



# Bulletin

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2011-09B

## **TORNADO DAMAGE** **(Supersedes Bulletin 2011-07B)**

TO: Mayors, Selectmen, City and Town Managers, Finance Directors, Treasurers,  
Accounting Officers and Assessors

FROM: Robert G. Nunes, Deputy Commissioner & Director of Municipal Affairs

DATE: June 2011

SUBJECT: Financing Emergency Expenses and Assessing Property Taxes

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On June 21, 2011, the Governor signed a supplemental budget with outside sections that provide municipalities with additional options under state municipal finance law to respond to the emergency caused by the June 1, 2011 tornado in western and central Massachusetts. St. 2011, c. 52, §§ 3 and 13. The changes took effect immediately. This *Bulletin* explains the options now available, as amended or expanded by the legislation, and supersedes the information provided earlier this month in *Bulletin 2011-07B*.

### **Deficit Spending**

Municipalities may deficit spend for emergency purposes. G.L. c. 44, § 31. This option provides immediate spending authority until other financing sources, such as emergency borrowing or appropriations from available funds, can be put in place to cover the spending. To use this option, a municipality must declare a local emergency to health and safety by majority vote of the selectboard, or two-thirds vote of the municipal council, as soon as practicable and request approval from the Director of Accounts to pay the liabilities the municipality incurs for emergency purposes without appropriation. The selectboard or mayor should notify the Director by letter of the declaration and Bureau of Accounts representatives will work with local officials to expedite this approval process.

Any questions about this option should be directed to the Bureau of Accounts representative for the community.

## **Emergency Borrowing**

### **Short-term Emergency Borrowing (G.L. c. 44, § 8(9))**

Municipalities may borrow for up to two years for emergency purposes. G.L. c. 44, § 8(9), as amended by St. 2011, c. 52, § 3. These loans may be used to pay for any emergency related expenses, including employee overtime, contractual assistance and emergency repairs.

To use this short-term emergency borrowing option, the municipality must (1) authorize the borrowing and (2) obtain the approval of the borrowing from the Director of Accounts. The borrowing may be authorized (1) in the regular manner by two-thirds vote of the municipality's legislative body, and in a city with the approval of the mayor if required by charter, or (2) under an expedited procedure by the municipality's treasurer and chief executive officer. The chief executive officer is the selectboard or mayor unless a local charter designates another officer as the chief executive. See G.L. c. 4, § 7, Fifth B. Previously, all short-term emergency borrowings had to be authorized by the municipality's legislative body and approved by the Municipal Finance Oversight Board (MFOB).

### **Long-term Emergency Borrowing (G.L. c. 44, § 8(9A))**

In emergency situations, municipalities may also use a new expedited procedure for long-term borrowings of more than two years. G.L. c. 44, § 8(9A), as added by St. 2011, c. 52, § 3. These emergency loans, however, require approval of the MFOB and may be used only for capital purposes. Capital purposes include, but are not limited to, the acquisition, construction, reconstruction or repair of public buildings, works, improvements or assets. A long-term emergency borrowing is authorized by the municipality's treasurer and chief executive officer. The MFOB may then approve the loan for up to the maximum term permitted by law for the purpose upon a showing by the municipality that following the regular borrowing authorization procedure would be an undue burden in meeting the emergency. Capital borrowings authorized in the regular manner are not emergency loans under this provision. Therefore, they do not need MFOB approval unless otherwise required for that borrowing, for example, if the municipality wanted to issue the debt as qualified bonds under G.L. c. 44A.

## **Applications**

Officials in municipalities that plan to use either emergency borrowing option should contact their Bureau of Accounts representative as soon as possible and compile a schedule of the expenses to be funded by the borrowing. These schedules will likely be used to obtain any possible federal or state reimbursements. Officials should attach preliminary requests made to FEMA/MEMA when requesting approval of either a short-term or long-term emergency borrowing.

Applications for approval of short-term borrowings should be sent to:

Gerard D. Perry, Director of Accounts  
Massachusetts Department of Revenue  
P.O. Box 9569  
Boston, MA 02114-9569

Applications for approval of long-term capital borrowings should be sent to:

Mary Ann Growitz  
Municipal Finance Oversight Board  
Office of the State Auditor  
1 Ashburton Place – Room 1103  
Boston, MA 02108

If the municipality plans to borrow \$500,000 or more through the State House Note Program, it must also obtain the written approval of bond counsel. A municipality that does not plan to use the State House Note Program should seek the advice of its financial advisor and bond counsel. The Director and the MFOB may require any additional information needed to assist in the approval process.

### **Cash Flow Issues**

Municipal treasurers may issue revenue anticipation notes (RANs), among other options, to address emergency cash flow issues through the [State House Notes](#) program. Treasurers who need assistance should contact their Bureau of Accounts field representative to determine the strategy that best meets the needs of their community.

### **Property Tax Assessments**

Municipalities that have accepted local option G.L. c. 59, § 2A(a) (“Chapter 653”) will assess their fiscal year 2012 real estate taxes based on the physical condition of properties on June 30, 2011. Most of the municipalities affected by the tornado have accepted Chapter 653 so taxpayers with tornado damaged properties will have their property records updated by the assessors and their FY12 valuations based on the damaged condition. See Section B-2 of [Informational Guideline Release \(IGR\) 90-401](#).

Those municipalities with properties damaged by the June 1, 2011 tornado that do not currently use Chapter 653 may assess their FY12 taxes based on the condition of properties as of June 30, 2011 by accepting St. 2011, c. 52, § 13. Acceptance requires a majority vote of the selectboard, town council or city council, with the approval of the mayor if required by law. The following or similar language may be used for the acceptance vote:

VOTED: That the city/ town accept Section 13 of Chapter 52 of the Acts of 2011 and assess fiscal year 2012 real estate taxes based on the physical condition of property on June 30, 2011.

If accepted, the city or town clerk should send a certified copy of the vote to:

Marilyn H. Browne, Chief  
Bureau of Local Assessment  
Massachusetts Department of Revenue  
P.O. Box 9569  
Boston, MA. 02114-9569

In municipalities where G.L. c. 59, § 2D (“Supplemental Assessments”) applies, taxpayers with properties that lost over 50 percent of their assessed value as of January 1, 2010 due to tornado damage may also obtain an abatement and refund of a portion of their FY11 property taxes. See Section V-B of [IGR 03-209](#).

Assessors who have questions about these property tax options should contact the DLS legal staff at 617-626-2400.