(c) The principal and interest of the loan shall be payable at the office designated on the loan approval form, with the payment being deducted from the state aid allotment for that year with any additional payment due or desired be made by check made payable to the Kentucky Fire Commission~~[State Treasurer]~~.

(d) A payment shall be made before the close of business on the due date or it shall be considered delinquent.

(e) Delinquent accounts shall not receive further loans or grants for state aid or training facilities until the delinquency is cured. If the delinquency of the account extends beyond three (3) months of distribution of the state aid check, foreclosure or repossession procedures shall begin.

(f) The volunteer fire department shall make yearly payments equal to its full state-aid allotment unless otherwise requested and approved by the commission. ~~[A portion of future state aid grants may be committed by the volunteer fire department to satisfy its loan agreement.]~~

(g) Insurance. The volunteer fire department shall provide to the commission proof of insurance~~[collateral protection insurance]~~ for the apparatus, equipment and facility construction sufficient to secure and protect the loan.

~~(5) [(6)]~~ Emergency loans. An eligible volunteer fire department may be granted an approved emergency loan pursuant to this administrative regulation.

Section 5. Loan Requirements for Fire Department Facility Construction. A request for a construction loan for fire department facilities shall meet the requirements of this section and other applicable requirements of this administrative regulation.

(1) A facility loan shall be granted for establishing or modernizing those facilities that house fire-fighting equipment.

(2) A facility loan shall not exceed seventy-five (75) percent of the total cost of the construction of the facility or \$125,000~~[\$75,000]~~, whichever is less.

(3) A facility loan shall not be used for land acquisition.

(4) Land title. The title to the land upon which facilities are to be constructed or modernized under the loan shall be in the name of the volunteer fire department or the local government which the volunteer fire department serves.

(5) Clear title. The volunteer fire department or the political subdivision for which the volunteer fire department provides service shall have clear title to the land upon which the facility is to be constructed or modernized.

(6) Real property liens. Concurrent with the receipt of the loan, the volunteer fire department shall provide a copy of the deed and execute a lien document to be filed in the county court clerk's office in which the property is located.

(7) Plans approval. Final plans for construction shall be submitted for approval to the Department of Housing, Buildings and Construction or to an authorized local building official with a copy to the commission. The volunteer fire department shall be responsible

for complying with the Kentucky Building Code, the Americans with Disabilities Act and other applicable laws. If any change to the plans or specifications is desired or required, the volunteer fire department shall furnish all additional labor and materials necessary to complete the project and the improvements in compliance with the changes to the plans and specifications.

(8) A certificate of occupancy shall be submitted to the commission by the volunteer fire department upon completion of construction~~[prior to release of loan funds]~~.

Section 6. Apparatus Equipment.

(1) Loan limits.

(a) The amount of a loan for the purchase of a single apparatus equipment shall not exceed ~~\$125,000~~~~[\$75,000]~~ or seventy-five (75) percent of the total cost, whichever is less. The volunteer fire department shall submit to the commission:

1. A completed vehicle inspection report from a mechanic with an Automotive Service Excellence (ASE) or Emergency Vehicle Technician (EVT) certification; and

2. A ~~[The apparatus being purchased with the loan funding shall not be more than twenty (20) years old and a]~~ copy of a pump test conducted within the last year~~[must accompany necessary documentation for the loan].~~

(b) The amount of a loan for the repair or rehabilitation for a single apparatus equipment shall not exceed ~~\$125,000~~~~[\$35,000]~~ or seventy-five (75) percent of the cost of repair or rehabilitation, whichever is less. The volunteer fire department shall submit to the commission a completed vehicle inspection report from a mechanic with an Automotive Service Excellence (ASE) or Emergency Vehicle Technician (EVT) certification.~~[, and the apparatus shall not be more than twenty (20) years old.]~~

(2) Apparatus loans. An apparatus loan shall be for the purpose designated in the loan request and approved by the commission for the following purposes:

- (a) The purchase of firefighting apparatus equipment;
- (b) The rehabilitation of existing apparatus equipment for the purpose of upgrading the apparatus to meet applicable National Fire Protection Association standards; and
- (c) Repair of existing apparatus.

(3) Mandatory description or specification of equipment.

(a) New apparatus. The volunteer fire department shall submit one (1) complete set of specifications of the new apparatus.

(b) Repairs and rehabilitation. For the repair or rehabilitation of existing apparatus equipment, the volunteer fire department shall submit one (1) complete set of specifications along with one (1) estimate~~[three (3) estimates]~~ from a qualified manufacturer~~[manufacturers]~~ for the repair or rehabilitation.~~[If less than three (3) estimates are available, a statement shall be submitted explaining the reason why there are less than three (3).]~~

(c) Purchase of used apparatus equipment. For used apparatus equipment, the volunteer fire department shall submit documentation of the type and quality of the equipment.

(d) Refurbished fire apparatus. For refurbished fire apparatus, the volunteer fire department shall submit the following:

- 1. Certification of refurbished equipment.
 - 2. Pump test at time of purchase.
 - 3. Any additional information which the committee~~[loan committee]~~ may request.
- ~~[(c)] [Loans will only be granted on repairable equipment and apparatus which are not more than twenty (20) years old and a pump test shall be submitted upon completion of repairs and must meet NFPA pump test requirements and acceptance.]~~

(4) Compliance with National Fire Codes. The apparatus shall have met the NFPA 1901 standard at the time it was manufactured.~~[The volunteer fire department shall submit to~~

~~the commission verification that the new equipment is NFPA 1901-91 equipment.]~~

(5) Prerequisite materials. The volunteer fire department shall record a lien on the affected vehicle title documents in the local county court clerk's office.

Section 7. Protective, Accessory and Communication Equipment.

(1) An equipment loan shall be used for the purchase of protective, accessory ~~or~~and communication equipment.

(2) Equipment compliance.

(a) A volunteer fire department shall select protective and accessory equipment that shall be labeled as having been tested and listed by an approved nationally recognized testing agency.

(b) A volunteer fire department shall select communications equipment identified as meeting Federal Communications Commission regulations, Title 47 of the Code of Federal Regulations~~[5 C.F.R. Part 89]~~.

(3) The amount of a loan for the purchase of equipment shall not exceed the lesser of \$125,000~~[\$75,000]~~ or seventy-five (75) percent of the total cost price quote accepted by the borrower and submitted by the borrower as the accepted quote for purchase.

(4) Security interest. The commission shall retain a security interest in the property for the life of the loan.

Section 8. Loan Request Procedure.

(1) An applicant seeking a low interest loan shall submit a Low Interest Loan Application~~[Form FPPSE-1, April, 1993,]~~ to the commission.

(2) The commission administrator shall review the application and status of the volunteer fire department to determine if the minimum criteria for obtaining the loan has been met.

(3) The commission administrator shall notify the volunteer fire department of the disposition of the loan application, forwarding final forms to those eligible volunteer fire departments whose applications are satisfactory.

~~[Section 9.] [Establishing Priorities.]~~

~~[(1)] [A loan shall be reviewed for the applicant's stated purpose in the following order of preference:]~~

~~[(a)] [A request for replacement or repairs of unsafe or unusable fire apparatus, equipment or facilities.]~~

~~[(b)] [A request for replacement of outmoded fire apparatus, equipment or facilities.]~~

~~[(c)] [A request for additional apparatus, equipment or facilities because of unusual demands or present service.]~~

~~[(2)] [Priority shall first be given to applicants establishing the greatest need, utilizing the following criteria, not excluding other considerations:]~~

~~[(a)] [Financial need.]~~

~~[(b)] [Low economic base.]~~

~~[(c)] [Unusual fire hazards.]~~

~~[(d)] [County fire death rate.]~~

~~[(e)] [Population over sixty five (65).]~~

~~[(f)] [Population growth.]~~

~~[(g)] [Tax exempt properties.]~~

~~[(h)] [New construction.]~~

~~[(i)] [Natural disaster.]~~

~~[(j)] [High mileage/usage.]~~

~~[(k)] [Existing equipment.]~~

~~[(3)] [Approval shall be granted in order of need and availability of funds for each qualifying volunteer fire department.]~~

Section 9. ~~[Section 10.]~~ Formal Application and Qualification Procedure.

- (1) To qualify for a loan, an eligible volunteer fire department shall submit a Low Interest Loan Application~~[Form FPPSE-2, April, 1993,]~~ to the commission.
- (2) The commission shall render its decision at its next regularly scheduled meeting. Approved emergency loans may be granted prior to the regularly scheduled meeting.
- (3) An eligible volunteer fire department aggrieved by a decision of the commission, may petition the commission, in writing, for reconsideration and the commission, upon receiving the request, shall provide the applicant with an opportunity to be heard at its next meeting.

Section 10. ~~[Section 11.]~~ Incorporation by Reference.

- (1) "Low Interest Loan Application", April 2022, is incorporated by reference. ~~[The following material is incorporated by reference:]~~

~~[(a)] [Form FPPSE-1, April, 1993, Loan Application Request Form.]~~

~~[(b)] [Form FPPSE-2, April, 1993, Low Interest Loan Application.]~~

- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Fire Commission~~[on Fire Protection Personnel Standards and Education]~~, 110 Cleveland Drive, Paris, Kentucky 40361~~[118 James Court, Lexington, Kentucky 40505]~~, Monday through Friday, 8:30 a.m. to 4:30 p.m.

RICKY KING, Chair

APPROVED BY AGENCY: June 2, 2022

FILED WITH LRC: June 14, 2022 at 3:00 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 25 at 1:00 p.m. ET at 110 Cleveland Drive, Paris, Kentucky 40361. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jonathan L. Gay, Board Counsel, 163 E. Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, fax (859) 225-1493, email administrativeregulations@wgmfirm.com.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Jonathan L. Gay

(1) Provide a brief summary of:

(a) What this administrative regulation does:

KRS 95A.262 authorizes the Kentucky Fire Commission to make low interest loans for the purchase of major equipment and construction of facilities to properly trained volunteer fire departments which do not have other sources of funds at rates which are favorable given their financial resources. This administrative regulation establishes the criteria for qualifying for the loan and the mandatory procedures to be followed in obtaining and repaying the loan.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to establish the criteria for qualifying for the loan and the mandatory procedures to be followed in obtaining and repaying the loan.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 95A.262 authorizes the Kentucky Fire Commission to make low interest loans for the purchase of major equipment and construction of facilities to properly trained volunteer fire departments which do not have other sources of funds at rates which are favorable given their financial resources. This administrative regulation establishes the criteria for qualifying for the loan and the mandatory procedures to be followed in obtaining and repaying the loan.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation establishes the criteria for qualifying for the loan and the mandatory procedures to be followed in obtaining and repaying the loan.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

This amendment increases the maximum loan amount to \$125,000, increases the loan period from 12 to 15 years, and removes outdated and unnecessary procedures.

(b) The necessity of the amendment to this administrative regulation:

(c) How the amendment conforms to the content of the authorizing statutes:

KRS 95A.262 authorizes the Kentucky Fire Commission to make low interest loans for the purchase of major equipment and construction of facilities to properly trained volunteer fire departments which do not have other sources of funds at rates which are favorable given their financial resources. This amendment conforms to KRS 95A.262 because it establishes the criteria for qualifying for the loan and the mandatory procedures to be followed in obtaining and repaying the loan.

(d) How the amendment will assist in the effective administration of the statutes:

This amendment assists in the effective administration of KRS 95A.262 by establishing the criteria for qualifying for the loan and the mandatory procedures to be followed in obtaining and repaying the loan.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

This administrative regulation will affect all Kentucky volunteer fire departments.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Entities identified will have to follow the amended criteria for qualifying for a loan and the amended procedures for obtaining and repaying a loan.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

There is no cost to existing entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

\$0

(b) On a continuing basis:

\$0

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

The Kentucky Fire Commission is a state agency that receives its annual budget from the state government.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

No fee increase is necessary to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation does not directly or indirectly increase any fees.

(9) TIERING: Is tiering applied?

Tiering was not applied because the administrative regulation is applicable to all volunteer departments. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

Volunteer fire departments.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 95A.262; KRS 95A.240.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This administrative regulation will not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This administrative regulation will not generate revenue.

(c) How much will it cost to administer this program for the first year?

There is no cost for administering this program.

(d) How much will it cost to administer this program for subsequent years?

There is no cost for administering this program.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):None

Expenditures (+/-):None

Other Explanation:

None

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

This administrative regulation will not generate any cost savings.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

This administrative regulation will not generate any cost savings.

(c) How much will it cost the regulated entities for the first year?

This administrative regulation will not impose any costs.

(d) How much will it cost the regulated entities for subsequent years?

This administrative regulation will not impose any costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):This administrative regulation will not generate any cost savings.

Expenditures (+/-):This administrative regulation will not impose any costs.

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. This administrative regulation will not have a major economic impact.