

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.

State of Arkansas  
85th General Assembly  
Regular Session, 2005

As Engrossed: H2/28/05

# A Bill

HOUSE BILL 1683

By: Representative Flowers

## For An Act To Be Entitled

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

## Subtitle

AN ACT TO ALLOW SECURITY INTERESTS IN SMALL BUSINESS REVOLVING LOAN FUND LOANS.

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

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

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

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

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

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

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

~~(4)~~(5) "Mandated environmental control" means any change in a commercial process that is required by federal or state environmental law or



1 duly adopted regulation;

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

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

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

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

13 ~~(6)~~(7) "Waste Reduction" means handling or processing waste  
14 materials in such a way that ultimately reduces the total quantity of waste  
15 disposed. This includes process modifications and equipment acquisitions  
16 which promote the recovery, reuse, or recycling of pollutants and wastes.

17  
18 SECTION 2. Arkansas Code § 8-5-805 is amended to read as follows:

19 8-5-805. Eligible ~~participants~~ applicants.

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

23 (a) An eligible applicant shall:

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

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

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

35 (3) Submit an application supplied by the department including  
36 any supporting documents, instruments, or other documents requested by the

1 department for the purposes of recommending approval or disapproval of a loan  
 2 described in this section.

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

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

8 (A) Permit fees;

9 (B) Permit modification fees;

10 (C) License fees;

11 (D) Certification fees;

12 (E) Registration fees;

13 (F) Variance application fees;

14 (G) Civil penalties;

15 (H) Emergency response reimbursements;

16 (I) Loan payments; and

17 (J) Review fees.

18  
 19 SECTION 3. Arkansas Code § 8-5-806 is amended to read as follows:

20 8-5-806. Terms of the revolving loan.

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

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

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

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

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

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

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

35 (1) ~~established~~ Established by the Arkansas Department of  
 36 Environmental Quality at or below market rate; and

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

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

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

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

10                   ~~(A)~~ Make secured or unsecured loans;

11                   ~~(B)~~ Collect interest on any loans issued; and

12                   ~~(C)~~ Assess penalties on late loan payments.

13           ~~(2)~~ Loans issued under this subchapter may contain an  
14 acceleration clause.

15           ~~(f)~~ The department may bring any lawful action to recover any loan  
16 that is in default.

17  
18           SECTION 4. Arkansas Code § 8-5-807 is amended to read as follows:

19           8-5-807. Small Business Revolving Loan Fund.

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

22                   (1) Which shall be designated the Small Business Revolving Loan  
23 Fund;

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

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

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

35           ~~(e)(1)(b)(1)~~ There is hereby established on the books of the Treasurer  
36 of State, the Auditor of State, and the Chief Fiscal Officer of the State, a

1 fund to be known as the Small Business Revolving Loan Fund.

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

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

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

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

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

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

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

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27 /s/ Flowers  
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