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P.L. 2005, CHAPTER 315, *approved January 12, 2006*
Senate, No. 240

1 AN ACT concerning underground storage tank grants, and amending
2 P.L.1997, c.235.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 10 of P.L.1997, c.235 (C.58:10A-37.10) is amended to
8 read as follows:

9 10. a. All loans awarded from the fund shall be for a term not to
10 exceed ten years. Except as provided in subsection b. of section 5 of
11 P.L.1997, c.235 (C.58:10A-37.5), all loans shall be at a rate between
12 two percent and the prime rate at the time of approval, or at the time
13 of loan closing if the prime rate is lower at that time. The authority
14 shall determine the interest rate to be imposed based on the applicant's
15 ability to repay the loan.

16 b. Upon the sale of the facility for which the loan was made, the
17 unpaid balance of the loan shall become immediately payable in full.
18 Upon the sale of a facility for which a conditional hardship grant was
19 made pursuant to section 5 of P.L.1997, c.235 (C.58:10A-37.5), that
20 amount of the conditional hardship grant that must be repaid, as
21 calculated pursuant to section 16 of P.L.1997, c.235
22 (C.58:10A-37.16), shall become immediately payable in full except as
23 provided below. No repayment of a conditional hardship grant shall
24 be required upon transfer of ownership of the property for which the
25 grant was made, pursuant to a condemnation proceeding or by the
26 exercise of the power of eminent domain. No repayment of a
27 conditional hardship grant awarded pursuant to paragraph (1) of
28 subsection c. of section 5 of P.L.1997, c.235 (C.58:10A-37.5) for a
29 remediation necessitated by a discharge from a petroleum underground
30 storage tank used to store heating oil at the applicant's primary
31 residence shall be required.

32 (cf: P.L.1999, c.89, s.4)

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34 2. Section 16 of P.L.1997, c.235 (C.58:10A-37.16) is amended to
35 read as follows:

36 16. a. In addition to any other financial assistance requirements
37 imposed by the authority pursuant to P.L.1997, c.235 (C.58:10A-37.1
38 et seq.), any award of financial assistance from the fund except for any
39 grant awarded pursuant to paragraph (1) of subsection c. of section 5
40 of P.L.1997, c.235 (C.58:10A-37.5) for a remediation necessitated by
41 a discharge from a petroleum underground storage tank used to store

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 heating oil at the applicant's primary residence, shall constitute, in each
2 instance, a debt of the applicant to the fund. The debt shall constitute
3 a lien on the real property at which the subject facility is located. The
4 lien shall be in the amount of the financial assistance awarded the
5 applicant. The lien shall attach when a notice of lien, incorporating the
6 name of the property owner, a description of the real property on
7 which the subject facility is located and an identification of the amount
8 of the financial assurance awarded, is duly filed with the county
9 recording officer in the county in which the property is located.

10 Where financial assistance from the fund is awarded as a
11 combination of a loan and a grant, separate liens for the loan and the
12 grant shall be filed. No lien shall be placed on any real property of an
13 applicant based on a conditional hardship grant awarded pursuant to
14 paragraph (1) of subsection c. of section 5 of P.L.1997, c.235
15 (C.58:10A-37.5), for a remediation necessitated by a discharge from
16 a petroleum underground storage tank used to store heating oil at the
17 applicant's primary residence.

18 b. A lien that is filed on real property pursuant to a loan shall be
19 removed upon repayment of the loan.

20 c. ~~[The] Except as provided below, the~~ lien that is filed on real
21 property pursuant to a conditional hardship grant shall be removed
22 upon repayment of the amount of the grant that is unsatisfied or upon
23 the end of a 15- year period in which the site for which the financial
24 assistance was awarded continued to be operated in substantially the
25 same manner as it was operated at the time of the award of financial
26 assistance. The period of operation need not run consecutively.
27 Beginning with the 11th year of operating in substantially the same
28 manner, 20% of the conditional hardship grant shall be deemed
29 satisfied with an additional 20% to be satisfied each year until the
30 entire amount of the conditional hardship grant is satisfied at the end
31 of the 15-year period. The owner or operator of the facility claiming
32 to have satisfied a conditional hardship grant due to the 15-year period
33 of operation, shall submit a certification of this fact to the authority.
34 Upon repayment of the unsatisfied grant award or upon submittal of
35 this certification, unless the authority has made a finding that the
36 certification is not correct, the authority shall remove the lien from the
37 property.

38 Where real property for which a conditional hardship grant was
39 awarded is not being operated in substantially the same manner, the
40 15-year period to satisfy the lien shall be tolled. If at any time prior to
41 the satisfaction of the lien the property is developed or operated for a
42 purpose that is not substantially the same as its operation at the time
43 of the award of the conditional hardship grant, the grant recipient shall
44 so certify to the authority upon the change in operation. Upon receipt
45 of this certification, the authority shall determine, based upon the new
46 operation of the property if the financial assistance shall continue as a

1 conditional hardship grant or if it shall be converted into a loan. In
2 making this determination, the authority shall base its decision on the
3 financial hardship factors used in determining the original eligibility for
4 the conditional hardship grant.

5 A lien that is filed on real property pursuant to a grant shall be
6 removed by the authority upon condemnation of the property or upon
7 the exercise of the power of eminent domain, and the conditional
8 hardship grant shall be deemed satisfied.

9 The authority may take whatever enforcement actions it deems
10 necessary to verify the operation of any property for which a
11 conditional hardship grant was made. The terms and conditions of any
12 loan converted from a grant pursuant to this subsection shall be the
13 same as those authorized pursuant to this act.

14 d. The provisions of this section do not apply to any real property
15 of an applicant who is a public entity.

16 (cf: P.L.1999, c.89, s.5)

17

18 3. This act shall take effect immediately.

19

20

21

22

23 Provides for discharge of obligation to repay grants to owners of
24 underground storage tanks under certain circumstances.

SENATE, No. 240

STATE OF NEW JERSEY
211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

Sponsored by:
Senator JOSEPH CONIGLIO
District 38 (Bergen)

SYNOPSIS

Provides for discharge of obligation to repay grants to owners of underground storage tanks under certain circumstances.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



S240 CONIGLIO

2

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41 a discharge from a petroleum underground storage tank used to store
42 heating oil at the applicant's primary residence, shall constitute, in each
43 instance, a debt of the applicant to the fund. The debt shall constitute

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Matter underlined thus is new matter.

1 a lien on the real property at which the subject facility is located. The
2 lien shall be in the amount of the financial assistance awarded the
3 applicant. The lien shall attach when a notice of lien, incorporating the
4 name of the property owner, a description of the real property on
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6 of the financial assistance awarded, is duly filed with the county
7 recording officer in the county in which the property is located.

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10 grant shall be filed. No lien shall be placed on any real property of an
11 applicant based on a conditional hardship grant awarded pursuant to
12 paragraph (1) of subsection c. of section 5 of P.L.1997, c.235
13 (C.58:10A-37.5), for a remediation necessitated by a discharge from
14 a petroleum underground storage tank used to store heating oil at the
15 applicant's primary residence.

16 b. A lien that is filed on real property pursuant to a loan shall be
17 removed upon repayment of the loan.

18 c. [The] Except as provided below, the lien that is filed on real
19 property pursuant to a conditional hardship grant shall be removed
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21 the end of a 15- year period in which the site for which the financial
22 assistance was awarded continued to be operated in substantially the
23 same manner as it was operated at the time of the award of financial
24 assistance. The period of operation need not run consecutively.
25 Beginning with the 11th year of operating in substantially the same
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28 entire amount of the conditional hardship grant is satisfied at the end
29 of the 15-year period. The owner or operator of the facility claiming
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41 of the award of the conditional hardship grant, the grant recipient shall
42 so certify to the authority upon the change in operation. Upon receipt
43 of this certification, the authority shall determine, based upon the new
44 operation of the property if the financial assistance shall continue as a
45 conditional hardship grant or if it shall be converted into a loan. In
46 making this determination, the authority shall base its decision on the

1 financial hardship factors used in determining the original eligibility for
2 the conditional hardship grant.

3 A lien that is filed on real property pursuant to a grant shall be
4 removed by the authority upon condemnation of the property or upon
5 the exercise of the power of eminent domain, and the conditional
6 hardship grant shall be deemed satisfied.

7 The authority may take whatever enforcement actions it deems
8 necessary to verify the operation of any property for which a
9 conditional hardship grant was made. The terms and conditions of any
10 loan converted from a grant pursuant to this subsection shall be the
11 same as those authorized pursuant to this act.

12 d. The provisions of this section do not apply to any real property
13 of an applicant who is a public entity.

14 (cf: P.L.1999, c.89, s.5)

15

16 3. This act shall take effect immediately.

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18

19

STATEMENT

20

21 This bill would provide that a conditional hardship grant that is
22 provided to a business for the upgrade, removal or cleanup of its
23 underground storage tanks need not be repaid if the property is
24 condemned or upon the exercise of the power of eminent domain.
25 Current law requires that a business be operated in substantially the
26 same manner as it was at the time of the award of financial assistance
27 for 15 years before the obligation to repay the grant is discharged. For
28 property upon which the power of eminent domain is exercised or that
29 is condemned, the property owner is unable to continue operating his
30 business. In those circumstances, the conditional hardship grant would
31 not need to be repaid and the lien would be removed from the
32 property.

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

SENATE, No. 240

STATE OF NEW JERSEY

DATED: DECEMBER 8, 2005

The Assembly Environment and Solid Waste Committee reports favorably Senate Bill No. 240.

This bill would provide that a conditional hardship grant that is provided to a business for the upgrade, removal or cleanup of its underground storage tanks need not be repaid if the property is condemned or upon the exercise of the power of eminent domain. Current law requires that a business be operated in substantially the same manner as it was at the time of the award of financial assistance for 15 years before the obligation to repay the grant is discharged. For property upon which the power of eminent domain is exercised or that is condemned, the property owner is unable to continue operating the business. In those circumstances, the conditional hardship grant would not need to be repaid and the lien would be removed from the property.

This bill is identical to Assembly Bill No. 2739 as reported by the committee.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 240

STATE OF NEW JERSEY

DATED: JANUARY 5, 2006

The Assembly Appropriations Committee reports favorably Senate Bill No. 240.

Senate Bill No. 240 forgives repayment of a conditional hardship grant that is provided to a business for the upgrade, removal or cleanup of its underground storage tanks if the property is condemned or upon the exercise of the power of eminent domain. Current law requires that a business be operated in substantially the same manner as it was at the time of the award of financial assistance for 15 years before the obligation to repay the grant is discharged. For property upon which the power of eminent domain is exercised or that is condemned, the property owner is unable to continue operating the business. In those circumstances, the conditional hardship grant would not need to be repaid and the lien would be removed from the property.

This bill is identical to Assembly Bill No. 2739, as also reported by the committee.

FISCAL IMPACT:

The Office of Management and Budget has stated that the bill's enactment will have no fiscal impact on the State Site Remediation Program, of which this funding program is one component, because the demand for loans under this activity has been historically low. Thus, any decrease in loan repayments caused by the bill would not jeopardize the overall availability of loan monies for future applicants.

No estimate has been made of the amount of State funds that would be forfeited under the bill; although it is believed, because of the historical low demand for these loans, that the loss will be minimal.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE, No. 240

STATE OF NEW JERSEY

DATED: JANUARY 31, 2005

The Senate Environment Committee reports favorably Senate Bill No. 240.

This bill would provide that a conditional hardship grant that is provided to a business for the upgrade, removal or cleanup of its underground storage tanks need not be repaid if the property is condemned or upon the exercise of the power of eminent domain. Current law requires that a business be operated in substantially the same manner as it was at the time of the award of financial assistance for 15 years before the obligation to repay the grant is discharged. For property upon which the power of eminent domain is exercised or that is condemned, the property owner is unable to continue operating his business. In those circumstances, the conditional hardship grant would not need to be repaid and the lien would be removed from the property.

This bill was pre-filed for introduction in the 2004-2005 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 240

STATE OF NEW JERSEY

DATED: APRIL 27, 2005

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 240.

This bill would provide that a conditional hardship grant that is provided to a business for the upgrade, removal or cleanup of its underground storage tanks need not be repaid if the property is condemned or upon the exercise of the power of eminent domain. Current law requires that a business be operated in substantially the same manner as it was at the time of the award of financial assistance for 15 years before the obligation to repay the grant is discharged. For property upon which the power of eminent domain is exercised or that is condemned, the property owner is unable to continue operating his business. In those circumstances, the conditional hardship grant would not need to be repaid and the lien would be removed from the property.

FISCAL IMPACT:

Article VIII, Section II, paragraph 6 of the New Jersey Constitution dedicates 4% of the revenue annually derived from the Corporation Business Tax to environmental purposes, and from January 1, 2006 through December 31, 2021, forty percent of that amount is to be appropriated for providing funding (including the provision of loans or grants) for the upgrade, replacement, or closure of underground storage tanks that store or were used to store hazardous substances, and for the costs of remediating any discharge from those tanks.

In a Fiscal Note prepared for an identical bill the Office of Management and Budget states that the bill's enactment will have no fiscal impact on the State Site Remediation Program, of which this funding program is one component, because the demand for loans and conditional hardship grants under this activity has been historically low. Thus, any increase in the discharges of conditional hardship grants caused by this bill if the property is condemned or upon the exercise of the power of eminent domain would not jeopardize the overall availability of loan or grant monies for future applicants.

FISCAL NOTE
SENATE, No. 240
STATE OF NEW JERSEY
211th LEGISLATURE

DATED: MAY 10, 2005

SUMMARY

Synopsis: Provides for discharge of obligation to repay grants to owners of underground storage tanks under certain circumstances.

Type of Impact: No impact to the Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund.

Agencies Affected: Department of Environmental Protection and New Jersey Economic Development Authority

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	No Impact-See Comments Below		

- ! The Office of Legislative Services (OLS) **concurs** with the Executive estimate.
- ! The bill permits owners of business-related underground storage tanks who received conditional hardship grants for tank upgrade, removal or cleanup to be relieved of grant repayment obligations when such properties are condemned or subject to eminent domain.
- ! The bill allows liens on these properties to be removed under the same circumstances.
- ! The funding program cited under the bill is supported by constitutionally dedicated revenues appropriated annually from the Corporation Business Tax.

BILL DESCRIPTION

Senate Bill No. 240 of 2004 waives the repayment requirement for conditional hardship grant awarded to businesses under the Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund (C.58:10A-37.5) if the property is condemned or upon the exercise of the power of eminent domain. The bill also allows liens on these properties to be removed under the same circumstances. These grants are awarded to upgrade, remove or remediate underground storage tanks owned by businesses. Current law requires that a business be operated in substantially the same manner as it was at the time of the grant for 15 years before the obligation to repay the grant is discharged. The cited Fund is supported by constitutionally dedicated revenues appropriated annually from the Corporation Business Tax.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Department of Environmental Protection states that the bill's enactment will have no fiscal impact on the State Site Remediation Program, of which this funding program is one component.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the Executive estimate.

Section: *Environment, Agriculture, Energy and Natural Resources*

Analyst: *Richard M. Handelman*
Senior Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY, No. 2739

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED MAY 6, 2004

Sponsored by:

Assemblywoman LORETTA WEINBERG

District 37 (Bergen)

SYNOPSIS

Provides for discharge of obligation to repay grants to owners of underground storage tanks under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



A2739 WEINBERG

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43 instance, a debt of the applicant to the fund. The debt shall constitute
44 a lien on the real property at which the subject facility is located. The
45 lien shall be in the amount of the financial assistance awarded the
46 applicant. The lien shall attach when a notice of lien, incorporating the

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6 conditional hardship grant was made. The terms and conditions of any
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8 same as those authorized pursuant to this act.

9 d. The provisions of this section do not apply to any real property
10 of an applicant who is a public entity.
11 (cf: P.L.1999, c.89, s.5)

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STATEMENT

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18 This bill would provide that a conditional hardship grant that is
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22 Current law requires that a business be operated in substantially the
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29 property.

ASSEMBLY ENVIRONMENT AND SOLID WASTE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2739

STATE OF NEW JERSEY

DATED: DECEMBER 8, 2005

The Assembly Environment and Solid Waste Committee reports favorably Assembly Bill No. 2739.

This bill would provide that a conditional hardship grant that is provided to a business for the upgrade, removal or cleanup of its underground storage tanks need not be repaid if the property is condemned or upon the exercise of the power of eminent domain. Current law requires that a business be operated in substantially the same manner as it was at the time of the award of financial assistance for 15 years before the obligation to repay the grant is discharged. For property upon which the power of eminent domain is exercised or that is condemned, the property owner is unable to continue operating the business. In those circumstances, the conditional hardship grant would not need to be repaid and the lien would be removed from the property.

This bill is identical to Senate Bill No. 240 as also reported by the committee.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2739

STATE OF NEW JERSEY

DATED: JANUARY 5, 2006

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2739.

Assembly Bill No. 2739 forgives repayment of a conditional hardship grant that is provided to a business for the upgrade, removal or cleanup of its underground storage tanks if the property is condemned or upon the exercise of the power of eminent domain against the property.

Current law requires that a business be operated in substantially the same manner as it was at the time of the award of financial assistance for 15 years before the obligation to repay the grant is discharged. For property upon which the power of eminent domain is exercised or that is condemned, the property owner is unable to continue operating the business. In those circumstances, the conditional hardship grant would not need to be repaid and the lien would be removed from the property.

This bill is identical to Senate Bill No. 240 as also reported by the committee.

FISCAL IMPACT:

The Office of Management and Budget has stated that the bill's enactment will have no fiscal impact on the State Site Remediation Program, of which this funding program is one component, because the demand for loans under this activity has been historically low. Thus, any decrease in loan repayments caused by the bill would not jeopardize the overall availability of loan monies for future applicants.

No estimate has been made of the amount of State funds that would be forfeited under the bill; although it is believed, because of the historical low demand for these loans, that the loss will be minimal.

FISCAL NOTE
ASSEMBLY, No. 2739
STATE OF NEW JERSEY
211th LEGISLATURE

DATED: SEPTEMBER 2, 2004

SUMMARY

Synopsis: Provides for discharge of obligation to repay grants to owners of underground storage tanks under certain circumstances.

Type of Impact: No impact to the Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund.

Agencies Affected: Department of Environmental Protection and New Jersey Economic Development Authority

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	None - See Comments Below		

- ! The Office of Legislative Services **concurs** with the Executive Branch estimate.
- ! The bill permits owners of business-related underground storage tanks who received conditional hardship grants for tank upgrade, removal or cleanup to be relieved of grant repayment obligations when such properties are condemned or subject to eminent domain.
- ! The bill allows liens on these properties to be removed under the same circumstances.
- ! The funding program cited under the bill is supported by constitutionally dedicated revenues appropriated annually from the Corporation Business Tax.

BILL DESCRIPTION

Assembly Bill No. 2739 of 2004 waives the repayment requirement for conditional hardship grants awarded to businesses under the Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund (C.58:10A-37.5) if the property is condemned or upon the exercise of the power of eminent domain. The bill also allows liens on these properties to be removed under the same circumstances. These grants are awarded to upgrade, remove or remediate underground storage tanks owned by businesses. Current law requires that a business be operated in substantially the same manner as it was at the time of the grant for 15 years before the obligation to repay the grant is discharged. The cited Fund is supported by constitutionally dedicated revenues appropriated annually from the Corporation Business Tax.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Office of Management and Budget states that the bill's enactment will have no fiscal impact on the State Site Remediation Program, of which this funding program is one component, because the demand for loans under this activity has been historically low. Thus, any decrease in loan repayments caused by the bill would not jeopardize the overall availability of loan monies for future applicants.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the Executive Branch estimate.

Section: *Environment, Agriculture, Energy and Natural Resources*

Analyst: *Richard M. Handelman*
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Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67.