

CHAPTER 315

AN ACT concerning underground storage tank grants, and amending P.L.1997, c.235.

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

1. Section 10 of P.L.1997, c.235 (C.58:10A-37.10) is amended to read as follows:

C.58:10A-37.10 Terms of loans.

10. a. All loans awarded from the fund shall be for a term not to exceed ten years. Except as provided in subsection b. of section 5 of P.L.1997, c.235 (C.58:10A-37.5), all loans shall be at a rate between two percent and the prime rate at the time of approval, or at the time of loan closing if the prime rate is lower at that time. The authority shall determine the interest rate to be imposed based on the applicant's ability to repay the loan.

b. Upon the sale of the facility for which the loan was made, the unpaid balance of the loan shall become immediately payable in full. Upon the sale of a facility for which a conditional hardship grant was made pursuant to section 5 of P.L.1997, c.235 (C.58:10A-37.5), that amount of the conditional hardship grant that must be repaid, as calculated pursuant to section 16 of P.L.1997, c.235 (C.58:10A-37.16), shall become immediately payable in full except as provided below. No repayment of a conditional hardship grant shall be required upon transfer of ownership of the property for which the grant was made, pursuant to a condemnation proceeding or by the exercise of the power of eminent domain. No repayment of a conditional hardship grant awarded pursuant to paragraph (1) of subsection c. of section 5 of P.L.1997, c.235 (C.58:10A-37.5) for a remediation necessitated by a discharge from a petroleum underground storage tank used to store heating oil at the applicant's primary residence shall be required.

2. Section 16 of P.L.1997, c.235 (C.58:10A-37.16) is amended to read as follows:

C.58:10A-37.16 Liens for financial assistance.

16. a. In addition to any other financial assistance requirements imposed by the authority pursuant to P.L.1997, c.235 (C.58:10A-37.1 et seq.), any award of financial assistance from the fund except for any grant awarded pursuant to paragraph (1) of subsection c. of section 5 of P.L.1997, c.235 (C.58:10A-37.5) for a remediation necessitated by a discharge from a petroleum underground storage tank used to store heating oil at the applicant's primary residence, shall constitute, in each instance, a debt of the applicant to the fund. The debt shall constitute a lien on the real property at which the subject facility is located. The lien shall be in the amount of the financial assistance awarded the applicant. The lien shall attach when a notice of lien, incorporating the name of the property owner, a description of the real property on which the subject facility is located and an identification of the amount of the financial assistance awarded, is duly filed with the county recording officer in the county in which the property is located.

Where financial assistance from the fund is awarded as a combination of a loan and a grant, separate liens for the loan and the grant shall be filed. No lien shall be placed on any real property of an applicant based on a conditional hardship grant awarded pursuant to paragraph (1) of subsection c. of section 5 of P.L.1997, c.235 (C.58:10A-37.5), for a remediation necessitated by a discharge from a petroleum underground storage tank used to store heating oil at the applicant's primary residence.

b. A lien that is filed on real property pursuant to a loan shall be removed upon repayment of the loan.

c. Except as provided below, the lien that is filed on real property pursuant to a conditional hardship grant shall be removed upon repayment of the amount of the grant that is unsatisfied or upon the end of a 15-year period in which the site for which the financial assistance was awarded continued to be operated in substantially the same manner as it was operated at the time of the award of financial assistance. The period of operation need not run consecutively. Beginning with the 11th year of operating in substantially the same manner, 20% of the conditional hardship grant shall be deemed satisfied with an additional 20% to be satisfied each year until the entire amount of the conditional hardship grant is satisfied at the end of the 15-year period. The owner or operator of the facility claiming to have satisfied a conditional hardship grant due to the 15-year period of operation, shall submit a certification of this fact to the authority. Upon repayment of the unsatisfied grant award or upon submittal of this certification,

unless the authority has made a finding that the certification is not correct, the authority shall remove the lien from the property.

Where real property for which a conditional hardship grant was awarded is not being operated in substantially the same manner, the 15-year period to satisfy the lien shall be tolled. If at any time prior to the satisfaction of the lien the property is developed or operated for a purpose that is not substantially the same as its operation at the time of the award of the conditional hardship grant, the grant recipient shall so certify to the authority upon the change in operation. Upon receipt of this certification, the authority shall determine, based upon the new operation of the property if the financial assistance shall continue as a conditional hardship grant or if it shall be converted into a loan. In making this determination, the authority shall base its decision on the financial hardship factors used in determining the original eligibility for the conditional hardship grant.

A lien that is filed on real property pursuant to a grant shall be removed by the authority upon condemnation of the property or upon the exercise of the power of eminent domain, and the conditional hardship grant shall be deemed satisfied.

The authority may take whatever enforcement actions it deems necessary to verify the operation of any property for which a conditional hardship grant was made. The terms and conditions of any loan converted from a grant pursuant to this subsection shall be the same as those authorized pursuant to this act.

d. The provisions of this section do not apply to any real property of an applicant who is a public entity.

3. This act shall take effect immediately.

Approved January 12, 2006.