

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: S3/21/03 S3/25/03

A Bill

Act 1194 of 2003
SENATE BILL 941

5 By: Senator Steele
6 *By: Representatives Bledsoe, Green*
7

For An Act To Be Entitled

8
9
10 AN ACT TO AMEND ARKANSAS CODE TITLE 15 CHAPTER 5
11 TO ESTABLISH A SPECIAL RESTRICTED FUND TO BE
12 ADMINISTERED BY THE ARKANSAS DEPARTMENT OF
13 ENVIRONMENTAL QUALITY FOR THE CLEANUP OF
14 BROWNFIELDS; AND FOR OTHER PURPOSES.

Subtitle

15
16
17 AN ACT TO ESTABLISH A SPECIAL RESTRICTED
18 FUND FOR THE CLEANUP OF BROWNFIELDS.
19

20
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. *Arkansas Code Title 15, Chapter 5 is amended to add an*
24 *additional subchapter to read as follows:*

25 15-5-1501. Title.

26 This subchapter may be titled as the "Arkansas Brownfield Revolving
27 Loan Fund Act".

28
29 15-5-1502. Definitions.

30 As used in this subchapter, unless the context requires otherwise:

31 (1) "Authority" means the Arkansas Development Finance Authority
32 or its successor;

33 (2) "Department" means the Arkansas Department of Environmental
34 Quality or its successor; and

35 (3) "Fund" means the Brownfield Revolving Loan Fund.
36



1 15-5-1503. Fund – Establishment - Uses.

2 (a)(1) There is established on the books of the Arkansas Development
3 Finance Authority, a special restricted fund to be known as the “Brownfield
4 Revolving Loan Fund”, which shall be maintained by the authority and
5 administered by the Arkansas Department of Environmental Quality, for the
6 purposes stated under this subchapter.

7 (2) The authority may create sub-accounts within the fund, as
8 necessary.

9 (b) Moneys in the fund shall be expended in a manner consistent with
10 the terms and conditions of applicable federal and state grants, and may be
11 used:

12 (1) To provide loans to prospective and actual purchasers of
13 abandoned industrial, commercial, or agricultural sites for assessments,
14 investigations, and remedial actions under Arkansas Code Title 8, Chapter 7,
15 Subchapter 11;

16 (2) To provide grants for assessments, investigations, and
17 remedial actions under Arkansas Code Title 8, Chapter 7, Subchapter 11, or as
18 consistent with federal law;

19 (3) To secure the payment of the principal, premium, and
20 interest on, and to pay costs incurred in connection with, bonds issued by
21 the authority, if the net proceeds of the bonds are deposited into the fund;

22 (4) To fund administrative expenses relating to implementing
23 this subchapter; and

24 (5) To provide for any other expenditures consistent with
25 applicable federal or state law.

26
27 15-4-1504. Fund - Sources - Deposits.

28 (a) The following moneys shall be deposited directly into the
29 Brownfield Revolving Loan Fund:

30 (1) Grants from the federal government or federal agencies
31 allotted to the state for capitalization of the fund;

32 (2) State matching grants;

33 (3) Proceeds of bonds issued by the authority under this
34 subchapter;

35 (4) Loan payments of principal, interest, and premiums under
36 this subchapter;

1 (5) Any money received from the Hazardous Substance Remedial
2 Action Trust Fund;

3 (6) Any money received by the state as a gift or donation to the
4 fund;

5 (7) Any interest earned upon money deposited into the fund; and

6 (8) Any other money legally designated for the fund.

7 (b)(1) All moneys received after the effective date of this
8 subchapter, from whatever source, for direct deposit into the fund, or paid
9 to the authority for deposit in the fund, are cash funds, restricted in their
10 use, and shall not be deposited in the State Treasury or deemed to be a part
11 of the State Treasury for the purposes of Arkansas Constitution, Article 5, §
12 29, Article 16, § 12, Amendment 20, or any other constitutional or statutory
13 provisions, but shall be held by the authority and used solely for the
14 purposes stated under this subchapter.

15 (2) All moneys received by the authority under this subchapter
16 shall be deposited into the fund when received, unless otherwise provided by
17 state law.

18 (3)(A) Interest and other moneys received from the investment of
19 moneys, the purchase of bonds, notes, or other evidences of indebtedness, or
20 the making of loans with moneys in the fund, shall be cash funds to be used
21 solely as authorized under this subchapter.

22 (B) Interest earnings that are transferred directly to the
23 authority shall be cash funds to be used solely as authorized under this
24 subchapter.

25 (c) The Arkansas Development Finance Authority may accept grants for
26 deposit into the Brownfield Revolving Loan Fund from any state or federal
27 agency, municipality, corporation, foundation, individual, or authority, and
28 may accept any appropriation from the State Treasury, that the authority
29 received before, as of, or after the effective date of this subchapter.

30
31 15-5-1505. Fund – Administration.

32 (a)(1) The Brownfield Revolving Loan Fund shall be administered by the
33 Arkansas Department of Environmental Quality, with the Arkansas Development
34 Finance Authority, serving as agent for the department.

35 (2) The department may establish procedures to administer the
36 fund and the programs financed, in whole or in part, with moneys from the

1 fund that are used for the purposes stated under this subchapter.

2 (3) The department may enter into contracts and other agreements
3 in connection with the operation of the fund, including contracts and
4 agreements with federal agencies, local governmental entities, the authority,
5 and other persons, to implement this subchapter.

6 (b) The department shall have full authority to operate the fund and
7 may make withdrawals as necessary to achieve the intended purposes of this
8 subchapter.

9
10 15-5-1506. Loans - Grants.

11 (a) The Arkansas Finance Development Corporation, with approval of the
12 Department of Environmental Quality, may:

13 (1) Make secured or unsecured loans from the fund;

14 (2) Award grants from the fund;

15 (3) May collect interest on any loans issued; and

16 (4) Assess penalties on late loan payments.

17 (b) Loans issued under this subchapter may contain an acceleration
18 clause.

19
20 15-5-1507. Allocation from Treasurer of State.

21 (a)(1) The Arkansas Development Finance Authority may accept moneys
22 for deposit into the fund from the Treasurer of State for deposit into the
23 Brownfield Revolving Loan Fund, as provided by law, to be used for the
24 purposes authorized under this subchapter.

25 (2) Federal or state grants transferred directly to the
26 authority for deposit into the fund, are declared to be cash funds
27 restricted in their use solely for the purposes under this subchapter.

28 (b) Notwithstanding the provisions of §§ 19-6-108 and 19-6-601,
29 federal or state grants received by the Treasurer of State for purposes
30 authorized under this subchapter are declared to be cash funds to be used
31 solely as authorized under this subchapter.

32 (c)(1) Moneys received under this section shall not be considered to
33 be a part of the State Treasury for the purposes of Arkansas Constitution,
34 Article 5 § 29, Arkansas Constitution, Article 16, § 12, Arkansas
35 Constitution, Amendment 20, or any other constitutional or statutory
36 provision.

1 (2) The State Treasurer shall not deposit moneys received under
2 this section into the State Treasury, but shall remit the moneys to the
3 authority for deposit in the fund.

4
5 15-5-1508. Security for bonds.

6 The Arkansas Development Finance Authority may use the moneys in the
7 Brownfield Revolving Loan Fund and the assets acquired with moneys in the
8 fund to secure payment of the principal, premium, and interest on bonds
9 issued by the authority, if the net proceeds of the bonds are deposited into
10 the fund.

11
12 15-5-1509. Administrative fees.

13 (a) The Arkansas Department of Environmental Quality and the Arkansas
14 Development Finance Authority may establish fees for their respective
15 administrative services under this subchapter, including the costs of
16 financing loans and awarding grants under this subchapter.

17 (b) The authority to establish fees under this section is supplemental
18 to the authority granted to the department or the authority under other laws.

19
20 15-5-1510. Collection of fees.

21 (a)(1) The Arkansas Development Finance Authority, with approval of
22 the Arkansas Department of Environmental Quality, may collect administrative
23 fees and remit the fees directly to the authority within fifteen (15) days
24 after each payment is collected.

25 (2) The authority shall remit any administrative fee owed to the
26 department and the fees shall be deposited into the Brownfield Revolving Loan
27 Fund on a quarterly basis.

28 (3) Any administrative fees owed to the authority shall not be
29 deposited into the fund.

30
31 15-5-1511. Regulations.

32 The Arkansas Pollution Control and Ecology Commission may adopt
33 regulations as necessary to implement this subchapter.

34
35 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
36 General Assembly of the State of Arkansas that there is an urgent need to

1 return abandoned, idled, and underused industrial, commercial, and
2 agricultural properties, otherwise known as Brownfield sites, to productive
3 uses; that the state would benefit by allowing grant funds awarded from the
4 federal government, as well as future grant awards and other moneys allocated
5 to the Department of Environmental Quality, to be used to clean up Brownfield
6 sites; that a successful revolving loan fund program will assist the
7 department to reach its goal of returning Brownfield sites to productive
8 uses. Therefore, an emergency is declared to exist and this act being
9 necessary for the preservation of the public peace, health, and safety shall
10 become effective on July 1, 2003.

11 /s/ Steele

12
13
14 APPROVED: 4/9/2003
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36