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building, and to remove the obsolete fund authorized account agents and fund accounting processes which are now inoperable, due to the closure of the fund checking account and implementation of the current LaGov processes which are systematically in place to cover all fund expenditures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of state or local governmental units as a result of this proposed amendments to the rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of this proposed amended rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of this proposed amendments to the rule.

Shawn Wilson, Ph.D.
Secretary
1911#006

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT
Department of Treasury
Office of the Treasurer

Fiscal Administrator Revolving Loan Fund
(LAC 71:IX.Chapter 1)

In accordance with R.S. 39:1357 and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that rulemaking procedures have been initiated by the Department of Treasury, Office of the Treasurer, to promulgate §101 Definitions, §103 Restricted Use of Funds, §105 Process for Obtaining Loan from the Fund, and §107 Loan Conditions and Repayment in Title 71 (Treasury—Public Funds), Part IX (State Assistance to Local Government) of the Administrative Code.

The proposed Rule applies to requests for loans by political subdivisions from the Fiscal Administrator Revolving Loan Fund for costs and expenses associated with fiscal administration. The proposed Rule will permanently implement the emergency rules implemented by the Treasurer on October 1, 2019. The proposed rules will define the restricted use of the Fiscal Administrator Revolving Loan Fund created by R.S. 39:1357, provide for the application process and the documents that political subdivisions must follow to obtain loans from the Fiscal Administrator Revolving Loan Fund, and the requirements for repayment of approved loans.

Title 71

TREASURY—PUBLIC FUNDS

Part IX. State Assistance to Local Government

Chapter 1. Fiscal Administrator Revolving Loan Fund

§101. Definitions

A. For the purpose of this Chapter, the following shall mean:

Application—formal request for a loan from the fund for the payment of fiscal administration costs.

Court—the state district court ordering the independent fiscal administration of the political subdivision and appointment of a fiscal administrator pursuant to R.S. 39:1351, et seq.

Estimated Costs—the estimated costs and expenses associated with the independent fiscal administration of the political subdivision, including, but not limited to, all costs and expenses incurred by the fiscal administrator, the legislative auditor, the attorney general, the state treasurer, and any other persons engaged in connection with the independent fiscal administration.

Fiscal Administration Costs—the actual costs and expenses associated with the independent fiscal administration of the political subdivision, including, but not limited to, all costs and expenses incurred by the fiscal administrator, the legislative auditor, the attorney general, the state treasurer, and any other persons engaged in connection with the independent fiscal administration.

Fiscal Administrator—the court appointed fiscal administrator pursuant to R.S. 39:1351, et seq.

Fund—the fiscal administrator revolving loan fund, as established in R.S. 39:1357.

Loan—maximum principal amount authorized to the political subdivision from the fund through a loan agreement to the department of treasury for the sole purpose of paying fiscal administration costs.

Loan Agreement—the executed evidence of indebtedness of the political subdivision to repay the loan from the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1357.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Office of the Treasurer, LR 46:

§103. Restricted Use of Funds

A. The monies within the fund shall only be used for the purpose of paying the costs and expenses associated with the independent fiscal administration of the political subdivision. Such costs and expenses shall include, but not be limited to, all costs and expenses incurred by the fiscal administrator, the legislative auditor, the attorney general, the state treasurer, and any other persons engaged in connection with the independent fiscal administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1357.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Office of the Treasurer, LR 46:

§105. Process for Obtaining Loan from the Fund

A. After passing the resolution or ordinance as described in R.S. 39:1357(E) and (F), the political subdivision shall transmit an application to the legislative auditor. The application shall be in the form established by the department of treasury.

B. Such application should contain the following:

1. name of the public entity, including:
 - a. names of chief administrative officer and board/council members;
 - b. physical address;
 - c. mailing address;
 - d. email of chief administrative officer; and
 - e. phone number.

2. name of fiscal administrator, including:
 - a. physical address;
 - b. mailing address;
 - c. email;
 - d. phone number;
 - e. date of appointment; and
 - f. certified copy of court order appointing fiscal administrator.

3. a copy of the written report required to be prepared under R.S. 39:1352(B)(1). In the event that the written report has not yet been prepared or was prepared more than a year prior to the application, the application shall contain an estimate of the revenues and expenditures of the political subdivision for the remainder of its current fiscal year and the following fiscal year.

4. current budget of the political subdivision with projected expenditures to fiscal year end;
5. financial statements of the political subdivision;
6. a list of current creditors showing existing balances and payment schedules;
7. a list of assets not identified in financial statements;
8. a list of insurance policies, including insurance company name, policy numbers, and type of insurance;
9. sources of funds and evidence of ability to repay the loan requested by this application;
10. anticipated date for end of fiscal administration;
11. the estimated costs as determined by the political subdivision and fiscal administrator; and
12. the requested maximum principal amount of loan.

C. The legislative auditor in its review and approval of the application shall ensure all financial information is included in the application.

D. Upon approval of the application, the legislative auditor shall forward the application to the state treasurer and attorney general for their review and approval.

E. Upon receiving the approval of the application from the legislative auditor, state treasurer, and attorney general, the attorney general shall file a motion to approve the application with the court.

F. Following issuance of an order by the court approving the political subdivision's application, the political subdivision shall submit, in addition to the requirements of the state bond commission, the following to the state bond commission for its review and approval:

1. the application;
2. a copy of the approvals of the state treasurer, attorney general, legislative auditor, and fiscal administrator;
3. a certified copy of the court order approving the application;
4. a draft of the proposed loan agreement to secure repayment of the loan from the fund;
5. proof of publication of the resolution or ordinance in the official journal of the political subdivision as required in R.S. 39:1357(F); and
6. a copy of a resolution or ordinance adopted by the political subdivision authorizing the fiscal administrator to execute a loan agreement with the department of treasury on behalf of the political subdivision for a loan from the fund setting forth the following:
 - a. maximum principal amount under the loan;
 - b. maximum interest rate;

- c. maximum term of the loan;
- d. repayment schedule of the loan;
- e. security for the loan, if any;
- f. any redemption features of the loan agreement, including a maximum redemption premium, if any.

G. Upon approval from the state bond commission, the fiscal administrator on behalf of the political subdivision shall execute a loan agreement with the department of treasury containing the details set forth in the application and the adopted resolution or ordinance.

H. Payments from the fund shall be made by the department of treasury upon receipt of invoices from the fiscal administrator, approved by the legislative auditor. Such payments shall not exceed the maximum principal amount as established in the loan agreement.

I. Payments from the fund shall be made in the order of approval by the bond commission, absent circumstances where the department of treasury determines that an emergency exists or where the fiscal review committee has adopted a motion prioritizing payments from the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1357.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Office of the Treasurer, LR 46:

§107. Loan Conditions and Repayment

A. Each loan shall be evidenced by a loan agreement on a form prescribed or approved by the department of treasury.

B. The interest rate on each loan shall be established by the department of treasury and shall be an interest rate that is less than or equal to the market interest rate.

C. The political subdivision shall tender payments to the department of treasury in accordance with the repayment schedule set forth in the loan agreement.

D. The department of treasury shall credit any payments received to the fund for additional lending under this Chapter.

E. The department of treasury may by suit, action, mandamus, or other proceedings, protect and enforce any covenant relating to and the security provided in connection with any indebtedness issued pursuant to R.S. 39:1357, and may by suit, action, mandamus, or other proceedings enforce and compel performance of all of the duties required to be performed by the governing body or officials of any political subdivision hereunder and in any proceedings authorizing the issuance of the loan agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1357.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Office of the Treasurer, LR 46:

Family Impact Statement

In accordance with Section 953 and 972 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal, or amendment.

1. The effect on the stability of the family. We anticipate no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. We anticipate no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. We anticipate no effect on the functioning of the family.

4. The effect on family earnings and the family budget. We anticipate no effect on family earnings and the family budget.

5. The effect on the behavior and personal responsibility of children. We anticipate no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. We anticipate no effect on the ability of the family to perform the function as contained in the proposed rule. We anticipate that the proposed rule will assist local governments with obtaining needed financing for fiscal administration costs.

Poverty Impact Statement

In accordance with Section 953 and 973 of Title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, repeal, or amendment.

1. The effect on household income, assets, and financial security. We anticipate no effect on household income, assets, and financial security.

2. The effect on early childhood development and preschool through postsecondary education development. We anticipate no impact on early childhood development or preschool through postsecondary education development.

3. The effect on employment and workforce development. We anticipate no impact on employment and workforce development.

4. The effect on taxes and tax credits. We anticipate no impact on taxes or tax credits.

5. The effect on child and dependent care, housing, healthcare, nutrition, transportation, and utilities assistance. We anticipate no effect on child and dependent care, housing, healthcare, nutrition, transportation, and utilities assistance.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a Provider Impact Statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. We anticipate no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. We anticipate no impact on the total direct and indirect effect on the cost to the provider to provide the same level of service.

3. The overall effect on the ability of the provider to provide the same level of service. We anticipate no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Renee Free, Department of Treasury, Office of the Treasurer, P.O. Box 44154 Baton Rouge, LA 70804, or by email to RFree@treasury.la.gov. Ms. Free is responsible for responding to inquiries regarding this proposed Rule. The

deadline for receipt of all written comments is Noon CST on Tuesday, December 10, 2019.

John M. Schroder
State Treasurer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Fiscal Administrator Revolving Loan Fund

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule may create a marginal increase in additional workload for the legislative auditor, the attorney general and state treasurer. Costs associated with any additional workload may be funded by the Fiscal Administrator Revolving Loan Fund or absorbed within existing resources.

The proposed rule defines the restricted use of the Fiscal Administrator Revolving Loan Fund created by R.S. 39:1357, the process political subdivisions must follow for obtaining loans from the Fund, and the requirements for repayment of approved loans. The proposed rule will provide a mechanism for political subdivisions to enter into a loan agreement with the State to borrow monies from the Fiscal Administrator Revolving Loan Fund in order to pay the costs incurred by the court appointed fiscal administrator. The costs incurred by the political subdivision will increase by an indeterminable amount based on length of time a fiscal administrator is appointed, the scope of the work outlined by such administrator, and the magnitude of the political subdivision's fiscal crisis.

The political subdivision will be required to sign a promissory note whose terms will include an interest payment at a rate determined by the treasurer in accordance with R.S. 39:1357(E).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will allow political subdivisions who are prohibited from receiving state appropriated funds, or federal assistance which passes through the state pursuant to R.S. 39:72.1 until a fiscal administrator is appointed by the court, a means to borrow funds to pay all cost and expenses associated with a court appointed fiscal administrator. The political subdivision will repay borrowed funds to the state at an interest rate determined by the treasurer in accordance with R.S. 39:1357(E).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will directly affect the ability of municipalities to address public health, safety and welfare, including issues concerning urgent needed repairs to public water systems. Citizens of impacted political subdivisions may realize economic benefits afforded through stabilized health and safety services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to have a direct effect on competition or employment, although stabilizing the fiscal situation of political subdivisions may create enhanced competition and employment opportunities in impacted communities.

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