

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

SENATE BILL 410

5 By: Senator Maloch
6 By: Representative T. Thompson
7

For An Act To Be Entitled

9 AN ACT CONCERNING ASBESTOS ABATEMENT; TO CREATE THE
10 ASBESTOS ABATEMENT GRANT PROGRAM; TO ALLOW THE
11 ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY TO AWARD
12 GRANTS FOR CERTAIN ACTIVITIES RELATING TO ASBESTOS
13 ABATEMENT, STABILIZATION, AND REMEDIATION; TO
14 REGULATE THE REQUIREMENTS FOR THE ASBESTOS ABATEMENT
15 GRANT PROGRAM; TO PROVIDE FOR THE FUNDING OF THE
16 ASBESTOS ABATEMENT GRANT PROGRAM; TO DECLARE AN
17 EMERGENCY; AND FOR OTHER PURPOSES.
18
19

Subtitle

21 TO ALLOW THE ARKANSAS DEPARTMENT OF
22 ENVIRONMENTAL QUALITY TO AWARD GRANTS FOR
23 CERTAIN ACTIVITIES RELATING TO ASBESTOS
24 ABATEMENT, STABILIZATION, AND
25 REMEDIATION; AND TO DECLARE AN EMERGENCY.
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28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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30 SECTION 1. Arkansas Code § 19-6-452 is amended to read as follows:
31 19-6-452. Asbestos Control Fund.

32 The Asbestos Control Fund shall consist of ~~those~~ the special revenues
33 ~~as~~ specified in § 19-6-301(130) and any other revenues authorized by law
34 there to be used to administer and enforce a program for licensing
35 contractors engaged in the removal of friable asbestos materials from
36 facilities by the Arkansas Department of Environmental Quality, ~~as set out in~~



1 under § 20-27-1001 et seq - 20-27-1007.

2

3 SECTION 2. Arkansas Code § 20-27-1003, concerning the definitions to
4 be used in relation to the removal of asbestos materials, is amended to add
5 two additional subdivisions to read as follows:

6 (24) “Eligible structure” means a structure that:

7 (A) Contains friable asbestos materials; and

8 (B) Unexpectedly collapses or fails in its structural
9 integrity; and

10 (25) “Stabilization and abatement activity” means an activity
11 relating to the abatement of friable asbestos materials in an eligible
12 structure, including without limitation inspection, removal, site
13 stabilization, and remediation.

14

15 SECTION 3. Arkansas Code § 20-27-1004, concerning the powers and
16 duties of the Arkansas Department of Environmental Quality, is amended to add
17 an additional subdivision to read as follows:

18 (6) To expend necessary funds from the Asbestos Control Fund to
19 develop and administer the Asbestos Abatement Grant Program.

20

21 SECTION 4. Arkansas Code Title 20, Chapter 27, Subchapter 10, is
22 amended to add additional sections to read as follows:

23 20-27-1008. Asbestos Abatement Grant Program – Limitation on grant
24 funds.

25 (a) There is created within the Arkansas Department of Environmental
26 Quality the Asbestos Abatement Grant Program, which shall be used to provide
27 financial assistance to an eligible city or county to be used exclusively for
28 the purpose of one (1) or more stabilization and abatement activities as
29 provided in this subchapter.

30 (b) The total grant funds approved under this subchapter shall not
31 exceed one hundred fifty thousand dollars (\$150,000) per fiscal year.

32

33 20-27-1009. Grant eligibility – Distribution of grant funds.

34 (a)(1) A city with a population of less than thirty thousand (30,000)
35 according to the most recent federal decennial census or a county that meets
36 the requirements under this section may apply to the Arkansas Department of

1 Environmental Quality for grant funds to be used under this subchapter.

2 (2) Grant funds approved for use by a county shall not be used
3 for a stabilization and abatement activity within a city that has a
4 population of thirty thousand (30,000) or greater according to the most
5 recent federal decennial census.

6 (b) To be eligible to receive grant funds under this subchapter, a
7 city or county shall certify the following information to the department in
8 the form required by the department for grant applications under this
9 subchapter:

10 (1) Verification from an authorized local government official
11 that:

12 (A) There is an eligible structure located in the city or
13 county;

14 (B) The city or county either:

15 (i) Owned the eligible structure at the time the
16 eligible structure collapsed or failed in its structural integrity; or

17 (ii) Has taken ownership of the eligible structure
18 since the eligible structure collapsed or failed in its structural integrity;
19 and

20 (C) The city or county did not cause or contribute to the
21 collapse or failure of the structural integrity of the eligible structure;

22 (2) Verification in the form of a report and site assessment
23 from an asbestos abatement consultant or asbestos abatement contractor
24 licensed under § 20-27-1006 that the friable asbestos materials in the
25 eligible structure pose a potential threat to public health;

26 (3) A proposed project design and work plan that complies with
27 the regulations of the Arkansas Pollution Control and Ecology Commission; and

28 (4) An estimate of the anticipated costs associated with and any
29 costs already incurred for each stabilization and abatement activity.

30 (c)(1) When the department approves a grant application received under
31 this section, the department shall distribute grant funds based on the
32 available moneys dedicated to the Asbestos Abatement Grant Program in the
33 Asbestos Control Fund at the time the grant application is received by the
34 department.

35 (2) As appropriated funds are available, the department shall
36 distribute grant funds in the order in which the grant applications are

1 approved.

2
3 20-27-1010. Costs eligible for grant funds.

4 The grant funds approved under § 20-27-1009 may be used for the
5 following:

6 (1) The cost of activities undertaken in an approved grant
7 application by a city or county in the normal course and customary practice
8 of a stabilization and abatement activity for an eligible structure owned by
9 a city or county; and

10 (2) If the Arkansas Department of Environmental Quality
11 determines that an asbestos emergency exists that constitutes an immediate
12 threat to human health or the environment, the costs associated with the
13 stabilization and remediation of the emergency asbestos conditions.

14
15 20-27-1011. Grant requirements – Return of unused funds.

16 (a) Within thirty (30) days of receiving grant funds under this
17 subchapter, a city or county shall provide a report to the Arkansas
18 Department of Environmental Quality that includes the following:

19 (1) The manner in which the grant funds were expended by the
20 city or county;

21 (2) The results produced or the progress made using the grant
22 funds; and

23 (3) A copy of each contract, invoice, purchase order, check, and
24 other supporting documentation associated with the expenditures of the grant
25 funds for each stabilization and abatement activity.

26 (b) If the stabilization and abatement activity for which grant funds
27 are approved is not complete at the time of the report required under
28 subsection (a) of this section, the city or county shall:

29 (1) Notify the department of the date the city or county expects
30 the stabilization and abatement activity to be complete; and

31 (2) Continue to report its progress to the department every
32 fourteen (14) days until the approved stabilization and abatement activity is
33 complete and the requirements of this section are met.

34 (c)(1) A city or county that receives grant funds under this
35 subchapter shall immediately return to the department any unused portion of
36 the grant funds when the stabilization and abatement activity is complete.

1 (2) The department shall deposit any unused grant funds returned
2 to the department by a city or county under subdivision (c)(1) of this
3 section into the Asbestos Control Fund to be used exclusively for the
4 Asbestos Abatement Grant Program.

5
6 20-27-1012. Asbestos abatement grant fee.

7 (a) The Arkansas Department of Environmental Quality shall assess a
8 reasonable asbestos abatement grant fee on each person licensed under this
9 subchapter.

10 (b) The asbestos abatement grant fee assessed under this section shall
11 be:

12 (1) Deposited into the Asbestos Control Fund to be used
13 exclusively for the purposes stated in this subchapter;

14 (2) Calculated and paid according to the schedule adopted by
15 regulation of the Arkansas Pollution Control and Ecology Commission; and

16 (3)(A) Collected in addition to any other fees paid until the
17 amount in the Asbestos Control Fund that is dedicated to the Asbestos
18 Abatement Grant Program has a balance of at least five hundred thousand
19 dollars (\$500,000).

20 (B) If collection of the asbestos abatement grant fee
21 ceases under subdivision (b)(3)(A) of this section and the balance of the
22 funds in the Asbestos Control Fund that are dedicated to the Asbestos
23 Abatement Grant Program becomes less than three hundred thousand dollars
24 (\$300,000), the asbestos abatement grant fee shall be reinstated and
25 collected as provided in this section.

26
27 20-27-1013. Penalties.

28 (a) The Arkansas Department of Environmental Quality may seek
29 administrative or civil enforcement action against a person who fails to pay
30 a fee assessed under § 20-27-1012.

31 (b) Penalties for failure to pay a fee assessed under § 20-27-1012 may
32 include the civil and administrative penalties provided under § 8-4-103 and
33 the revocation of a license or certification issued under this subchapter.

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35 20-27-1014. Regulations.

36 The Arkansas Pollution Control and Ecology Commission shall promulgate

1 regulations to implement this subchapter.

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3 SECTION 5. DO NOT CODIFY.

4 On or before July 31, 2013, the Arkansas Department of Environmental
5 Quality shall make a one-time designation of five hundred thousand dollars
6 (\$500,000) of unobligated existing balances within the Asbestos Control Fund
7 to the Asbestos Abatement Grant Program to be used as provided under §§ 20-
8 27-1008 – 20-27-1014.

9
10 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
11 General Assembly of the State of Arkansas that cities with smaller
12 populations and counties have limited funds for inspecting, removing,
13 stabilizing, and remediating friable asbestos materials from structures that
14 unexpectedly collapse or fail; and that this act is immediately necessary
15 because friable asbestos materials in structures in small cities and counties
16 currently threaten the health and safety of Arkansas citizens and the
17 environment. Therefore, an emergency is declared to exist, and this act being
18 immediately necessary for the preservation of the public peace, health, and
19 safety shall become effective on:

20 (1) The date of its approval by the Governor;

21 (2) If the bill is neither approved nor vetoed by the Governor,
22 the expiration of the period of time during which the Governor may veto the
23 bill; or

24 (3) If the bill is vetoed by the Governor and the veto is
25 overridden, the date the last house overrides the veto.