

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.

Act 1254 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H2/28/05 S3/9/05

A Bill

HOUSE BILL 1683

5 By: Representative Flowers
6
7

For An Act To Be Entitled

9 AN ACT TO AUTHORIZE THE ARKANSAS DEPARTMENT OF
10 ENVIRONMENTAL QUALITY TO CREATE A SECURITY
11 INTEREST IN LOANS ISSUED THROUGH THE SMALL
12 BUSINESS REVOLVING LOAN FUND; AND FOR OTHER
13 PURPOSES.
14

Subtitle

15 AN ACT TO ALLOW SECURITY INTERESTS IN
16 SMALL BUSINESS REVOLVING LOAN FUND
17 LOANS.
18
19
20

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

23 SECTION 1. Arkansas Code § 8-5-803 is amended to read as follows:
24 8-5-803. Definitions.

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

26 (1) "Applicant" means any business concern operating within the
27 State of Arkansas that meets the criteria of a person, corporation,
28 partnership, or other business organization;

29 ~~(1)~~(2) "Commission" means the Arkansas Pollution Control and
30 Ecology Commission;

31 ~~(2)~~(3) "Department" means the Arkansas Department of
32 Environmental Quality;

33 ~~(3)~~(4) "Director" means the executive head and active
34 administrator of the Arkansas Department of Environmental Quality;

35 ~~(4)~~(5) "Mandated environmental control" means any change in a



1 commercial process that is required by federal or state environmental law or
2 duly adopted regulation;

3 ~~(5)-(A)~~(6)(A) "Pollution prevention" means reducing or
4 eliminating the generation of pollutants and waste at the source.

5 (B) As used in this subchapter, the term shall be expanded
6 to also include process modifications and equipment acquisitions which
7 promote the recovery and reuse of pollutants.

8 (C) Specifically excluded from this definition of eligible
9 activities are investments in waste treatment processes or equipment, unless
10 the treatment involves the recovery and reuse of pollutants.

11 (D) Pollution prevention also may include the acquisition
12 and installation of capital equipment, a process change, or a combination of
13 capital equipment and process change; and

14 ~~(6)-(7)~~ "Waste Reduction" means handling or processing waste
15 materials in such a way that ultimately reduces the total quantity of waste
16 disposed. This includes process modifications and equipment acquisitions
17 which promote the recovery, reuse, or recycling of pollutants and wastes.

18

19 SECTION 2. Arkansas Code § 8-5-805 is amended to read as follows:

20 8-5-805. Eligible ~~participants~~ applicants.

21 ~~Any business concern operating within the State of Arkansas which meets~~
22 ~~the criteria of a person, corporation, partnership, or other business~~
23 ~~organization and which~~

24 (a) An eligible applicant shall:

25 (1) ~~Employs~~ Employ one hundred (100) or fewer individuals,
26 including both full-time and part-time employees, through direct hiring or
27 contract, including affiliates and subsidiaries, at the time an application
28 for a loan is received by the Arkansas Department of Environmental Quality;
29 ~~and~~

30 ~~(2)-(A) Provides~~ Provide proof of profitable operations ~~for two~~
31 ~~(2) of the three (3) most recent tax years, and a demonstrated ability to~~
32 repay the loan; and

33 ~~(B) The applicant's federal income tax returns for the~~
34 ~~last three (3) years must be submitted as proof of profitability for this~~
35 ~~program.~~

36 (3) Submit an application supplied by the department including

1 any supporting documents, instruments, or other documents requested by the
 2 department for the purposes of recommending approval or disapproval of a loan
 3 described in this section.

4 (b)(1) Until all delinquent fees stated in this subsection (b) or
 5 otherwise owed to the department are paid in full and no balance is due, the
 6 Director of the Arkansas Department of Environmental Quality shall not
 7 approve any loan application.

8 (2) The delinquent fees include but are not limited to:

9 (A) Permit fees;

10 (B) Permit modification fees;

11 (C) License fees;

12 (D) Certification fees;

13 (E) Registration fees;

14 (F) Variance application fees;

15 (G) Civil penalties;

16 (H) Emergency response reimbursements;

17 (I) Loan payments; and

18 (J) Review fees.

19
 20 SECTION 3. Arkansas Code § 8-5-806 is amended to read as follows:

21 8-5-806. Terms of the revolving loan.

22 (a)(1) The maximum loan amount shall be:

23 (A) ~~Twenty thousand dollars (\$20,000)~~ Forty-five thousand
 24 dollars (\$45,000) per mandated pollution control project;

25 (B) ~~Twenty five thousand dollars (\$25,000)~~ Forty-five
 26 thousand dollars (\$45,000) per pollution prevention project; and

27 (C) ~~Twenty thousand dollars (\$20,000)~~ Forty-five thousand
 28 dollars (\$45,000) per waste reduction project.

29 (2) The maximum allowable amount to be loaned shall not exceed
 30 ~~forty five thousand dollars (\$45,000) per individual company~~ sixty-five
 31 thousand dollars (\$65,000) per individual applicant.

32 (b) The maximum term of the loan shall be ~~five (5) years~~ ten (10)
 33 years per mandated pollution control project and ten (10) years per pollution
 34 prevention or waste reduction project.

35 (c) The interest rate ~~will~~ shall be:

36 (1) ~~established~~ Established by the Arkansas Department of

1 Environmental Quality at or below market rate~~;~~ and

2 (2) The interest rate will be fixed Fixed for the term of each
3 loan at the rate that is in effect when the loan application is received or
4 when the loan is closed, whichever is lower.

5 (d)(1) The borrower shall be required to make level monthly amortizing
6 payments to retire the debt by the end of the loan term.

7 (2) Loan principal may be repaid in part or in full at any time
8 without penalty.

9 (e)(1) ~~The loan will be secured by the borrower's promissory note. No~~
10 ~~pledge of collateral will be required.~~ The department may:

11 (A) Make secured or unsecured loans with a promissory
12 note;

13 (B) Collect interest on any loans issued; and

14 (C) Assess penalties on late loan payments.

15 (2) Loans issued under this subchapter may contain an
16 acceleration clause.

17 (f) The department may bring any lawful action to recover any loan
18 that is in default.

19
20 SECTION 4. Arkansas Code § 8-5-807 is amended to read as follows:

21 8-5-807. Small Business Revolving Loan Fund.

22 (a) There is created within the Arkansas Department of Environmental
23 Quality a revolving loan fund:

24 (1) Which shall be designated the Small Business Revolving Loan
25 Fund;

26 (2) Into which shall be transferred or deposited the moneys to
27 be provided by law for the fund; and

28 (3) To be used as a revolving fund by the department for making
29 loans to eligible participants to pay the direct costs of projects which are
30 designed to correct or avoid violations of federal or state environmental
31 regulations and have received a certificate of need from the department or to
32 pay costs incurred by the department to provide management of lending
33 activities.

34 ~~(b) The Arkansas Pollution Control and Ecology Commission may, by~~
35 ~~regulation, establish a reasonable rate of interest to be charged on loans~~
36 ~~made from the revolving fund.~~

1 ~~(e)~~(1)(b)(1) There is hereby established on the books of the Treasurer
2 of State, the Auditor of State, and the Chief Fiscal Officer of the State, a
3 fund to be known as the Small Business Revolving Loan Fund.

4 (2) This fund shall consist of the following:

5 (A) All funds transferred from the General Improvement
6 Fund to be otherwise provided by law for the fund;

7 (B) All moneys received by the department upon repayment
8 of loans made from the furnishing of funds for loans under the program
9 created by this subchapter;

10 (C) Interest earned upon any money in the fund; and

11 (D) All sums recovered upon by the fund for losses to the
12 fund or for loan losses under the loan program created in this subchapter and
13 all other moneys received for the fund from any source.

14 ~~(d)~~(c)(1) Subject to the provisions of this subchapter, the department
15 is vested with full power, authority, and jurisdiction over the fund,
16 including all moneys and property or securities belonging ~~thereto~~ to the
17 fund.

18 (2) The department may invest the fund in direct general
19 obligations of the United States, in certificates of deposit or savings
20 accounts in an amount not to exceed the capital funds, represented by
21 capital, surplus, and undivided profits in financial institutions located in
22 Arkansas that are insured by an agency of the federal government and in
23 repurchase agreements ~~which~~ that are collateralized by direct general
24 obligations of the United States or by bonds, notes, debentures,
25 participation certificates, or other obligations issued by an agency of the
26 United States, the principal and interest of which are guaranteed by the
27 agency or the United States.

28
29 */s/ Flowers*
30

31
32 **APPROVED: 3/29/2005**
33
34
35
36

1