

ACT No. 91

2020 Regular Session

HOUSE BILL NO. 691

BY REPRESENTATIVE LYONS

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AN ACT

To reenact R.S. 30:2551 and 2552(A) and (C), to amend and reenact R.S. 30:2552(B) and Section 22 of Act No. 612 of the 2018 Regular Session, and to repeal R.S. 30:2552(A), (B), and (C) as amended by Section 9 of Act No. 612 of the 2018 Regular Session, relative to brownfields cleanup and redevelopment; to reinstate the Brownfields Cleanup Revolving Loan Fund and program; to provide an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 30:2551 and 2552(A) and (C) are hereby reenacted and R.S. 30:2552(B) is hereby amended and reenacted as follows:

§2551. Brownfields Cleanup Revolving Loan Fund; purpose

A. The legislature finds and declares that the cleanup, redevelopment, and reuse of brownfields sites in the state should be encouraged and facilitated for the benefit of the state's citizens by way of economic development, health, and aesthetics. The legislature further finds and declares that providing loans for cleanup of brownfields sites will result in benefits to the public by reducing risk to public health and the environment.

B.(1) In furtherance of that purpose, there is hereby established a fund in the state treasury to be known as the "Brownfields Cleanup Revolving Loan Fund" hereafter referred to as the "fund", which shall be maintained and operated by the Department of Environmental Quality. Grants from the federal government or its agencies allotted to the state for the capitalization of the fund and state funds when

1 available shall be deposited directly in or credited to the account of the fund in
 2 compliance with the terms of the federal or state grant or state appropriation.

3 (2) Money in, credited to the account of, or to be received by the fund shall
 4 be expended in a manner consistent with terms and conditions of the grants and other
 5 sources of said deposits and credits and of all applicable federal and state legislation
 6 and may be used:

7 (a) To make loans from the fund at or below market interest rates.

8 (b) To provide assistance to a political subdivision, public trust, quasi
 9 governmental organization, or eligible nonprofit or private entity to remediate
 10 eligible brownfields' properties, except as provided in Subsection C of this Section.

11 (c) To fund other brownfields-related programs authorized by the terms of
 12 the grants and appropriations.

13 (d) To fund other programmatic activities of the department to develop and
 14 operate the revolving loan program.

15 (e) To provide for any other expenditure consistent with the federal grant
 16 program and state law.

17 (3) Money not currently needed for the operation of the fund or otherwise
 18 dedicated may be invested in an interest bearing account. All such interest earned
 19 on investments shall be credited to the fund.

20 C. Responsible persons shall not be eligible to apply for or receive loans
 21 pursuant to this Part.

22 D. The fund shall be administered by the department, which is authorized to
 23 enter into contracts and other agreements in connection with the operation of the
 24 fund. The department shall maintain full authority for the operation of the fund in
 25 accordance with applicable federal and state law.

26 E. Prior to making a loan, the department shall determine that the applicant
 27 has the ability to repay the loan. Further, the department may require security for
 28 loans made pursuant to this Part.

1 F. The secretary is authorized to adopt rules and regulations in accordance
 2 with the Administrative Procedure Act to implement the provisions of this Part.

3 These rules shall include but not be limited to:

- 4 (1) Eligibility requirements of the entity or person and properties.
- 5 (2) Criteria for ranking and selecting applicants.
- 6 (3) Procedures for making and repaying loans.
- 7 (4) Requirement of security for loans to eligible non-profits and private
 8 entities.
- 9 (5) Establishment of procedures for interest rates on loans.

10 G. As used in this Part, the following terms shall have the meaning ascribed
 11 to them in this Subsection, unless the context clearly indicates otherwise:

12 (1) "Brownfields site" means real property, the expansion, redevelopment,
 13 or reuse of which may be complicated by the presence or potential presence of a
 14 hazardous substance, pollutant, or contaminant.

15 (2) "Loan" means a loan of money from the Brownfields Cleanup Revolving
 16 Loan Fund.

17 (3) "Nonprofit organization" means any corporation, trust, association,
 18 cooperative, or other organization that is operated primarily for scientific,
 19 educational, service, charitable, or similar purpose in the public interest; is not
 20 organized principally for profit; and uses net proceeds to maintain, improve, or
 21 expand the operation of the organization.

22 (4) "Responsible person" means responsible person or responsible owner as
 23 those terms are defined in R.S. 30:2285.2.

24 H. The department shall provide an annual report of all loans made, a status
 25 of loan repayments, and a report of monies expended from the fund to the House
 26 Committee on Natural Resources and Environment and the Senate Committee on
 27 Environmental Quality.

1 §2552. Brownfields Cleanup Revolving Loan Fund Program; authority to make
2 loans and grants; incur debt; tax exemption

3 A. Any political subdivision, public trust, quasi governmental organization,
4 or eligible nonprofit or private entity, except as provided in R.S. 30:2551(C), is
5 hereby authorized to make loans from and incur debt payable to the department in
6 accordance with the provisions of this Section. The making of a loan from the
7 Brownfields Cleanup Revolving Loan Fund and the issuance of debt evidencing such
8 loan by any political subdivision, eligible nonprofit organization, or eligible private
9 entity shall be approved by the State Bond Commission. This Section shall not be
10 deemed to be the exclusive authority under which a political subdivision, eligible
11 nonprofit organization, or eligible private entity may borrow money from or incur
12 indebtedness to the department. The department shall aggressively pursue
13 leveraging of all funds to the maximum amount allowable by law.

14 B. All bonds, notes, or other evidence of indebtedness of any political
15 subdivision, public trust, quasi governmental organization, or eligible nonprofit or
16 private entity issued to represent a loan from the department or the fund shall be
17 authorized and issued pursuant to a resolution of the governing authority of such
18 entity, which resolution shall prescribe the form and details thereof, including the
19 terms, security for, manner of execution, repayment schedule, and redemption
20 features thereof, and such resolution may provide that an officer of such entity may
21 execute in connection with such obligation any related contract, including but not
22 limited to a credit enhancement device, indenture of trust, loan agreement, pledge
23 agreement, or other agreement or contract needed to accomplish the purposes for
24 which ~~said~~ the evidence of indebtedness is given, in substantially the form attached
25 to said resolution, but which final executed credit enhancement device, indenture of
26 trust, loan agreement, pledge, or other contract or agreement may contain such
27 changes, additions, and deletions as shall in the sole opinion of the executing officer
28 be appropriate under the circumstances. Any such resolution shall include a
29 statement as to the maximum principal amount of any such obligation, the maximum
30 interest rate to be incurred or borne by ~~said~~ the obligation or guaranteed by ~~said~~ the

1 obligation, the maximum redemption premium, if any, and the maximum term in
2 years for such obligation, guarantee, or pledge.

3 C. Notwithstanding any other provision of law to the contrary, a political
4 subdivision, public trust, quasi governmental organization, or eligible nonprofit
5 entity, upon entering into a loan in accordance with the fund as provided in R.S.
6 30:2551, may dedicate and pledge a portion of any revenues it has available to it,
7 including but not limited to revenues from the general revenue fund, sales taxes,
8 assessments, or property taxes of the political subdivision, for a term not exceeding
9 twenty years from the date of project completion for repayment of the principal of,
10 interest on, and any premium, administrative fee, or other fee, or cost imposed by the
11 department in connection with such loan.

12 * * *

13 Section 2. Section 22 of Act No. 612 of the 2018 Regular Session is hereby amended
14 and reenacted to read as follows:

15 Section 22. R.S. 11:544, R.S. 15:185.5, 572.8(N) and (S), R.S. 17:354,
16 3138.2, and 3138.3, and Subpart A-2 of Part IX-A of Chapter 26 of Title 17 of the
17 Louisiana Revised Statutes of 1950, comprised of R.S. 17:3397.11, R.S.
18 27:392(C)(4), R.S. 30:2000.12 ~~and 2551~~, R.S. 33:2740.18, R.S. 39:87.5, Subpart H
19 of Part II-A of Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes
20 of 1950, comprised of R.S. 39:100.11, Subpart N of Part II-A of Chapter 1 of
21 Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, comprised of R.S.
22 39:100.51, Subpart Q-1 of Part II-A of Chapter 1 of Subtitle I of Title 39 of the
23 Louisiana Revised Statutes of 1950, comprised of R.S. 39:100.122, Subpart Q-2 of
24 Part II-A of Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes of
25 1950, comprised of R.S. 39:100.123, Subpart S of Part II-A of Chapter 1 of Subtitle
26 I of Title 39 of the Louisiana Revised Statutes of 1950, comprised of R.S.
27 39:100.146, R.S. 39:1357, R.S. 40:16.2 and 1402, R.S. 46:290.1, 977.13, 2731,
28 2742(D), and 2901, R.S. 47:120.39 and 841.2, R.S. 49:214.6.7(D) and (E), R.S.
29 56:14, 302.3(B)(5)(c), 305(H) and 633, Section 9 of Act No. 138 of the 2005 Regular
30 Session of the Legislature as amended by Section 7 of Act No. 642 of the 2006

1 Regular Session of the Legislature, Sections (3)(D) and (6) of Act No. 41 of the 2006
 2 First Extraordinary Session of the Legislature, Section 7 of Act No. 420 of the 2013
 3 Regular Session of the Legislature, Section (4)(B)(1) of Act No. 421 of the 2013
 4 Regular Session of the Legislature, as amended by Section (4)(B)(1) of Act No. 822
 5 of the 2014 Regular Session of the Legislature, and Section (4)(B)(2) of Act No. 421
 6 of the 2013 Regular Session of the Legislature are hereby repealed in their entirety.
 7 Section 3. R.S. 30:2552(A), (B), and (C) as amended by Section 9 of Act No. 612
 8 of the 2018 Regular Session are hereby repealed.

9 Section 4. This Act shall become effective upon signature by the governor or, if not
 10 signed by the governor, upon expiration of the time for bills to become law without signature
 11 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 12 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 13 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____