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15-5-901. Fund — Establishment — Uses — Accounts.

(a)

(1)

(A) There is established on the books of the Arkansas Natural Resources Commission a special restricted fund to be known as the “Construction Assistance Revolving Loan Fund”.

(B) The Construction Assistance Revolving Loan Fund shall be maintained in perpetuity and administered by the commission for the purposes stated in this subchapter.

(2) Grants from the United States Government or its agencies allotted to the state for capitalization of the Construction Assistance Revolving Loan Fund, state matching grants when required, proceeds of bonds issued by the commission or the Arkansas Development Finance Authority for capitalization of the Construction Assistance Revolving Loan Fund, principal, interest, and premiums on loans provided, and bonds, notes, and other evidences of indebtedness purchased with moneys in the Construction Assistance Revolving Loan Fund shall be deposited into the Construction Assistance Revolving Loan Fund.

(3) The commission may deposit loans made to and bonds, notes, and other evidences of indebtedness issued by local governmental entities and other owners of environmental projects to finance or refinance the planning, design, acquisition, construction, expansion, equipping, rehabilitation, or consolidation of wastewater systems, water systems, solid and hazardous waste facilities, recycling facilities, nonpoint source management facilities, wetlands conservation and management facilities, and other environmental projects or parts of environmental projects into the Construction Assistance Revolving Loan Fund.

(b) Moneys in the Construction Assistance Revolving Loan Fund shall be expended in a manner consistent with the terms and conditions of applicable federal and state capitalization grants and may be used:

(1) To provide loans for the planning, design, acquisition, construction, expansion, equipping, rehabilitation, consolidation, or refinancing of wastewater systems, water systems, solid and hazardous waste facilities, recycling facilities, nonpoint source management facilities, wetlands conservation and management facilities, and other environmental projects or parts of environmental projects;

(2) Subject to the provisions of subsection (c) of this section and subject to the approval of the commission, to secure the payment of the principal of and premium, if any, and interest on and to pay costs incurred in connection with bonds issued by the commission or the authority, if

proceeds of the bonds are deposited into the Construction Assistance Revolving Loan Fund Account;

(3) To purchase bonds, notes, or other evidences of indebtedness issued by local governmental entities to finance or refinance the planning, design, acquisition, construction, expansion, equipping, rehabilitation, or consolidation of wastewater systems, water systems, solid and hazardous waste facilities, recycling facilities, nonpoint source management facilities, wetlands conservation and management facilities, and other environmental projects or parts of environmental projects;

(4) To fund other wastewater system programs, water system programs, solid and hazardous waste facilities programs, recycling programs, nonpoint source management facilities, wetlands conservation and management facilities, and other environmental programs that the federal or state government may allow in the future;

(5) To fund the administrative expenses of the commission relating to the responsibilities and requirements of this subchapter and the federal environmental acts as defined in § 15-5-909;

(6) To provide for any other expenditures consistent with applicable federal and state law;

(7) To provide loans to prospective and actual purchasers of abandoned industrial, commercial, or agricultural sites for assessments, investigations, and remedial actions pursuant to § 8-7-1101;

(8) To pay the principal of and premium, if any, and interest on and to pay costs incurred in connection with bonds issued by the commission or the authority, if proceeds of the bonds are deposited into the Construction Assistance Revolving Loan Fund Account;

(9) To make grants or loans to the Safe Drinking Water Fund established by § 15-22-1102 in amounts approved by the commission, consistent with applicable federal law;

(10) Subject to the provisions of subsection (c) of this section and subject to the approval of the commission, to secure the payment of the principal of and premium, if any, and interest on bonds issued by the commission or the authority, if proceeds of the bonds are deposited into the Drinking Water State Revolving Loan Fund Account established by § 15-22-1102, consistent with applicable federal law;

(11) Subject to subsection (c) of this section and the approval of the commission, to pay the principal of and premium, if any, and interest on and to pay costs incurred in connection with bonds issued by the commission or the authority, if proceeds of the bonds are deposited into the Drinking Water State Revolving Loan Fund Account established by § 15-22-1102, consistent with applicable federal law; or

(12)

(A) To make grants for the planning, design, acquisition, construction, expansion, equipping, rehabilitation, or consolidation of wastewater systems, water systems, solid and hazardous waste facilities, recycling facilities, nonpoint source management facilities, wetlands conservation and management facilities, and other environmental projects or parts of environmental projects.

(B) However, grants shall be made only from moneys in the Construction Assistance Revolving Loan Fund provided by the United States Government under the Clean Water Act to provide additional subsidization to eligible recipients in the form of forgiveness of principal, negative interest loans, or grants or any combination of forgiveness of principal, negative interest loans, or grants.

(c)

(1) There is established a separate account within the Construction Assistance Revolving Loan Fund, designated the "State Grants Account", into which moneys appropriated by the state for deposit into the Construction Assistance Revolving Loan Fund shall be deposited.

(2)

(A) Moneys in the State Grants Account may be expended for the same purposes as other moneys in the Construction Assistance Revolving Loan Fund.

(B) However, moneys in the State Grants Account shall never be pledged to the payment of or as security for any bonds issued by the commission or the authority.

(d)

(1) There is established a separate account within the Construction Assistance Revolving Loan Fund, designated the “Remedial Action Account”, into which moneys identified in § 8-7-504(c) and any other moneys as designated by the Director of the Division of Environmental Quality shall be deposited.

(2) Moneys in the Remedial Action Account may be expended as authorized in § 8-7-1101 and for the same purposes as other moneys in the Construction Assistance Revolving Loan Fund.

(e)

(1) There is established a separate account within the Construction Assistance Revolving Loan Fund, designated the “Construction Assistance Administrative Account”, into which shall be deposited:

(A) Moneys provided by the United States Government under the federal environmental acts for the purpose of administering programs funded by the federal environmental acts; and

(B) Fees under § 15-5-904.

(2) Moneys in the Construction Assistance Administrative Account may be expended by the commission for administrative costs of programs funded by the federal environmental acts.

(3) Moneys in the Construction Assistance Administrative Account shall never be pledged to the payment of or as security for any bonds issued by the authority or the commission.

(f)

(1) There is established a separate account within the Construction Assistance Revolving Loan Fund, designated the “Construction Assistance Revolving Loan Fund Account”, into which shall be deposited moneys provided by:

(A) The United States Government under the federal environmental acts;

(B) Proceeds of bonds issued by the commission or the authority; and

(C) Other amounts, excluding state appropriations, received under § 15-5-903 for the purpose of providing financial assistance to local governmental entities and other owners of environmental projects in connection with the planning, design, acquisition, construction, expansion, equipping, or rehabilitation of wastewater systems, water systems, solid and hazardous waste facilities, recycling facilities, nonpoint source management facilities, wetlands conservation and management facilities, and other environmental projects or parts of environmental projects.

(2) Moneys in the Construction Assistance Revolving Loan Fund Account may also be expended for the purposes set forth in subdivisions (b)(1)-(5) and (b)(7)-(12) of this section.

(g) The commission may establish and maintain additional accounts within the Construction Assistance Revolving Loan Fund or subaccounts within the accounts established by this section.

(h) The commission shall maintain the Construction Assistance Revolving Loan Fund at the authority or at one (1) or more financial institutions within or without the state.

15-5-902. Fund — Administration.

(a)

- (1) The Construction Assistance Revolving Loan Fund shall be administered by the Arkansas Natural Resources Commission.
- (2) The commission may establish procedures and adopt rules required to administer the fund and programs financed, in whole or in part, with moneys in the fund in accordance with federal or state law providing for:
 - (A) Wastewater systems, water systems, solid and hazardous waste facilities, recycling facilities, nonpoint source management facilities, wetlands conservation and management facilities, and other environmental projects; and
 - (B) Assessments, investigations, and remedial actions with respect to abandoned industrial, commercial, or agricultural sites, including without limitation the federal environmental acts.
- (b) The commission may enter into contracts and other agreements in connection with the operation of the fund, including without limitation contracts and agreements with federal agencies, local governmental entities, the Arkansas Development Finance Authority, the Division of Environmental Quality, and other persons to the extent necessary or convenient for the implementation of the fund and programs financed, in whole or in part, with moneys in the fund.
- (c) The commission shall maintain full authority for the operation of the fund in accordance with applicable federal and state law, including withdrawals necessary to achieve the intended purposes of the fund.
- (d) To the extent that moneys provided by the United States Government under the federal environmental acts and nonappropriated state matches do not designate the account into which the moneys shall be deposited, the moneys shall be deposited into the accounts within the fund designated by the commission.
- (e) The commission shall execute capitalization grant agreements on behalf of the state in order to obtain funds under the Clean Water Act.

15-5-903. Fund — Grants — Deposits — Cash funds.

- (a) The Arkansas Natural Resources Commission and the Arkansas Development Finance Authority as agent for the commission are authorized to accept grants for the use of the Construction Assistance Revolving Loan Fund from any state or federal agencies, municipalities, corporations, foundations, individual donors, or authorities, specifically including without limitation appropriations from the State Treasury as heretofore or hereafter provided.
- (b) All moneys received by the commission or the authority under and pursuant to the provisions of this subchapter shall be deposited as and when received into the fund except as otherwise specifically provided by federal or state law.
- (c)
 - (1) Except for moneys hereafter deposited into or paid to the commission or the authority for deposit into the State Grants Account, all moneys now or hereafter received for, deposited into, or paid to the commission or the authority for deposit into the fund are specifically declared to be cash funds restricted in their use and which shall not be deposited into the State Treasury or deemed to be a part of the State Treasury for the purposes of Arkansas Constitution, Article 5, § 29; Arkansas Constitution, Article 16, § 12; Arkansas Constitution, Amendment 20; or any other constitutional or statutory provisions but shall be held and applied by the commission or the authority as agent for the commission solely for the uses set forth in this subchapter.

(2) Interest and other moneys received from the investment of moneys, the purchase of bonds, notes, or other evidences of indebtedness issued by local governmental entities, or the making of loans with moneys in the fund, including in each case moneys in the State Grants Account, are declared to be cash funds restricted in their use and shall not be deposited into the State Treasury but shall be held and applied by the commission or the authority solely for the uses set forth in this subchapter.

15-5-904. Fees for technical and administrative services.

(a)

(1) The Arkansas Natural Resources Commission may establish and collect fees for its technical and administrative services in connection with the planning, design, acquisition, construction, expansion, equipping, or rehabilitation of wastewater systems, water systems, solid and hazardous waste facilities, recycling facilities, nonpoint source management facilities, wetlands conservation and management facilities, and other environmental projects or parts of environmental projects and in connection with assessments, investigations, and remedial actions with respect to abandoned industrial, commercial, or agricultural sites, financed in whole or in part with moneys in the Construction Assistance Revolving Loan Fund.

(2) The authority granted in this section shall be supplemental to the authority granted to the commission under other laws to establish and collect fees for its services.

(b) The fees shall be payable in any one (1) or more of the following methods:

(1) From proceeds of loans, bonds, notes, or other evidences of indebtedness of a local governmental entity or other owner of an environmental project purchased from moneys in the fund;

(2) From proceeds of bonds issued by the commission or the Arkansas Development Finance Authority in connection with the fund; or

(3) From periodic payments due on the loans, bonds, notes, or other evidences of indebtedness of a local governmental entity or other owner of an environmental project purchased with moneys in the fund.

(c) If requested by the commission, the authority will collect the fees from the local governmental entities or other environmental project owners receiving financial assistance from the Construction Assistance Revolving Loan Fund and deposit the fees into the Construction Assistance Administrative Account within five (5) days after each periodic payment is made.

15-5-905. Federal grants deposited into fund.

(a) The Arkansas Natural Resources Commission and the Arkansas Development Finance Authority may accept moneys for deposit into the Construction Assistance Revolving Loan Fund from allocations from the Treasurer of State under this section.

(b) Notwithstanding the provisions of §§ 19-6-108 and 19-6-601, grants received by the Treasurer of State from the federal government for deposit into the fund are declared to be cash funds restricted in their use and dedicated and are to be used solely as authorized in this subchapter.

15-5-906. Security for bonds.

(a) The Arkansas Natural Resources Commission and, with the approval of the commission, the Arkansas Development Finance Authority may use the moneys in the Construction Assistance Revolving Loan Fund, excluding the State Grants Account, and use the assets acquired with moneys in the fund to secure the payment of the principal of and premium, if any, and interest on bonds issued by the commission or the authority if the proceeds of the bonds are deposited into the Construction Assistance Revolving Loan Fund Account and pay the principal of and premium, if any, and interest on and pay costs incurred in connection with bonds issued by the commission or the authority if proceeds of the bonds are deposited into the Construction Assistance Revolving Loan Fund Account.

(b) Subject to § 15-5-901(c), the commission and, with the approval of the commission, the authority may pledge the Construction Assistance Revolving Loan Fund Account, excluding the State Grants Account, and pledge the assets acquired with moneys in the Construction Assistance Revolving Loan Fund Account to secure the payment of the principal of and premium, if any, and interest on bonds issued by the commission or the authority if proceeds of the bonds are deposited into the Drinking Water State Revolving Loan Fund Account established by § 15-22-1102, consistent with applicable federal law and pay the principal of and premium, if any, and interest on and costs incurred in connection with bonds issued by the commission or the authority if proceeds of the bonds are deposited into the Drinking Water State Revolving Loan Fund Account established by § 15-22-1102, consistent with applicable federal law.

(c) Nothing in subsections (a) and (b) of this section shall be deemed to adversely affect pledges made by the authority to secure the payment of the principal of and premium, if any, and interest on bonds issued by the authority before July 1, 2003, so long as the bonds are outstanding.

(d) All accounts within the fund or subaccounts within the accounts established in § 15-5-901 pledged to secure the payment of the principal of and premium, if any, and interest on bonds issued by the authority before July 1, 2003, shall be maintained at the authority so long as the bonds are outstanding.

15-5-907. Substitution of loans — Forgiveness of principal.

(a) The Arkansas Natural Resources Commission may remove any loan, bond, note, or other evidence of indebtedness purchased with moneys in the Construction Assistance Revolving Loan Fund Account from the account and substitute another loan, bond, note, or other evidence of indebtedness not then in default as to payment of any installment of principal, interest, or financing fee and having an equal or greater outstanding principal balance, made by the commission for a purpose authorized by this subchapter.

(b) The commission may forgive principal of loans made and bonds, notes, and other evidences of indebtedness purchased with moneys in the Construction Assistance Revolving Loan Fund, provided that principal may be forgiven only for loans made and bonds, notes, and other evidences of indebtedness purchased with moneys in the fund provided by the federal government under the Clean Water Act for the purpose of providing additional subsidization to

eligible recipients in the form of forgiveness of principal, negative interest loans, or grants or any combination of principal, negative interest loans, or grants.

15-5-908. Withholding general revenue turnback.

(a) Should any city, town, county, or political subdivision receiving general revenue turnback funds, as defined in the Revenue Stabilization Law, § 19-5-101 et seq., fail, neglect, or refuse to pay any installment of principal, interest, or financing fee for a period of more than ninety (90) calendar days past the due date in accordance with the written instrument for the repayment of its bonds, notes, or other evidences of indebtedness purchased with moneys in the Construction Assistance Revolving Loan Fund Account, the Arkansas Natural Resources Commission, after notification to the city, town, county, or political subdivision, may certify to the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State the name of the city, town, county, or political subdivision, the amount of deficiencies ninety (90) days or more past due.

(b) Upon certification, the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State are directed to withhold from the city's, town's, county's, or other political subdivision's share of general revenue turnback, as the share is defined in the Revenue Stabilization Law, § 19-5-101 et seq., the amount certified as due and to transfer the amount to the Construction Assistance Revolving Loan Fund Account and the Construction Assistance Administrative Account as follows:

(1) Amounts withheld as fees shall be transferred to the Construction Assistance Administrative Account; and

(2) Amounts withheld as principal and interest shall be transferred to the Construction Assistance Revolving Loan Fund Account.

15-5-909. Definitions.

As used in this subchapter:

(1) "Administrative account" means the Construction Assistance Administrative Account established by this subchapter within the Construction Assistance Revolving Loan Fund;

(2) "Authority" means the Arkansas Development Finance Authority or any successor agency or commission of the state;

(3) "Clean Water Act" means the Federal Water Pollution Control Act of 1972, as amended by the federal Water Quality Act of 1987;

(4) "Commission" means the Arkansas Natural Resources Commission or a successor agency or commission of the state;

(5) [Repealed.]

(6) "Federal environmental acts" means the Clean Water Act, the Safe Drinking Water Act, the Resource Conservation and Recovery Act, the Clean Air Act, and the Comprehensive Environmental Response, Compensation, and Liability Act;

- (7) “Fund” means the Construction Assistance Revolving Loan Fund established by this subchapter;
- (8) “Owner” means the owner or prospective owner of an environmental project, excluding any federal agencies;
- (9) “Revolving loan account” means the Construction Assistance Revolving Loan Fund Account established by this subchapter within the fund;
- (10) “State” means the State of Arkansas; and
- (11) “State Grants Account” means the State Grants Account established by this subchapter within the fund.

15-5-910. Interest rates on loans.

- (a) The loans made and bonds, notes, and other evidences of indebtedness purchased with moneys in the Construction Assistance State Revolving Loan Fund shall bear interest at rates of interest, including without limitation negative rates of interest, established by the Arkansas Natural Resources Commission.
- (b) However, the commission may establish negative rates of interest only for loans made and bonds, notes, and other evidences of indebtedness purchased with moneys in the fund provided by the federal government under the Clean Water Act for the purpose of providing additional subsidization to eligible recipients in the form of forgiveness of principal, negative interest loans, or grants or any combination of principal, negative interest loans, or grants.
- (c) Notwithstanding any other provision of law, loans, bonds, notes, and other evidences of indebtedness issued by owners may bear interest at a negative rate if they are purchased with moneys in the fund.