

ASSEMBLY, No. 4342

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED DECEMBER 14, 2009

Sponsored by:

**Assemblyman JOHN F. MCKEON
District 27 (Essex)**

Co-Sponsored by:

**Assemblywoman Greenstein, Assemblyman Chivukula and Senator
B.Smith**

SYNOPSIS

Requires eligible applicants for innocent party grants from “Hazardous Discharge Site Remediation Fund” to own subject property through application process.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/12/2010)

1 AN ACT concerning certain grants from the “Hazardous Discharge
2 Site Remediation Fund” and amending P.L.1993, c.139.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 28 of P.L.1993, c.139 (C.58:10B-6) is amended to
8 read as follows:

9 28. a. Except for moneys deposited in the remediation fund for
10 specific purposes, and as provided in section 4 of P.L. 2007, c.135
11 (C.52:27D-130.7), financial assistance and grants from the
12 remediation fund shall be rendered for the following purposes. A
13 written report shall be sent to the Senate Environment Committee,
14 and the Assembly Environment and Solid Waste Committee, or
15 their successors at the end of each calendar quarter detailing the
16 allocation and expenditures related to the financial assistance and
17 grants from the fund.

18 (1) Moneys shall be allocated for financial assistance to persons,
19 for remediation of real property located in a qualifying municipality
20 as defined in section 1 of P.L.1978, c.14 (C.52:27D-178);

21 (2) Moneys shall be allocated to: (a) municipalities, counties, or
22 redevelopment entities authorized to exercise redevelopment
23 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for:

24 (i) projects in brownfield development areas pursuant to
25 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5),

26 (ii) matching grants up to a cumulative total amount from the
27 fund of \$5,000,000 per year of up to 75% of the costs of the
28 remedial action for projects involving the redevelopment of
29 contaminated property for recreation and conservation purposes,
30 provided that the use of the property for recreation and conservation
31 purposes is included in the comprehensive plan for the development
32 or redevelopment of contaminated property, or up to 50% of the
33 costs of the remedial action for projects involving the
34 redevelopment of contaminated property for affordable housing
35 pursuant to P.L.1985, c.222 (C.52:27D-301 et al.),

36 (iii) grants for preliminary assessment, site investigation or
37 remedial investigation of a contaminated site,

38 (iv) financial assistance for the implementation of a remedial
39 action, or

40 (v) financial assistance for remediation activities at sites that
41 have been contaminated by a discharge of a hazardous substance or
42 hazardous waste, or at which there is an imminent and significant
43 threat of a discharge of a hazardous substance or hazardous waste,
44 and the discharge or threatened discharge poses or would pose an

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 imminent and significant threat to a drinking water source, to
2 human health, or to a sensitive or significant ecological area; or
3 (b) persons for financial assistance for remediation activities at
4 sites that have been contaminated by a discharge of a hazardous
5 substance or hazardous waste, or at which there is an imminent and
6 significant threat of a discharge of a hazardous substance or
7 hazardous waste, and the discharge or threatened discharge poses or
8 would pose an imminent and significant threat to a drinking water
9 source, to human health, or to a sensitive or significant ecological
10 area.

11 Except as provided in subsection f. of section 27 of P.L.1993,
12 c.139 (C.58:10B-5), financial assistance and grants to
13 municipalities, counties, or redevelopment entities authorized to
14 exercise redevelopment powers pursuant to section 4 of P.L.1992,
15 c.79 (C.40A:12A-4) may be made for real property: (1) on which
16 they hold a tax sale certificate; (2) that they have acquired through
17 foreclosure or other similar means; or (3) that they have acquired,
18 or, in the case of a county governed by a board of chosen
19 freeholders, have passed a resolution or, in the case of a
20 municipality or a county operating under the "Optional County
21 Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), have passed an
22 ordinance or other appropriate document to acquire, by voluntary
23 conveyance for the purpose of redevelopment, or for recreation and
24 conservation purposes. Financial assistance and grants may only be
25 awarded for real property on which there has been or on which there
26 is suspected of being a discharge of a hazardous substance or a
27 hazardous waste. Grants and financial assistance provided pursuant
28 to this paragraph shall be used for performing preliminary
29 assessments, site investigations, remedial investigations, and
30 remedial actions on real property in order to determine the existence
31 or extent of any hazardous substance or hazardous waste
32 contamination, and to remediate the site in compliance with the
33 applicable health risk and environmental standards on those
34 properties. No financial assistance or grants for a remedial action
35 shall be awarded until the municipality, county, or redevelopment
36 entity authorized to exercise redevelopment powers pursuant to
37 section 4 of P.L.1992, c.79 (C.40A:12A-4), actually owns the real
38 property, provided that a matching grant for 75% of the costs of a
39 remedial action for a project involving the redevelopment of
40 contaminated property for recreation and conservation purposes, or
41 a matching grant for 50% of the costs of a remedial action for a
42 project involving the redevelopment of contaminated property for
43 affordable housing pursuant to P.L.1985, c.222 (C.52:27D-301 et
44 al.) may be made to a municipality, county, or redevelopment entity
45 authorized to exercise redevelopment powers pursuant to section 4
46 of P.L.1992, c.79 even if it does not own the real property and a
47 grant may be made to a municipality, county, or redevelopment
48 entity authorized to exercise redevelopment powers pursuant to

1 section 4 of P.L.1992, c.79 (C.40A:12A-4) for a remediation in a
2 brownfield development area pursuant to subsection f. of section 27
3 of P.L.1993, c.139 (C.58:10B-5) even if the entity does not own the
4 real property. No grant shall be awarded for a remedial action for a
5 project involving the redevelopment of contaminated property for
6 recreation or conservation purposes unless the use of the property is
7 preserved for recreation and conservation purposes by conveyance
8 of a development easement, conservation restriction or easement, or
9 other restriction or easement permanently restricting development,
10 which shall be recorded and indexed with the deed in the registry of
11 deeds for the county. A municipality that has performed, or on
12 which there has been performed, a preliminary assessment, site
13 investigation or remedial investigation on property may obtain a
14 loan for the purpose of continuing the remediation on those
15 properties as necessary to comply with the applicable remediation
16 regulations adopted by the department. No grant shall be awarded
17 pursuant to this paragraph to a municipality, a county, or a
18 redevelopment entity authorized to exercise redevelopment powers
19 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) unless that
20 entity has adopted by ordinance or resolution a comprehensive plan
21 specifically for the development or redevelopment of contaminated
22 or potentially contaminated real property in that municipality or the
23 entity can demonstrate to the authority that a realistic opportunity
24 exists that the subject real property will be developed or
25 redeveloped within a three-year period from the completion of the
26 remediation;

27 (3) Moneys shall be allocated for financial assistance to persons
28 who voluntarily perform a remediation of a hazardous substance or
29 hazardous waste discharge;

30 (4) Moneys shall be allocated for grants to persons who own
31 real property on which there has been a discharge of a hazardous
32 substance or a hazardous waste and that person qualifies for an
33 innocent party grant. A person qualifies for an innocent party grant
34 if that person acquired the property prior to December 31, 1983 and
35 continues to own the property until such time as the authority
36 approves the grant, the hazardous substance or hazardous waste that
37 was discharged at the property was not used by the person at that
38 site, and that person certifies that he did not discharge any
39 hazardous substance or hazardous waste at an area where a
40 discharge is discovered. A grant authorized pursuant to this
41 paragraph may be for up to 50% of the remediation costs at the area
42 of concern for which the person qualifies for an innocent party
43 grant, except that no grant awarded pursuant to this paragraph to
44 any person may exceed \$1,000,000;

45 (5) Moneys shall be allocated for (a) financial assistance to
46 persons who own and plan to remediate an environmental
47 opportunity zone for which an exemption from real property taxes
48 has been granted pursuant to section 5 of P.L.1995, c.413 (C.54:4-

1 3.154), or (b) matching grants for up to 25% of the project costs to
2 qualifying persons, municipalities, counties, and redevelopment
3 entities authorized to exercise redevelopment powers pursuant to
4 section 4 of P.L.1992, c.79 (C.40A:12A-4), who propose to perform
5 a remedial action that uses an innovative technology, or for the
6 implementation of a limited restricted use remedial action or an
7 unrestricted use remedial action except that no grant awarded
8 pursuant to this paragraph may exceed \$250,000; and

9 (6) Twenty percent of the moneys in the remediation fund shall
10 be allocated for financial assistance or grants for any of the
11 purposes enumerated in paragraphs (1) through (5) of this
12 subsection.

13 For the purposes of paragraph (5) of this subsection, "qualifying
14 persons" means any person who has a net worth of not more than
15 \$2,000,000 and "project costs" means that portion of the total costs
16 of a remediation that is specifically for the use of an innovative
17 technology or to implement an unrestricted use remedial action or a
18 limited restricted use remedial action, as applicable.

19 b. Loans issued from the remediation fund shall be for a term
20 not to exceed ten years, except that upon the transfer of ownership
21 of any real property for which the loan was made, the unpaid
22 balance of the loan shall become immediately payable in full. The
23 unpaid balance of a loan for the remediation of real property that is
24 transferred by devise or succession shall not become immediately
25 payable in full, and loan repayments shall be made by the person
26 who acquires the property. Loans to municipalities, counties, and
27 redevelopment entities authorized to exercise redevelopment
28 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4),
29 shall bear an interest rate equal to 2 points below the Federal
30 Discount Rate at the time of approval or at the time of loan closing,
31 whichever is lower, except that the rate shall be no lower than 3
32 percent. All other loans shall bear an interest rate equal to the
33 Federal Discount Rate at the time of approval or at the time of the
34 loan closing, whichever is lower, except that the rate on such loans
35 shall be no lower than five percent. Financial assistance and grants
36 may be issued for up to 100% of the estimated applicable
37 remediation cost, except that the cumulative maximum amount of
38 financial assistance which may be issued to a person, in any
39 calendar year, for one or more properties, shall be \$1,000,000.
40 Financial assistance and grants to any one municipality, county, or
41 redevelopment entity authorized to exercise redevelopment powers
42 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may not
43 exceed \$3,000,000 in any calendar year except as provided in
44 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5). Grants
45 to a municipality, county, or redevelopment entity authorized to
46 exercise redevelopment powers pursuant to section 4 of P.L.1992,
47 c.79 may be for up to 100% of the total costs of the preliminary
48 assessment, site investigation, or remedial investigation regardless

1 of when the application was received by the department. Grants to a
2 municipality, a county, or a redevelopment entity authorized to
3 exercise redevelopment powers pursuant to section 4 of P.L.1992,
4 c.79 (C.40A:12A-4) may not exceed 75% of the total costs of the
5 remedial action at any one site for any application received by the
6 department on or after September 15, 2005. Repayments of
7 principal and interest on the loans issued from the remediation fund
8 shall be paid to the authority and shall be deposited into the
9 remediation fund.

10 c. No person, other than a qualified person planning to use an
11 innovative technology for the cost of that technology, a qualified
12 person planning to use a limited restricted use remedial action or an
13 unrestricted use remedial action for the cost of the remedial action,
14 a person performing a remediation in an environmental opportunity
15 zone, or a person voluntarily performing a remediation, shall be
16 eligible for financial assistance from the remediation fund to the
17 extent that person is capable of establishing a remediation funding
18 source for the remediation as required pursuant to section 25 of
19 P.L.1993, c.139 (C.58:10B-3).

20 d. The authority may use a sum that represents up to 2% of the
21 moneys issued as financial assistance or grants from the
22 remediation fund each year for administrative expenses incurred in
23 connection with the operation of the fund and the issuance of
24 financial assistance and grants.

25 e. Prior to March 1 of each year, the authority shall submit to
26 the Senate Environment Committee and the Assembly Environment
27 and Solid Waste Committee, or their successors, a report detailing
28 the amount of money that was available for financial assistance and
29 grants from the remediation fund for the previous calendar year, the
30 amount of money estimated to be available for financial assistance
31 and grants for the current calendar year, the amount of financial
32 assistance and grants issued for the previous calendar year and the
33 category for which each financial assistance and grant was
34 rendered, and any suggestions for legislative action the authority
35 deems advisable to further the legislative intent to facilitate
36 remediation and promote the redevelopment and use of existing
37 industrial sites.

38 (cf: P.L.2007, c.135, s.3)

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40 2. This act shall take effect immediately.

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STATEMENT

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45 This bill clarifies the eligibility of individuals seeking innocent
46 party grants from the "Hazardous Discharge Site Remediation
47 Fund." Specifically, the bill clarifies that a person qualifies for an
48 innocent party grant only if the person continues to own the subject

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- 1 property until the Economic Development Authority has actually
- 2 approved the grant, in addition to meeting other criteria.