P.L. 2021, CHAPTER 207, ***approved August 24, 2021***
Assembly, No. 5841

**AN ACT** concerning financial assistance and grants from the Hazardous Discharge Site Remediation Fund and amending P.L.1993, c.139.

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

1. Section 27 of P.L.1993, c.139 (C.58:10B-5) is amended to read as follows:

27. a. (1) Except as provided in section 4 of P.L.2007, c.135 (C.52:27D-130.7), financial assistance from the remediation fund may only be rendered to persons who cannot establish a remediation funding source for the full amount of a remediation. Financial assistance pursuant to this act may be rendered only for that amount of the cost of a remediation for which the person cannot establish a remediation funding source. The limitations on receiving financial assistance established in this paragraph (1) shall not limit the ability of municipalities, counties, redevelopment entities authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), persons who are not required to establish a remediation funding source for that part of the remediation involving an unrestricted use remedial action, persons performing a remediation in an environmental opportunity zone, or persons who voluntarily perform a remediation, from receiving financial assistance from the fund.

(2) Financial assistance rendered to persons who voluntarily perform a remediation or perform a remediation in an environmental opportunity zone may only be made for that amount of the cost of the remediation that the person cannot otherwise fund by any of the authorized methods to establish a remediation funding source.

(3) Financial assistance rendered to persons who do not have to provide a remediation funding source for the part of the remediation that involves an unrestricted use remedial action may only be made for that amount of the cost of the remediation that the person cannot otherwise fund by any of the authorized methods to establish a remediation funding source.

b. Financial assistance may be rendered from the remediation fund to (1) owners or operators of industrial establishments who are required to perform remediation activities pursuant to P.L.1983, c.330 (C.13:1K-6 et al.), upon closing operations or prior to the transfer of ownership or operations of an industrial establishment, (2) persons who are liable for the cleanup and removal costs of a

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

**Matter underlined <u>thus</u> is new matter.**

hazardous substance pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.), and (3) persons who voluntarily perform a remediation of a discharge of a hazardous substance or hazardous waste.

c. Financial assistance and grants may be made from the remediation fund to a municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for real property: (1) on which it holds a tax sale certificate; (2) that it has acquired through foreclosure or other similar means; or (3) that it has acquired, or in the case of a county governed by a board of chosen freeholders, has passed a resolution or, in the case of a municipality or a county operating under the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), has passed an ordinance or other appropriate document to acquire, by voluntary conveyance for the purpose of redevelopment, for renewable energy generation or for recreation and conservation purposes. Financial assistance and grants may only be awarded for real property on which there has been a discharge or on which there is a suspected discharge of a hazardous substance or hazardous waste.

d. (Deleted by amendment, P.L.2017, c.353)

e. Grants may be made from the remediation fund to qualifying persons who propose to perform a remedial action that would result in an unrestricted use remedial action.

f. Grants may be made from the remediation fund to municipalities, counties, and redevelopment entities authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for the preliminary assessment, site investigation, remedial investigation, and remedial action for real property where there is a discharge or suspected discharge of a hazardous substance or hazardous waste within a brownfield development area. Grants may only be made for a remedial action pursuant to this subsection when there is a confirmed discharge of a hazardous substance or hazardous waste. Grants made pursuant to this subsection for a remedial action may not exceed 75 percent of the total costs of the remedial action. An ownership interest in the contaminated property shall not be required in order for a municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) to receive a grant for a preliminary assessment, site investigation, and remedial investigation for real property where there is a discharge or suspected discharge of a hazardous substance or hazardous waste in a brownfield development area. Notwithstanding the limitation on the total amount of financial assistance and grants that may be awarded in any one year pursuant to subsection b. of section 28 of P.L.1993, c.139 (C.58:10B-6), the authority may award an additional amount of financial assistance and grants in any one year, of up to **[**$1,000,000**]** <u>$2,000,000</u> , to

any one municipality, county, or redevelopment entity for the remediation of property in a brownfield development area.
(cf: P.L.2017, c.353, s.1)

2. Section 28 of P.L.1993, c.139 (C.58:10B-6) is amended to read as follows:

28. a. Except for moneys deposited in the remediation fund for specific purposes, and as provided in section 4 of P.L.2007, c.135 (C.52:27D-130.7), financial assistance and grants from the remediation fund shall be rendered for the following purposes. A written report shall be sent to the Senate Environment and Energy Committee, and the Assembly Environment and Solid Waste Committee, or their successors at the end of each calendar quarter detailing the allocation and expenditures related to the financial assistance and grants from the fund.

(1) Moneys shall be allocated for financial assistance to persons, for remediation of real property located in a qualifying municipality as defined in section 1 of P.L.1978, c.14 (C.52:27D-178);

(2) Moneys shall be allocated to: (a) municipalities, counties, or redevelopment entities authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for:

(i) projects in brownfield development areas pursuant to subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5),

(ii) matching grants up to a cumulative total amount from the fund of **[**$2,500,000**]** $10,000,000 per year of up to 75 percent of the costs of the remedial action for projects involving the redevelopment of contaminated property for recreation and conservation purposes, provided that the use of the property for recreation and conservation purposes is included in the comprehensive plan for the development or redevelopment of contaminated property, up to 75 percent of the costs of the remedial action for projects involving the redevelopment of contaminated property for renewable energy generation, or up to 50 percent of the costs of the remedial action for projects involving the redevelopment of contaminated property for affordable housing pursuant to P.L.1985, c.222 (C.52:27D-301 et al.),

(iii) grants for preliminary assessment, site investigation or remedial investigation of a contaminated site,

(iv) financial assistance or grants for the implementation of a remedial action, or

(v) financial assistance for remediation activities at sites that have been contaminated by a discharge of a hazardous substance or hazardous waste, or at which there is an imminent and significant threat of a discharge of a hazardous substance or hazardous waste, and the discharge or threatened discharge poses or would pose an imminent and significant threat to a drinking water source, to human health, or to a sensitive or significant ecological area; or

(b) persons for financial assistance for remediation activities at sites that have been contaminated by a discharge of a hazardous substance or hazardous waste, or at which there is an imminent and significant threat of a discharge of a hazardous substance or hazardous waste, and the discharge or threatened discharge poses or would pose an imminent and significant threat to a drinking water source, to human health, or to a sensitive or significant ecological area.

Except as provided in subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5), financial assistance and grants to municipalities, counties, or redevelopment entities authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may be made for real property: (1) on which they hold a tax sale certificate; (2) that they have acquired through foreclosure or other similar means; or (3) that they have acquired, or, in the case of a county governed by a board of chosen freeholders, have passed a resolution or, in the case of a municipality or a county operating under the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), have passed an ordinance or other appropriate document to acquire, by voluntary conveyance for the purpose of redevelopment, or for recreation and conservation purposes. Financial assistance and grants may only be awarded for real property on which there has been or on which there is suspected of being a discharge of a hazardous substance or a hazardous waste. Grants and financial assistance provided pursuant to this paragraph shall be used for performing preliminary assessments, site investigations, remedial investigations, and remedial actions on real property in order to determine the existence or extent of any hazardous substance or hazardous waste contamination, and to remediate the site in compliance with the applicable health risk and environmental standards on those properties. No financial assistance or grants for a remedial action shall be awarded until the municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), actually owns the real property, provided that a matching grant for 75 percent of the costs of a remedial action for a project involving the redevelopment of contaminated property for recreation and conservation purposes, or a matching grant for 50 percent of the costs of a remedial action for a project involving the redevelopment of contaminated property for affordable housing pursuant to P.L.1985, c.222 (C.52:27D-301 et al.) may be made to a municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) even if it does not own the real property and a grant may be made to a municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) for a remediation in a brownfield development area pursuant to

subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5) even if the entity does not own the real property. No grant shall be awarded for a remedial action for a project involving the redevelopment of contaminated property for recreation or conservation purposes unless the use of the property is preserved for recreation and conservation purposes by conveyance of a development easement, conservation restriction or easement, or other restriction or easement permanently restricting development, which shall be recorded and indexed with the deed in the registry of deeds for the county. No grant shall be awarded pursuant to this paragraph to a municipality, a county, or a redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) unless that entity has adopted by ordinance or resolution a comprehensive plan specifically for the development or redevelopment of contaminated or potentially contaminated real property in that municipality or the entity can demonstrate its commitment to the authority that the subject real property will be developed or redeveloped within a three-year period from the completion of the remediation. Until adoption of the criteria required pursuant to paragraph (8) of subsection a. of section 30 of P.L.1993, c.139 (C.58:10B-8), the authority shall use the criteria provided in this paragraph in determining the award of grants from the remediation fund;

(3) Moneys shall be allocated for financial assistance to persons who voluntarily perform a remediation of a hazardous substance or hazardous waste discharge;

(4) (Deleted by amendment, P.L.2017, c.353)

(5) Moneys shall be allocated for (a) financial assistance to persons who own and plan to remediate an environmental opportunity zone for which an exemption from real property taxes has been granted pursuant to section 5 of P.L.1995, c.413 (C.54:4-3.154), or (b) matching grants for up to 25 percent of the project costs to qualifying persons, municipalities, counties, and redevelopment entities authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), who propose to perform a remedial action for the implementation of an unrestricted use remedial action except that no grant awarded pursuant to this paragraph may exceed $250,000; and

(6) At least 30 percent of the moneys in the remediation fund shall be allocated for grants to a municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) for the preliminary assessment, site investigation, remedial investigation, or remedial action of a site, not located in a brownfield development area, that has been contaminated by a discharge or a suspected discharge of a hazardous substance or hazardous waste as authorized in this subsection. The remainder of the moneys in the remediation fund shall be allocated for any of the purposes

authorized in this section. For the purposes of paragraph (5) of this subsection, "qualifying persons" means any person who has a net worth of not more than $2,000,000 and "project costs" means that portion of the total costs of a remediation that is specifically to implement an unrestricted use remedial action.

b. Loans issued from the remediation fund shall be for a term not to exceed ten years, except that upon the transfer of ownership of any real property for which the loan was made, the unpaid balance of the loan shall become immediately payable in full. The unpaid balance of a loan for the remediation of real property that is transferred by devise or succession shall not become immediately payable in full, and loan repayments shall be made by the person who acquires the property. Loans to municipalities, counties, and redevelopment entities authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), shall bear an interest rate equal to 2 points below the Federal Discount Rate at the time of approval or at the time of loan closing, whichever is lower, except that the rate shall be no lower than 3 percent. All other loans shall bear an interest rate equal to the Federal Discount Rate at the time of approval or at the time of the loan closing, whichever is lower, except that the rate on such loans shall be no lower than five percent. Financial assistance and grants may be issued for up to 100 percent of the estimated applicable remediation cost, except that the cumulative maximum amount of financial assistance which may be issued to a person, in any calendar year, for one or more properties, shall be $500,000. Financial assistance and grants to any one municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may not exceed **[**$2,000,000**]** $3,000,000 in any calendar year except as provided in subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5). Grants to a municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may be for up to 100 percent of the total costs of the preliminary assessment, site investigation, or remedial investigation subject to the provisions of section 5 of P.L.2017, c.353 (C.58:10B-6.2). Grants to a municipality, a county, or a redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may not exceed 75 percent of the total costs of the remedial action at any one site. Repayments of principal and interest on the loans issued from the remediation fund shall be paid to the authority and shall be deposited into the remediation fund.

c. No person, other than a qualified person planning to use an unrestricted use remedial action for the cost of the remedial action, a person performing a remediation in an environmental opportunity zone, or a person voluntarily performing a remediation, shall be eligible for financial assistance from the remediation fund to the

extent that person is capable of establishing a remediation funding source for the remediation as required pursuant to section 25 of P.L.1993, c.139 (C.58:10B-3).

d. The authority may use a sum that represents up to 2 percent of the moneys issued as financial assistance or grants from the remediation fund each year for administrative expenses incurred in connection with the operation of the fund and the issuance of financial assistance and grants.

e. Prior to March 1 of each year, the authority shall submit to the Senate Environment and Energy Committee and the Assembly Environment and Solid Waste Committee, or their successors, a report detailing the amount of money that was available for financial assistance and grants from the remediation fund for the previous calendar year, the amount of money estimated to be available for financial assistance and grants for the current calendar year, the amount of financial assistance and grants issued for the previous calendar year and the category for which each financial assistance and grant was rendered, the amount of remediation costs expended for each site for the previous calendar year for which financial assistance or a grant has been approved and the balance remaining on each financial assistance or grant, and any suggestions for legislative action the authority deems advisable to further the legislative intent to facilitate remediation and promote the redevelopment and use of existing industrial sites.

(cf: P.L.2017, c.353, s.2)

3. This act shall take effect immediately and shall apply to any applicable applications that are pending as of the effective date of this act.

STATEMENT

This bill changes the laws governing financial assistance and grants for the remediation of contaminated sites from the Hazardous Discharge Site Remediation Fund (fund).

Specifically, the bill increases the annual cap on the maximum amount of financial assistance and grants that may be issued from the fund to a municipality, county, or redevelopment entity from $2 million to $3 million. Notwithstanding that limitation, in brownfield development areas, the bill would increase the additional amount that may be awarded to a municipality, county or redevelopment entity from $1 million to $2 million. The bill also increases the cumulative annual cap of matching grants that may be awarded from the fund to municipalities, counties, and redevelopment entities for projects involving the redevelopment of contaminated property for recreation and conservation purposes, renewable energy generation, or affordable housing from $2.5

million to $10 million. The bill would take effect immediately and would apply to any applicable applications that are pending as of the bill's effective date.

This bill is intended to alleviate the current backlog of applications to the Hazardous Discharge Site Remediation Fund grant program by increasing the amount the State can disburse each year from the fund. The above-mentioned caps were established at their current amounts by P.L.2017, c.353.

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Revises certain funding provisions for financial assistance and grants from Hazardous Discharge Site Remediation Fund.