

CHAPTER 70

AN ACT concerning grants to remediate hazardous substances, and amending P.L.1993, c.139.

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

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

C.58:10B-6 Financial assistance and grants from the fund; allocations.

28. a. Except for moneys deposited in the remediation fund for specific purposes, financial assistance and grants from the remediation fund shall be rendered for the following purposes and, on an annual basis, obligated in the percentages as provided in this subsection. Upon a written joint determination by the authority and the department that the demand for financial assistance or grants for moneys allocated in any paragraph exceeds the percentage of funds allocated for that paragraph, financial assistance and grants dedicated for the purposes and in the percentages set forth in any other paragraph of this subsection, may, for any particular year, if the demand for financial assistance or grants for moneys allocated in that paragraph is less than the percentage of funds allocated for that paragraph, be obligated to the purposes set forth in the over allocated paragraph. The written determination shall be sent to the Senate Environment Committee, and the Assembly Agriculture and Waste Management Committee, or their successors. For the purposes of this section, "person" shall not include any governmental entity.

(1) At least 15% of the moneys shall be allocated for financial assistance to persons, and the New Jersey Redevelopment Authority established pursuant to P.L.1996, c.62 (C.55:19-20 et al.), for remediation of real property located in a qualifying municipality as defined in section 1 of P.L.1978, c.14 (C.52:27D-178);

(2) At least 10% of the moneys shall be allocated for financial assistance and grants to municipal governmental entities and the New Jersey Redevelopment Authority for real property: (1) on which they hold a tax sale certificate; (2) that they have acquired through foreclosure or other similar means; or (3) that they have acquired, or have passed a resolution or ordinance or other appropriate document to acquire, by voluntary conveyance for the purpose of redevelopment. Financial assistance and grants may only be awarded for real property on which there has been or on which there is suspected of being a discharge of a hazardous substance or a hazardous waste. Grants provided pursuant to this paragraph shall be used for performing preliminary assessments, site investigations, and remedial investigations on real property in order to determine the existence or extent of any hazardous substance or hazardous waste contamination on those properties. No grant shall be awarded pursuant to this paragraph for the purposes of a remedial investigation until the municipal government entity or the New Jersey Redevelopment Authority actually owns the real property. A municipal governmental entity or the New Jersey Redevelopment Authority that has performed, or on which there has been performed, a preliminary assessment, site investigation or remedial investigation on property may obtain a loan for the purpose of continuing the remediation on those properties as necessary to comply with the applicable remediation regulations adopted by the department. No grant shall be awarded pursuant to this paragraph to a municipal government entity unless that entity has adopted by ordinance or resolution a comprehensive plan specifically for the development or redevelopment of contaminated or potentially contaminated real property in that municipality or the entity can demonstrate to the authority that a realistic opportunity exists that the subject real property will be developed or redeveloped within a three-year period from the completion of the remediation;

(3) At least 15% of the moneys shall be allocated for financial assistance to persons, the New Jersey Redevelopment Authority, or municipal governmental entities for remediation activities at sites that have been contaminated by a discharge of a hazardous substance or hazardous waste, or at which there is an imminent and significant threat of a discharge of a hazardous substance or hazardous waste, and the discharge or threatened discharge poses or would pose an imminent and significant threat to a drinking water source, to human health, or to a sensitive or significant ecological area;

(4) At least 10% of the moneys shall be allocated for financial assistance to persons who voluntarily perform a remediation of a hazardous substance or hazardous waste discharge;

(5) At least 10% of the moneys shall be allocated for financial assistance to persons who are required to perform remediation activities at an industrial establishment pursuant to P.L.1983,

c.330 (C.13:1K-6 et al.), as a condition of the closure, transfer, or termination of operations at that industrial establishment;

(6) At least 15% of the moneys shall be allocated for grants to persons who own real property on which there has been a discharge of a hazardous substance or a hazardous waste and that person qualifies for an innocent party grant. A person qualifies for an innocent party grant if that person acquired the property prior to December 31, 1983, except as provided hereunder, the hazardous substance or hazardous waste that was discharged at the property was not used by the person at that site, and that person certifies that he did not discharge any hazardous substance or hazardous waste at an area where a discharge is discovered; provided, however, that notwithstanding any other provision of this section the New Jersey Redevelopment Authority established pursuant to P.L.1996, c.62 (C.55:19-20 et al.), shall qualify for an innocent party grant pursuant to this paragraph where the immediate predecessor in title to the authority would have qualified for but failed to apply for or receive such grant. A grant authorized pursuant to this paragraph may be for up to 50% of the remediation costs at the area of concern for which the person qualifies for an innocent party grant, except that no grant awarded pursuant to this paragraph to any person or the New Jersey Redevelopment Authority may exceed \$1,000,000;

(7) At least 5% of the moneys shall be allocated for financial assistance to persons who own and plan to remediate an environmental opportunity zone for which an exemption from real property taxes has been granted pursuant to section 5 of P.L.1995, c.413 (C.54:4-3.154);

(8) At least 5% of the moneys shall be allocated for matching grants for up to 25% of the project costs to qualifying persons who propose to perform a remedial action that uses an innovative technology except that no grant awarded pursuant to this paragraph to any qualifying person may exceed \$100,000;

(9) At least 5% of the moneys shall be allocated for matching grants for up to 25% of the project costs to qualifying persons for the implementation of a limited restricted use remedial action or an unrestricted use remedial action except that no grant awarded pursuant to this paragraph to any qualifying person may exceed \$100,000. The authority may use money allocated pursuant to this paragraph to provide loan guarantees to encourage financial institutions to provide loans to any person who may receive financial assistance from the fund who plans to implement a limited restricted use remedial action or an unrestricted use remedial action;

(10) At least 5% of the moneys shall be allocated for grants to persons who own real property on which there has been a discharge of a hazardous substance or a hazardous waste from an underground storage tank and that person qualifies for an underground storage tank grant. A person qualifies for an underground storage tank grant if that person acquired the property prior to December 31, 1986, the person complied with all laws, rules and regulations regarding the underground storage tank, the underground storage tank was closed or removed prior to December 31, 1990, and there is a discovery of contamination that originated from the underground storage tank and that discovery is made more than five years after closure or removal of the underground storage tank. A grant authorized pursuant to this paragraph may be for up to 50% of the remediation costs at the area of concern for which the person qualifies for an underground storage tank grant, except that no grant awarded pursuant to this paragraph to any person may exceed \$1,000,000; and

(11) Five percent of the moneys in the remediation fund shall be allocated for financial assistance or grants for any of the purposes enumerated in paragraphs (1) through(10) of this subsection, except that where moneys in the fund are insufficient to fund all the applications in any calendar year that would otherwise qualify for financial assistance or a grant pursuant to this paragraph, the authority shall give priority to financial assistance applications that meet the criteria enumerated in paragraph (3) of this subsection.

For the purposes of paragraphs (8) and (9) of this subsection, "qualifying persons" means any person who has a net worth of not more than \$2,000,000 and "project costs" means that portion of the total costs of a remediation that is specifically for the use of an innovative technology or to implement an unrestricted use remedial action or a limited restricted use remedial action, as applicable.

b. Loans issued from the remediation fund shall be for a term not to exceed ten years, except that upon the transfer of ownership of any real property for which the loan was made, the unpaid balance of the loan shall become immediately payable in full. Loans to municipal governmental entities and the New Jersey Redevelopment Authority established pursuant to P.L.1996, c.62 (C.55:19-20 et al.), shall bear an interest rate equal to 2 points below the Federal Discount Rate at the time of approval or at the time of loan closing, whichever is lower, except that the rate shall be no lower than 3 percent. All other loans shall bear an interest rate equal to the Federal Discount Rate at the time of approval or at the time of the loan closing, whichever is lower, except that the rate on such loans shall be no lower than five percent. Financial assistance and grants may be issued for up to 100% of the estimated applicable remediation cost, except that the cumulative maximum amount of financial assistance which may be issued to a person, in any calendar year, for one or more properties, shall be \$1,000,000. Financial assistance and grants to any one municipal governmental entity or the New Jersey Redevelopment Authority may not exceed \$2,000,000 in any calendar year. Repayments of principal and interest on the loans issued from the remediation fund shall be paid to the authority and shall be deposited into the remediation fund.

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

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

e. Prior to March 1 of each year, the authority shall submit to the Senate Environment Committee and the Assembly Agriculture and Waste Management Committee, or their successors, a report detailing the amount of money that was available for financial assistance and grants from the remediation fund for the previous calendar year, the amount of money estimated to be available for financial assistance and grants for the current calendar year, the amount of financial assistance and grants issued for the previous calendar year and the category for which each financial assistance and grant was rendered, and any suggestions for legislative action the authority deems advisable to further the legislative intent to facilitate remediation and promote the redevelopment and use of existing industrial sites.

2. This act shall take effect immediately and shall expire one year thereafter

Approved April 20, 2001.